
REPUBLIC OF SOUTH AFRICA

**SOUTH AFRICAN
POST OFFICE SOC
LTD ACT**

REPUBLIEK VAN SUID-AFRIKA

**WET OP DIE
SUID-AFRIKAANSE
POSKANTOOR MIS BPK**

No 22, 2011

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with a solid line indicate insertions in existing enactments.

ACT

To provide for the continued corporate existence of the South African Post Office and its subsidiaries; to provide for its governance and staff; and to provide for matters connected therewith.

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

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Definitions

- 1. In this Act, unless the context indicates otherwise— 10
 - “**Board**” means the Board contemplated in section 8;
 - “**Companies Act**” means the Companies Act, 2008 (Act No. 71 of 2008);
 - “**Department**” means the Department of Communications;
 - “**executive member**” means the chief executive officer, the chief financial officer or the chief operating officer of the Board appointed in terms of section 16; 15
 - “**family member**”, in relation to any person, means his or her parent, sibling, child, including an adopted child or a step-child, or spouse (whether by statutory, customary or religious law), and including a life partner who is a person living with that person as if they were married to each other;
 - “**financial statements**” means statements consisting of at least a balance sheet, an income statement, a cash-flow statement and other statements that may be prescribed, and includes any notes to these statements; 20
 - “**member**” means an executive or non-executive member of the Board;
 - “**Minister**” means the Minister charged with the administration of the Department; 25
 - “**Postal Services Act**” means the Postal Services Act, 1998 (Act No. 124 of 1998);
 - “**Postbank**” means the South African Postbank Limited, the public company referred to in the Postbank Act;
 - “**Postbank Act**” means the South African Postbank Limited Act, 2010 (Act No. 9 of 2010); 30
 - “**Post Office**” means the South African Post Office SOC Ltd established in terms of the Post Office Act;
 - “**Post Office Act**” means the Post Office Act, 1958 (Act No. 44 of 1958);
 - “**Public Finance Management Act**” means the Public Finance Management Act, 1999 (Act No. 1 of 1999); 35
 - “**subsidiary**” means—
 - (a) Courier and Freight Group (Pty) Ltd;
 - (b) The Document Exchange (Pty) Ltd;
 - (c) the Postbank;
 - (d) any other company or juristic person which exists when this Act commences, but which is dormant and not deregistered in terms of the Companies Act, and of which the Post Office is the holding company or owner; and 40
 - (e) any other subsidiary of the Post Office established under section 22(1).

Objects of Act

- 2. The objects of this Act are to— 45
 - (a) provide for the continued existence of the South African Post Office SOC Ltd;
 - (b) provide for the governance of the Post Office;
 - (c) ensure the provision of universal, accessible, reliable and affordable postal services;
 - (d) ensure the provision of a wide range of postal services in the interest of the economic growth and the development of the Republic; and 50
 - (e) encourage the development of human resources and capacity-building within the postal industry, especially among historically disadvantaged groups.

- 26. Beperking van aanspreeklikheid
- 27. Toepassing van Maatskappywet op Poskantoor
- 28. Sekere bepalinge van Maatskappywet kan as nie van toepassing op die Poskantoor verklaar word
- 29. Regulasies en beleid 5
- 30. Oortredings en strawwe
- 31. Herroeping en wysiging van wette
- 32. Kort titel en inwerkingtreding

Woordoms krywing

- 1. In hierdie Wet, tensy uit die samehang anders blyk, beteken— 10
 - “**Departement**” die Departement van Kommunikasie;
 - “**familielid**”, met betrekking tot enige persoon, sy of haar vader of moeder, broer of suster, kind, met inbegrip van ’n aangenome kind of ’n stiefkind, of eggenoot (hetsy volgens statutêre, gewoonte- of godsdiensreg), en met inbegrip van ’n lewensmaat wat ’n persoon is wat saam met daardie persoon woon asof hulle met mekaar getroud is; 15
 - “**filiaal**”—
 - (a) Courier and Freight Group (Pty) Ltd;
 - (b) The Document Exchange (Pty) Ltd;
 - (c) die Posbank; 20
 - (d) enige ander maatskappy of regs persoon wat bestaan wanneer hierdie Wet in werking tree, maar wat dormant is en nie ingevolge die Maatskappywet gederegistreer is nie, en waarvan die Poskantoor die beheermaatskappy of eienaar is; en
 - (e) enige ander filiaal van die Poskantoor kragtens artikel 22(1) ingestel; 25
 - “**finansiële state**” state wat bestaan uit ten minste ’n balansstaat, ’n inkomstestaat, ’n kontantvloei staat en ander state wat voorgeskryf kan word, en ook enige aantekeninge by hierdie state;
 - “**lid**” ’n uitvoerende of nie-uitvoerende lid van die Raad;
 - “**Maatskappywet**” die Maatskappywet, 2008 (Wet No. 71 van 2008); 30
 - “**Minister**” die Minister belas met die administrasie van die Departement;
 - “**Posbank**” die Suid-Afrikaanse Posbank Beperk, die openbare maatskappy in die Posbankwet bedoel;
 - “**Posbankwet**” die Wet op die Suid-Afrikaanse Posbank Beperk, 2010 (Wet No. 9 van 2010); 35
 - “**Posdienstewet**” die Posdienstewet, 1998 (Wet No. 124 van 1998);
 - “**Poskantoor**” die Suid-Afrikaanse Poskantoor MIS Bpk ingestel kragtens die Poswet;
 - “**Poswet**” die Poswet, 1958 (Wet No. 44 van 1958);
 - “**Raad**” die Raad in artikel 8 bedoel; 40
 - “**uitvoerende lid**” die hoof- uitvoerende beampte, die hoof- finansiële beampte of die hoofbedryfsbeampte van die Raad ingevolge artikel 16 aangestel;
 - “**Wet op Openbare Finansiële Bestuur**” die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

Oogmerke van Wet 45

- 2. Die oogmerke van hierdie Wet is om—
 - (a) voorsiening te maak vir die voortbestaan van die Suid-Afrikaanse Poskantoor MIS Bpk;
 - (b) voorsiening te maak vir die bestuur van die Poskantoor;
 - (c) die lewering van universele, toeganklike, betroubare en bekostigbare posdienste te verseker; 50
 - (d) die lewering van ’n wye reeks posdienste in die belang van die ekonomiese groei en die ontwikkeling van die Republiek te verseker; en
 - (e) die ontwikkeling van mensehulpbronne en kapasiteitsbou binne die posbedryf, veral onder histories benadeelde groepe, te bevorder. 55

Continued existence of Post Office

3. (1) The South African Post Office SOC Ltd, the postal company contemplated in section 3 of the Post Office Act, continues to exist as a public company, notwithstanding the repeal by this Act of provisions in the Post Office Act relating to the postal company.
- (2) The repeal referred to in subsection (1) does not affect— 5
- (a) the shareholding of the State in the Post Office;
 - (b) any rights, assets, liabilities or obligations acquired or incurred by the Post Office before the commencement of this Act;
 - (c) the continued existence of the Board of the Post Office that managed the affairs of the Post Office immediately prior to the commencement of this Act; 10
 - (d) the terms and conditions of service and accrued benefits of Post Office employees;
 - (e) the validity of any act lawfully performed by or on behalf of the Post Office prior to the repeal referred to in subsection (1); or
 - (f) the continued existence of any subsidiary of the Post Office. 15
- (3) The powers and duties of the State as a member and shareholder of the Post Office must be exercised and performed by the Minister.
- (4) (a) Notwithstanding the Companies Act, the Minister exercises the power to add to or alter the memorandum of incorporation of the Post Office.
- (b) Any such addition or alteration— 20
- (i) may not be in conflict with this Act; and
 - (ii) must be aimed at giving effect to the main object of the Post Office, namely to provide a postal service;
 - (iii) must take into account the—
 - (aa) developmental role of the Post Office; and 25
 - (bb) promotion of universal access to, and the provision of, an affordable postal service, taking into account the cost of postal services, financial sustainability and the competitiveness of the Post Office.
- (5) The memorandum of incorporation of the Post Office must *inter alia* provide that the Post Office— 30
- (a) shall have as its main object and main business to conduct the postal services;
 - (b) shall not have the power to perform the following acts without the approval of the Minister granted after consultation with the Minister of Finance:
 - (i) The alienation or encumbrance by the Post Office, otherwise than in the normal course of its business, of assets of the Post Office with a market 35 value of more than 10 per cent of the market value of all the assets of the Post Office;
 - (ii) the cessation or alteration of the main object or main business of the Post Office;
 - (iii) the alienation of shares held by the Post Office in any subsidiary thereof so that the Post Office retains 50 per cent or less of the voting shares of the subsidiary; 40
 - (iv) the merger of the Post Office with another company or the entering into of a partnership or joint venture by the Post Office; and
 - (c) shall not issue any shares except as approved by the Minister after 45 consultation with the Minister of Finance.

Duties of Post Office

4. (1) Subject to the Postal Services Act and the licence issued to the Post Office in terms of the said Act, the Post Office must take reasonable measures, within its available resources, to achieve the progressive realisation of the following duties: 50
- (a) Ensure the universal and affordable provision of postal services;
 - (b) ensure the provision of a wide range of affordable postal services in the interest of the economic growth and development of the Republic;
 - (c) be innovative in the provision of postal services;
 - (d) develop postal services that are responsive to the needs of users and 55 consumers;
 - (e) ensure the achievement of universal access to postal services by providing an acceptable level of effective, reliable and regular postal services to all areas, including rural areas and small towns where post offices are not sustainable;

Voortbestaan van Poskantoor

- 3.** (1) Die Suid-Afrikaanse Poskantoor MIS Bpk, die posmaatskappy bedoel in artikel 3 van die Poswet, bly voortbestaan as 'n openbare maatskappy, ondanks die herroeping deur hierdie Wet van bepalings in die Poswet wat betrekking het op die posmaatskappy. 5
- (2) Die herroeping in subartikel (1) bedoel, raak nie—
- (a) die aandeelhouding van die Staat in die Poskantoor nie;
 - (b) enige regte, bates, laste of verpligtinge verkry of aangegaan deur die Poskantoor voor die inwerkingtreding van hierdie Wet nie;
 - (c) die voortbestaan van die Raad van die Poskantoor wat die sake van die Poskantoor onmiddellik voor die inwerkingtreding van hierdie Wet bestuur 10
het nie;
 - (d) die diensbepalings, diensvoorwaardes en opgeloopte voordele van Poskantoorwerknemers nie;
 - (e) die geldigheid van enige handeling wat wettiglik uitgevoer is deur of namens die Poskantoor voor die herroeping in subartikel (1) bedoel nie; of 15
 - (f) die voortbestaan van enige filiaal van die Poskantoor nie.
- (3) Die bevoegdhede en pligte van die Staat as 'n lid en aandeelhouer van die Poskantoor moet deur die Minister uitgeoefen en uitgevoer word.
- (4) (a) Ondanks die Maatskappywet oefen die Minister die bevoegdheid uit om die akte van oprigting van die Poskantoor aan te vul of te wysig. 20
- (b) Enige sodanige aanvulling of wysiging—
- (i) mag nie strydig met hierdie Wet wees nie;
 - (ii) moet daarop gerig wees om uitvoering te gee aan die hoofdoelwit van die Poskantoor, naamlik om 'n posdiens te lewer;
 - (iii) moet in ag neem die— 25
 - (aa) ontwikkelingsrol van die Poskantoor; en
 - (bb) bevordering van universele toegang tot, en die lewering van, 'n bekostigbare posdiens, met inagneming van die koste van posdienste, finansiële volhoubaarheid en die mededingendheid van die Poskantoor.
- (5) Die akte van oprigting van die Poskantoor moet onder andere daarvoor 30
voorsiening maak dat die Poskantoor—
- (a) die lewering van posdienste as hoofdoelwit en hoofbesigheid het;
 - (b) nie die bevoegdheid het om die volgende handeling uit te voer sonder die goedkeuring van die Minister na oorleg met die Minister van Finansies 35
verleen nie:
 - (i) die vervreemding of beswaring deur die Poskantoor, anders as in die normale gang van sy besigheid, van bates van die Poskantoor met 'n markwaarde van meer as 10 persent van die markwaarde van al die bates van die Poskantoor;
 - (ii) die staking of wysiging van die hoofdoelwit of hoofbesigheid van die 40
Poskantoor;
 - (iii) die vervreemding van aandele gehou deur die Poskantoor in enige filiaal daarvan sodat die Poskantoor 50 persent of minder van die stemdraende aandele van die filiaal behou;
 - (iv) die samesmelting van die Poskantoor met 'n ander maatskappy of die 45
toetrede tot 'n vennootskap of gesamentlike onderneming deur die Poskantoor; en
 - (c) nie enige aandele uitreik buiten soos goedgekeur deur die Minister na oorleg met die Minister van Finansies nie.

Pligte van Poskantoor 50

- 4.** (1) Behoudens die Posdienstewet en die lisensie aan die Poskantoor uitgereik ingevolge die genoemde Wet, moet die Poskantoor redelike maatreëls tref, binne perke van die hulpbronne wat tot die Poskantoor se beskikking is, om die progressiewe verwerking van die volgende pligte uit te voer:
- (a) Die lewering van universele en bekostigbare posdienste verseker; 55
 - (b) die lewering van 'n wye reeks posdienste in die belang van die ekonomiese groei en die ontwikkeling van die Republiek verseker;
 - (c) innoverend wees in die verskaffing van posdienste;
 - (d) posdienste ontwikkel wat voorsien in die behoeftes van gebruikers en 60
verbruikers;
 - (e) die bereiking van universele toegang tot basiese dienste verseker deur 'n aanvaarbare vlak van doeltreffende, betroubare en gereelde posdienste aan

- (f) ensure greater equity in respect of the distribution of services, particularly within the areas of the historically disadvantaged communities, including rural areas;
 - (g) ensure that the needs of disabled persons are taken into account in the provision of postal services; 5
 - (h) ensure the development of human resources and capacity-building within the postal industry, especially amongst historically disadvantaged groups;
 - (i) act in the best interest of postal users and other clients;
 - (j) maintain an effective and efficient system of collecting, sorting and delivering mail nationwide in a manner responsive to the needs of all categories of mail users; 10
 - (k) actively provide and develop a citizens' post office that contributes to community and rural development and education, thereby serving as an interface between government and the community; and
 - (l) ensure compliance with international commitments relevant to the postal industry. 15
- (2) (a) The Post Office and any subsidiary must comply with policy made by the Minister in terms of section 29(2).
- (b) Any decision taken by the Board of the Post Office or by the Board of a subsidiary which is in conflict with a policy contemplated in paragraph (a) is of no force and effect. 20

Powers of Post Office

5. Without derogating from its powers as a company in terms of the Companies Act, but subject to any applicable provisions of the Public Finance Management Act and this Act, the Post Office may—

- (a) purchase or otherwise acquire immovable property and encumber or dispose of such property; 25
- (b) purchase, erect, or cause to be erected, any buildings, installations or plants;
- (c) utilise buildings or facilities for the benefit of the Post Office;
- (d) purchase, hire or otherwise acquire or hold movable property, and let, pledge, encumber or dispose of such property of which it is the owner; 30
- (e) hire services or let its own services or make them otherwise available;
- (f) sell or in any other manner make available to any person for use any patent, licence, concession or right of manufacture or any other right conferring the power to use any information, expertise, process or technology which has been developed by the Post Office and which is the property of the Post Office or which has been acquired by the Post Office from a third party; 35
- (g) acquire patents, licences, concessions, rights of manufacture or other similar rights conferring the power to use any technology, process, expertise or information and use, exercise, develop or grant licences in respect of such rights, concessions, technology, processes, expertise or information, or otherwise exploit it beneficially; 40
- (h) establish subsidiaries under section 22.

Performance agreement of Post Office and subsidiaries

6. (1) The Post Office must annually by a date determined by the Minister conclude a performance agreement with the Minister in terms of which the performance of the functions of the Post Office will be measured for the following year. 45

(2) (a) The Post Office must, after concluding the agreement contemplated in subsection (1), conclude a performance agreement with its subsidiaries in terms of which the performance of the subsidiaries will be measured for the following year.

(b) The Post Office must provide the Minister with copies of such performance agreements. 50

(3) Subsidiaries must on a quarterly basis submit performance reports to the Post Office.

(4) The Post Office must on a quarterly basis submit a performance report to the Minister, which must include the performance reports contemplated in subsection (3). 55

- alle areas te lewer, met inbegrip van landelike gebiede en klein dorpies waar poskantore nie volhoubaar is nie;
- (f) groter billikheid ten opsigte van die verspreiding van dienste verseker, veral binne die gebiede van die histories benadeelde gemeenskappe, met inbegrip van landelike gebiede; 5
- (g) verseker dat die behoeftes van gestremde persone in die lewering van posdienste in ag geneem word;
- (h) die ontwikkeling van mensehulpbronne en kapasiteitsbou binne die posbedryf, veral onder histories benadeelde groepe, verseker;
- (i) in die beste belang van posgebruikers en ander kliënte optree; 10
- (j) 'n effektiewe en doeltreffende stelsel van inname, sortering en aflewering van pos landwyd in stand hou op 'n wyse wat na die behoeftes van alle kategorieë posgebruikers omsien;
- (k) aktief 'n burgerposkantoor voorsien en ontwikkel deur by te dra tot gemeenskaps- en landelike ontwikkeling en onderwys, en sodoende as 'n koppelvlak tussen die regering en die gemeenskap dien; en 15
- (l) verseker dat aan internasionale verbintenisse wat op die posbedryf betrekking het, voldoen word.
- (2) (a) Die Poskantoor en enige filiaal moet voldoen aan beleid wat ingevolge artikel 29(2) deur die Minister gemaak is. 20
- (b) Enige besluit wat deur die Raad van die Poskantoor of deur die Raad van 'n filiaal geneem is, wat teenstrydig is met 'n beleid in paragraaf (a) beoog, is van nul en gener waarde.

