

ORDER IN COUNCIL

XV
2001

ratifying a Projet de Loi

ENTITLED

The Post Office (Bailiwick of Guernsey) Law, 2001

(Registered on the Records of the Island of Guernsey
on the 7th August, 2001.)



2001

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 7th day of August, 2001 before de Vic Graham Carey, Esquire, Bailiff; present:— David Charles Lowe, Esquire, Mrs. Eileen May Glass, Laurence Lenfestey Guille, Derek Martin Le Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson, David Michael Jory, Keith Bichard, OBE, Esquires, The Reverend Peter Gerald Lane, Michael John Wilson, and Michael Henry De La Mare, and Michael John Tanguy, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 18th day of July, 2001, approving and ratifying a *Projet de Loi* entitled “The Post Office (Bailiwick of Guernsey) Law, 2001”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Procureur thereon, ORDERED:—

1. That the said Order in Council be registered on the records of this Island; and
2. That an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty’s Greffier to the Clerk of the Court of Alderney and to the SÉNÉSCHAL of Sark for registration on the records of those Islands respectively, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 18th day of July, 2001

PRESENT,

The Queen's Most Excellent Majesty in Council

WHEREAS, there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey dated the 10th day of July 2001 in the words following, viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey setting forth:—

1. That, in pursuance of their Resolution of the 16th day of March, 2000, the States of Deliberation at a meeting held on the 30th day of March 2001 approved a Bill or “Projet de Loi” entitled “The Post Office (Bailiwick of Guernsey) Law, 2001”, and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the States of the Island of Alderney at a meeting held on the 18th day of April, 2001, considered the said Bill or “Projet de Loi” when a resolution was passed agreeing to the application of the same to Alderney. 3. That the Chief Pleas of the Island of Sark at a meeting held on the 18th day of April, 2001, considered the said Bill or “Projet de Loi” when a resolution was passed agreeing to the application of the same to Sark. 4. That the said Bill or “Projet de Loi” is as set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or “Projet de Loi” of the States of Guernsey entitled “The Post Office (Bailiwick of Guernsey) 2001”, and to order that the same shall have force of law in the Bailiwick of Guernsey.”

“THE LORDS OF THE COMMITTEE, in obedience to Your Majesty’s said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi.”

HER MAJESTY, having taken the said Report into consideration, is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, and it is hereby ordered, that the same shall have the force of law within the Bailiwick of Guernsey.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed), be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty’s Officers for the time being in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

A. K. Galloway

PROJET DE LOI

ENTITLED

The Post Office (Bailiwick of Guernsey) Law, 2001

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PROJET DE LOI

ENTITLED

The Post Office (Bailiwick of Guernsey) Law, 2001

THE STATES, in pursuance of their Resolution of the 16th March, 2000^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

PART I LICENSING

Prohibition of unlicensed postal services.

1. (1) Subject to the provisions of subsections (2) and (3), a person shall not provide postal services in the Bailiwick except under the authority of and in accordance with the conditions of a licence granted by the Director General under this Part of this Law; and a person who contravenes any provision of this subsection shall be guilty of an offence and liable -

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, not exceeding £1,000,000 or 10% of the defendant's turnover (whichever is greater), or to both; or

^a Resolution 5 on Article III of Billet d'État No. VIII of 2000.

- (b) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both.

(2) Subsection (1) is not contravened by -

- (a) the provision of postal services which are not reserved services;
- (b) the conveyance and delivery of a postal packet personally by the sender;
- (c) the conveyance and delivery of a postal packet by means of a private friend of the sender who himself delivers that postal packet to the addressee;
- (d) the conveyance and delivery of a postal packet by a messenger sent for the purpose by the sender or addressee;
- (e) the conveyance and delivery of any document issuing out of a court of justice or of any return or answer thereto;
- (f) the conveyance and delivery to a licence holder of pre-paid postal packets for conveyance and delivery by that licence holder to the addressees, and the collection of such postal packets for that purpose;

- (g) the conveyance and delivery of banking instruments from one bank to another or from a bank to the States of Guernsey, the States of Alderney or the Chief Pleas of Sark, and the collection of such instruments for that purpose; or
- (h) the conveyance and delivery or collection of postal packets concerning the official business of Bailiwick Members -
 - (i) by or on behalf of one Bailiwick Member to or from or on behalf of another Bailiwick Member, or
 - (ii) within or between the civil service of a Bailiwick Member.

(3) Nothing in paragraphs (b) to (g) of subsection (2) shall authorise any person to make a collection of postal packets for the purpose of their being conveyed in any manner authorised by those paragraphs.

(4) In this section -

"Bailiwick Member" means the States of Guernsey, States of Alderney and Chief Pleas of Sark;

"bank" means an institution holding a banking licence under the

Banking Supervision (Bailiwick of Guernsey) Law, 1994^b;

"banking instrument" means -

- (a) any cheque,
- (b) any document issued by a customer of a bank which, though not a bill of exchange, is intended to enable a person to obtain payment from that bank of the sum mentioned in the document,
- (c) any draft payable on demand drawn by a bank upon itself, whether payable at the head office or some other office of the bank,
- (d) any document issued by a public officer which is intended to enable a person to obtain payment from the States of Guernsey, the States of Alderney or the Chief Pleas of Sark of the sum mentioned in the document,
- (e) any bill of exchange not falling within paragraphs (a) to (d) or any promissory note,
- (f) any postal order or money order,
- (g) any credit transfer, credit advice or debit advice, or

^b Order in Council No. XIII of 1994.

- (h) any list of items, or any copy of an item, falling within paragraphs (a) to (g);

"**civil service**" means the committees, departments, institutions and individuals which or who undertake the official business of a Bailiwick Member; and

"**pre-paid postal packet**" includes any postal packet which, in pursuance of arrangements made with a licence holder, does not require to be pre-paid.

Licences for postal services.

2. (1) Having regard to the objectives set out in section 2 of the Regulation Law, and subject to the provisions of any States' Directions, the Director General may -

- (a) grant a licence authorising any person to provide postal services of any class or description specified in the licence; or
- (b) refuse to grant any such licence.

(2) A licence -

- (a) shall be a class licence or an individual licence;
- (b) shall be in writing;

- (c) shall, unless previously revoked, suspended or surrendered, continue in force for any period specified in the licence; and
- (d) shall not be capable of being surrendered without the consent of the Director General.

(3) A licence for the provision of reserved services may be an exclusive licence.

Applications for licences.

3. (1) The Director General shall publish -

- (a) details of the procedures to be followed and the criteria to be applied in relation to applications for, and the grant of, a licence (which procedures may, without limitation, include requirements as to the submission of information and documents with an application);
- (b) any changes made by him from time to time to such procedures, criteria and requirements.

(2) The Director General may, by notice in writing, require an applicant to provide such additional information and documents as he may reasonably require for the purpose of determining an application for a licence.

(3) An application for a licence -

- (a) shall be accompanied by the appropriate fee or levy prescribed by the Director General under section 6;
- (b) may be withdrawn by notice in writing to the Director General at any time before it is determined.

Grant or refusal of licences.

4. (1) The Director General may, where he considers it appropriate, publish notice of a proposed decision to grant a licence.

(2) Where the Director General proposes to refuse to grant an individual licence, he shall inform the applicant in writing of the reasons for the proposed refusal and specify a period within which representations may be made.

(3) Where the Director General refuses to grant an individual licence, he shall inform the applicant of his reasons for the refusal in writing.

(4) A person aggrieved by a refusal of the Director General to grant an individual licence may appeal against the refusal to the Utility Appeals Tribunal under and in accordance with the provisions of section 15 of the Regulation Law.

(5) The grant of a licence shall not relieve the licensee of any obligation to obtain any other licence, consent, permission or waiver required from persons other than the Director General for any other purpose.

Licence conditions and publication thereof.