Bevoegdhede van Poskantoor

5. Sonder om af te doen aan sy bevoegdhede as 'n maatskappy kragtens die Maatskappywet, maar onderhewig aan enige toepaslike bepalinge van die Wet op Openbare Finansiële Bestuur en hierdie Wet, kan die Poskantoor— 25
- (a) onroerende eiendom aankoop of andersins verkry en sodanige eiendom beswaar of van die hand sit;
- (b) enige gebou, installasie of aanleg aankoop, oprig of laat oprig; 30
- (c) ten bate van die Poskantoor van geboue of fasiliteite gebruik maak;
- (d) roerende eiendom aankoop, huur of andersins verkry of hou, en sodanige eiendom waarvan hy die eienaar is, verhuur, verpand, beswaar of van die hand sit;
- (e) dienste huur of sy eie dienste verhuur of andersins beskikbaar stel; 35
- (f) enige patent, lisensie, konsessie of vervaardigingsreg of enige ander reg waardeur die bevoegdheid verleen word om enige inligting, kundigheid, proses of tegnologie te gebruik wat deur die Poskantoor ontwikkel is en wat die eiendom van die Poskantoor is of wat deur die Poskantoor van 'n derde party verkry is, verkoop of op enige ander manier beskikbaar stel vir gebruik; 40
- (g) patente, lisensies, konsessies, vervaardigingsregte of ander soortgelyke regte verkry waardeur die bevoegdheid om enige tegnologie, proses, kundigheid of inligting te gebruik, verleen word, en lisensies gebruik, aanwend, ontwikkel of toestaan ten opsigte van sodanige regte, konsessies, tegnologie, prosesse, kundigheid of inligting, of dit andersins voordelig benut; en 45
- (h) filiale kragtens artikel 22 instel.

Prestasie-ooreenkoms van Poskantoor

6. (1) Die Poskantoor moet jaarliks teen 'n datum deur die Minister vasgestel 'n prestasie-ooreenkoms met die Minister aangaan, ingevolge waarvan die verrigting van die werksaamhede van die Poskantoor vir die komende jaar gemeet sal word. 50
- (2) (a) Die Poskantoor moet, na die ooreenkoms in subartikel (1) beoog, aangegaan is, 'n prestasie-ooreenkoms met sy filiale aangaan ingevolge waarvan die prestasie van die filiale vir die volgende jaar gemeet sal word.
- (b) Die Poskantoor moet afskrifte van sodanige prestasie-ooreenkomste aan die Minister voorsien. 55
- (3) Filiale moet kwartaalliks prestasieverslae aan die Poskantoor voorlê.
- (4) Die Poskantoor moet kwartaalliks 'n prestasieverslag aan die Minister voorlê, wat die prestasieverslae in subartikel (3) beoog, moet insluit.

Government support to Post Office and loans by Post Office and subsidiaries

7. (1) Parliament may fund the normal expenditure of the Post Office out of money appropriated for the purpose.
- (2) A request for financial support must be prepared by the Post Office by a date determined by the Minister in order for it to be subjected to the evaluation process for inclusion in the annual compilation and exposition of the government's expenditure proposal for appropriation purposes. 5
- (3) The payment of financial support is subject to the appropriation made by Parliament and must be for such purposes and periods and subject to such conditions as the Minister may determine, after consultation with the Minister of Finance. 10
- (4) (a) The Post Office and its subsidiaries may not borrow money without the prior written approval of the Minister, granted after consultation with the Minister of Finance.
- (b) Any decision to borrow money taken without such approval is of no force and effect.

Board of Post Office 15

8. (1) The Board of the Post Office is responsible for managing the affairs of the Post Office.
- (2) The Board consists of—
- (a) not more than 11 non-executive members appointed in terms of section 11, one of whom must be the managing director of the Postbank by virtue of his or her office; and 20
- (b) three executive members appointed in terms of section 16.
- (3) The Chairperson and Deputy Chairperson must be appointed by the Minister from the non-executive members of the Board.
- (4) The Board may designate any other non-executive member to act as chairperson if both the Chairperson and Deputy Chairperson are absent or unable to perform their functions. 25
- (5) The Board must upon invitation by the Minister nominate non-executive members of the Board for appointment to the Board of the Postbank, as contemplated in section 14(1)(b) of the Postbank Act. 30
- (6) The non-executive members of the Board appointed to the Board of the Postbank are accountable to the Board of the Post Office in respect of their functions performed as Board members of the Postbank.

Functions of Board

9. The Board— 35
- (a) must give effect to the corporate plan of the Post Office contemplated in section 52 of the Public Finance Management Act in order to achieve the objectives of the Post Office;
- (b) is the accounting authority of the Post Office;
- (c) takes decisions on behalf of the Post Office and gives effect to those decisions; 40
- (d) provides guidance and gives instructions to the chief executive officer concerning the exercise of the functions of the Post Office;
- (e) must notify the Minister immediately of any matter that may prevent or materially affect the achievement of the objects or financial targets of the Post Office; and 45
- (f) generally, must refer to the Minister any matter that may adversely affect the functioning of the Post Office.

Disqualification from membership of Board, and disclosure

10. (1) A person may not be appointed as a Board member or remain a member of the Board if he or she— 50
- (a) is a member of Parliament, any provincial legislature or any municipal council;
- (b) is an unrehabilitated insolvent;
- (c) has been declared by a court to be mentally ill or disordered;
- (d) has at any time been convicted, whether in the Republic or elsewhere, of— 55

Staatsteun aan Poskantoor en lenings deur Poskantoor en filiale

7. (1) Die Parlement kan die gewone uitgawes van die Poskantoor befonds uit geld wat vir daardie doel bewillig is.
- (2) 'n Versoek om finansiële steun moet deur die Poskantoor voorberei word teen 'n datum deur die Minister bepaal sodat dit aan die evaluasieproses vir insluiting in die jaarlikse opstelling en uiteensetting van die regering se bestedingsvoorstel vir aanwendingsdoeleindes, onderwerp kan word. 5
- (3) Die betaling van finansiële steun is onderhewig aan die bewilliging deur die Parlement gedoen en is vir sodanige doeleindes en tydperke en onderhewig aan sodanige voorwaardes as wat die Minister kan bepaal, na oorleg met die Minister van Finansies. 10
- (4) (a) Die Poskantoor en sy filiale kan nie geld leen sonder die voorafverkreë skriftelike goedkeuring van die Minister nie, wat toegestaan is na oorleg met die Minister van Finansies.
- (b) Enige besluit om geld te leen wat sonder sodanige goedkeuring geneem is, is van nul en gener waarde. 15

Raad van Poskantoor

8. (1) Die Raad van die Poskantoor is verantwoordelik vir die bestuur van die sake van die Poskantoor.
- (2) Die Raad bestaan uit— 20
- (a) nie meer nie as 11 nie-uitvoerende lede aangestel kragtens artikel 11, van wie een uit hoofde van sy of haar amp die besturende direkteur van die Posbank moet wees; en
- (b) drie uitvoerende lede aangestel kragtens artikel 16.
- (3) Die Minister moet die Voorsitter en Ondervoorsitter vanuit die geledere van die nie-uitvoerende lede van die Raad aanwys. 25
- (4) Die Raad kan enige ander nie-uitvoerende lid aanwys om as voorsitter op te tree wanneer sowel die Voorsitter as die Ondervoorsitter afwesig is of nie in staat is om hul werksaamhede te vervul nie.
- (5) Die Raad moet op uitnodiging van die Minister nie-uitvoerende lede van die Raad benoem vir aanstelling tot die Raad van die Posbank, soos in artikel 14(1)(b) van die Posbankwet beoog. 30
- (6) Die nie-uitvoerende lede van die Raad wat tot die Raad van die Posbank aangestel is, is verantwoordbaar aan die Raad van die Poskantoor ten opsigte van die werksaamhede wat hulle as Raadslede van die Posbank verrig. 35

Werksaamhede van Raad

9. Die Raad—
- (a) moet uitvoering gee aan die korporatiewe plan van die Poskantoor in artikel 52 van die Wet op Openbare Finansiële Bestuur beoog, ten einde die doelwitte van die Poskantoor te bereik; 40
- (b) is die rekenpligtige gesag van die Poskantoor;
- (c) neem besluite namens die Poskantoor en gee uitvoering aan daardie besluite;
- (d) verskaf leiding en gee instruksies aan die hoof- uitvoerende beampte rakende die uitoefening van die funksies van die Poskantoor;
- (e) moet die Minister onmiddellik in kennis stel van enige aangeleentheid wat die bereiking van die oogmerke of finansiële teikens van die Poskantoor kan verhoed of weselik kan raak; en 45
- (f) moet, oor die algemeen, enige aangeleentheid na die Minister verwys wat die werking van die Poskantoor nadelig kan raak.

Diskwalifikasie van lidmaatskap van Raad, en openbaarmaking 50

10. (1) Geen persoon kan as 'n lid van die Raad aangestel word of 'n lid van die Raad bly nie indien hy of sy—
- (a) 'n lid van die Parlement, 'n provinsiale wetgewer of 'n munisipale raad is;
- (b) 'n ongerehabiliteerde insolvent is;
- (c) deur 'n hof geestesongesteld of geestesversteurd verklaar is; 55
- (d) te eniger tyd, hetsy in die Republiek of elders, skuldig bevind is aan—

- (i) theft, fraud, forgery or uttering a forged document, perjury, an offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), or any other offence involving dishonesty; or
 - (ii) an offence under this Act;
 - (e) has been sentenced, after the commencement of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), to a period of imprisonment of not less than one year without the option of a fine;
 - (f) has at any time been removed from an office of trust on account of misconduct;
 - (g) has any direct or indirect interest in conflict with the business of the Post Office; or
 - (h) is not a South African citizen.
- (2) A person who is subject to a disqualification contemplated in subsection (1)(a), (b) or (g) may be nominated for appointment as a Board member, but may only be appointed if at the time of such appointment he or she is no longer subject to that disqualification.
- (3) (a) A person nominated for appointment as a member of the Board must, before appointment and upon a request from the Minister, submit to the Minister a written statement containing—
- (i) a full disclosure of all his or her financial interests; and
 - (ii) a declaration that he or she has no direct or indirect interests that are in conflict with the business of the Post Office as contemplated in subsection (1)(g) or section 13.
- (b) If, after appointment, a member of the Board acquires any—
- (i) further financial interest contemplated in paragraph (a)(i), the member must immediately in writing disclose that fact to the Minister and the Board; or
 - (ii) direct or indirect interest contemplated in subsection (1)(g) or section 13, the member must immediately declare that fact to the Minister and the Board.
- (4) (a) Any member of the Board of the Post Office referred to in section 3(2)(c) must as soon as possible after the commencement of this Act, but not later than three months thereafter, submit to the Minister and the Board a written statement containing the disclosure and declaration referred to in subsection (3)(a).
- (b) If a member of the Board of the Post Office, referred to in paragraph (a), has any direct or indirect interest in conflict with the business of the Post Office as contemplated in subsection (1)(g) or section 13, when this Act commences, the member must as soon as possible after making the statement contemplated in paragraph (a), but not later than six months after the commencement of this Act, divest himself or herself of that interest.
- (c) Subsection (3)(b) also applies to a Board member referred to in paragraph (a).

Appointment of non-executive members of Board

- 11.** (1) For the purposes of appointing the non-executive members of the Board, the Minister must—
- (a) by notice in at least two newspapers and in the *Gazette* invite interested persons; and
 - (b) in writing invite trade unions recognised by the Post Office,
- to submit, within the period and in the manner mentioned in the notice, the names of persons fit to be appointed as members of the Board, with due regard to section 8(5).
- (2) The Minister may appoint a nomination committee to make recommendations to the Minister for the appointment of the non-executive members of the Board contemplated in subsection (1)(a).
- (3) If a nomination committee is established, the Minister must—
- (a) ensure that the committee is broadly representative of the various racial groups and geographic areas of the Republic and that both males and females are represented; and
 - (b) ensure that the committee members have the necessary skills, knowledge, qualifications and experience to serve on the committee.
- (4) The Minister and, if applicable, the nomination committee in making a recommendation to the Minister, must consider—
- (a) the proven skills, knowledge, qualifications and experience of a candidate in areas of—
 - (i) financial management;

- (i) diefstal, bedrog, vervalsing of die uitgifte van 'n vervalste dokument, meined, 'n misdryf kragtens die Wet op die Voorkoming van Korrupsie, 2004 (Wet No. 12 van 2004), of enige ander misdryf waarby oneerlikheid betrokke is; of
 - (ii) 'n misdryf kragtens hierdie Wet; 5
 - (e) na die inwerkingtreding van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993), tot 'n tydperk van gevangenisstraf van minstens een jaar sonder die opsie van 'n boete gevonniss is;
 - (f) te eniger tyd weens wangedrag uit 'n vertrouensamp ontslaan is;
 - (g) enige direkte of indirekte belang het wat in stryd kan wees met die bedryf van die Poskantoor; of 10
 - (h) nie 'n Suid-Afrikaanse burger is nie.
- (2) 'n Persoon wat onderhewig is aan 'n diskwalifikasie beoog in subartikel (1)(a), (b) of (g) kan vir aanstelling as 'n lid van die Raad benoem word, maar kan slegs aangestel word indien hy of sy ten tyde van die aanstelling nie meer aan daardie diskwalifikasie onderhewig is nie. 15
- (3) (a) 'n Persoon wat vir aanstelling as 'n lid van die Raad benoem is, moet, voor aanstelling en op versoek van die Minister, 'n skriftelike verklaring aan die Minister voorlê met— 20
- (i) 'n volledige openbaarmaking van al sy of haar finansiële belange; en
 - (ii) 'n verklaring dat hy of sy nie enige direkte of indirekte belange het wat in stryd met is die bedryf van die Poskantoor soos beoog in subartikel (1)(g) of artikel 13 nie.
- (b) Indien 'n lid van die Raad na aanstelling enige— 25
- (i) verdere finansiële belang beoog in paragraaf (a)(i) verkry, moet die lid dit onmiddellik skriftelik aan die Minister en die Raad verklaar; of
 - (ii) 'n direkte of indirekte belang beoog in subartikel (1)(g) of artikel (13) verkry, moet die lid dit onmiddellik aan die Minister en die Raad verklaar.
- (4) (a) Enige lid van die Raad van die Poskantoor in artikel 3(2)(c) bedoel, moet so gou moontlik na die inwerkingtreding van hierdie Wet, maar nie later nie as drie maande daarna, 'n skriftelike verklaring aan die Minister en die Raad voorlê wat die openbaarmaking en verklaring in subartikel (3)(a) bedoel, bevat. 30
- (b) Indien 'n lid van die Raad in paragraaf (a) bedoel, enige direkte of indirekte belang het wat in stryd met die bedryf van die Poskantoor is, soos in subartikel (1)(g) of artikel 13 beoog, wanneer hierdie Wet in werking tree, moet die lid so gou moontlik nadat die verklaring in paragraaf (a) beoog gemaak is, maar nie langer nie as ses maande na die inwerkingtreding van hierdie Wet, afstand doen van daardie belang. 35
- (c) Subartikel (3)(b) is ook van toepassing op 'n Raadslid in paragraaf (a) bedoel.

Aanstelling van nie-uitvoerende lede van Raad

- 11.** (1) Ten einde die nie-uitvoerende lede van die Raad aan te stel, moet die Minister— 40
- (a) by kennisgewing in ten minste twee koerante en in die *Staatskoerant*, belangstellende persone nooi; en
 - (b) vakbonde wat deur die Poskantoor erken word, skriftelik nooi, 45
- om, binne die tydperk en op die wyse in die kennisgewing genoem, die name van persone voor te lê wat geskik is om as lede van die Raad aangestel te word, met behoorlike inagneming van artikel 8(5).
- (2) Die Minister moet 'n benoemingskomitee aanstel om aanbevelings aan die Minister te doen vir die aanstelling van die nie-uitvoerende lede van die Raad in subartikel (1)(a) beoog. 50
- (3) By die instelling van 'n benoemingskomitee moet die Minister—
- (a) toesien dat die komitee die verskeie rassegroepe en geografiese gebiede van die Republiek in die breë verteenwoordig en dat beide mans en vroue verteenwoordig word; en
 - (b) seker maak dat die komiteeledes oor die nodige vaardighede, kennis, kwalifikasies en ervaring beskik om in die komitee te dien. 55
- (4) Die Minister en, indien van toepassing, die benoemingskomitee moet, by die doen van 'n aanbeveling aan die Minister—
- (a) die bewese vaardighede, kennis, kwalifikasies en ervaring van 'n kandidaat op die terrein van— 60
 - (i) finansiële bestuur;

- (ii) project management;
- (iii) governance compliance;
- (iv) risk management;
- (v) transformation and diversity equity;
- (vi) banking business; 5
- (vii) postal services and postal service management; or
- (viii) any other field of expertise relevant to the Post Office;
- (b) the need for representation of historically disadvantaged persons;
- (c) the requirement that some members of the Board must be fit and proper persons to hold the office of a member of the Board of a banking institution, as contemplated in the Banks Act, 1990 (Act No. 94 of 1990), for purposes of section 8(5); and 10
- (d) whether a candidate has any direct or indirect interest in conflict with the business of the Post Office as contemplated in section 10(1)(g).
- (5) The Minister must ensure that the non-executive members of the Board represent a sufficient spread of skills, knowledge, qualifications and experience to enable the Post Office to function efficiently and effectively. 15
- (6) (a) Nominations of suitable persons as contemplated in subsection (4) must include at least one and a half times the number of Board members to be appointed.
- (b) If a suitable person or the required number of suitable persons are not nominated as contemplated in subsection (1)(b) and (4), the Minister may call for further nominations in the manner set out in subsection (1). 20
- (7) (a) The Minister must appoint—
 - (i) two non-executive members of the Board from suitable persons nominated by trade unions contemplated in subsection (1)(b); and 25
 - (ii) the other non-executive members of the Board from suitable persons as contemplated in subsection (4).
- (b) The Minister must, within 30 days after appointing the members, by notice in the *Gazette* publish the names of the members so appointed and the date of commencement of their terms of office. 30
- (8) (a) Any vacancy occurring in the Board in terms of section 12, must be filled in the manner provided for in this section.
- (b) Any member appointed under this subsection holds office for the rest of the period of the predecessor's term of office, unless the Minister directs that such member holds office for a longer period, which may not exceed one subsequent term of up to three years. 35
- (9) A non-executive member of the Board—
 - (a) holds office for a period not exceeding three years;
 - (b) may be reappointed, but may not serve for more than two terms consecutively, unless otherwise determined by the Minister; 40
 - (c) is appointed according to the terms and conditions determined by the Minister;
 - (d) must be paid from the revenue of the Post Office such remuneration and allowances as may be determined by the Minister, taking into consideration prescriptions and guidelines issued by the Minister for the Public Service and Administration and the National Treasury; 45
 - (e) is appointed on a part-time basis.