5. (1) A licence may, subject to the provisions of any States' Directions, include such conditions as appear to the Director General to be

appropriate, having regard to the nature of the application for the licence, the objectives set out in section 2 of the Regulation Law and the enforcement of the Regulation Law and this Law; and, without prejudice to the generality of the foregoing, the Director General may include in any licence -

- (a) a condition requiring the licensee to comply with any direction given by the Director General under any power contained in this Law or in any condition of the licence;
- (b) conditions intended to prevent and control anti-competitive behaviour;
- (c) an obligation to provide, and conditions relating to the provision, scope and funding of, a universal service, and conditions as to the making of financial contributions to the cost of a universal service;
- (d) conditions regulating the prices, premiums and discounts that may be charged or (as the case may be) allowed by a licensee which has a dominant position in a relevant market;
- (e) conditions relating to the quality, service levels, permanence and variety of postal services;
- (f) conditions relating to national security and the investigation of crime;

(g) conditions relating to the enforcement, revocation and suspension of the licence and to the imposition of financial penalties; and

(h) conditions relating to the provision of documents, accounts and information.

(2) The Director General shall publish notice -

(a) of a proposed decision as to whether a person has a dominant position in a relevant market and of the conditions, if any, proposed to be included in the licence granted or to be granted to that person in relation to the control of that dominant position;

(b) of a proposed decision to regulate the prices, premiums and discounts that may be charged or (as the case may be) allowed by a licensee which has a dominant position in a relevant market; and

(c) of a proposed decision to include quality of service conditions in any licence.

(3) Notice under subsection (2) of a proposed decision shall specify the time (not being less than 7 days from the date of publication of the notice) within which written representations or objections in respect of the proposed decision may be made by interested parties; and the Director General shall -

- (a) before making the decision, consider any representations or objections received from any interested party; and
 - (b) having followed the procedure set out in subsection (2) and in this subsection, make his decision and publish notice thereof.
- (4) Any condition included in a licence may be time-limited.

Licence fees.

6. (1) The Director General shall, subject to the provisions of section 4(3) of the Regulation Law, determine, prescribe and publish the fees and levies payable on an application for, and on the grant and renewal of, and over the term of, a licence and the interest and penalties payable in the event of default in the due payment of fees or levies.

(2) The fees, levies, interest and penalties determined and prescribed by the Director General under subsection (1) shall, without prejudice to any other remedy in respect of any default in payment, be recoverable as a civil debt due to the Director General.

Licence registers.

7. (1) The Director General shall maintain a public register of licences containing -

- (a) the names and addresses of all licensees to whom an individual licence has been granted; and

(b) a copy of every licence granted by him.

(2) The public register referred to in subsection (1) shall be made available by the Director General for public inspection at his offices during normal office hours.

(3) The Director General may withhold any information from the public register referred to in subsection (1) if he considers it to be confidential.

Modification of licence conditions.

8. (1) Having regard to the objectives set out in section 2 of the Regulation Law, and subject to the provisions of any States' Directions and the following provisions of this section, the Director General may modify a licence by amending or revoking any condition included in it or by adding any condition to it.

(2) Before making modifications under this section to a licence, the Director General shall publish, and (in the case of an individual licence) give to the holder of the licence, notice -

- (a) stating the modifications which he proposes to make;
- (b) stating the reasons why he proposes to make those modifications; and
- (c) specifying the time (not being less than 7 days from the date of publication of the notice) within which written representations or objections in respect of the proposed modifications may be made by interested

parties;

and he shall -

- (i) before making the modification, consider any representations or objections received from any interested party; and
- (ii) having followed the procedure set out in this subsection, modify the licence (and publish notice of the modification) or decide not to modify the licence (and publish notice of that decision).

(3) A modification to a licence shall take effect from such time as the Director General directs, not being earlier than the expiry of the period specified by the Director General in accordance with subsection (2)(c).

PART II

SUPPLEMENTARY PROVISIONS FOR UNIVERSAL POSTAL SERVICE PROVIDERS

Director General's power to designate postal services as reserved postal services.

9. (1) Subject to subsection (2), the Director General may by Order designate those postal services described in any such Order as reserved postal services.

(2) The Director General may make an Order under subsection

(1) -

- (a) where he believes that the making of the Order is necessary so as to enable the provision of a universal postal service; or
- (b) so as to comply with States' Directions.

(3) An Order made under subsection (1) may be amended or revoked by a subsequent Order.

(4) The power conferred upon the Director General by subsection (1) may be exercised -

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases; and
- (b) so as to make, as respects the cases in relation to which it is exercised -
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise);
 - (ii) the same provision for all cases, or different cases or classes of cases, or different provision

for the same cases or class of case for the different purposes; or

- (iii) any such provision either unconditionally or subject to any prescribed conditions.

Schemes as to terms and conditions for the provision of a universal postal service

10. (1) A universal postal service provider may make a scheme under this section in relation to -

- (a) postal services provided by him in connection with the provision of a universal postal service or any of those services; and
- (b) postal services which, although not of a description falling within subsection (1)(a), are approved by the Director General for inclusion in the scheme.

(2) A scheme under this section is a scheme for determining any or all of the following -

- (a) the charges which are to be imposed in respect of the services concerned,
- (b) the other terms and conditions which are to be applicable to the services concerned, and
- (c) procedures for dealing with the complaints of persons

who use the services concerned.

(3) A scheme under this section may, in particular -

- (a) adopt such system for the determination of the charges and other terms and conditions as the universal postal service provider concerned considers appropriate (including determining them himself subject to any conditions and limitations provided for in the scheme),
- (b) specify the manner in which, time and place at which and person by whom the charges are to be paid.

(4) Subject to Section 13(5) and 13(6) no provision may be made in any scheme under this section -

- (a) for limiting the liability of the universal postal service provider concerned for loss or damage, or
- (b) for amending the rules of law relating to evidence.

(5) A scheme, an amendment to a scheme under this section or any modification thereof shall come into force on such day as is specified in the scheme, amendment or modification, provided that no scheme, amendment or modification, shall come into force until it has been published in La Gazette Officielle.

(6) A scheme under this section may -

- (a) make different provision for different cases or classes of case determined by, or in accordance with, the provisions of the scheme, and
- (b) modify any previous scheme made under this section.

(7) Any charge payable by virtue of this section may be recovered by the universal service provider concerned as a civil debt due to him.

(8) A notice, stating where a written copy of the scheme or of any modification to the scheme may be inspected, shall be published in La Gazette Officielle.

(9) The Director General may -

- (a) require a licensee to justify the provisions of a scheme in order that the Director General may establish whether or not those provisions are fair and reasonable; and
- (b) in circumstances where the Director General does not believe those provisions to be fair and reasonable, direct a licensee to adjust or withdraw the provisions of a scheme.

Exclusion of liability

11. (1) Subject to section 12, no proceedings in tort shall lie against a universal postal service provider in respect of loss or damage suffered by any

person in connection with the provision of a universal postal service because of -

- (a) anything done or omitted to be done in relation to any postal packet in the course of transmission by post, or
- (b) any omission to carry out arrangements for the collection of anything to be conveyed by post.

(2) No officer, servant, employee, agent or sub-contractor of a universal postal service provider shall be subject, except at the suit or instance of the provider, to any civil liability for -

- (a) any loss or damage in the case of which liability of the provider is excluded by subsection (1), or
- (b) any loss of, or damage to, an inland packet to which section 12 applies.

(3) No person engaged in or about the conveyance of postal packets and no officer, servant, employee, agent or sub-contractor of any such person shall be subject, except at the suit or instance of the universal postal service provider concerned, to any civil liability for -

- (a) any loss or damage in the case of which liability of the provider is excluded by subsection(1), or
- (b) any loss of, or damage to, an inland packet to which section 12 applies.

Limited liability for loss etc. of inland packets

12. (1) Proceedings shall lie against a universal postal service provider under this section, but not otherwise, in respect of relevant loss of, or relevant damage to, an inland packet in respect of which the universal service provider accepts liability under this section in pursuance of a scheme made under section 10.

(2) In subsection (1) "**relevant loss**" and "**relevant damage**" mean loss and damage due to or caused by any wrongful act of, or any neglect or default by, an officer, servant, employee, agent or sub-contractor of the universal postal service provider while performing or purporting to perform in that capacity his functions in relation to the receipt, conveyance, delivery or other dealing with an inland packet of a type described in subsection (1).

(3) No proceedings shall lie under this section in relation to a packet unless they are begun within the period of twelve months starting with the day on which the packet was posted.

(4) A universal postal service provider shall not be liable under this section in respect of a packet of any description unless such conditions (if any) as are required by a scheme under section 10 to be complied with in relation to packets of that description at the time when they are posted have been complied with in the case of the packet.

(5) For the purposes of this section and section 13 a scheme under section 10 may define a description of packet by reference to any circumstances whatever (including, in particular, the amount of any fee paid in respect of the packet in pursuance of the scheme).

(6) In this section and section 11 "**inland packet**" means any postal packet which is posted in the Bailiwick of Guernsey for delivery at a place in the Bailiwick of Guernsey, the United Kingdom, the Bailiwick of Jersey or the Isle of Man to the person to whom it is addressed.

Supplementary provisions on liability.

13. (1) Subject to subsection (3), no relief or remedy shall be available under section 12 in relation to a packet except upon a claim by the sender or the addressee of the packet.

(2) The sender or addressee concerned shall be entitled -

- (a) to claim any relief or remedy available under this section whether or not he is the person who has suffered the loss or damage, and
- (b) to give a good discharge in respect of all claims under this section in respect of the packet concerned.

(3) Where the Court is satisfied, on an application by a person who is not the sender or addressee of the packet, that the sender and the addressee are unable or unwilling to enforce their reliefs or remedies under this section, the Court may, upon such terms as to security costs, expenses and otherwise as the Court considers appropriate, allow that other person to bring proceedings under this section in the name of the sender or the addressee of the packet.

(4) Where, by virtue of subsection (2) or (3), a person recovers any money or property which, apart from that subsection, would have been

recoverable by another person, the money or property so recovered shall be held on trust for that other person.

(5) The amount recoverable in any proceedings under section 12 in relation to a packet of any description shall be the lesser of -

- (a) the market value of the packet at the time when the cause of action arises, or
- (b) the maximum amount payable under a scheme made under section 10 for compensating the person aggrieved in respect of a packet of that description.

(6) For the purposes of subsection (5)(a) the market value of a packet shall not include the market value of -

- (a) any message or information which it bears, or
- (b) any item which, in relation to packets of that description, is excluded from the operation of this section by a scheme under section 10.

(7) For the purposes of any proceedings under section 12, it shall be presumed, unless the contrary is shown, that loss of, or damage to, the packet was due to such conduct as is mentioned in subsection (2) of that section.

(8) In this section -

"**sender**", in relation to a packet, has such meaning as may be given

to it by any provision of a scheme made under section 10 and relating to an inland packet to which section 12 applies, and any reference in this section to the sender or addressee of a packet includes a reference to his personal representatives.

Inviolability of mails.

14. (1) Subsection (2) applies to -

- (a) a postal packet,
- (b) anything contained in a postal packet, and
- (c) a mail-bag containing a postal packet, and which is in the course of transmission by post as part of the provision of a universal postal service.

(2) Anything to which this subsection applies shall have immunity from -

- (a) examination, or seizure or detention, under a relevant power conferred by or under any enactment,
- (b) seizure under distress or in execution,
- (c) retention by virtue of a lien.

(3) In subsection (2) "**relevant power**" means any power other than -

- (a) a power conferred under the Regulation Law so far as it is exercised for any purpose connected with the investigation of an offence under section 1 or any proceedings for such offence,
- (b) a power conferred by section 19;
- (c) a power conferred by an enactment relating to duties, taxes or impôts in its application, by virtue of section 37 or any regulations made under that section, to goods contained in postal packets,
- (d) a power conferred by section 38, or
- (e) a warrant issued by Her Majesty's Procureur under section 2 of the Interception of Communications (Bailiwick of Guernsey) Law, 1997^c.

(4) A universal postal service provider and a person who is engaged in the business of such a provider shall be entitled to immunity from prosecution for conduct in the provision of a universal postal service falling within subsection (5).

(5) The following conduct falls within this subsection -

- (a) possession of anything contained in a postal packet

^c Order in Council No. XIII of 1997

which is in the course of transmission by post where possession of it is prohibited by virtue of any enactment, and

- (b) failure to comply, in relation to anything contained in a postal packet which is in the course of transmission by post, with any condition or restriction imposed by virtue of any enactment in relation to its possession, conveyance or delivery.

No liability as common carrier etc.

15. A universal postal service provider, when providing a universal postal service shall not be liable -

- (a) as a common carrier; or
- (b) in respect of the breach of any customary obligation placed upon carriers of goods,

to any user of that universal postal service.

**PART III
OFFENCES**

General offences

Offences of interfering with the mail: postal operators.

16. (1) A person who, whilst engaged in the business of a postal operator and contrary to his duty, opens, or procures or suffers to be opened, any

postal packet in the course of transmission by post, or wilfully detains or delays, or procures or suffers to be detained or delayed, any such postal packet, shall be guilty of an offence:

Provided that nothing in this section shall extend to the opening, detaining or delaying of a postal packet returned for want of a true direction, or returned by reason that the person to whom it is directed has refused it, or has refused or neglected to pay the postage thereof, or that the packet cannot for any other reason be delivered, or to the opening, detaining or delaying of a postal packet under the authority of this Law or in obedience to a warrant issued by Her Majesty's Procureur under section 2 of the Interception of Communications (Bailiwick of Guernsey) Law, 1997.

(2) A person who is guilty of an offence under subsection (1) is liable -

- (a) on conviction on indictment to imprisonment for a term not exceeding two years, or to a fine, or to both; or
- (b) on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both.

Offences of interfering with the mail: general.

17. A person who, without reasonable excuse -

- (a) intentionally delays or opens a postal packet or a mail-bag in the course of its transmission by post; or

- (b) intending to act to a person's detriment, opens a postal packet which he knows or reasonably suspects has been incorrectly delivered to him,

shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both.

Dangerous, indecent or menacing, etc., postal packets.

18. (1) A person shall not send, attempt to send or procure to be sent a postal packet which -

- (a) unless permitted by a postal operator, encloses any dangerous or noxious -
 - (i) article; or
 - (ii) living creature;
- (b) encloses any indecent, menacing or threatening -
 - (i) items; or
 - (ii) written communication; or
- (c) has on the packet or on the cover thereof any words, marks or designs which are menacing, threatening, grossly offensive, or of an indecent nature.

(2) If any person acts in contravention of subsection (1) he shall be guilty of an offence and liable upon summary conviction to imprisonment for a period not exceeding three months, or to a fine not exceeding level 4 on the uniform scale, or to both.

(3) A person shall not be exempted from proceedings under this section if a postal packet to which this section applies is detained by or under the authority of an authorised person pursuant to section 19 and not delivered in due course of post.

Postal packets sent in contravention of section 18.

19. (1) An authorised person, who has reasonable cause to suspect that a postal packet has been posted or is being sent in contravention of any provision of section 18, may detain and open that postal packet in a universal postal service post office so as to inspect its contents.

(2) Where, following inspection in accordance with subsection (1), an authorised person believes that a postal packet has been posted or sent in contravention of any provision of section 18, that postal packet and its contents may be -

- (a) retained by an authorised person for use as evidence in any criminal proceedings;
- (b) returned by the postal operator to the sender of the postal packet (subject to the payment of any additional postage charges);

- (c) forwarded by the postal operator to the destination marked on the postal packet (subject to the payment of any additional postage charges); or
- (d) destroyed or otherwise disposed of as the postal operator may determine.

(3) The powers of an authorised person prescribed in this section are in addition to and not substitution for any other powers given to that authorised person by virtue of any other enactment or law of the Bailiwick of Guernsey.

(4) For the purposes of this section, an "**authorised person**" means a person engaged in the business of a postal operator, a police officer or a States Revenue Officer.

Prohibition on affixing advertisements on certain letter boxes etc.