Resignation, removal from office and vacancies

- 12. (1) A non-executive member of the Board may resign by giving to the Minister—
 - (a) one month's written notice; or 50
 - (b) less than one month's written notice, with the approval of the Minister.
- (2) The Minister may, after having afforded the member of the Board concerned a reasonable opportunity to be heard, remove the member from office if that member—
 - (a) acted in conflict with this Act or the memorandum of incorporation of the Post Office; 55
 - (b) refuses or fails to make a disclosure or declaration contemplated in section 10(3)(b);
 - (c) after having been appointed, acquires any direct or indirect interest contemplated in section 10(3)(b)(ii), read with section 10(1)(g);

- (ii) projekbestuur;
 - (iii) bestuursnakoming;
 - (iv) risikobestuur;
 - (v) transformasie- en diversiteitsgelykheid;
 - (vi) bankbesigheid; 5
 - (vii) posdiens- en posdiensbestuur; of
 - (viii) enige ander terrein van kundigheid wat op die Poskantoor betrekking het, in aanmerking neem;
 - (b) die behoefte aan verteenwoordiging van histories benadeelde persone in aanmerking neem; 10
 - (c) die vereiste dat sommige lede van die Raad geskikte en gepaste persone moet wees om die amp van 'n lid van die Raad van 'n bankinstelling te beklee, soos beoog in die Bankwet, 1990 (Wet No. 94 van 1990), by die toepassing van artikel 8(5), in aanmerking neem; en
 - (d) in aanmerking neem of 'n kandidaat enige ander direkte of indirekte belang het in stryd met die bedryf van die Poskantoor soos in artikel 10(1)(g) beoog. 15
- (5) Die Minister moet toesien dat die persone wat benoem word, 'n genoegsame verspreiding van vaardighede, kennis, kwalifikasies en ervaring verteenwoordig om die Poskantoor in staat te stel om doeltreffend en effektief te funksioneer.
- (6) (a) Benoemings van geskikte persone soos in subartikel (4) beoog, moet ten minste een en 'n half keer die getal lede van die Raad wat aangestel moet word, insluit. 20
 - (b) Indien 'n geskikte persoon of die vereiste getal geskikte persone nie benoem word soos in subartikel (1)(b) en (4) beoog nie, kan die Minister verdere benoemings aanvra volgens die prosedure in subartikel (1) uiteengesit.
 - (7) (a) Die Minister moet— 25
 - (i) twee nie-uitvoerende lede van die Raad aanstel uit die geledere van geskikte persone deur vakbonde benoem soos in subartikel (1)(b) beoog; en
 - (ii) die ander nie-uitvoerende lede van die Raad aanstel uit die geledere van geskikte persone benoem soos in subartikel (4) beoog.
 - (b) Die Minister moet binne 30 dae na aanstelling van die lede by kennisgewing in die *Staatskoerant* die name van die lede aldus aangestel publiseer, asook die begindatum van hul ampstermyne. 30
 - (8) (a) Enige vakature wat ingevolge artikel 12 in die Raad ontstaan, moet op 'n wyse waarvoor in hierdie artikel voorsiening gemaak word, gevul word.
 - (b) 'n Lid wat kragtens hierdie subartikel aangestel is, beklee die amp vir die res van die voorganger se ampstermyne, tensy die Minister voorskryf dat sodanige lid die amp vir 'n langer tydperk beklee, wat nie langer as een agtereenvolgende termyn van tot en met drie jaar is nie. 35
 - (9) 'n Nie-uitvoerende lid van die Raad—
 - (a) beklee die amp vir 'n tydperk van hoogstens drie jaar; 40
 - (b) kan heraanstelling word, maar kan nie vir meer as twee agtereenvolgende termyne dien nie, tensy deur die Minister anders bepaal;
 - (c) word aangestel ooreenkomstig die bepalings en voorwaardes deur die Minister bepaal;
 - (d) moet uit die inkomste van die Poskantoor sodanige vergoeding en toelaes as wat die Minister kan bepaal, ontvang, met inagneming van voorskrifte en riglyne uitgereik deur die Minister vir die Staatsdiens en Administrasie en die Nasionale Tesourie; en
 - (e) word op 'n deelydse basis aangestel. 45

Bedanking, ontslag uit amp en vakatures 50

- 12.** (1) 'n Nie-uitvoerende lid van die Raad kan bedank deur die Minister—
- (a) een maand skriftelik kennis te gee; of
 - (b) minder as een maand skriftelik kennis te gee, met die goedkeuring van die Minister.
- (2) Die Minister kan, nadat die betrokke lid van die Raad 'n redelike geleentheid gegun is om sy of haar saak te stel, die lid uit die amp ontslaan indien daardie lid—
- (a) strydig met hierdie Wet of die Poskantoor se akte van oprigting opgetree het;
 - (b) weier of versuim om 'n openbaarmaking of verklaring in artikel 10(3)(b) beoog te doen;
 - (c) na aanstelling, enige direkte of indirekte belang beoog in artikel 10(3)(b)(ii), 60 saamgelees met artikel 10(1)(g), verkry;

- (d) is a member of the Board of the Post Office referred to in section 3(2)(c) and—
 - (i) refuses or fails to submit to the Minister and the Board the written statement contemplated in section 10(4)(a); or
 - (ii) refuses or fails to divest himself or herself of the interest contemplated in section 10(4)(b);
 - (e) neglected to properly perform the functions of his or her office;
 - (f) is a member of the Board appointed to the Board of the Postbank, and the Registrar of Banks has informed the Minister in accordance with the Banks Act, 1990 (Act No. 94 of 1990), that the member is no longer a fit and proper person to hold that appointment; or
 - (g) is absent from three consecutive Board meetings without prior leave of the Chairperson.
- (3) Any member of the Board must vacate the office if he or she becomes disqualified from membership of the Board in terms of section 10.

Fiduciary duties of Board members

13. In addition to any other applicable legislation, the following shall apply to members of the Board:

- (a) A member of the Board may not be present, or take part in, the discussion of or the taking of a decision on any matter before the Board in which that member or his or her family member, business partner or associate has a direct or indirect interest.
- (b) A member of the Board or his or her family member, business partner or associate, or an organisation or enterprise in which a member of the Board or his or her family member, business partner or associate has a direct or indirect interest, may not—
 - (i) offer goods or services to the Post Office or conclude any business with the Post Office; or
 - (ii) make improper use, in any manner whatsoever, of the position of a Board member or of any information acquired by a Board member by virtue of his or her position as a Board member.
- (c) A member of the Board must perform his or her functions at all times with the utmost good faith, honesty and integrity, care and diligence and, in furtherance of his or her functions, without limiting their scope, must—
 - (i) take reasonable steps to inform himself or herself about the Post Office, its business and activities and the circumstances in which it operates;
 - (ii) take reasonable steps, through the processes of the Board, to obtain sufficient information and advice about all matters to be decided by the Board to enable him or her to make conscientious and informed decisions;
 - (iii) regularly attend Board meetings;
 - (iv) exercise an active and independent discretion with respect to all matters to be decided by the Board;
 - (v) exercise due diligence in the performance of his or her functions as a member;
 - (vi) comply with any internal code of conduct that the Post Office may establish for Board members;
 - (vii) not engage in any activity that may undermine the integrity of the Post Office;
 - (viii) not make improper use of his or her position as a member or of information acquired by virtue of his or her position as a member;
 - (ix) treat any confidential matters relating to the Post Office, obtained in his or her capacity as a Board member, as strictly confidential and not divulge them to anyone without the authority of the Post Office or as required as part of that person's official functions as a member of the Board.

Procedures at meetings, and committees of Board

- 14.** (1) (a) The Board determines its procedures at meetings.

- (d) 'n lid van die Raad is in artikel 3(2)(c) bedoel en—
- (i) weier of versuim om die geskrewe verklaring in artikel 10(4)(a) beoog, aan die Minister en die Raad voor te lê; of
 - (ii) weier of versuim om van die belang in artikel 10(4)(b) beoog ontslae te raak; 5
- (e) versuim het om die werksaamhede van sy of haar amp behoorlik te verrig;
- (f) 'n lid van die Raad is wat tot die Raad van die Posbank aangestel is, en die Registrateur van Banke die Minister ooreenkomstig die Bankwet, 1990 (Wet No. 94 van 1990), ingelig het dat die lid nie meer 'n geskikte en gepaste persoon is om daardie amp te beklee nie; of 10
- (g) sonder vooraf toestemming van die Voorsitter afwesig is van drie agtereenvolgende Raadsvergaderings.
- (3) 'n Lid van die Raad moet die amp ontruim indien hy of sy ingevolge artikel 10 van lidmaatskap van die Raad gediskwalifiseer word.

Vertrouenspligte van lede van Raad 15

13. Bykomend tot enige ander toepaslike wetsbepalings, is die volgende van toepassing op lede van die Raad:

- (a) 'n Lid van die Raad kan nie teenwoordig wees of deelneem aan die bespreking van of die neem van 'n besluit oor enige saak wat voor die Raad dien waarin daardie lid of sy of haar familielid, sakevennoot of medewerker 'n direkte of indirekte belang het nie. 20
- (b) 'n Lid van die Raad of sy of haar familielid, sakevennoot of medewerker, of 'n organisasie of onderneming waarin 'n lid van die Raad of sy of haar familielid, sakevennoot of medewerker 'n direkte of indirekte belang het, kan nie— 25
 - (i) enige goedere of dienste aan die Poskantoor bied of enige sake met die Poskantoor doen nie;
 - (ii) op enige wyse hoegenaamd onbehoorlik gebruik maak van die posisie van 'n lid van die Raad of van enige inligting deur 'n lid van die Raad verkry uit hoofde van sy of haar posisie as 'n lid van die Raad nie. 30
- (c) 'n Lid van die Raad moet sy of haar werksaamhede te alle tye met die uiterste goeie trou, eerlikheid en integriteit, sorg en toewyding verrig en moet ter bevordering van sy of haar werksaamhede, sonder om die omvang daarvan te beperk— 35
 - (i) redelike stappe doen om homself of haarself op hoogte te stel oor die Poskantoor, die Poskantoor se bedryf en aktiwiteite en die omstandighede waaronder hy opereer; 35
 - (ii) redelike stappe doen, deur die prosesse van die Raad, om voldoende inligting en advies te bekom oor alle aangeleenthede waarvoor die Raad sal besin, sodat hy of sy pligsgetroue en ingeligte besluite kan neem; 40
 - (iii) gereeld Raadsvergaderings bywoon;
 - (iv) 'n aktiewe en onafhanklike diskresie uitoefen ten opsigte van alle aangeleenthede waarvoor die Raad moet besluit;
 - (v) behoorlike sorg uitoefen in die verrigting van sy of haar werksaamhede as 'n lid van die Raad; 45
 - (vi) by enige interne gedragskode hou wat die Poskantoor vir lede van die Raad mag instel;
 - (vii) nie by enige aktiwiteit betrokke raak wat die integriteit van die Poskantoor kan skaad nie;
 - (viii) nie onbehoorlike gebruik maak van sy of haar posisie as 'n lid van die Raad of van inligting wat uit hoofde van sy of haar posisie as 'n lid bekom is nie; 50
 - (ix) enige vertroulike aangeleenthede betreffende die Poskantoor, wat in sy of haar hoedanigheid as 'n lid van die Raad bekom is, as streng vertroulik hanteer en dit nie aan enigiemand openbaar maak sonder die magtiging van die Poskantoor of soos vereis as deel van daardie persoon se amptelike werksaamhede as lid van die Raad nie. 55

Prosedures by vergaderings, en komitees van Raad

14. (1) (a) Die Raad bepaal die prosedure by die Raad se vergaderings.

- (b) Seventy per cent of serving members constitutes a quorum at any meeting of the Board.
- (c) A decision taken by the Board or an act performed under that decision is not invalid merely by reason of—
- (i) any irregularity in the appointment of a member; 5
 - (ii) a vacancy in the Board; or
 - (iii) the fact that any person not entitled to sit as a member sat as such at the time when the decision was taken,
- provided such decision was taken by a majority of the members present at the time and entitled so to sit, and those members at the time constituted a quorum. 10
- (2) (a) The Board may appoint one or more committees with the concurrence of the Minister, but must appoint the following committees:
- (i) Remuneration and Performance Committee;
 - (ii) Human Resources and Transformation Committee; and
 - (iii) Audit Committee. 15
- (b) Committees that exist when this Act takes effect, continue to exist for a period of six months after the commencement.
- (3) The Board must—
- (a) assign members of the Board to serve on a committee, based on their knowledge and skills; 20
 - (b) determine the—
 - (i) terms of reference of a committee;
 - (ii) composition of a committee;
 - (iii) tenure of members of a committee;
 - (iv) reporting mechanisms of a committee; and 25
 - (v) method and reasons for removal of a member from a committee.
- (4) Non-executive members of the Board must make up the majority of the members of a committee.
- (5) The Board may appoint any person with particular knowledge, expertise or qualifications to assist a committee in the performance of its functions. 30
- (6) Unless specially delegated by the Board, a committee has no decision-making powers, and can only make recommendations to the Board.
- (7) A committee must meet as often as is necessary in order to carry out its functions and may determine its own procedures.
- (8) Each committee must be chaired by a non-executive member of the Board. 35

Delegation and assignment of functions by Board

15. (1) The Board may, by resolution passed by 75 per cent of its members—
- (a) delegate any of its powers and assign any of its duties to any member of the Board or any committee established in terms of section 14, the chief executive officer, the chief financial officer, the chief operating officer or any employee of the Post Office; and 40
 - (b) amend or revoke such delegation or assignment.
- (2) Notwithstanding a delegation or assignment contemplated in subsection (1), the Board is not divested of any power or duty so delegated or assigned.
- (3) (a) Any delegation or assignment contemplated in subsection (1)— 45
- (i) may be made subject to such conditions as the Board may determine; and
 - (ii) must be communicated to the delegatee or assignee in writing.
- (b) The written communication contemplated in paragraph (a)(ii) must contain full particulars of the matters being delegated or assigned and of the conditions subject to which the power may be exercised or the duty must be performed. 50
- (4) The Board may not delegate—
- (a) the power to appoint the chief executive officer, chief financial officer or chief operating officer; and
 - (b) its role in deciding on—
 - (i) the appointment of the chief executive officer, chief financial officer or chief operating officer; 55
 - (ii) the mandate and strategic plan of the Post Office.

- (b) Sewentig persent van dienende lede van die Raad maak 'n kworum uit by enige vergadering van die Raad.
- (c) 'n Besluit wat deur die Raad geneem is of 'n handeling wat kragtens daardie besluit uitgevoer is, is nie ongeldig nie bloot vanweë—
- (i) enige ongerymdheid in die aanstelling van 'n lid van die Raad; 5
 - (ii) 'n vakature op die Raad; of
 - (iii) die feit dat enige persoon wat nie geregtig is om as 'n lid van die Raad te sit nie, as sodanig gesit het ten tyde van die neem van die besluit, met dien verstande dat die besluit deur 'n meerderheid van die lede van die Raad toe teenwoordig en geregtig om aldus te sit, geneem is en dat daardie lede van die Raad toe 'n kworum gevorm het. 10
- (2) (a) Die Raad kan een of meer komitees met die instemming van die Minister aanstel, maar moet die volgende komitees aanstel:
- (i) Vergoedings- en Prestasie-komitee;
 - (ii) Menshulpbronne- en Transformasiekomitee; en 15
 - (iii) Ouditkomitee.
- (b) Komitees wat bestaan wanneer hierdie Wet in werking tree, bestaan voort vir 'n tydperk van ses maande na die inwerkingtreding.
- (3) Die Raad moet—
- (a) lede van die Raad aanwys om op 'n komitee te dien, op grond van hul kennis en vaardighede; 20
 - (b) die—
 - (i) opdrag van 'n komitee bepaal;
 - (ii) samestelling van 'n komitee bepaal;
 - (iii) ampsbekleding van lede op 'n komitee bepaal; 25
 - (iv) verslagdoeningsmeganismes van 'n komitee bepaal; en
 - (v) metode van en redes vir verwydering van 'n lid van 'n komitee bepaal.
- (4) Nie-uitvoerende lede van die Raad moet die meerderheid van die lede van 'n komitee uitmaak.
- (5) Die Raad kan enige persoon met bepaalde kennis, kundigheid of kwalifikasies aanstel om 'n komitee in die verrigting van sy werksaamhede by te staan. 30
- (6) Tensy dit spesiaal deur die Raad gedelegeer is, het 'n komitee geen besluitnemingsmagte nie, en kan slegs aanbevelings aan die Raad doen.
- (7) 'n Komitee moet so dikwels vergader as wat nodig is om sy werksaamhede te verrig en kan sy eie prosedures bepaal. 35
- (8) Elke komitee moet 'n nie-uitvoerende lid van die Raad as voorsitter hê.