20. A person who, without due authority -

- (a) affixes any advertisement, document, board or thing in or on; or
- (b) paints or in any way disfigures,

any universal postal service post office, universal postal service letter box or other property belonging to, or used by, a universal postal service provider in connection with the provision of a universal postal service shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Prohibition on misleading descriptions.

21. (1) A person who, without the authority of the universal postal service provider concerned, places or maintains in or on any house, wall, door, window, box, post, pillar or other place belonging to him or under his control any words, letters or marks which signify or imply or may reasonably lead the public to believe that any house or place is a universal postal service post office, or that any box or receptacle is a universal postal service letter box, shall be guilty of an offence

(2) A person who, without the authority of the universal postal service provider concerned -

- (a) places or maintains in or on any ship, vehicle, aircraft or premises belonging to him or under his control, or
- (b) uses in any document in relation to himself or any other person or in relation to any ship, vehicle, aircraft or premises,

any words, letters or marks which signify or imply, or may reasonably lead the public to believe -

- (i) that he or that other person is authorised by the universal postal service provider concerned to collect or convey postal packets in connection with the provision of a universal postal service, or

- (ii) that the ship, vehicle, aircraft or premises are used by the universal postal service provider concerned for the purpose of collecting or conveying postal packets in connection with the provision of a universal postal service,

shall be guilty of an offence.

(3) A person who, without reasonable excuse, fails to comply with a notice given to him by the universal postal service provider concerned requiring him -

- (a) to remove or efface any words, letters or marks which fall within subsection (1) or (2), or
- (b) to remove or close up any letter box belonging to him or under his control which has ceased to be a universal postal service letter box,

shall be guilty of an offence.

(4) A person who is guilty of an offence under any provision of this section is liable on summary conviction to a fine not exceeding level 3 on the uniform scale.

Obstruction of the business of a universal postal service provider.

22. (1) A person who, without reasonable excuse-

- (a) obstructs a person engaged in the business of a

universal postal service provider in the execution of his duty in connection with the provision of a universal postal service, or

- (b) obstructs, while in any universal postal service post office or related premises, the course of the business of a universal postal service provider,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the uniform scale.

(2) A person who, without reasonable excuse, fails to leave a universal postal service post office or related premises when required to do so by a person -

- (a) who is engaged in the business of the universal postal service provider, and
- (b) who reasonably suspects him of committing an offence under subsection (1).

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the uniform scale.

(3) In this section "**related premises**" means any premises belonging to a universal postal service post office or used together with any such post office.

Prohibition of imitation of stamps, envelopes, forms etc. of a universal postal

service provider.

23. A person who, without the consent of a universal postal service provider -

- (a) makes, issues or sends by post or otherwise any envelope, wrapper, card, form or paper in imitation of one issued by or under the authority of the universal postal service provider or any overseas postal administration, or having thereon any words, letters or marks which signify or imply or may reasonably lead the recipient to believe that a postal packet bearing them is sent on Her Majesty's Service or on behalf of the States of Guernsey, the States of Alderney or the Chief Pleas of Sark or using the postal services of the universal postal service provider;
- (b) makes on any envelope, wrapper, card, form or paper for the purpose of being issued or sent by post or otherwise, or otherwise used, any mark in imitation of or similar to or purporting to be any stamp or mark of any universal postal service provider or overseas postal administration or any words, letters or marks which signify or imply or may reasonably lead, the recipient thereof to believe that a postal packet bearing them is sent on Her Majesty's Service or on behalf of the States of Guernsey, the States of Alderney or the Chief Pleas of Sark or using the postal services of the universal postal service provider; or

- (c) issues or sends by post or otherwise any envelope, wrapper, card, form or paper so marked;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the uniform scale.

Prohibition on fictitious stamps.

24. (1) Except for such purposes and subject to such conditions as may be prescribed by the Director General, a person who—

- (a) makes, knowingly utters, deals in or sells any fictitious stamps;
- (b) has in his possession, unless he shows a lawful excuse, any fictitious stamps;
- (c) makes or, unless he shows a lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp; or
- (d) knowingly uses for the purposes of a postal operator any fictitious stamp,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the uniform scale.

(2) Any stamp, die, plate, instrument, or materials found in the possession of any person in contravention of subsection (1) may be seized and shall be forfeited.

(3) The importation into the Bailiwick of Guernsey of -

(a) any facsimile, imitation or representation, whether on paper or otherwise, of any stamp for denoting any rate of postage, whether within the area of the Bailiwick of Guernsey or outside the Bailiwick of Guernsey; or

(b) any die, plate, instrument or materials for making such a facsimile, imitation or representation;

is hereby prohibited.

(4) In this section the expression “**fictitious stamp**” means any facsimile, imitation or representation, whether on paper or otherwise, of any stamp for the time being authorised or required to be used for the purposes of a universal postal service provider or any stamp for denoting a current rate of postage of any country outside the Bailiwick of Guernsey.

Contraventions of directions under section 31.

25. A licensee who contravenes any provision of a direction under section 31 shall, without prejudice to any remedy, penalty, right or action referred to in that section, be guilty of an offence and liable -

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both; or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both.

Offences relating to money orders

Issuing money orders with fraudulent intent.

26. If any person engaged by a universal postal service provider grants or issues any money order with a fraudulent intent, he shall be guilty of an offence and liable, on conviction, to imprisonment for a term not exceeding seven years, or to a fine, or to both.

Forgery and stealing of money orders.

27. A money order shall be deemed to be a document authorising the payment of money and a valuable security for the purposes of the Theft (Bailiwick of Guernsey) Law, 1983^d.

Supplementary matters relating to offences

Offences by bodies corporate.

28. (1) Where an offence under this Law committed by a body

^d Ordres en Conseil Vol. XXVIII, p. 5; Order in Council I of 1991 and Order in Council IX of 1996.

corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with his functions of management as if he were a director.

Aiding and abetting, etc.

29. A person who aids, abets, counsels or procures the commission by another person of an offence under this Law shall be guilty of the like offence and may be proceeded against and punished accordingly.

Defence of due diligence.

30. In any proceedings for an offence under this Law, it shall be a defence for the accused to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself and by any person under his control.

PART IV
ENFORCEMENT

Enforcement of licence conditions, directions, etc.

31. (1) Where the Director General is satisfied that a licensee is or has been in contravention of -

(a) any condition of a licence; or

- (b) any provision of, or any provision of a direction under, this Law or the Regulation Law;

he may give, and may publish, a direction under this section.

(2) A direction under this section -

- (a) shall require the licensee to whom it is given to do, or not to do, any thing specified in the direction; and
- (b) shall take effect -
 - (i) at such time (which may be immediately) as may be specified in the direction; or
 - (ii) if no time is so specified, at the earliest practicable time.

(3) Before giving a direction under this section to a licensee, the Director General shall give to the licensee, and may publish, notice -

- (a) stating that he proposes to give a direction under this section to the licensee;
- (b) detailing the requirements of the proposed direction;
- (c) identifying -

- (i) the condition of the licence; or
- (ii) the provision of the direction, of this Law or of the Regulation Law;

in respect of which, in the opinion of the Director General, the licensee is in contravention.

(4) Notice under subsection (3) stating that the Director General proposes to give a direction under this section to a licensee shall specify the time (not being less than 7 days from the date of the giving of the notice, except in cases of exceptional urgency, in which case as much notice as is reasonably practicable shall be given) within which written representations or objections in respect of the proposed direction may be made by the licensee or (where the notice is published) by any interested party; and the Director General shall -

- (a) before giving the direction, consider any representations or objections received within the relevant period from the licensee or (where the notice is published) from any interested party; and
- (b) having followed the procedure set out in subsection (3) and in this subsection, give the direction, or not give the direction, and publish notice of the fact.

(5) Where a licensee contravenes any provision of a direction under this section, the Director General may, without prejudice to any criminal proceedings which may be instituted under section 25 in respect of the contravention -

- (a) enforce any remedy available to him under the licence held by or applicable to the licensee, including (subject to the provisions of section 32) any remedy of suspension or revocation of the licence or imposition of a financial penalty;
- (b) apply to the Court for an injunction in accordance with the provisions of section 6 of the Regulation Law.