Delegering en toedeling van werksaamhede deur Raad

15. (1) Die Raad kan, deur 'n besluit goedgekeur deur 75 persent van sy lede—
- (a) enige van sy bevoegdhede deleger en enige van sy pligte toewys aan enige lid van die Raad of enige komitee ingestel kragtens artikel 14, die hoof-uitvoerende beampte, die hoof- finansiële beampte, die hoofbedryfsbeampte of enige werknemer van die Poskantoor; en 40
 - (b) sodanige delegasie of opdrag wysig of herroep.
- (2) Ondanks 'n delegasie of opdrag in subartikel (1) beoog, word die Raad nie ontdoen van enige bevoegdheid of plig wat aldus gedelegeer of opgedra is nie. 45
- (3) (a) Enige delegasie of opdrag in subartikel (1) beoog—
- (i) kan, onderhewig aan sodanige voorwaardes as wat die Raad kan bepaal, gemaak of gegee word; en
 - (ii) moet skriftelik aan die gedelegeerde of gemagtigde gekommunikeer word.
- (b) Die skriftelike kommunikasie in paragraaf (a)(ii) beoog, moet volledige 50 besonderhede bevat van die aangeleenthede wat gedelegeer of opgedra word en van die voorwaardes waaronder die bevoegdheid uitgeoefen kan word of die plig uitgevoer moet word.
- (4) Die Raad kan nie—
- (a) die bevoegdheid om die hoof- uitvoerende beampte, die hoof- finansiële beampte of die hoofbedryfsbeampte aan te stel, deleger nie; en 55
 - (b) sy rol in besluitneming oor—
 - (i) die aanstelling van die hoof- uitvoerende beampte, die hoof- finansiële beampte of die hoofbedryfsbeampte; of
 - (ii) die mandaat en strategiese plan van die Poskantoor, 60 deleger nie.

Appointment of chief executive officer, chief financial officer and chief operating officer

16. (1) The Board must, with the approval of the Minister, appoint a chief executive officer, chief financial officer and chief operating officer to ensure that the Post Office meets its objects. 5

(2) The Board must invite applications for the posts of chief executive officer, chief financial officer and chief operating officer by publishing advertisements in the media.

(3) A person appointed as chief executive officer, chief financial officer or chief operating officer must—

- (a) have the qualifications or experience relevant to the functions of the Post Office; and 10
- (b) not be disqualified as contemplated in section 10.

Conditions of appointment of chief executive officer, chief financial officer and chief operating officer

17. (1) The appointment of the chief executive officer, chief financial officer and chief operating officer is subject to the conclusion of an annual performance agreement with the Post Office. 15

(2) The chief executive officer, chief financial officer and chief operating officer are appointed for a term not exceeding five years and may, subject to the approval of the Minister, be reappointed for one additional term not exceeding five years. 20

(3) The chief executive officer, chief financial officer and chief operating officer hold office on terms and conditions determined by the Board, with the concurrence of the Minister.

(4) The chief executive officer, chief financial officer and chief operating officer are members of the Board by virtue of their office. 25

(5) The chief executive officer, chief financial officer and chief operating officer are entitled to a remuneration package determined by the Board with the concurrence of the Minister, the Minister acting after consultation with the Minister of Finance.

(6) The chief executive officer, chief financial officer and chief operating officer are accountable to the Board. 30

Termination of employment of chief executive officer, chief financial officer and chief operating officer

18. (1) The Board must, with the approval of the Minister and subject to compliance with the Labour Relations Act, 1995 (Act No. 66 of 1995), terminate the employment of the chief executive officer, chief financial officer and chief operating officer— 35

(a) for misconduct, which includes any act or failure to act contemplated in section 12(2); or

(b) for failing to perform the duties connected with that office diligently.

(2) The Board may suspend the services of the chief executive officer, chief financial officer or chief operating officer pending the finding of any misconduct proceedings against him or her, during which period the chief executive officer, chief financial officer or chief operating officer is also suspended as an executive member of the Board. 40

(3) The chief executive officer, chief financial officer or chief operating officer must vacate the office if he or she becomes disqualified from membership of the Board in terms of section 10. 45

(4) The chief executive officer, chief financial officer and chief operating officer may resign by written notice of at least 30 days to the Chairperson of the Board.

Acting chief executive officer, chief financial officer and chief operating officer

19. (1) The Board may in writing appoint any senior employee of the Post Office to act as chief executive officer, chief financial officer or chief operating officer when the holder of that office— 50

- (a) is temporarily unable to perform the duties connected with that office;

Aanstelling van hoof- uitvoerende beampte, hoof- finansiële beampte en hoofbedryfsbeampte

16. (1) Die Raad moet, met die goedkeuring van die Minister, 'n hoof- uitvoerende beampte, hoof- finansiële beampte en hoofbedryfsbeampte aanstel om te verseker dat die Poskantoor sy doelwitte bereik. 5

(2) Die Raad moet advertensies in die media plaas om aansoeke om die poste van hoof- uitvoerende beampte, hoof- finansiële beampte en hoofbedryfsbeampte aan te vra.

(3) 'n Persoon aangestel as hoof- uitvoerende beampte, hoof- finansiële beampte of hoofbedryfsbeampte—

(a) moet oor kwalifikasies of ervaring beskik wat betrekking het op die werksaamhede van die Poskantoor; en 10

(b) mag nie soos in artikel 10 beoog gediskwalifiseer wees nie.

Voorwaardes vir aanstelling van hoof- uitvoerende beampte, hoof- finansiële beampte en hoofbedryfsbeampte

17. (1) Die aanstelling van die hoof- uitvoerende beampte, hoof- finansiële beampte en hoofbedryfsbeampte is onderhewig aan die sluiting van 'n jaarlikse prestasie-ooreenkoms met die Poskantoor. 15

(2) Die hoof- uitvoerende beampte, hoof- finansiële beampte en hoofbedryfsbeampte word aangestel vir 'n termyn van hoogstens vyf jaar en kan, behoudens die goedkeuring van die Minister, heraan gestel word vir een bykomende termyn van hoogstens vyf jaar. 20

(3) Die hoof- uitvoerende beampte, hoof- finansiële beampte en hoofbedryfsbeampte beklee hul ampte volgens bepalings en voorwaardes neergelê deur die Raad, met die instemming van die Minister.

(4) Die hoof- uitvoerende beampte, hoof- finansiële beampte en hoofbedryfsbeampte is lede van die Raad uit hoofde van hul ampte. 25

(5) Die hoof- uitvoerende beampte, hoof- finansiële beampte en hoofbedryfsbeampte is geregtig op 'n vergoedingspakket vasgestel deur die Raad met die instemming van die Minister, waar die Minister optree na oorleg met die Minister van Finansies.

(6) Die hoof- uitvoerende beampte, hoof- finansiële beampte en hoofbedryfsbeampte is verantwoordbaar teenoor die Raad. 30

Beëindiging van diens van hoof- uitvoerende beampte, hoof- finansiële beampte en hoofbedryfsbeampte

18. (1) Die Raad moet, met die goedkeuring van die Minister en behoudens die Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 van 1995), die diens van die hoof- uitvoerende beampte, hoof- finansiële beampte en hoofbedryfsbeampte beëindig— 35

(a) weens wangedrag, met inbegrip van enige handeling of versuim om op te tree soos beoog in artikel 12(2); of

(b) weens versuim om die pligte wat op daardie amp betrekking het, toegewyd uit te voer.

(2) Die Raad kan die dienste van die hoof- uitvoerende beampte, hoof- finansiële beampte of hoofbedryfsbeampte opskort hangende die uitkoms van enige geregtelike stappe teen hom of haar weens wangedrag, en in daardie tydperk is die hoof- uitvoerende beampte, hoof- finansiële beampte of hoofbedryfsbeampte ook as uitvoerende lid van die Raad geskors. 40

(3) Die hoof- uitvoerende beampte, hoof- finansiële beampte of hoofbedryfsbeampte moet die amp ontruim indien hy of sy ingevolge artikel 10 van lidmaatskap van die Raad gediskwalifiseer word. 45

(4) Die hoof- uitvoerende beampte, hoof- finansiële beampte en hoofbedryfsbeampte kan bedank deur minstens 30 dae skriftelik aan die Voorsitter van die Raad kennis te gee.

Waarnemende hoof- uitvoerende beampte, hoof- finansiële beampte en hoofbedryfsbeampte 50

19. (1) Die Raad kan enige senior werknemer van die Poskantoor skriftelik aanstel om as hoof- uitvoerende beampte, hoof- finansiële beampte of hoofbedryfsbeampte waar te neem wanneer die bekleër van daardie amp—

(a) tydelik nie in staat is om die pligte wat op daardie amp betrekking het, uit te voer nie; 55

- (b) has been suspended from office; or
- (c) has vacated or has been removed from that office and a new chief executive officer, chief financial officer or chief operating officer, as the case may be, has not yet been appointed.

(2) An acting chief executive officer, acting chief financial officer or acting chief operating officer may exercise all the powers and must perform all the duties of the chief executive officer, chief financial officer or chief operating officer, as the case may be. 5

Delegation by chief executive officer, chief financial officer and chief operating officer

20. (1) The chief executive officer, chief financial officer and chief operating officer may delegate to an employee of the Post Office any of his or her powers and assign any of his or her duties. 10

(2) Any delegation or assignment contemplated in subsection (1)—

- (a) may be made subject to such conditions as the Board may determine;
- (b) must be communicated to the delegatee or assignee in writing; 15
- (c) may be amended or withdrawn in writing by the chief executive officer, chief financial officer or chief operating officer, as the case may be; and
- (d) does not prohibit the holder of the office that made the delegation or assignment from exercising that power or performing that duty.

(3) Notwithstanding a delegation or assignment contemplated in subsection (1), the chief executive officer, chief financial officer or chief operating officer, as the case may be, is not divested of any power or duty so delegated or assigned. 20

Personnel of Post Office

21. (1) (a) The Board must determine the structure or organogram of the Post Office and the conditions of service, remuneration and service benefits of the personnel of the Post Office after consultation with the chief executive officer and with the concurrence of the Minister, the Minister acting after consultation with the Minister of Finance. 25

(b) The conditions of service contemplated in paragraph (a) must include—

- (i) in respect of all members of staff, obligations comparable with sections 10(1)(g) and 10(3); and 30
- (ii) in respect of members of staff in employment at the date of commencement of this Act, obligations comparable with section 10(4).

(2) The work relating to the functions of the Post Office is performed by such persons as the chief executive officer may appoint.

(3) The chief executive officer must determine and supply each employee with a copy of the code of conduct, applicable to all members of staff of the Post Office and justiciable for purposes of disciplinary proceedings, to ensure— 35

- (a) compliance with applicable laws;
- (b) the effective, efficient and economical use of the Post Office's resources; and
- (c) the promotion and maintenance of a high standard of professional ethics. 40

(4) Personnel may be transferred or seconded to the Post Office from the public service subject to the provisions of the Public Service Act, 1994 (Proclamation No. 103 of 1994).

(5) Every employee required by the Post Office to do so must, before performing the functions of his or her post, take an oath or make an affirmation before a justice of the peace in the form set out in Schedule 1. 45

Subsidiaries and accountability

22. (1) The Post Office may establish subsidiary companies.

(2) Sections 10, 13, 21(1), (2) and (3), 23, 24, 25, 27, 28 and 30 apply with the changes required by the context to any subsidiary of the Post Office. 50

- (b) uit die amp geskors is; of
- (c) die amp ontruim het of daaruit geskors is en 'n nuwe hoof- uitvoerende beampte, hoof- finansiële beampte of hoofbedryfsbeampte, na gelang van die geval, nog nie aangestel is nie.

(2) 'n Waarnemende hoof- uitvoerende beampte, waarnemende hoof- finansiële beampte of waarnemende hoofbedryfsbeampte kan al die bevoegdhede uitoefen en moet al die pligte van die hoof- uitvoerende beampte, hoof- finansiële beampte of hoofbedryfsbeampte, na gelang van die geval, uitvoer. 5

Delegering deur hoof- uitvoerende beampte, hoof- finansiële beampte en hoofbedryfsbeampte 10

20. (1) Die hoof- uitvoerende beampte, hoof- finansiële beampte en hoofbedryfsbeampte kan enigeen van sy of haar bevoegdhede aan 'n werknemer van die Poskantoor deleger, en enigeen van sy of haar pligte aan so 'n persoon opdra.

(2) Enige delegasie of opdrag beoog in subartikel (1)—

- (a) kan gemaak of gegee word onderhewig aan sodanige voorwaardes as wat die Raad kan bepaal; 15
- (b) moet skriftelik aan die gedelegeerde of gemagtigde gekommunikeer word;
- (c) kan skriftelik gewysig of teruggetrek word deur die hoof- uitvoerende beampte, hoof- finansiële beampte of hoofbedryfsbeampte, na gelang van die geval; en 20
- (d) weerhou die bekleër van die amp wat die delegasie gemaak het of die opdrag gegee het nie daarvan om daardie bevoegdheid uit te oefen of daardie plig uit te voer nie.

(3) Ondanks 'n delegasie of opdrag bedoel in subartikel (1), word die hoof- uitvoerende beampte, hoof- finansiële beampte of hoofbedryfsbeampte, na gelang van die geval, nie ontdoen van enige bevoegdheid of plig wat aldus gedelegeer of opgedra is nie. 25

Personeel van Poskantoor

21. (1) (a) Die Raad moet die struktuur of organogram van die Poskantoor en die diensvoorwaardes, besoldiging en diensvoordele van die personeel van die Poskantoor bepaal na oorleg met die hoof- uitvoerende beampte en met die instemming van die Minister, wat optree na oorleg met die Minister van Finansies. 30

(b) Die diensvoorwaardes in paragraaf (a) beoog moet insluit—

- (i) ten opsigte van alle personeellede, verpligtinge vergelykbaar met artikel 10(1)(g) en 10(3); en 35
- (ii) ten opsigte van personeellede in diens op die datum van inwerkingtreding van hierdie Wet, verpligtinge vergelykbaar met artikel 10(4).

(2) Die werk betreffende die werksaamhede van die Poskantoor word verrig deur sodanige persone wat die hoof- uitvoerende beampte kan aanstel.

(3) Die hoof- uitvoerende beampte moet die gedragskode bepaal en 'n eksemplaar daarvan aan elke werknemer beskikbaar stel, welke kode van toepassing is op alle personeellede van die Poskantoor en beregbaar is vir doeleindes van dissiplinêre prosedures om te verseker—

- (a) dat aan die toepaslike wetsbepalings voldoen word;
- (b) dat die Poskantoor se hulpbronne effektief, doeltreffend en ekonomies aangewend word; en 45
- (c) dat 'n hoë standaard van professionele etiek bevorder en gehandhaaf word.

(4) Personeellede kan uit die staatsdiens na die Poskantoor verplaas of gesekeer word behoudens die bepalinge van die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994). 50

(5) Elke werknemer van wie die Poskantoor dit vereis, moet, voor die verrigting van die werksaamhede van sy of haar pos, 'n eed of 'n plegtige verklaring voor 'n vrederegtër aflê volgens die vorm in Bylae 1 uiteengesit.

Filiale en verantwoordbaarheid

22. (1) Die Poskantoor kan filiaalmaatskappye instel. 55

(2) Artikels 10, 13, 21(1) en (3), 23, 24, 25, 27, 28 en 30 is met die veranderings deur die samehang vereis van toepassing op enige filiaal van die Poskantoor.

(3) (a) The Post Office must, before it establishes a subsidiary or revives a dormant subsidiary, submit a feasibility study and business plan of the proposed subsidiary to the Minister for consideration.

(b) The Minister may, subject to section 51(1)(g) of the Public Finance Management Act, after consideration of the feasibility study and business plan and after consultation with the Minister of Finance, approve the establishment of the subsidiary or revival of the dormant subsidiary, as the case may be. 5

(c) The Minister must, before the approval contemplated in paragraph (b), table the feasibility study and business plan in the National Assembly for consideration.

(4) The Board of any subsidiary is accountable to the Post Office in respect of the performance of its functions. 10

Application of Public Finance Management Act

23. (1) The Post Office is subject to the Public Finance Management Act.

(2) The Board must ensure that the provisions of the Public Finance Management Act, in particular sections 52 (submission of annual budget and corporate plan) and 55 (annual reporting on financial affairs), are duly complied with. 15

(3) (a) The Minister must table in Parliament the annual report and financial statements of the Post Office and its subsidiaries, contemplated in section 55 of the Public Finance Management Act—

(i) within 14 days after receiving the report, if Parliament is in session; or 20

(ii) if Parliament is not in session, within 14 days after the commencement of the next Parliamentary session.

(b) The annual report and financial statements must clearly differentiate between the annual report and financial statements of the Post Office and those of its subsidiaries.

(4) The Board must submit such other accounts, reports and statements as the Minister or the Minister of Finance, or both, may require. 25

Investigation of Post Office

24. (1) The Minister may appoint a person to investigate the affairs or financial position of the Post Office and compliance by the Post Office with this Act and may recover from the Post Office the fees and disbursements incurred by that person during the investigation. 30

(2) The Post Office or an employee of the Post Office must, for the purposes of subsection (1), provide the Minister or a person authorised by the Minister with such data, information, books, accounts, documents and assets of the Post Office as the Minister or the authorised person may require. 35

Intervention by Minister

25. (1) The Minister may direct the Post Office to take any action specified by the Minister if the Post Office—

(a) is in financial difficulty or is being mismanaged;

(b) fails to perform its functions effectively or efficiently; 40

(c) has acted unfairly or in a discriminatory or inequitable way towards a person to whom it owes a duty under this Act or the Postal Services Act; or

(d) has failed to comply with any law or any policy envisaged in this Act.

(2) A directive contemplated in subsection (1) must state—

(a) the reason for issuing the directive; 45

(b) the steps which must be taken to remedy the situation; and

(c) a reasonable period within which the steps contemplated in paragraph (b) must be taken.

(3) If the Post Office fails to comply with the directive contemplated in subsection (1) within the stated period, the Minister may— 50

(a) after having given the Post Office a reasonable opportunity to be heard; and

(3) (a) Die Poskantoor moet, voordat hy 'n filiaal instel of 'n dormante filiaal laat herleef, 'n lewensvatbaarheidstudie en 'n besigheidsplan van die voorgestelde filiaal vir oorweging aan die Minister voorlê.

(b) Die Minister kan, behoudens artikel 51(1)(g) van die Wet op Openbare Finansiële Bestuur, na oorweging van die lewensvatbaarheidstudie en besigheidsplan en na oorleg met die Minister van Finansies, die instelling van die filiaal of herlewing van die dormante filiaal, na gelang van die geval, goedkeur. 5

(c) Die Minister moet, voor die goedkeuring in paragraaf (b) beoog, die lewensvatbaarheidstudie en besigheidsplan vir oorweging in die Nasionale Vergadering ter tafel lê. 10

(4) Die raad van enige filiaal is aan die Poskantoor verantwoordbaar ten opsigte van die verrigting van sy werksaamhede.

Toepassing van Wet op Openbare Finansiële Bestuur

23. (1) Die Poskantoor is onderhewig aan die Wet op Openbare Finansiële Bestuur.

(2) Die Raad moet verseker dat die bepalinge van die Wet op Openbare Finansiële Bestuur, in die besonder artikels 52 (voorlegging van jaarlikse begroting en korporatiewe plan) en 55 (jaarlikse verslagdoening oor finansiële sake), behoorlik nagekom word. 15

(3) (a) Die Minister moet die jaarverslag en finansiële state van die Poskantoor beoog in artikel 55 van die Wet op Openbare Finansiële Bestuur in die Parlement ter tafel lê— 20

- (i) binne 14 dae na ontvangs van die verslag, indien die Parlement in sitting is; of
- (ii) indien die Parlement nie in sitting is nie, binne 14 dae na die aanvang van die volgende Parlementsitting.

(b) Die jaarverslag en finansiële state moet duidelik onderskei tussen die jaarverslag en finansiële state van die Poskantoor en dié van sy filiale. 25

(4) Die Raad moet sodanige ander rekeninge, verslae en state voorlê wat die Minister of die Minister van Finansies, of albei, mag vereis.

Ondersoek na Poskantoor

24. (1) Die Minister kan 'n persoon aanstel om ondersoek in te stel na die sake of finansiële posisie van die Poskantoor en die Poskantoor se voldoening aan hierdie Wet, en kan die gelde en uitbetalings tydens die ondersoek deur daardie persoon aangegaan, van die Poskantoor verhaal. 30

(2) Die Poskantoor of 'n werknemer van die Poskantoor moet, by die toepassing van subartikel (1), die Minister of 'n persoon gemagtig deur die Minister voorsien van sodanige data, inligting, boeke, rekeninge, dokumente en bates van die Poskantoor wat die Minister of die gemagtigde persoon mag vereis. 35

Ingryping deur Minister

25. (1) Die Minister kan die Poskantoor opdrag gee om enige stappe te doen deur die Minister gespesifiseer indien die Poskantoor—

- (a) in finansiële moeilikheid verkeer of wanbestuur word; 40
- (b) versuim om sy werksaamhede effektief of doeltreffend te verrig;
- (c) onbillik of op 'n diskriminerende of onregverdige wyse opgetree het teenoor 'n persoon teenoor wie die Maatskappy kragtens hierdie Wet of die Posdienstewet 'n verpligting het; of
- (d) versuim het om aan enige wet of enige beleid in hierdie Wet beoog, te 45 voldoen.

(2) 'n Lasgewing in subartikel (1) beoog moet—

- (a) die rede vir die uitreiking van die lasgewing vermeld;
- (b) die stappe wat gedoen moet word om die situasie reg te stel, vermeld; en
- (c) 'n redelike tydperk vermeld waarin die stappe bedoel in paragraaf (b) gedoen 50 moet word.

(3) Indien die Poskantoor versuim om binne die vasgestelde tydperk te voldoen aan die lasgewing in subartikel (1) bedoel, kan die Minister—

- (a) nadat die Poskantoor 'n redelike geleentheid gegun is om sy saak te stel; en

- (b) after having afforded the Post Office a hearing on any submissions received, replace the members of the Board in the same manner as the departing members have been appointed or, where circumstances so require, appoint a person as an administrator to take over the relevant function of the Post Office.
- (4) If the Minister appoints an administrator in terms of subsection (3)— 5
- (a) the administrator may do anything which the Post Office might otherwise be empowered or required to do by or under this Act, to the exclusion of the Post Office;
- (b) the Board may not, while the administrator is responsible for the relevant function, exercise any of its powers or perform any of its duties relating to that function; 10
- (c) an employee or a contractor of the Post Office must comply with a directive given by the administrator.
- (5) The Minister must—
- (a) review the performance of the Post Office regularly whilst it is under administration; and 15
- (b) within six months of appointing the administrator, table a report on his or her findings in the National Assembly.
- (6) Once the Minister is satisfied that the Post Office is able to perform its functions effectively, the Minister must terminate the appointment of the administrator. 20
- (7) (a) Notwithstanding subsection (3), the Minister may dissolve the Board if the Minister, on good cause shown, loses confidence in the ability of the Board to perform its functions effectively and efficiently.
- (b) The Minister may dissolve the Board only—
- (i) after having given the Board a reasonable opportunity to be heard; and 25
- (ii) after having afforded the Board a hearing on any submissions received.
- (c) If the Minister dissolves the Board, the Minister—
- (i) may appoint an administrator to take over the functions of the Board and to do anything which the Board might otherwise be empowered or required to do by or under this Act, subject to such conditions as the Minister may determine; 30
- and
- (ii) must, as soon as it is feasible but not later than three months after the dissolution of the Board, replace the members of the Board in the same way as the way in which they were appointed.
- (8) (a) The costs associated with the appointment of an administrator shall be for the account of the Post Office. 35
- (b) The appointment of the administrator terminates when the Board members have been replaced in terms of subsection (7)(c)(ii).
- (9) Notwithstanding this section, the Minister retains the right at any time to approach a competent court for relief in any matter he or she considers appropriate in furtherance 40 of this Act.

Limitation of liability

- 26.** Neither the Post Office nor any employee of the Post Office is liable for any damage or loss caused by—
- (a) the exercise of a power or the performance of a duty under this Act or the Postal Services Act; or 45
- (b) the failure to exercise a power or perform a duty under this Act or the Postal Services Act,
- unless the exercise of or failure to exercise the power, or performance of or failure to perform the duty, was unlawful, grossly negligent or in bad faith. 50

Application of Companies Act to Post Office

- 27.** (1) The provisions of the Companies Act apply to the Post Office, subject to subsection (2).
- (2) Notwithstanding sections 5(4) and 9 of the Companies Act, a provision of the Companies Act does not apply to the Post Office in circumstances where— 55

- (b) nadat die Poskantoor 'n verhoor toegestaan is oor enige voorleggings wat ontvang is,
die lede van die Raad vervang op dieselfde manier as waarop die uittrede lede aangestel is of, waar die omstandighede dit vereis, 'n persoon aanstel as administrateur om die tersaaklike werksaamheid van die Poskantoor oor te neem. 5
- (4) Indien die Minister kragtens subartikel (3) 'n administrateur aanstel—
- (a) kan die administrateur enigiets doen wat die Poskantoor andersins gemagtig kan wees om te doen of moet doen deur of kragtens hierdie Wet, tot die uitsluiting van die Poskantoor;
- (b) kan die Raad nie, terwyl die administrateur verantwoordelik is vir die betrokke werksaamheid, enige van sy bevoegdhede uitoefen of enige van sy pligte wat met daardie werksaamheid verband hou, uitvoer nie;
- (c) moet 'n werknemer of 'n kontrakteur van die Poskantoor gehoor gee aan 'n lasgewing uitgereik deur die administrateur. 10
- (5) Die Minister moet— 15
- (a) die prestasie van die Poskantoor gereeld hersien terwyl dit onder administrasie is; en
- (b) binne ses maande na die aanstelling van die administrateur, 'n verslag oor sy of haar bevindings in die Nasionale Vergadering ter tafel lê.
- (6) Sodra die Minister tevrede is dat die Poskantoor in staat is om sy werksaamhede effektief te verrig, moet die Minister die aanstelling van die administrateur beëindig. 20
- (7) (a) Ondanks subartikel (3) kan die Minister die Raad ontbind as die Minister, op voldoende gronde, vertroue verloor in die vermoë van die Raad om sy werksaamhede effektief en doeltreffend te verrig.
- (b) Die Minister kan die Raad slegs ontbind— 25
- (i) nadat die Raad 'n redelike geleentheid gegun is om sy saak te stel; en
- (ii) nadat die Raad 'n verhoor toegestaan is oor enige voorleggings wat ontvang is.
- (c) Indien die Minister die Raad ontbind—
- (i) kan die Minister 'n administrateur aanstel om die werksaamhede van die Raad oor te neem en enigiets te doen waartoe die Raad andersins gemagtig kan wees om te doen of moet doen deur of kragtens hierdie Wet, onderhewig aan sodanige voorwaardes wat die Minister kan bepaal; en
- (ii) moet die Minister, sodra dit uitvoerbaar is maar nie later nie as drie maande na die ontbinding van die Raad, die lede van die Raad vervang op dieselfde wyse as wat hulle aangestel is. 30 35
- (8) (a) Die koste wat met die aanstelling van 'n administrateur gepaard gaan, is vir die rekening van die Poskantoor.
- (b) Die aanstelling van die administrateur eindig wanneer die lede van die Raad ingevolge subartikel (7)(c)(ii) vervang is. 40
- (9) Ondanks hierdie artikel, behou die Minister die reg om enige tyd 'n bevoegde hof te nader vir tussenkoms ter bevordering van hierdie Wet in enige aangeleentheid wat hy of sy gepas ag. 50

Beperking van aanspreeklikheid

26. Nóg die Poskantoor nóg enige werknemer van die Poskantoor is aanspreeklik vir enige skade of verlies veroorsaak deur— 45
- (a) die uitoefening van 'n bevoegdheid of die uitvoering van 'n plig kragtens hierdie Wet of die Posdienstewet; of
- (b) die versuim om 'n bevoegdheid uit te oefen of om 'n plig uit te voer ingevolge hierdie Wet of die Posdienstewet, 50
- tensy die uitoefening van of versuim om die bevoegdheid uit te oefen, of die uitvoering van of versuim om die plig uit te voer, as onwettig, grof nalatig of te kwader trou beskou kan word.

Toepassing van Maatskappywet op Poskantoor

27. (1) Die bepalinge van die Maatskappywet is van toepassing op die Poskantoor, behoudens subartikel (2). 55
- (2) Ondanks artikels 5(4) en 9 van die Maatskappywet, is 'n bepaling van die Maatskappywet nie van toepassing op die Poskantoor nie onder omstandighede waar—

- (a) because of any special or contrary arrangement made by this Act, such a provision is clearly inappropriate or inapplicable; or
- (b) the Minister of Trade and Industry has issued a declaration under section 28 with regard to the provision.

Certain provisions of Companies Act may be declared inapplicable to Post Office 5

28. (1) (a) Notwithstanding section 9 of the Companies Act, the Minister may request the Minister of Trade and Industry to declare any provision of the Companies Act to be inapplicable to the Post Office.

(b) The request must be fully motivated by the Post Office.

(2) (a) The Companies and Intellectual Property Commission must publish 10 particulars about the request and the motivation contemplated in subsection (1) by notice in the *Gazette*.

(b) In such notice, the Commission must invite interested persons to submit 15 representations to a person named in the notice within the period stipulated in that notice.

(3) (a) After having considered the representations contemplated in subsection (2), if any, the Minister of Trade and Industry may, by notice in the *Gazette*, declare the whole or any part of the provision concerned to be inapplicable to the Post Office with effect from the date stipulated in that notice.

(b) The Minister of Trade and Industry may only issue the declaration if satisfied on 20 reasonable grounds that the inapplicability of that provision to the Post Office—

- (i) will contribute to the efficiency of the Post Office;
- (ii) will not reduce or limit the accountability of the Post Office as a public entity or reduce the transparency of its functioning and operations; and
- (iii) will not be prejudicial to the rights, interests or claims of the creditors or 25 employees of the Post Office or to the rights or interests of any other person.

Regulations and policy

29. (1) The Minister may make regulations regarding—

- (a) any matter relating to the functioning of the Board that is necessary to ensure 30 efficiency and effectiveness in the performance of its functions; and
- (b) any ancillary or incidental administrative or procedural matter that is necessary to prescribe for the proper implementation or administration of this Act.

(2) The Minister may make policies on matters of national policy applicable to the Post Office and its subsidiaries, consistent with the objects of this Act, and may at any 35 time thereafter amend any such policies made.

(3) When making or amending a policy under subsection (2) the Minister must—

- (a) obtain Cabinet approval;
- (b) table the policy in the National Assembly at least 30 days before publishing 40 the final version of the policy in terms of paragraph (c); and
- (c) publish the final version of the policy in the *Gazette*.

Offences and penalties

30. (1) A person commits an offence if he or she—

- (a) fails to provide access to any books, accounts, documents or assets when 45 required to do so in terms of section 24 or when required by the administrator contemplated in section 25(3);
- (b) fails to give data or information, or give false or misleading data or information when required to do so in terms of section 24 or when required by the administrator contemplated in section 25(3);

- (a) vanweë enige spesiale of teenstrydige reëling neergelê deur hierdie Wet, sodanige bepaling ooglopend onvanpas is of nie toepasbaar is nie; of
- (b) die Minister van Handel en Nywerheid 'n verklaring ingevolge artikel 28 uitgereik het met betrekking tot die bepaling.

Sekere bepalings van Maatskappywet kan as nie van toepassing op Poskantoor verklaar word 5

- 28.** (1) (a) Ondanks artikel 9 van die Maatskappywet, kan die Minister die Minister van Handel en Nywerheid versoek om enige bepaling van die Maatskappywet as nie van toepassing op die Poskantoor te verklaar. 10
- (b) Die versoek moet volledig deur die Poskantoor gemotiveer word. 10
- (2) (a) Die Kommissie vir Maatskappye en Intellektuele Eiendom moet besonderhede van die versoek en die motivering in subartikel (1) beoog by kennisgewing in die *Staatskoerant* publiseer.
- (b) In sodanige kennisgewing moet die Kommissie belangstellende persone nooit om binne die tydperk in daardie kennisgewing bepaal, aan 'n persoon in die kennisgewing vermeld voorleggings te doen. 15
- (3) (a) Na oorweging van die voorleggings in subartikel (2) beoog, indien enige, kan die Minister van Handel en Nywerheid, by kennisgewing in die *Staatskoerant*, die hele of enige deel van die betrokke bepaling as nie van toepassing op die Poskantoor verklaar met ingang van die datum aangetoon in daardie kennisgewing. 20
- (b) Die Minister van Handel en Nywerheid kan slegs die verklaring uitreik indien hy of sy op redelike gronde tevrede is dat, indien daardie bepaling nie op die Poskantoor van toepassing is nie, dit—
- (i) sal bydra tot die doeltreffendheid van die Poskantoor;
 - (ii) nie die verantwoordbaarheid van die Poskantoor as 'n openbare entiteit sal verminder of beperk nie, of die deursigtigheid van sy funksionering en werksaamhede sal verminder nie; en 25
 - (iii) nie nadelig sal wees vir die regte, belange of aansprake van die krediteure of werknemers van die Poskantoor of die regte of belange van enige ander persoon nie. 30

Regulasies en beleid

- 29.** (1) Die Minister kan regulasies uitvaardig betreffende—
- (a) enige aangeleentheid in verband met die funksionering van die Raad wat nodig is om die effektiwiteit en doeltreffendheid van die uitvoering van die Raad se werksaamhede te verseker; en 35
 - (b) enige aanvullende of bykomstige administratiewe of prosedure-aangeleentheid wat voorgeskryf moet of kan word vir die behoorlike inwerkingstelling of administrasie van hierdie Wet.
- (2) Die Minister kan beleid maak oor aangeleenthede van nasionale beleid wat op die Poskantoor en sy filiale van toepassing is, in ooreenstemming met die oogmerke van hierdie Wet, en kan sodanige beleid te eniger tyd daarna wysig. 40
- (3) Wanneer die Minister beleid maak of wysig kragtens subartikel (2), moet die Minister—
- (a) goedkeuring van die Kabinet verkry;
 - (b) die beleid in die Nasionale Vergadering ter tafel lê ten minste 30 dae voordat die finale weergawe van die beleid ingevolge paragraaf (c) gepubliseer word; en 45
 - (c) die finale weergawe van die beleid in die *Staatskoerant* publiseer.

Oortredings en strafbepalings

- 30.** (1) 'n Persoon pleeg 'n misdad indien hy of sy— 50
- (a) versuim om toegang te verskaf tot enige boeke, rekeninge, dokumente of bates wanneer hy of sy ingevolge artikel 24 daartoe versoek word of wanneer hy of sy daartoe versoek word deur die administrateur in artikel 25(3) beoog;
 - (b) versuim om data of inligting te verskaf, of vals of misleidende data of inligting verskaf wanneer hy of sy ingevolge artikel 24 daartoe versoek word of wanneer hy of sy daartoe versoek word deur die administrateur bedoel in artikel 25(3); 55

- (c) fails to comply with a directive issued under section 25(4)(c);
- (d) intentionally refuses to perform a duty or obstructs any person in the exercise of a power or performance of a duty in terms of this Act;
- (e) accepts any unauthorised fees or reward, either directly or indirectly as a result of a person's position with the Post Office; 5
- (f) uses the name, logo or design of the Post Office without the authorisation of the Post Office; or
- (g) places or maintains or permits to be placed or maintained in, on or near any house, premise, wall, door, window, box, post, pillar or other place belonging to a person or under a person's control the words "Post Office" or any other word or a mark which may imply or may give reasonable cause for believing that house, premises, wall, door, window, box, post, pillar or other place to be a post office. 10

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment. 15

(3) Where a person is again convicted for an offence contemplated in subsection (1), he or she is liable to a fine or imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment.

(4) Any member of the Board who fails to comply with section 10(3)(b)(i) or (ii) or 10(4)(b) or who contravenes section 13(c)(vii) or (viii), or any former member who failed to comply with or contravened any of those sections while being a member, commits an offence and is liable on conviction to a fine or to imprisonment not exceeding five years or to both a fine and such imprisonment. 20

(5) Any person referred to in section 13(b) who contravenes that section, or any former member of the Board who contravened that section while being a member, or any person, other than a member of the Board, referred to in section 13(b) who contravened that section during the tenure of a former member, commits an offence and is liable on conviction to a fine or to imprisonment not exceeding five years or to both a fine and such imprisonment. 25 30

Repeal and amendment of laws

31. The laws mentioned in Schedule 2 are hereby repealed or amended to the extent set out in the third column of that Schedule.