Provisions as to revocation and suspension of licences and imposition of financial penalties.

32. (1) Before suspending or revoking a licence or imposing a financial penalty pursuant to section 31(5)(a), the Director General shall serve on the licensee, and may publish, notice stating -

- (a) that he proposes to -
 - (i) suspend or revoke the licence; or
 - (ii) impose a financial penalty of the amount stated in the notice; and
- (b) the reasons for the proposed suspension, revocation or imposition.

(2) Notice under subsection (1) stating that the Director General proposes to suspend or revoke a licence or impose a financial penalty shall specify the time (not being less than 7 days from the date of the giving of the notice, except

in cases of exceptional urgency, in which case as much notice as is reasonably practicable shall be given) within which written representations or objections in respect of the proposed decision may be made by the licensee or (where the notice is published) by any interested party.

(3) Before making a decision as to whether or not to suspend or revoke a licence or impose a financial penalty, the Director General shall consider any representations or objections received within the relevant period under subsection (2) from the licensee or (where the notice is published) from any interested party; and, having complied with this subsection, the Director General shall make his decision and shall serve on the licensee, and may publish, notice thereof.

(4) The Director General shall not suspend or revoke a licence or impose a financial penalty if satisfied that -

- (a) the licensee is taking or has taken all such steps as may be reasonably necessary to secure compliance with the direction under section 31;
- (b) the suspension or revocation of the licence or the imposition of the financial penalty would be inconsistent with the objectives set out in section 2 of the Regulation Law or the provisions of any States' Directions; or
- (c) the contravention of the direction under section 31 is not, in his opinion, material.

(5) Where the Director General decides to suspend or revoke a

licence or impose a financial penalty, an appeal against the decision shall lie to the Utility Appeals Tribunal under and in accordance with the provisions of section 15 of the Regulation Law.

(6) In this Law the expression "**financial penalty**" means a penalty of such amount, not exceeding 10% of the turnover of the licensee upon whom the penalty is imposed, as the Director General may determine, having regard to-

- (a) the seriousness of the contravention in respect of which the penalty is imposed;
- (b) the extent to which the contravention was deliberate or reckless;
- (c) the objectives set out in section 2 of the Regulation Law; and
- (d) and the enforcement of the Regulation Law and this Law.

(7) A financial penalty shall, without prejudice to any other remedy in respect of any default in payment, be recoverable as a civil debt due to the Director General.

(8) A financial penalty shall be paid into the Public Utilities Regulation Fund established under section 9(1) of the Regulation Law.

(9) Notice under subsection (3) stating that the Director General

has decided to impose a financial penalty upon a licensee may provide for the penalty to be paid by instalments of such number and amounts and at such times as may be specified in the notice.

Variation of financial penalties.

33. (1) The Director General may, of his own motion or on the application of the licensee concerned, vary -

- (a) the amount of a financial penalty imposed upon a licensee; or
- (b) the number, amounts and times of the instalments by which the financial penalty is to be paid.

(2) The Director General shall, before -

- (a) making, of his own motion, a variation under subsection (1); or
- (b) determining an application from a licensee for such a variation;

serve on the licensee, and may publish, notice stating the terms of the proposed variation or determination and the reasons therefore; and such a notice shall specify the time (not being less than 7 days from the date of the giving of the notice, except in cases of exceptional urgency, in which case as much notice as is reasonably practicable shall be given) within which written representations or objections in respect of the proposed variation or determination may be made by the licensee or (where the notice is published) by any interested party.

(3) Having served notice under subsection (2), the Director General shall consider any representations or objections received within the relevant period under subsection (2) from the licensee or (where the notice was published) from any interested party; and, having complied with this subsection, the Director General shall -

- (a) decide whether or not to make, of his own motion, the proposed variation under subsection (1); or, as the case may be,
- (b) determine the application from the licensee for such a variation;

and the Director General shall serve on the licensee, and may publish, notice of his decision or determination.

(4) An appeal shall lie to the Utility Appeals Tribunal under and in accordance with the provisions of section 15 of the Regulation Law against a decision or determination of the Director General described in subsection (3).

Search warrants.

34. (1) If, in Guernsey, the Bailiff, or in Alderney, the Chairman of the Court of Alderney, or in Sark, the Seneschal of Sark, is satisfied by information on oath -

- (a) that there are reasonable grounds for suspecting that an offence under this Law or the Regulation Law has been or is being committed; and

- (b) that evidence of the commission of the offence is to be found on any premises specified in the information;

he may grant a warrant authorising any person named in the warrant, with or without a police officer, to enter, at any time within one month from the date of the warrant, the premises specified in the information and to search the premises and examine and take copies of any documents or information, and examine and test any equipment or apparatus, found therein.

(2) Where under this section a person has a right to examine any document, information, equipment or apparatus on any premises, it shall be the duty of any persons on the premises to give him such assistance as he may reasonably require in the examination and copying of the document or information or, as the case may be, in the examination and testing of the equipment or apparatus.

(3) A person who without reasonable excuse -

- (a) obstructs a person in the exercise of any power conferred on him under this section; or
- (b) fails or refuses to give to a person any assistance which he is, under this section, under a duty to give him;

shall be guilty of an offence and liable -

- (i) on conviction on indictment, to imprisonment

for a term not exceeding 2 years, or to a fine,
or to both; or

- (ii) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both.

(4) Subject to the provisions of subsection (5), a person who discloses any document or information obtained by means of an exercise of powers conferred by this section shall be guilty of an offence and liable -

- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both; or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both.

(5) Subsection (4) does not prohibit the disclosure of any information or document -

- (a) for the purposes of facilitating the performance by the Director General of his functions under this Law or the Regulation Law;
- (b) with the consent of the person to whom the information or document relates and (if different) the person from whom it was obtained;

- (c) for the purposes of-
 - (i) the investigation, prevention or detection of crime; or
 - (ii) any criminal proceedings or a report of such proceedings;
- (d) for the purposes of any civil proceedings brought under or arising out of this Law or the Regulation Law or a report of such proceedings;
- (e) in pursuance of any international obligation to which the Bailiwick may from time to time be subject; or
- (f) in pursuance of an order of a court.

PART V
MISCELLANEOUS AND SUPPLEMENTARY

Conveyance of mail bags by ships

Outward bound ships.

35. (1) Every master of a ship outward bound shall

- (a) receive on board his ship every mail bag tendered to him by a universal postal service provider, for conveyance, and
- (b) having received the mail bag, shall deliver it without delay, on arriving at the port or place of his destination, as specified by the universal service provider.

(2) If the master of any ship fails to comply with this section he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the uniform scale.

Carriage of parcels by ship.

36. (1) In the case of any mechanically propelled ship which carries on regular communications between a port in the Bailiwick and any other port or place in the Bailiwick, a universal postal service provider may require the person by whom the ship is owned or worked to carry parcels or mail bags, which are to be conveyed or delivered pursuant to a universal postal service requirement, on that ship.

(2) The remuneration for any services rendered by a ship under this section shall be determined by agreement between the universal postal service provider and the person owning or working that ship or, in default of agreement, by the Court and any remuneration so determined shall be paid directly to that person.

Postal packets in transit

Application of taxes, duties and impôts enactments.

37. (1) Subject to the provisions of this section, the enactments for the time being in force in relation to taxes, duties and impôts shall apply in relation to goods contained in postal packets to which this section applies, which are brought into or sent out of the Bailiwick by post from or to any place outside the Bailiwick as they apply in relation to goods otherwise imported, exported or removed into or out of the Bailiwick from or to any such place.

- (2) The Board of Administration, may make regulations for -
- (a) specifying the postal packets to which this section applies,
 - (b) making modifications or exceptions in the application of the enactments mentioned in subsection (1) to such packets,
 - (c) enabling persons engaged in the business of a postal operator to perform for the purposes of those enactments and otherwise all or any of the duties of the importer, exporter or person removing the goods,

- (d) carrying into effect any arrangement with the government or postal administration of any other country with respect to foreign postal packets,
- (e) securing the observance of the enactments mentioned in subsection (1),
- (f) without prejudice to any liability of any person under those enactments, punishing any contravention of the regulations.