Short title and commencement

32. This Act is called the South African Post Office SOC Ltd Act, 2011, and takes effect on a date determined by the President by proclamation in the *Gazette*. 35

- (c) versuim om te voldoen aan 'n lasgewing uitgereik ingevolge artikel 25(4)(c);
- (d) opsetlik weier om 'n verpligting na te kom of enige persoon dwarsboom in die uitoefening van 'n bevoegdheid of uitvoering van 'n verpligting ingevolge hierdie Wet;
- (e) enige ongemagtigde gelde of beloning aanvaar, hetsy direk of indirek as gevolg van 'n persoon se posisie by die Poskantoor; 5
- (f) die naam, logo of ontwerp van die Poskantoor gebruik sonder magtiging van die Poskantoor; of
- (g) op of naby enige huis, perseel, muur, deur, venster, bus, paal, pilaar of ander plek wat aan 'n persoon behoort of onder 'n persoon se beheer staan, die woord "Poskantoor" of enige ander woord of merk wat kan impliseer of redelike gronde kan gee om te glo dat daardie huis, perseel, muur, deur, venster, bus, paal, pilaar of ander plek 'n poskantoor is, plaas of in stand hou, of toelaat dat geplaas of in stand gehou word. 10
- (2) Enige persoon wat subartikel (1) oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete of tot gevangenisstraf vir 'n tydperk van hoogstens vyf jaar, of tot beide 'n boete en sodanige gevangenisstraf. 15
- (3) Waar 'n persoon weer gevonnissen word vir 'n oortreding bedoel in subartikel (1), is hy of sy strafbaar by skuldigbevinding met 'n boete of tot gevangenisstraf vir 'n tydperk van hoogstens 10 jaar, of tot beide 'n boete en sodanige gevangenisstraf. 20
- (4) Enige lid van die Raad wat versuim om aan artikel 10(3)(b)(i) of (ii) of 10(4)(b) te voldoen of wat artikel 13(c)(vii) of (viii) oortree, of enige voormalige lid wat versuim het om aan enige van daardie artikels te voldoen of dit oortree het terwyl hy of sy 'n lid was, pleeg 'n misdryf en is strafbaar by skuldigbevinding met 'n boete of tot gevangenisstraf van hoogstens vyf jaar of tot beide 'n boete en sodanige gevangenisstraf. 25
- (5) Enige persoon in artikel 13(b) bedoel wat daardie artikel oortree, of enige voormalige lid van die Raad wat daardie artikel oortree het terwyl hy of sy 'n lid was, of enige persoon, buiten 'n lid van die Raad, in artikel 13(b) bedoel wat daardie artikel tydens die ampstermyn van 'n voormalige lid oortree het, pleeg 'n misdryf en is by skuldigbevinding strafbaar met 'n boete of tot gevangenisstraf van hoogstens vyf jaar of tot beide 'n boete en sodanige gevangenisstraf. 30

Herroeping en wysiging van wette

31. Die wette vermeld in Bylae 2 word hierby herroep of gewysig tot die mate uiteengesit in die derde kolom van daardie Bylae. 35

Kort titel en inwerkingtreëding

32. Hierdie Wet heet die Wet op die Suid-Afrikaanse Poskantoor MIS Bpk, 2011, en tree in werking op 'n datum deur die Minister by kennisgewing in die *Staatskoerant* bepaal.

Schedule 1

(Section 21(5))

OATH TO BE TAKEN OR AFFIRMATION TO BE MADE BY EMPLOYEES

I (name in full) , do
solemnly swear/affirm* faithfully in my position as an employee of the Post Office to be 5
honest, trustworthy and fair without respect of persons according to the law and to the
best of my knowledge, that I will not contrary to the law or to my duty communicate or
divulge the contents of any letter, telegram or official paper of any description or, nor
open or detain or cause or suffer to be opened or detained any letter or other postal article
or any telegram nor on any account whatever destroy or make away with any letter, 10
telegram or official paper entrusted to my care, that I will give account of any
responsibility entrusted to me whenever and wherever such may be required of me.

Signature
15

Sworn/Affirmed* before me at
on the day of 20.....

Justice of the Peace
20

*delete which is not applicable

*Bylae 1***(Artikel 21(5))****EED OF PLEGTIGE VERKLARING WAT DEUR WERKNEMERS AFGELÊ
MOET WORD**

Ek (naam voluit) sweer/verklaar* 5
 hiermee plegtig om in my pos as werknemer van die Poskantoor eerlik, betroubaar,
 regverdig, onpartydig en volgens wet op te tree, en dat ek na my beste wete nie in stryd
 met die wet of my plig die inhoud van enige brief, telegram of amptelike dokument van
 enige aard bekend of openbaar sal maak nie, en ook nie enige brief of ander posstuk of
 enige telegram sal oopmaak of terughou of veroorsaak of toelaat dat dit oopgemaak of 10
 teruggehou word nie, en verder ook onder geen omstandighede enige brief, telegram of
 amptelike dokument wat aan my sorg toevertrou word, sal vernietig of daarmee
 wegdoen nie, en dat ek rekenskap sal gee van enige verantwoordelikheid wat aan my
 toevertrou word wanneer en waar dit ook al van my verlang kan word.

Handtekening 15

Beëdig/Verklaar* voor my te

op die dag van

..... 20

Vrederegter

*skrap wat nie van toepassing is nie. 20

Schedule 2

(Section 31)

LAWS REPEALED OR AMENDED

Act No. and Year	Short Title	Extent of amendment or repeal	
Act No. 44 of 1958	Post Office Act, 1958	<p>1. Amendment of section 1—</p> <p>(a) by the substitution for the definition of “postal company” of the following definition:</p> <p style="padding-left: 40px;">“‘postal company’ means the <u>South African Post Office SOC Ltd, referred to in section 3(1) of the South African Post Office SOC Ltd Act, 2011;</u>”;</p> <p>(b) by the deletion of the definition of “postal enterprise”;</p> <p>(c) by the deletion of the definition of “railway”;</p> <p>(d) by the substitution for the definition of “successor company” of the following definition:</p> <p style="padding-left: 40px;">“‘successor company’ means <u>[a] the telecommunications company incorporated as contemplated in section 3(1), and for the purposes of the definition of “officer”, and section 5, Chapter 1B and sections 12U and 12W includes the postal company.</u>”.</p> <p>2. Amendment of Chapter I by the deletion of the heading “POWERS AND RIGHTS OF THE DIRECTOR-GENERAL”.</p> <p>3. Repeal of section 2.</p> <p>4. Amendment of Chapter IA by the substitution for the heading of the following heading:</p> <p style="padding-left: 40px;">“SUCCESSOR [COMPANIES] COMPANY”.</p> <p>5. Substitution for section 3 of the following section:</p> <p style="padding-left: 40px;">“Incorporation of successor [companies] company</p> <p style="padding-left: 80px;">3. (1) On a date or dates preceding the [postal transfer date or the telecommunications transfer date], as the case may be, the Minister shall effect the incorporation in terms of the Companies Act of [two]</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p> <p>55</p>

Bylae 2

(Artikel 31)

WETTE HERROEP OF GEWYSIG

No. van Wet en Jaar	Kort Titel	Omvang van wysiging of herroeping
Wet No. 44 van 1958	Poswet, 1958	<p>1. Wysiging van artikel 1—</p> <p>(a) deur die omskrywing van “posmaatskappy” deur die volgende omskrywing te vervang: “‘posmaatskappy’ die Suid-Afrikaanse Poskantoor MIS Bpk in artikel 3(1) bedoel van die Wet op die Suid-Afrikaanse Poskantoor MIS Bpk van 2011;”;</p> <p>(b) deur die omskrywing van “posonderneming” te skrap;</p> <p>(c) deur die omskrywing van “spoorweg” te skrap;</p> <p>(d) deur die omskrywing van “opvolgermaatskappy” deur die volgende omskrywing te skrap: “‘opvolgermaatskappy’ [beteken ’n] die telekommunikasiemaatskappy ingelyf soos in artikel 3(1) beoog, en sluit vir die doeleindes van die omskrywing van “beampte”, en artikel 5, hoofstuk 1B, en artikel 12U en 12W, die posmaatskappy in.”.</p> <p>2. Hoofstuk 1 word gewysig deur die skraping van die opskrif “BEVOEGDHEDE EN REGTE VAN DIE DIREKTEUR-GENERAAL”.</p> <p>3. Artikel 2 word herroep.</p> <p>4. Wysiging van hoofstuk 1A deur die vervanging van die opskrif deur die volgende opskrif: “[OPVOLGERMAATSKAPPYE] OPVOLGERMAATSKAPPY”.</p> <p>5. Die vervanging van artikel 3 deur die volgende artikel:</p> <p>“Inlywing van [opvolgersmaatskappy] opvolgermaatskappy</p> <p>3. (1) Op ’n datum of datums wat die [posoordragdatum of die] telekommunikasie-oordragdatum [, na gelang van die geval,] voorafgaan, bewerkstellig die Minister die inlywing ingevolge die Maat-</p>

Act No. and Year	Short Title	Extent of amendment or repeal
		<p>a public [companies] <u>company</u> namely, [a postal company to conduct a postal service and] a telecommunications company to conduct a telecommunications service, which [companies] <u>company</u> shall bear [names] <u>the name</u> approved by the Minister, and the issue to [each] <u>the</u> company of a certificate to commence business. 5</p> <p>[(2) The Minister shall on behalf of the State sign all documents that are required to be signed by the promoters of the companies.] 10</p> <p>(3) The Director-General—</p> <p>(a) shall be appointed as the first director of each successor company and shall in that capacity in respect of each company sign the documents which are required to be signed by a director of the company for the purpose of incorporation of the company and the issue to the company of a certificate to commence business; 15</p> <p>(b) shall occupy the post of director of a successor company until the date immediately preceding the transfer date concerned.] 20</p> <p>(4) [Each successor] <u>The telecommunications company—</u> 25</p> <p>(a) shall upon incorporation issue one share with a nominal value of one rand to the State;</p> <p>(b) shall in its memorandum of [association] incorporation <i>inter alia</i> provide that [that successor] <u>the telecommunications company and its subsidiaries—</u> 30</p> <p>(i) shall have as its main object and main business [in the case of the postal company to conduct the postal service and in the case of the telecommunications company] to conduct the telecommunications service; 35</p> <p>40</p> <p>45</p> <p>50</p>

No. van Wet en Jaar	Kort Titel	Omvang van wysiging of herroeping
		<p>skappywet van [twee] 'n publieke [maatskappye] maatskappy, naamlik, [’n posmaatskappy om die posdiens te bedryf en] ’n telekommunikasiemaatskappy om die telekommunikasiediens te bedryf, watter [maatskappye name] maatskappy die naam sal hê deur die Minister goedgekeur, en die uitreiking aan [elke] die maatskappy van ’n sertifikaat om met besigheid te begin.</p> <p>[(2) Die Minister onderteken namens die Staat alle dokumente wat deur die oprigters van die maatskappye onderteken moet word.</p> <p>(3) Die Direkteur-generaal—</p> <p>(a) word as eerste direkteur van elke opvolgermaatskappy aangestel en onderteken in daardie hoedanigheid ten opsigte van elke maatskappy die dokumente wat deur ’n direkteur van die maatskappy onderteken moet word vir die doeleindes van inlywing van die maatskappy en die uitreiking aan die maatskappy van ’n sertifikaat om met besigheid te begin;</p> <p>(b) beklee die amp van direkteur van ’n opvolgermaatskappy tot die dag onmiddellik voor die betrokke oordragdatum.]</p> <p>(4) [Elke opvolgermaatskappy] <u>Die telekommunikasiemaatskappy—</u></p> <p>(a) reik by inlywing een aandeel met ’n pari-waarde van een rand aan die Staat uit;</p> <p>(b) bepaal in sy akte van oprigting, onder andere, dat [daardie opvolger-] die telekommunikasiemaatskappy en sy filiale—</p> <p>(i) se hoofdoelstelling en hoof besigheid [in die geval van die posmaatskappy] is [om die posdiens te bedryf, en in die geval van die telekommunikasiemaatskappy] om die telekommunikasiediens te bedryf;</p>

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		<p data-bbox="890 241 1259 461">[(ii) shall not have the power to perform the following acts without the approval of the Minister granted with the concurrence of the Minister of Finance, namely—</p> <p data-bbox="946 465 1259 842"><i>(aa)</i> the alienation or encumbrance by the company otherwise than in the normal cause of its business of assets of the company with a market value of more than 10 per cent of the market value of all the assets of the company;</p> <p data-bbox="946 846 1259 972"><i>(bb)</i> the cessation or alteration of the main object or main business of the company;</p> <p data-bbox="946 976 1259 1227"><i>(cc)</i> the alienation of shares held by the company in any subsidiary thereof so that the company retains 50 per cent or less of the voting shares of the subsidiary;</p> <p data-bbox="946 1232 1259 1451"><i>(dd)</i> the merger of the company with another company or the entering into of a partnership or joint venture by the company;</p> <p data-bbox="866 1456 1259 1706"><i>(c)</i> must have articles of association providing, amongst other things in the case of the postal company, that the affairs of the company must be managed by a board of directors appointed in terms of the articles of association;</p> <p data-bbox="866 1711 1259 1863"><i>(d)</i> shall, apart from the shares referred to in subsection (4)(a) and sections 5(1) and 12U(4)(a), not issue any shares:</p> <p data-bbox="837 1868 1259 1953">Provided that paragraphs (b)(ii), (c) and (d) shall not apply to the telecommunications company.</p>

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		<p>(ii) nie bevoeg is om sonder die goedkeuring van die Minister verleen met die instemming van die Minister van Finansies die volgende handeling te voer nie, naamlik—</p> <p>(aa) die vervreemding of beswaring deur die maatskappy, anders as in die normale loop van sy sake, van bates van die maatskappy met 'n markwaarde van meer as 10 persent van die mark waarde van al die bates van die maatskappy;</p> <p>(bb) die staking of verandering van die hoofdoelstelling of hoof besigheid van die maatskappy;</p> <p>(cc) die vervreemding van aandele gehou deur die maatskappy in enige filiaal daarvan sodat die maatskappy 50 persent of minder van die stendraende aandele van die filiaal behou;</p> <p>(dd) die samesmelting van die maatskappy met 'n ander maatskappy of die aangaan van 'n vennootskap of gesamentlike onderneming deur die maatskappy;</p> <p>(c) se statute bepaal, onder andere, in die geval van die posmaatskappy, dat die werksaamhede van die maatskappy bestuur word deur 'n raad van direkteure aangestel ingevolge die statute;</p> <p>(d) reik, behalwe die aandele bedoel in subartikel (4)(a) en artikels 5(1) en 12U(4)(a), geen aandele uit nie:</p> <p>Met dien verstande dat paragrafe (b)(ii), (c) en (d) nie op die telekommunikasiemaatskappy van toepassing is nie.</p>

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		<p>(5) Notwithstanding the provisions of the Companies Act, the postal company and the telecommunications company may have fewer than seven members.] 5</p> <p>(6) The powers and duties of the State as a member and shareholder of [each] the successor company shall be exercised and performed by the Minister. 10</p> <p>[(7) A successor company shall not conduct any business and shall not acquire any assets, liabilities, rights or obligations prior to the transfer date concerned.]” . 15</p> <p>6. Amendment of section 4—</p> <p>(a) by the substitution for the heading of the following heading: “Transfer of telecommunications enterprise to successor company”; and 20</p> <p>(b) by the substitution for subsections 1, 2 and 3 of the following subsections, respectively: “(1) On a date determined by the Minister by notice in the Gazette— 25</p> <p>[(a) The postal enterprise shall be transferred to the postal company, from which date the postal company shall, subject to the provisions of any other law, have the power to conduct the postal service;] 30</p> <p>(b) the telecommunications enterprise shall be transferred to the telecommunications company, from which date the telecommunications company shall, subject to the provisions of any other law, have the exclusive power to conduct the telecommunications service. 40</p> <p>(2) (a) The value of the assets and liabilities of the [enterprises] enterprise transferred in terms of subsection (1) shall be determined by the Minister with the concurrence of the Minister of Finance, and the net asset value of [those enterprises] the enterprise shall likewise be determined, regard being had to the obligations imposed upon the [postal company and the] telecommunications company by section 12U. 55</p>

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		<p>(5) Ondanks die bepalings van die Maatskappywet, mag die [posmaatskappy en] telekommunikasiemaatskappy minder as sewe lede hê.]</p> <p>(6) Die bevoegdhede en pligte van die Staat as lid en aandeelhouer van [elke] die opvolgermaatskappy word deur die Minister uitgeoefen en verrig.</p> <p>[(7) 'n Opvolgermaatskappy bedryf geen besigheid en verkry geen bates, laste, regte of verpligtinge voor die betrokke oordragdatum nie.]”.</p> <p>6. Wysiging van artikel 4—</p> <p>(a) deur die vervanging van die opskrif deur die volgende opskrif: <u>“Oordrag van telekommunikasieonderneming aan opvolgermaatskappy”</u>; en</p> <p>(b) deur die vervanging van subartikels (1), (2) en (3) deur die volgende onderskeie subartikels: “(1) Op 'n datum deur die Minister by kennisgewing in die <i>Staatskoerant</i> bepaal— [(a) word die posonderneming aan die posmaatskappy oorgedra, vanaf watter datum die posmaatskappy, behoudens die bepalings van enige ander wet, die bevoegdheid het om die posdiens te bedryf;]</p> <p>(b) word die telekommunikasieonderneming aan die telekommunikasiemaatskappy oorgedra, vanaf watter datum die telekommunikasiemaatskappy, behoudens die bepalings van enige ander wet, die uitsluitlike bevoegdheid het om die telekommunikasiediens te bedryf.</p> <p>(2) (a) Die waarde van die bates en laste van die [ondernemings] <u>onderneming</u> wat ingevolge subartikel (1) oorgedra word, word deur die Minister met die instemming van die Minister van Finansies bepaal en die netto batewaarde van [daardie ondernemings] <u>die onderneming</u> word op dieselfde wyse bepaal, met inagneming van die verpligtinge wat deur artikel 12U op die [posmaatskappy en die] telekommunikasiemaatskappy gelê word.</p>