(3) Regulations of the Board of Administration under this Law-

- (a) may be amended or repealed by subsequent regulations hereunder,
- (b) may contain such consequential, incidental, supplemental and transitional provisions as may appear to the Board of Administration to be necessary or expedient, and
- (c) shall be laid before a meeting of the States as soon as possible and shall, if at that or the next meeting of the States, the States resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of the new regulations.

(4) Any powers conferred upon the Board of Administration by this Law to make regulations may be exercised -

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exemptions, or in relation to specified cases or classes of cases,
- (b) so as to make, as respects the cases in relation to which it is exercised-
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases, or different provisions for different cases or classes of cases, or different provisions for the same case or class of case for different purposes, or
 - (iii) any such provision either unconditionally or subject to any prescribed conditions.

(5) Taxes, duties and impôts charged on imported goods or other charges payable in respect of postal packets to which this section applies (whether payable to a postal operator or to any other foreign administration) may be recovered by the postal operator concerned as a civil debt due to him.

(6) In any proceedings for the recovery of any charges payable as mentioned in subsection (5), a certificate of the postal operator concerned of the amount of the charges shall be evidence of that fact.

(7) In this section "**foreign postal packet**" means any postal packet either posted in the Bailiwick and sent to a place outside the Bailiwick, or posted in a place outside the Bailiwick and sent to a place within the Bailiwick, or in transit through the Bailiwick to a place outside the Bailiwick.

Power to detain.

38. (1) A postal operator may -

- (a) detain any postal packet if he suspects that it may contain relevant goods, and
- (b) forward any packet so detained to the Chief Revenue Officer.

(2) In this section "**relevant goods**" means-

- (a) any goods charged with any tax, duty or impôt which has not been paid or secured, or
- (b) any goods in the course of importation, exportation or removal into or out of the Bailiwick of Guernsey contrary to any prohibition or restriction for the time being in force by virtue of any enactment.

(3) Subsection (1) is without prejudice to section 37.

(4) The Chief Revenue Officer may open and examine any postal packet forwarded to him under this section -

(a) in the presence of the person to whom the packet is addressed, or

(b) where the address on the packet is outside the Bailiwick of Guernsey, or where subsection (5) applies, in the absence of that person.

(5) This subsection applies where -

(a) the Chief Revenue Officer has -

(i) left at the address on the packet a notice requiring the attendance of the person concerned, or

(ii) forwarded such notice by post to that address, and

(b) the addressee fails to attend.

(6) If the Chief Revenue Officer finds any relevant goods on opening and examining a postal packet under this section, he may detain the packet and its contents for the purpose of taking any legal proceedings in relation to them.

(7) If the Chief Revenue Officer does not find any relevant goods on opening and examining a postal packet under this section, he shall -

- (a) deliver the packet to the addressee upon his paying any postage and other sums chargeable on it, or
- (b) if he is absent, forward the packet to him by post.

Postal orders

Money orders

39. (1) A universal postal service provider may, as part of a scheme made under section 10, make provision for the remission of small sums of money through its post offices by means of money orders and may demand and receive in respect of those money orders such rates of poundage as it may prescribe in such scheme.

(2) Subject to the terms of a scheme made under section 10 -

- (a) a universal postal service provider may repay the amount of any money order to the person to whom the order is issued, or his legal personal representatives, whether the order remains in the possession of that person or not, and upon that repayment all liability on the part of the provider in respect of the money order shall, as against the payee of the money order and the holder thereof and every other person whomsoever, cease;

- (b) no interest shall be payable in respect of any money order; and
- (c) no action or other legal proceedings shall be instituted against a universal postal services provider or against any person engaged by a provider or any person whomsoever in respect of any compliance with an order under this section, or otherwise in relation thereto, or in respect of the payment of any money orders being refused or delayed by or on account of any accidental neglect, omission or mistake by or on the part of any person engaged by a provider, or for any other cause whatsoever, without fraud or wilful behaviour on the part of any person engaged by the provider.

Special provisions as to postal orders.

40. Any person acting as a banker in the Bailiwick who, in collecting in that capacity for any principal, has received payment or been allowed by a universal postal service provider an account in respect of any postal order or of any document purporting to be a postal order, shall not incur liability to anyone except that principal by reason of having received the payment or allowance or having held or presented the order or document for payment; but this subsection shall not relieve any principal for whom any such order or document has been so held or presented of any liability in respect of his possession of the order or document or of the proceeds thereof.

Arrangements with other countries as to money orders.

41. Where an arrangement is made with a government of any other country or an overseas postal administration for the transmission of small sums through a universal postal services provider post office and the postal administration of the other country by means of money orders, sections 26, 27 and 29 shall, so far as is consistent with the tenor thereof, and subject to any modifications prescribed in any scheme made under section 10, apply in like manner as if an order issued in pursuance of the arrangement, whether by a person engaged by a universal postal service provider or by an officer of the other postal administration, were a money order within the meaning of those sections:

Provided that -

- (a) any order relating to any money orders issued in pursuance of any such arrangements as aforesaid may differ from the provisions of any scheme made under section 10 and relating to any other money orders; and
- (b) any orders issued in pursuance of any such arrangements as aforesaid may be of such amounts and in such form and subject to such conditions respecting poundage, commission, the periods during which they are payable, and other matters, as may be prescribed in a scheme made under section 10.

Evidential provisions

Evidence of amount of postage etc.

42. (1) The official mark of -

- (a) a universal postal service provider in connection with the provision of a universal postal service, or
- (b) an overseas postal administration,

of any sum on any postal packet as due in respect of that packet shall in any court in the Bailiwick be sufficient proof of the liability of the packet to the sum so marked unless the contrary is shown.

(2) Subsections (3) to (5) apply in relation to any legal proceedings for the recovery of postage or other sums due in respect of postal packets (referred to in those subsections as "recovery proceedings").

(3) In recovery proceedings, the production of the packet concerned with a stamp or other endorsement on it of a universal postal service provider (and made in connection with the provision of a universal postal service) or of an overseas postal administration indicating that the packet –

- (a) has been refused or rejected,
- (b) cannot for any other reason be delivered,

shall, unless the contrary is shown, be sufficient proof of the fact indicated.

(4) In recovery proceedings, a certificate of a universal postal service provider that any mark, stamp or endorsement is such a mark, stamp or endorsement as is mentioned in subsection (1) or (3) shall, unless the contrary is shown, be sufficient proof of that fact.

(5) In recovery proceedings, the person from whom the packet concerned purports to have come shall, unless the contrary is shown, be taken to be the sender of the packet.

Evidence of an article being a postal packet.

43. On the prosecution of an offence under this Law (whether summarily or on indictment), evidence that any article is in the course of transmission, or has been accepted by a postal operator for transmission, shall be sufficient evidence that the article is a postal packet.

Certificate in relation to universal postal service letter box.

44. A certificate given by or on behalf of a universal postal service provider to the effect that any box or receptacle is or was provided by the provider concerned for the purpose of receiving postal packets, or any class of postal packets, for onwards transmission in connection with the provision of a universal postal service, shall, unless the contrary is shown, be sufficient proof in any legal proceedings of the facts stated.

Interpretation.

45. (1) In this Law, unless the context otherwise requires -

"Bailiwick" means the Bailiwick of Guernsey;

"banker" includes a body of persons, whether incorporated or not, who carry on the business of banking;

"bill of exchange" has the same meaning as in the Bills of Exchange

(Guernsey) Law, 1958^e;

"Board of Administration" means the Board of Administration as constituted by Resolution of the States;

"Board of Industry" means the Board of Industry as constituted by Resolution of the States;

"body corporate" means a body of persons incorporated with or without limited liability in any part of the world;

"cheque" has the same meaning as in the Bills of Exchange (Guernsey) Law, 1958, as amended;

"class licence" means a licence granted by the Director General under Part I of this Law authorising -

- (a) all persons; or
- (b) all persons who are of a particular class defined by the Director General for the purposes of the licence;

to provide postal services of such a class or description, or both; and for the purposes of such a licence the definition of a class of persons may be framed by reference to any circumstances or criteria whatsoever;

"contravention" includes failure to comply, and cognate expressions

^e Ordres en Conseil Vol. XVII, p. 384; Vol. XXIV, p. 84 and XI of 1993.

shall be construed accordingly;

"Court" means the Royal Court sitting as an Ordinary Court;

"Director General" means the holder of the Office of the Director General of Utility Regulation established by section 1 of the Regulation Law;

"document" includes information recorded in any form (including, without limitation, in an electronic communication) and, in relation to information recorded otherwise in legible form, references to its production, howsoever expressed, include references to the production of a copy of the information in legible form;

"dominant position" has the meaning given by section 22(1) of the Regulation Law;

"financial penalty" has the meaning given by section 32(6);

"individual licence" means a licence granted by the Director General under Part I of this Law authorising the person to whom the licence was granted to provide postal services of such a class or description specified in the licence, or both;

"letter" means any communication in written form on any kind of physical medium to be conveyed and delivered to the address indicated by the sender on the item or on its wrapping (excluding any book, catalogue, newspaper or periodical);

"licence" means an individual licence or a class licence;

"licensee" means a person -

- (a) to whom an individual licence has been granted; or
- (b) who is authorised by a class licence to provide postal services of such a class or description specified in the licence, or both;

and cognate expressions shall be construed accordingly;

"mail-bag" includes any form of container or covering in which postal packets in the course of transmission by post are enclosed by a postal operator in the Bailiwick of Guernsey, or an overseas postal administration for the purpose of conveyance by post, whether or not it contains any such packets;

"notice" means a notice in writing;

"overseas postal administration" means the postal administration of a country or territory other than the Bailiwick

"police officer" means a member of the salaried police force of the Island of Guernsey and -

- (a) in relation to Guernsey, Herm and Jethou, and within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey;

(b) in relation to Alderney, a member of any police force which may be established by the States of Alderney and, within the limits of his jurisdiction, a special constable appointed by the Court of Alderney under section 15 of the Government of Alderney Law, 1987^f; and

(c) in relation to Sark, the Constable and the Vingtenier;

"post office" includes any house, building, room, vehicle or place used for the purposes of a postal operator;

"post office letter box" includes any pillar box, wall box, or other box or receptacle provided by a postal operator for the purpose of receiving postal packets, or any class of postal packets, for onwards transmission by post;

"postal operator" means a person who provides postal services;

"postal order" has the meaning given by section 13 of the Post Office (Postal Orders) Order, 1993^f and includes a money order prescribed in a section 10 scheme;

^f Ordres en Conseil Vol. XXX, p. 37; section 15 has been repealed and replaced (from a date to be appointed) by No. I of 2000.

^f GSI 1993 No. 7.

"postal packet" means a letter, parcel, packet or other article capable of transmission by post;

"postal services" means the service of conveying postal packets from one place to another, the incidental services of receiving, collecting and delivering such packets and any other service which relates to such services;

"public holiday" has the same meaning as in the Bills of Exchange (Guernsey) Law, 1958;

"publish", in relation to a document, means -

- (a) publication in La Gazette Officielle; or
- (b) where the Director General thinks fit, publication of a notice in La Gazette Officielle of the availability of the document -
 - (i) on the official website of the Director General;
 - (ii) otherwise from the offices of the Director General;

and cognate expressions shall be construed accordingly;

"registered post service" means a service which provides for the registration of postal packets and for the payment of compensation for any loss or damage;

"Regulation Law" means the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001;

"relevant market" means any discrete market for postal services which is defined by the Director General from time to time by reference to factors that may include products, services, territorial extent, universal service or such other economic factors as may appear to the Director General to be appropriate;

"reserved services" means postal services designated by the Director General under section 9(1);

"Royal Court" means the Royal Court of Guernsey;

"Schedule 1" means Schedule 1 to this Law;

"Schedule 2" means Schedule 2 to this Law;

"sender", in relation to any letter or other communication, means the person whose communication it is;

"States" means the States of Guernsey;

"States' Directions" means directions given to the Director General by Resolution of the States under section 3(1) of the Regulation Law;

"States Post Office Board" means the States Post Office Board as

constituted by the Post Office (Guernsey) Law, 1969^g;

"States Revenue Officer" has the same meaning as in the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^h;

"turnover", in relation to a licensee or other person, has the meaning for the time being given by regulations of the States Advisory and Finance Committee; and for the purposes hereof the provisions of section 23 of the Regulation Law shall apply to such regulations as those provisions apply to rules under that Law;

"universal postal service" means postal services the scope of which are specified by States' Directions under section 3(1)(c) of the Regulation Law and which are required by States' Directions to be provided by a licensee to persons or to a class of persons throughout the Bailiwick at an affordable price;

"universal postal service provider" means a licensee providing a universal postal service;

"universal postal service letter box" means any box, receptacle or other facility provided for the purpose of receiving postal packets, or any class of postal packets, for onwards transmission in connection with the provision of a universal postal service;

^g Ordres en Conseil Vol. XXII, p. 128; Vol. XXIII, p. 511; Vol. XXXI, p. 78; Vol. XXXII, p. 46 and Vol. XXXII, p. 151.

^h Ordres en Conseil Vol. XXIII, p. 573 and XIII of 1991.

"universal postal service post office" includes any house, building, room, vehicle or place used for the purposes of a universal service provider;

"users", in relation to postal services, includes users as addressees and potential users;

"Utility Appeals Panel" means the panel drawn up and maintained by the States under section 14(1) of the Regulation Law;

"Utility Appeals Tribunal" means the tribunal appointed from the membership of the Utility Appeals Panel under section 14(5) of the Regulation Law.

(2) For the purposes of this Law -

- (a) a postal packet shall be taken to be in the course of transmission by post from the time of its being delivered to any post office or post office letter box to the time of its being delivered to the addressee,
- (b) the delivery of a postal packet of any description to a letter carrier or other person authorised to receive postal packets of that description for the post or to a person engaged in the business of a postal operator to be dealt with in the course of that business shall be a delivery to a post office, and
- (c) the delivery of a postal packet -

- (i) at the premises to which it is addressed or redirected, unless they are a post office from which it is to be collected,
- (ii) to any box or receptacle to which the occupier of those premises has agreed that postal packets addressed to persons at those premises may be delivered, or
- (iii) to the addressee's agent or to any person considered to be authorised to receive the packet,

shall be delivery to the addressee.

(3) The Interpretation (Guernsey) Law, 1948ⁱ applies to the interpretation of this Law throughout the Bailiwick.

(4) In this Law, except where the context otherwise requires -

- (a) a reference to a numbered section, or to a numbered or lettered subdivision thereof, is to a section or subdivision thereof so identified in this Law;
- (b) a reference in a section to a numbered or lettered subdivision is to the subdivision so identified in that

ⁱ Ordres en Conseil Vol. XIII, p. 355.

section; and

- (c) any reference in this Law to an enactment (including an Act of Parliament) or statutory instrument is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

(5) In this Law any words importing the neuter gender shall include the masculine and the feminine, and any words importing the masculine gender shall include the feminine and the neuter.

Transitional provisions

46. The transitional provisions contained in Schedule 1 shall have effect.

Repeals, amendments and savings.

47. Subject to section 46, the enactments contained in Schedule 2 are repealed or amended as set out in that Schedule.

Power to amend by Ordinance.

48. (1) The States may by Ordinance amend any of the provisions of this Law.

(2) Every committee of the States shall, before recommending the States to agree to amend this Law by Ordinance made under subsection (1), consult the General Purposes and Advisory Committee of the Chief Pleas of Sark and the Policy and Finance Committee of the States of Alderney in relation to the terms of the proposed amendment; but a failure to comply with this subsection shall not

invalidate any Ordinance so made.

(3) The provisions of section 23 of the Regulation Law shall apply to an Ordinance under subsection (1) as they apply to an Ordinance under that Law.

Citation and commencement.

49. (1) This Law may be cited as the Post Office (Bailiwick of Guernsey) Law, 2001.