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		<p data-bbox="884 241 1259 712"><i>(b)</i> For the purposes of the Income Tax Act, 1962 (Act No. 58 of 1962), or any other law in terms of which a tax or levy may be imposed, it shall be deemed that expenses were actually incurred by [a] <u>the</u> successor company in acquiring the assets transferred to it in terms of subsection (1) and that, notwithstanding the provisions of any other law, the expenses concerned, including the cost of the assets, are equal to the value determined in terms of subsection (2)(a).</p> <p data-bbox="884 719 1259 1223"><i>(3) (a)</i> In so far as the [postal enterprise and the] telecommunications enterprise have the use of State land immediately prior to the date referred to in subsection (1), such land shall on the said date pass to the [postal company or the] telecommunications company, [as the case may be,] and it shall be deemed that such land was on the said date sold by the State President in terms of the provisions of the State Land Disposal Act, 1961 (Act No. 48 of 1961), to the company [concerned].</p> <p data-bbox="884 1229 1259 1863"><i>(b)</i> Notwithstanding the provisions of section 5 of the State Land Disposal Act, 1961, and section 18 of the Deeds Registries Act, 1937 (Act No. 47 of 1937), a registrar as defined in section 102 of the Deeds Registries Act, 1937, shall, on submission to him <u>or her</u> of a certificate by the Ministers of Public Works and Land Affairs that State land has passed in terms of paragraph (a), free of charge make such entries and endorsements as he <u>or she</u> may deem necessary in or on any relevant register, title deed or other document in his <u>or her</u> office or laid before him <u>or her</u>, in order to effect the transfer in the name of the company [concerned].</p>

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		<p>(b) By die toepassing van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), of enige ander wet ingevolge waarvan 'n belasting of heffing opgelê kan word, word daar geag dat uitgawes werklik deur [n] die opvolgermaatskappy aangegaan is om die bates wat ingevolge subartikel (1) aan hom oorgedra is, te verkry en dat, ondanks die bepalings van enige ander wet, die betrokke uitgawes, wat die koste van die bates insluit, gelyk is aan die waardevasstelling bedoel in subartikel (2)(a).</p> <p>(3) (a) Vir sover die [posonderneming en die] telekommunikasie-onderneming onmiddellik voor die datum in subartikel (1) bedoel die gebruik van Staatsgrond het, gaan daardie grond op bedoelde datum oor op die [posmaatskappy of die] telekommunikasiemaatskappy, [na gelang van die geval,] en word daar geag dat die grond op bedoelde datum deur die Staatspresident ingevolge die bepalings van die Wet op die Beskikking oor Staatsgrond, 1961 (Wet No. 48 van 1961) aan die [betrokke] maatskappy verkoop is.</p> <p>(b) Ondanks die bepalings van artikel 5 van die Wet op die Beskikking oor Staatsgrond, 1961, en artikel 18 van die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937), moet 'n registrateur soos omskryf in artikel 102 van die Registrasie van Aktes Wet, 1937, by die voorlegging aan hom of haar van 'n sertifikaat deur die Minister van Openbare Werke en Grondsake dat Staatsgrond ingevolge paragraaf (a) oorgegaan het, kosteloos die inskrywings of endossemente wat hy of sy nodig ag in of op enige tersaaklike register, titelbewys of ander stuk in sy of haar kantoor of aan hom of haar voorgelê, maak ten einde die oordrag op die naam van die [betrokke] maatskappy te registreer.</p>

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		<p data-bbox="884 244 1259 1003"> [(c) If a particular piece of State land was used jointly by the postal enterprise and the telecommunications enterprise immediately prior to the date mentioned in subsection (1), and the successor companies after that date agree to divide that piece of land between them without the payment of compensation by one party to the other or without giving anything in exchange therefor, the subdivision of the land concerned shall be exempted from the payment of transfer duty, stamp duty or other fees if, upon the registration of the subdivision, a certificate signed by the secretaries of both successor companies is submitted in which it is certified that an agreement as contemplated in this paragraph has been concluded.]”; </p> <p data-bbox="837 1010 1259 1099"> <i>(c)</i> by the substitution in subsection (4) for paragraph (a) of the following paragraph: </p> <p data-bbox="906 1106 1259 1509"> <i>“(a)</i> Any servitude, other real right or lease existing immediately before the date referred to in subsection (1) in favour of the State, the department or the Director-General and which is exercised in favour of [the postal enterprise or] the telecommunications enterprise shall on the said date pass to [the postal company or] the telecommunications company[, as the case may be.”]; </p> <p data-bbox="837 1516 1259 1606"> <i>(d)</i> by the substitution in subsection (4)(b) for subparagraph (i) of the following subparagraph: </p> <p data-bbox="884 1612 1259 1767"> <i>“(i)</i> register the passing of the servitude, other real right or lease to the company [concerned] in terms of paragraph (a); or”]; </p> <p data-bbox="837 1774 1259 1919"> <i>(e)</i> by the substitution in subsection (4A) for the words “a successor company” of the words “the successor company”, wherever they occur; </p>

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		<p>[(c) Indien 'n bepaalde stuk Staatsgrond onmiddellik voor die datum vermeld in subartikel (1) gesamentlik deur die posonderneming en die telekommunikasie-onderneming gebruik is, en die opvolgermaatskappye kom na daardie datum ooreen om daardie stuk grond tussen hulle te verdeel sonder die betaling van vergoeding deur die een party aan die ander party of sonder dat enigiets daarvoor in ruil gegee word, is die onderverdeling van die betrokke grond vrygestel van die betaling van hereregte, seëlregte of ander gelde indien daar by die registrasie van die onderverdeling 'n sertifikaat, onderteken deur die sekretarisse van beide opvolgermaatskappye, voorgelê word waarin gesertifiseer word dat 'n ooreenkoms soos beoog in hierdie paragraaf aangeaan is.]”;</p> <p>(c) deur die vervanging in subartikel (4) paragraaf (a) deur die volgende paragraaf:</p> <p>“(a) Enige serwituut, ander saaklike reg of huurkontrak wat onmiddellik voor die datum in subartikel (1) bedoel ten gunste van die Staat, die departement of die Direkteur-generaal bestaan en wat ten gunste van [die posonderneming of] die telekommunikasie-onderneming uitgeoefen word, gaan op genoemde datum oor op die [posmaatskappy of] telekommunikasiemaatskappy [na gelang van die geval].”;</p> <p>(d) deur die vervanging in subartikel (4)(b) van subparagraaf (i) deur die volgende subparagraaf:</p> <p>“(i) die oorgang van die serwituut, ander saaklike reg of huurkontrak na die [betrokke] maatskappy ingevolge paragraaf (a) te registreer; of”;</p> <p>(e) deur die vervanging in subartikel (4)(a) van die woorde “'n opvolgermaatskappy” deur die woorde “die opvolgermaatskappy” waar hulle ook al voorkom;</p>

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		<p>(f) by the deletion of paragraph (a) of subsection (5); and</p> <p>(g) by the substitution for subsections (6), (7), (8), (9), (10) and (11) of the following subsections, respectively: 5</p> <p>“(6) The successor company [concerned] may apply for the registration of any registerable right relating to intellectual property or inventions (including the registration as patents of patentable inventions) transferred by the State in terms of this section to the successor company [concerned]. 10</p> <p>(7) The Registrar of Trade Marks shall make such entries, notes and endorsements as he <u>or she</u> may deem necessary in or on any relevant register, certificate or other document in his <u>or her</u> office or submitted to him <u>or her</u> so as to effect the transfer of trade marks to [the postal company or] the telecommunications company in terms of this section, and may request the [successor] company [concerned] to submit or produce to him <u>or her</u> such information or document as he <u>or she</u> may deem necessary for such purpose. 15 20 25 30</p> <p>(8) If any doubt arises as to whether anything for the purposes of this Act pertains to or is connected with [the postal enterprise,] the telecommunications enterprise, the department or anyone else, the decision of the Minister shall be conclusive. 35</p> <p>(9) (a) [Each] <u>The</u> successor company may establish subsidiary companies of which the successor company shall be the sole member and shareholder and shall allow the assignments, substitutions and transfers contemplated in this section to be made to such subsidiary. 40 45</p> <p>(b) The provisions of this Act applicable to [such] <u>the</u> successor company, shall apply <i>mutatis mutandis</i> to the subsidiary thereof while the successor company is the sole member and shareholder of the subsidiary. 50</p>

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		<p>(f) deur die skraping van para graaf (a) van subartikel (5); en</p> <p>(g) deur die vervanging van subartikel (6), (7), (8), (9), (10) en (11) deur die volgende subartikels onderskeidelik:</p> <p>“(6) Die [betrokke] opvolger maatskappy kan aansoek doen om die registrasie van enige registreerbare reg ten opsigte van immateriële goedere of uitvindings (met inbegrip van die registrasie as patente van patenteerbare uitvindings) deur die Staat ingevolge hierdie artikel aan die [betrokke] opvolgermaatskappy oorgedra.</p> <p>(7) Die Registrateur van Handelsmerke maak die inskrywings, aantekeninge en endossemente wat hy <u>of sy</u> nodig ag, in of op enige tersaak like register, bewys of ander stuk in sy <u>of haar</u> kantoor of aan hom <u>of haar</u> voorgelê, ten einde die oordrag ingevolge hierdie artikel van handelsmerke aan die [posmaatskappy of] telekommunikasiemaatskappy te verseker, en kan die [betrokke opvolger] maatskappy versoek om die inligting of stuk wat hy <u>of sy</u> vir dié doel nodig ag, aan hom <u>of haar</u> te verstrek of oor te lê.</p> <p>(8) Indien daar twyfel ontstaan of enigiets vir die doeleindes van hierdie Wet betrekking het op of verband hou met [die posonderneming,] die telekommunikasieonderneming, die departement of iemand anders, is die Minister se beslissing afdoende.</p> <p>(9) (a) [Elke] <u>Die</u> opvolgermaatskappy mag filiaalmaatskappye stig waarvan die opvolgermaatskappy die enigste lid en aandeelhouer is, en die oordragte, vervangings en oorplasings in hierdie artikel beoog na sodanige filiaal laat geskied.</p> <p>(b) Die bepalings van hierdie Wet wat op [so ’n] <u>die</u> opvolgermaatskappy van toepassing is, is <i>mutatis mutandis</i> op die filiaal daarvan van toepassing, solank die opvolgermaatskappy die enigste lid en aandeelhouer van die filiaal is.</p>

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		<p>(10) No stamp duty, transfer duty or any other tax or levy shall be payable in respect of the transfer of [the postal enterprise or] the telecommunications enterprise in terms of this section.</p> <p>(11) Any officer in the employment of [a] the successor company shall be deemed to be an officer in the service of the State for the purposes of section 7 of the State Land Disposal Act, 1961 (Act No. 48 of 1961), and section 24 of the Expropriation Act, 1975 (Act No. 63 of 1975).”.</p> <p>7. Deletion of section 7A.</p> <p>8. Amendment of section 12V by the substitution for the words “each successor company” of the words “the successor company”.</p> <p>9. Substitution for subsection (1) of section 89 of the following subsection:</p> <p style="padding-left: 40px;">“Order of transmission of [telegrams] telephonic communications</p> <p style="padding-left: 40px;">89. (1) [Telegrams and telephonic] Telephonic communications shall be sent for all persons alike, without favour or preference, and shall as far as practicable be transmitted in the order in which they are received, but [telegrams and] telephonic communications relating to the preservation of the peace of the Republic or of the adjacent territories or the arrest of criminals or the discovery or prevention of crime or any other matter connected with the administration of justice shall have precedence over all other [telegrams and] telephonic communications: Provided [that nothing in this section contained shall be held to prevent precedence being given to any class of telegrams under such conditions and upon payment of such special rates of charges as may be prescribed by the telecommunications company: And provided fur-</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p>

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		<p>(10) Geen seëlreg, hereregte of enige ander belasting of heffing is betaalbaar ten opsigte van die oordrag van [die posonderneming of] die telekommunikasie-onderneming ingevolge hierdie artikel nie.</p> <p>(11) 'n Beampte in die diens van [’n] die opvolgermaatskappy word geag ’n beampte in diens van die Staat te wees vir die doeleindes van artikel 7 van die Wet op die Beskikking oor Staatsgrond, 1961 (Wet No. 48 van 1961), en artikel 24 van die Onteieningswet, 1975 (Wet No. 63 van 1975).”.</p> <p>7. Skrapping van artikel 7A.</p> <p>8. Wysiging van artikel 12V deur vervanging van die woorde “elke opvolgermaatskappy” deur die woorde “die opvolgermaatskappy”.</p> <p>9. Vervanging van subartikel (1) van artikel 89 deur die volgende subartikel:</p> <p>“Volgorde van versending van [telegramme] telefoniese kommunikasie</p> <p>89. (1) [Telegramme en telefoniese] Telefoniese mededelings word vir almal sonder aansien des persoons en sonder begunstiging of voorkeur versend, en word sover doenlik in die volgorde van ontvangs versend, maar [telegramme en] telefoniese mededelings met betrekking tot die bewaring van die vrede van die Republiek of die aangrensende gebiede of die inhegtenisneming van misdadigers of die ontdekking of voorkoming van misdaad of enige ander aangeleentheid in verband met die regspleging geniet voorkeur bo alle ander [telegramme en] telefoniese mededelings: Met dien verstande [dat die bepalinge van hierdie artikel nie geag word te verhoed dat aan enige klas van telegramme voorkeur gegee word op die voorwaardes en by betaling van die spesiale tariewe wat deur die telekommunikasiemaatskappy voorgeskryf mag word nie: En met dien verstande voorts] dat</p>

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		<p>ther] that no person shall be permitted to occupy a telecommunications line in such a manner as unreasonably to impede the speedy transmission of other [telegrams and] telephonic communications.”. 5</p> <p>10. Deletion of section 90.</p> <p>11. Substitution for section 99 of the following section: 10</p> <p>“Unauthorized use of words [“Post Office”, “mail”,] “yellow page directory”, “telex directory”, “telephone directory”, etc. 15</p> <p>99. Any person who without the authority of [the postal company or] the telecommunications company[, as the case may be (the proof of which shall be on the accused)]— 20</p> <p>(a) places or maintains or suffers to be placed or maintained or to remain in, on or near any house, premises, wall, door, window, box, post, pillar or other place belonging to him under his control the words “Post Office” or any other word or a mark which may imply or may give reasonable cause for believing that house, premises, wall, door, window, box, post, pillar or other place to be a post office; 25</p> <p>(b) places or maintains or permits to be placed or maintained or to remain on any vehicle or vessel the word “mail” or any other word or mark which may imply or may give reasonable cause for believing that such vehicle or vessel is used for the conveyance of mails; or] 30</p> <p>(c) in connection with any publication or proposed publication, or in any invitation, prospectus, order form, notice, invoice or advertisement relating to any publication, uses the words “telephone directory”, “yellow page directory”, “yellow pages”, “telex directory” or any other word or a mark, in circumstances or in a 35</p>

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		<p>niemand toegelaat word om 'n telekommunikasielyn op so 'n wyse te beset dat die spoedige versending van ander [telegramme en] telefoniese mededelings onredelikerwys verhinder word nie.”.</p> <p>10. Skrapping van artikel 90.</p> <p>11. Vervanging van artikel 99 deur die volgende artikel:</p> <p>“Ongemagtigde gebruik van die woorde [“Poskantoor”, “pos”,] “geelbladsygid”, “teleksgid”, “telefoongid”, ens.</p> <p>99. Iemand wat sonder die magtiging van die [posmaatskappy of] telekommunikasiemaatskappy [na gelang van die geval (waarvan die bewyslas op die beskuldigde rus)]—</p> <p>[(a) in, op of in die nabyheid van 'n huis, perseel, muur, deur, venster, bus, paal, pilaar of ander plek wat aan hom behoort of onder sy beheer is, die woord “Poskantoor” of 'n ander woord of 'n merk wat te kenne kan gee of 'n redelike vermoede kan laat ontstaan dat daardie huis, perseel, muur, deur, venster, bus, paal, pilaar of ander plek 'n poskantoor is, aanbring of in stand hou of toelaat dat dit daar aangebring of in stand gehou word of bly;</p> <p>(b) op 'n voertuig of vaartuig die woord “pos” of 'n ander woord of 'n merk wat te kenne kan gee of 'n redelike vermoede kan laat ontstaan dat daardie voertuig of vaartuig vir die vervoer van pos gebruik word, aanbring of in stand hou of toelaat dat dit aangebring of in stand gehou word of daarop bly; of]</p> <p>(c) in verband met 'n publikasie of voorgenome publikasie, of in 'n uitnodiging, prospektus, bestelvorm, kennisgewing, faktuur of advertensie wat op 'n publikasie betrekking het, die woord “telefoongid”, “geelbladsygid”, “geelblaie”, “teleksgid” of 'n ander woord of 'n merk gebruik</p>

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		<p data-bbox="927 241 1259 748">manner which may imply or may give reasonable cause for believing that such a publication or proposed publication is a telephone directory, yellow page directory, telex directory or other publication published on the authority of [the postal company or] the telecommunications company, shall be guilty of an offence and liable on conviction to a fine not exceeding R2 000 or imprisonment for a period not exceeding six months or to both such fine and such imprisonment.”.</p> <p data-bbox="807 786 1259 846">12. Substitution for section 102 of the following section:</p> <p data-bbox="852 882 1259 1003">“Personating officers of [department, postal company or] telecommunications company with fraudulent intent</p> <p data-bbox="852 1039 1259 1384">102. Any person who with fraudulent intent personates or represents himself <u>or herself</u> to be an officer of the [department or the postal company or] telecommunications company, shall be guilty of an offence and liable on conviction to a fine not exceeding R4 000 or imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.”.</p> <p data-bbox="807 1420 1259 1480">13. Substitution for section 105 of the following section:</p> <p data-bbox="852 1516 1259 1576">“Divulging contents of [telegrams or] telephonic communications</p> <p data-bbox="852 1612 1259 1765">105. Any officer who, not being a witness in a court of law, without the consent of the sender [or addressee] or receiver, or otherwise than in pursuance of his <u>or her</u> duties—</p> <p data-bbox="852 1778 1259 1953">[(a) opens or tampers with or divulges the contents or substance of any telegram, or discloses its existence otherwise than by delivering it or giving a copy thereof to the person to</p>

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		<p>onder omstandighede of op 'n wyse wat te kenne kan gee of 'n redelike vermoede kan laat ontstaan dat so 'n publikasie of voorgenome publikasie 'n telefoongids, geelbladsygid, teleks-gids of ander publikasie is wat op gesag van die [posmaatskappy of] telekommunikasiemaatskappy uitgegee is of word, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R2 000 of gevange nisstraf vir 'n tydperk van hoogstens ses maande of met beide daardie boete en daardie gevangenisstraf.”.</p> <p>12. Vervanging van artikel 102 deur die volgende artikel:</p> <p>“Met bedrieglike opset voorgee beampte van [departement, posmaatskappy of] telekommunikasiemaatskappy te wees</p> <p>102. Iemand wat hom <u>of haar</u> met bedrieglike opset uitgee vir of voordoen as 'n beampte van die [departement of die posmaatskappy of] telekommunikasiemaatskappy, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R4 000 of gevangenisstraf vir 'n tydperk van hoogstens 12 maande of met beide bedoelde boete en bedoelde gevangenisstraf.”.</p> <p>13. Vervanging van artikel 105 deur die volgende artikel:</p> <p>“Bekendmaking van inhoud van [telegramme of] telefoniese mededelings</p> <p>105. 'n Beampte wat, behalwe as 'n getuie in 'n geregshof, sonder toestemming van die afsender [of geadresseerde] of ontvanger of anders as in die uitvoering van sy <u>haar pligte</u>—</p> <p>[(a) 'n telegram oopmaak of daarmee peuter of die inhoud of strekking daarvan bekend maak, of die bestaan daarvan bekend maak op 'n ander wyse as deur dit te bestel of 'n afskrif daarvan te gee aan die</p>

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		<p data-bbox="906 241 1257 651">whom he is authorized to deliver it or to give such copy, or who maliciously or wilfully misdelivers, mistimes, secretes, intercepts, destroys, makes away with, alters or omits to transmit or deliver or prevents or delays the delivery or transmission of any telegram or makes use for his own purposes of any knowledge he may acquire of the contents thereof;]</p> <p data-bbox="852 658 1257 969"><i>(b)</i> divulges the existence, contents or substance of any telephonic communication or maliciously or wilfully intercepts a telephonic communication or prevents or delays the transmission thereof or makes use for his <u>or her</u> own purposes of any knowledge he <u>or she</u> may acquire of the contents thereof,</p> <p data-bbox="852 976 1257 1160">shall be guilty of an offence and liable on conviction to a fine not exceeding R4 000 or imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.”.</p> <p data-bbox="807 1196 1257 1256">14. Substitution for section 112 of the following section:</p> <p data-bbox="852 1294 1257 1447">“In criminal proceedings, etc., property [in postal articles, money, money orders, etc.,] may be laid in [postal company or] telecommunications company</p> <p data-bbox="852 1485 1257 2022">112. In any information or complaint as to or any prosecution for any crime or any offence committed in respect of the [postal company or] telecommunications company or of any [mail, telegram or] telecommunications line [or any property, moneys, money order, postal order or other document authorized to be used for the purpose of remitting, paying or depositing money through or with the postal company or telecommunications company, as the case may be], or with respect to any act, deed, matter or thing which has been done or committed with any malicious, injurious</p>

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		<p>persoon aan wie hy gemagtig is om dit te bestel of so 'n afskrif te gee, of wat kwaadwilliglik of opsetlik 'n telegram verkeerd aflewer of die verkeerde tyd daarop aangee of dit verberg, onderskep, vernietig, wegmaak, verander of nalaat om dit te versend of te bestel of die bestelling of versending daarvan verhinder of vertraag of vir sy eie doeleindes gebruik maak van kennis wat hy uit die inhoud daarvan verkry;]</p> <p>(b) die bestaan, inhoud of strekking van 'n telefoniese mededeling bekend maak of kwaadwilliglik of opsetlik 'n telefoniese mededeling onderskep of die versending daarvan verhinder of vertraag of vir sy <u>of haar</u> eie doeleindes gebruik maak van kennis wat hy <u>of sy</u> uit die inhoud daarvan verkry,</p> <p>is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R4 000 of gevangenisstraf vir 'n tydperk van hoogstens twaalf maande of met sowel daardie boete as daardie gevangenisstraf.”.</p> <p>14. Vervanging van artikel 112 deur die volgende artikel:</p> <p>“By strafsake, ens., kan [posmaatskappy of] telekommunikasiemaatskappy as eienaar van eiendom [posstukke, geld, poswissels, ens.,] aangewys word</p> <p>112. In enige inligting of klagte oor of vervolging weens 'n misdad of misdryf gepleeg ten opsigte van die [posmaatskappy of] telekommunikasiemaatskappy of van [pos,] 'n [telegram of] telekommunikasielyn [of eiendom, gelde, poswissels, posorders of ander dokumente waarvan die gebruik in verband met die versending, betaling of storting van geld deur of by die posmaatskappy of telekommunikasiemaatskappy, na gelang van die geval, gemagtig is], of ten opsigte van 'n handeling, daad, aangeleentheid of enigiets gedoen of verrig met kwaadwillige opset of die</p>

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		<p>or fraudulent intent relating to or concerning the [postal company or telecommunications company], as the case may be, or any such [mail, telegram,] telecommunications line, property, moneys, money order, postal order or other document], it shall be sufficient—</p> <p>[(a) to allege that any such mail, telegram, property, moneys, money order, postal order or other document belongs to or is in the lawful possession of the postal company or telecommunications company, as the case may be, and to put in the same in evidence, and it shall not be necessary to allege or prove the same to be of any value;]</p> <p>(b) to allege that any such act, deed, matter or thing was done or committed with intent to injure or defraud the [postal company or telecommunications company], as the case may be, without setting forth its or any other name, addition or description whatsoever; and</p> <p>(c) if the offender be an officer, to allege that the offender was an officer of the [postal company or telecommunications company], as the case may be, at the time of the committing of the offence without stating the nature or particulars of his employment.”.</p>	5 10 15 20 25 30 35
		15. Deletion of section 114.	40
		16. Substitution for section 115 of the following section:	
		<p>“Nonliability of [postal company and] telecommunications company</p> <p>115. Save as is otherwise provided in this Act or any other law, the [postal company or telecommunications company], as the case may be, or any officer or any person conveying postal articles in pursuance of any contract entered into or arrangements made in terms of this Act or conveying mail</p>	45 50 55

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		<p>opset om te beskadig of te bedrieg ten aansien van of met betrekking tot die [posmaatskappy of] telekommunikasiemaatskappy[, na gelang van die geval,] of sodanige [pos, telegram,] telekommunikasielyn[, eiendom, gelde, poswissels, posorders of ander dokumente,] is dit voldoende—</p> <p>[(a) om te beweer dat bedoelde pos, telegram, eiendom, gelde, poswissels, posorders of ander dokumente aan die posmaatskappy of telekommunikasiemaatskappy, na gelang van die geval, behoort of in sy wettige besit is en om dit as bewysstukke in te dien, en is dit nie nodig om te beweer of te bewys dat dit van enige waarde is nie;]</p> <p>(b) om te beweer dat so 'n handeling, daad of aangeleentheid of so iets gedoen of verrig is met die opset om die [posmaatskappy of] telekommunikasiemaatskappy[, na gelang van die geval,] skade te berokken of te bedrieg sonder om sy of enige ander naam, toevoeging of beskrywing hoegenaamd aan te gee; en</p> <p>(c) indien die oortreder 'n beampte is, om te beweer dat die oortreder 'n beampte van die [posmaatskappy of] telekommunikasiemaatskappy[, na gelang van die geval,] was op die tydstip toe die misdryf gepleeg is, sonder om die aard of besonderhede van sy werk te vermeld.”.</p> <p>15. Skrapping van artikel 114.</p> <p>16. Vervanging van artikel 115 deur die volgende artikel:</p> <p>“[Posmaatskappy en] Telekomunikasiemaatskappy nie aanspreeklik nie</p> <p>115. Behoudens andersluidende bepalings van hierdie Wet of enige ander wet, is die [posmaatskappy of] telekommunikasiemaatskappy[, na gelang van die geval, of 'n beampte of enigiemand wat posstukke vervoer ooreenkomstig 'n ooreenkoms aangegaan of reëlins getref kragtens hierdie</p>

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		<p>which he or she is obliged to convey, in terms of this Act or any other law or any employee of a mail carrier] shall not be liable by reason of any error, default, delay, omission, damage, destruction, nondelivery, nontransmission or loss, whether negligent or otherwise, in respect of [any postal article or telegram or by reason of] anything lawfully done under this Act, or any other law, [and bona fide payment of any sum of money under the provisions of this Act or any other law shall, to whomsoever made, discharge the postal company or telecommunications company, as the case may be, and the officer by whom any such payment was made, from all liability whatsoever in respect of any such payment, notwithstanding any forgery, fraud, mistake, neglect, loss or delay which may have been committed or have occurred in connection therewith]: Provided that nothing in this section contained shall be construed as exempting the [postal company or] telecommunications company[, as the case may be,] from liability for damage or loss caused to any person by reason of fraud on the part of an officer in relation to his or her official duties [or as exempting any mail carrier from liability for damage or loss caused to any person by reason of fraud on the part of such carrier or of any employee of such carrier in relation to his or her duties].”.</p> <p>17. Deletion of section 119B and 120A.</p> <p>18. Substitution for section 121 of the following section:</p> <p>“Officers to take oath or make affirmation</p> <p>121. Every officer required by the [Director-General, postal company or] telecommunications company to do so, shall before exercising the duties of his <u>or her</u> office take an oath or make an affirmation before a justice of the peace in the form set forth in the First Schedule.”.</p>

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		<p>Wet of enige ander wet of wat pos vervoer wat hy of sy ingevolge hierdie Wet verplig is om te vervoer, of enige werknemer van 'n posdraer] nie aanpreeklik op grond van 'n fout, versuim, vertraging, nalating, skade, vernietiging, nie-aflowering, nie-versending of verlies, hetsy aan nalatigheid te wyte of andersins, ten opsigte van ['n posstuk of telegram of op grond van] iets wat wettiglik ingevolge hierdie Wet of 'n ander wetsbepaling gedoen is nie [en die bona fide-betaling van 'n som geld ingevolge die bepalings van hierdie Wet of 'n ander wetsbepaling, aan wie ook al gedoen, onthef die posmaatskappy of telekommunikasiemaatskappy, na gelang van die geval, en die beampte deur wie so 'n betaling gedoen is van alle aanspreeklikheid hoegenaamd ten opsigte van so 'n betaling, ondanks enige vervalsing, bedrog, fout, nalatigheid, verlies of vertraging wat in verband daarmee gepleeg is of plaasevind het]: Met dien verstande dat die bepalings van hierdie artikel nie so uitgelê word dat dit die [posmaatskappy of] telekommunikasiemaatskappy[, na gelang van die geval,] vrywaar teen aanspreeklikheid weens skade of verlies as gevolg van bedrog deur 'n beampte met betrekking tot sy of haar offisiële pligte aan iemand veroorsaak nie [of dat dit enige posdraer vrywaar teen aanspreeklikheid weens skade of verlies as gevolg van bedrog deur sodanige draer of deur enige werknemer van sodanige draer met betrekking tot sy of haar pligte, aan iemand veroorsaak nie]”.</p> <p>17. Skrapping van artikel 119B en 120A.</p> <p>18. Vervanging van artikel 121 deur die volgende artikel:</p> <p>“Beamptes moet eed of plegtige verklaring aflê</p> <p>121. Elke beampte wat die [Direkteur-generaal, posmaatskappy of] telekommunikasiemaatskappy daartoe aansê, moet voordat hy of sy sy of haar ampspligte aanvaar, 'n eed of plegtige verklaring voor 'n vrederegter aflê in die vorm in die Eerste Bylae uiteengesit.”.</p>

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		<p>19. Substitution for section 123 of the following section:</p> <p style="text-align: center;">“Short title</p> <p style="text-align: center;">123. This Act shall be called the Post [Office] and Telecommunication-related Matters Act, 1958.”.</p> <p>20. Substitution for the long title of the following long title:</p> <p style="text-align: center;">“To provide for post and telecommunication-related matters, and to provide for matters connected therewith.”.</p> <p>21. Substitution for the First Schedule of the following Schedule:</p> <p style="text-align: center;">“FIRST SCHEDULE</p> <p style="text-align: center;"><u>OATH TO BE TAKEN OR AFFIRMATION TO BE MADE BY EMPLOYEES</u></p> <p>I (name in full) do solemnly swear/affirm* faithfully in my position as an employee of the telecommunications company to be honest, trustworthy and fair without respect of persons according to the law and to the best of my knowledge, that I will not contrary to the law or to my duty communicate or divulge any information regarding any telephone conversation, and that I will give account of any responsibility entrusted to me whenever and wherever such may be required of me.</p> <p style="text-align: right;"><u>Signature</u></p> <p>Sworn/Affirmed* before me at on the day of 20....</p> <p style="text-align: center;"><u>JUSTICE OF THE PEACE</u> *delete which is not applicable</p>

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		<p>19. Vervanging van artikel 123 deur die volgende artikel:</p> <p style="text-align: center;">“Kort titel</p> <p style="text-align: center;">123. Hierdie Wet heet die [Poswet] <u>Wet op Pos en Telekommunikasieverwante Aangeleenthede, 1958</u>”.</p> <p>20. Vervanging van die lang titel deur die volgende lang titel:</p> <p style="text-align: center;">“Om voorsiening te maak vir pos- en telekommunikasieverwante aangeleenthede, asook vir sake wat daarmee in verband staan.”.</p> <p>21. Vervanging van die Eerste Bylae deur die volgende bylae:</p> <p style="text-align: center;">“EERSTE BYLAE</p> <p style="text-align: center;"><u>EED OF PLEGTIGE</u> <u>VERKLARING WAT DEUR</u> <u>WERKNEMERS AFGELÉ MOET</u> <u>WORD</u></p> <p><u>Ek (volle naam) sweer/verklaar plegtig* dat ek in my betrekking as 'n werknemer van die telekommunikasiemaatskappy* eerlik, betroubaar en onpartydig sal wees sonder aansien des persoons volgens wet en na my beste wete, dat ek nie in stryd met die wet of my plig enige inligting oor enige telefoongesprek bekend sal maak of sal openbaar nie, en dat ek rekenskap sal gee van enige verantwoordelikheid aan my toevertrou wanneer en waar dit van my verlang mag word.</u></p> <p style="text-align: right;"><u>Handtekening</u></p> <p><u>Beëdig/verklaar* voor my te</u></p> <p><u>.....</u> <u>op die dag</u> <u>van 20...</u></p> <p style="text-align: right;"><u>VREDEREGTER</u></p> <p>*Skrap wat nie van toepassing is nie.</p>

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Act No. 124 of 1998	Postal Services Act	<p>1. Substitution in section 1 for the definition of “postal company” of the following definition: <u>“ ‘postal company’ means the South African Post Office SOC Ltd, referred to in section 3(1) of the South African Post Office SOC Ltd Act, 2011;”</u>; 5</p> <p>2. Deletion of section 29. 10</p> <p>3. Insertion of the following sections after section 32:</p> <p>“Order of transmission of telegrams 15</p> <p><u>32A. (1) Telegrams must be sent for all persons alike, without favour or preference, and must as far as practicable be transmitted in the order in which they are received, but telegrams relating to the preservation of the peace of the Republic or of the adjacent territories or the arrest of criminals or the discovery or prevention of crime or any other matter connected with the administration of justice shall have precedence over all other telegrams.</u> 20</p> <p><u>(2) Any person who contravenes this section is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years or to both a fine and such imprisonment.</u> 25</p> <p>Telegrams which must be refused transmission 30</p> <p><u>32B. Any telegram which contains anything in its contents, address or signature of a blasphemous, indecent, obscene, offensive or libellous nature or anything repugnant to law or decency, must be refused transmission.”.</u> 35</p> <p>40</p> <p>45</p>

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Wet No. 124 van 1998	Posdienswet	<p>1. Vervanging in artikel 1 van die omskrywing van “posmaatskappy” deur die volgende omskrywing: <u>“ ‘posmaatskappy’ die Suid-Afrikaanse Poskantoor MIS Beperk in artikel 3(1) van die Wet op die Suid-Afrikaanse Poskantoor MIS Bpk., 2011, bedoel;”</u>.</p> <p>2. Skrapping van artikel 29.</p> <p>3. Invoeging van die volgende artikels na artikel 32:</p> <p>“Volgorde van versending van telegramme</p> <p><u>32A. (1) Telegramme word vir alle persone versend, sonder aansien des persoons en sonder begunstiging of voorkeur, en word sover doenlik in die volgorde van ontvangs versend, maar telegramme met betrekking tot die bewaring van die vrede van die Republiek of van die aangrensende gebiede of die inhegtenisneming van misdadigers of die ontdekking of voorkoming van misdaad of enige ander aangeleentheid in verband met die regspleging geniet voorkeur bo alle ander telegramme.</u></p> <p><u>(2) Enige persoon wat in stryd met die bepalings van hierdie artikel optree, is aan ’n misdryf skuldig en by skuldigbevinding strafbaar met ’n boete of gevangenisstraf vir ’n tydperk van hoogstens twee jaar of met beide ’n boete en sodanige gevangenisstraf.</u></p> <p>Telegramme wat versending geweier moet word</p> <p><u>32B. ’n Telegram wat in die teks, adres of handtekening daarvan iets bevat van ’n godslasterlike, onbetaamlike, liederlike, aanstootlike of lasterlike aard of iets wat strydig met die reg of fatsoenlikheid is, moet versending geweier word.”</u>.</p>