(2) This Law shall come into force on the day appointed by Ordinance of the States; and different days may be appointed for different provisions or different purposes.

SCHEDULE 1
TRANSITIONAL PROVISIONS

Transitional provisions as to licences.

1. (1) Subject to the following provisions of this paragraph, an authority -

- (a) granted by the States Post Office Board under section 4 of the Post Office (Guernsey) Law, 1969; and
- (b) in force on the date of the commencement of this Law;

shall be deemed, for the period specified in sub-paragraph (2), to be -

- (i) an individual licence granted by the Director General under Part I of this Law (in cases where the licence under the said section 4 was granted to a particular person); or
- (ii) a class licence so granted (in any other case);

and the provisions of this Law shall apply in respect of any such licence accordingly.

(2) Subject to the provisions of sub-paragraph (3), the period referred to in subparagraph (1) shall be -

- (a) subject to the provisions of article (b), a period of six

months from the date of the commencement of this Law;

- (b) in cases where the licence under the said section 4 provides that it will expire at a time which falls before the end of that 6 month period, the period ending at that time.

(3) Within a period of two months from the date of the commencement of this Law, any person claiming to be the holder of an authority granted under section 4 of the Post Office (Guernsey) Law, 1969, being an authority granted to a particular person, shall -

- (a) give the Director General notice that he holds such a licence; and
- (b) make an application to the Director General for an individual licence in accordance with the provisions of this Law;

in default of which his licence shall expire at the end of the said period of two months.

Transitional provisions as to Ordinances

2. (1) Notwithstanding the repeal or amendment by section 47 of the enactments set out in Schedule 2, the following Ordinances remain in force and continue to have effect, subject to any amendments indicated, as if they were regulations made by the Board of Administration under section 37 and may be amended or revoked by the Board of Administration accordingly-

(a) the Post Office (Postal Packets) Ordinance, 1973^j,
subject to the following amendments in section 15(1)-

(i) in the definition of "the Board" for "States Post
Office Board" substitute "States Board of
Industry"; and

(ii) immediately after the definition of "letter
packet" insert the following definition-

"an officer of the States Post Office Board"
includes a person engaged by a universal postal
service provider;".

(b) the Post Office (Postal Packets) (Amendment))
Ordinance, 1975^k;

(c) the Post Office (Postal Packets) (Amendment)
Ordinance, 1983^l.

(2) Notwithstanding the repeal or amendment by section 47 of the
enactments set out in Schedule 2, the following Ordinances remain in force and

^j Recueil d'Ordonnances Tome XIX, p. 62; XX, p. 217 and XXII, p. 427.

^k Recueil d'Ordonnances Tome XX, p. 217.

^l Recueil d'Ordonnances Tome XXII, p. 427.

continue to have effect, subject to any amendments indicated and may be amended or repealed by the States, as if the repealed enactment under which they were made were still in force -

(a) the Post Office (Postal Order) Ordinance, 1969^m,
subject to the following amendments-

(i) in paragraph (1) of that part of the Schedule headed "Adapted provisions" dealing with adaptations to section 4 of the Stamp Duties Management Act, 1891ⁿ (in subparagraph (b) referred to as "**the Act**") - "Penalty for unauthorised dealing in stamps etc.", after "officer of the States Post Office" insert "or a person engaged by a universal postal services provider" and

(ii) in that part of the Schedule headed "Adapted provisions" dealing with adaptations to section 27 of the Act - "Definitions", after "States Post Office Board" insert "or a universal postal services provider";

(b) the Post Office (Postal Order) (Amendment)

^m Recueil d'Ordonnances Tome XVI, p. 126 and XXII, p. 426.

ⁿ An Act of Parliament (54 & 55 Vict c 38)

Ordinance, 1983^o.

Transitional provisions as to Orders

3. (1) Notwithstanding the repeal or amendment by section 47 of the enactments set out in Schedule 2, the following Orders remain in force and continue to have effect, subject to any amendments indicated, as if they were provisions of a scheme made under section 10 and-

(a) may be revoked or amended by a universal postal services provider accordingly; and

(b) any charges fixed under those Orders shall have effect as if fixed under schemes so made -

(i) the Post Office (Inland Post) Order, 1993^P, subject to the following amendment-

for "Board" wherever appearing in that Order substitute "universal postal services provider";

(ii) the Post Office (Overseas Letter Post) Order, 1993^q, subject to the following amendment-

^o Recueil d'Ordonnances Tome XXII, p. 426.

^P GSI 1993 No. 4.

^q GSI 1993 No. 5.

for "Board" wherever appearing in that Order
substitute "universal postal services provider";

- (iii) the Post Office (Overseas Parcel Post) Order,
1993^r, subject to the following amendment -

for "Board" wherever appearing in that Order
substitute "universal postal services provider";

- (iv) the Post Office (Postal Orders) Order, 1993,
subject to the following amendments -

for "Board" wherever appearing in that Order
substitute "universal postal services provider";
and

in section 13(1) in the definition of "proper
officer of the States Post Office" after "post
office" insert "or any person engaged by a
universal postal service provider".

(2) Any statutory instrument made under an enactment repealed
by this Law shall, notwithstanding the repeal, remain in force and continue to have
effect and may be amended or revoked as if that repealed enactment were still in
force, save that any power conferred on the States Post Office Board by the
repealed enactment to amend or revoke a statutory instrument may be exercised

^r GSI 1993 No. 6.

after the date of the repeal by the Board of Industry.

(3) In this paragraph, "**statutory instrument**" means any Order or matter made, prescribed or authorised by the States Post Office Board pursuant to sections 4, 13, 14, 15, 16, 18, 20, 22, 28, 29, 30, 33, 50, 51, 52, 53 and 68 of the Post Office (Guernsey) Law, 1969, which does not remain in force and continue to have effect under paragraph 1 or sub-paragraph (1).

SCHEDULE 2
REPEAL AND AMENDMENT OF ENACTMENTS

PART I
REPEALS

1. The Post Office (Guernsey) Law, 1969.
2. The Post Office (Guernsey) Law, 1969 (Commencement) Ordinance, 1969^s.
3. The Post Office (Amendment) (Guernsey) Law, 1972^t.
4. The Post Office (Amendment) (Guernsey) Law, 1972 (Commencement) Ordinance, 1973^u.
5. The Post Office (Amendment) (Bailiwick of Guernsey) Law, 1988^v.
6. The Post Office (Amendment) (Bailiwick of Guernsey) Law, 1990^w.

^s Recueil d'Ordonnances Tome XVI, p. 29.

^t Ordres en Conseil Vol. XXIII, p. 511.

^u Recueil d'Ordonnances Tome XIX, p. 60.

^v Ordres en Conseil Vol. XXXI, p. 78.

^w Ordres en Conseil Vol. XXXII, p.46.

7. The Post Office (Amendment) (No. 2) (Bailiwick of Guernsey) Law, 1990^x.

8. The Post Office Board (Chief Executive) Ordinance, 1995^y.

PART II AMENDMENTS

9. In the Schedule to the Theft (Bailiwick of Guernsey) Law, 1983^z, the entry relating to the Post Office (Guernsey) Law, 1969 is repealed.

10. In the Interception of Communications (Bailiwick of Guernsey) Law, 1997^{aa}-

(a) in section 9(1)(a)(ii) for "the States Post Office Board or any person engaged in the business thereof" substitute "any person engaged in the business of a licensed postal operator";

(b) in section 9(3)(a) for "section 47 of the Post Office (Guernsey) Law, 1969" substitute "section 16 of the

^x Ordres en Conseil Vol. XXXII, p. 151.

^y Ordinance No. III of 1995

^z Ordres en Conseil Vol. XXVIII, p. 5.

^{aa} Order in Council No. XIII of 1997.

Post Office (Bailiwick of Guernsey) Law, 2001";

- (c) in section 10(1), after the definition of "judge of the Court of Appeal" insert the following -

"licensed postal operator" means an employee or, person acting with the authority of, the holder of an individual licence (within the meaning of the Post Office (Bailiwick of Guernsey) Law, 2001) granted or deemed to have been granted under that Law;".