

## **S.I. No. 310 of 2000.**

### **European Communities (Postal Services) Regulations, 2000.**

I, Minister for Public Enterprise, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972), and for the purpose of giving effect to Directive 97/67/EC[1] of 15 December 1997 of the European Parliament and of the Council hereby make the following Regulations:

#### **Citation**

1. These Regulations may be cited as the European Communities (Postal Services) Regulations, 2000.

#### **Interpretation**

2. (1) In these Regulations, except where the context otherwise requires,

“access points” means physical facilities, including letter boxes provided for the public either on the public highway or at the premises of the universal service provider, where postal items may be deposited with the public postal network by customers;

"Act of 1983" means Postal and Telecommunications Services Act, 1983 (No. 24 of 1983);

“Act of 1996” means Telecommunications (Miscellaneous Provisions) Act, 1996 No. 34 of 1996);

“clearance” means the operation of collecting postal items deposited at access points;

“Commission” means Commission of the European Communities;

“cross-border mail” means mail to or from another Member State or from or to a third country;

“data protection” includes personal data protection, the confidentiality of information transmitted or shared, and protection of privacy;

“direct mail” means a communication consisting solely of advertising, marketing or publicity material and comprising an identical message, except for the addressee's name, address and identifying number as well as other modifications which do not alter the nature of the message, which is sent to a significant number of addressees, to be conveyed and delivered at the address indicated by the sender on the item itself or on its wrapping and includes cross-border as well as domestic mail. Bills, invoices, financial statements or other non-identical messages and communications combining direct mail with other items within the same wrapping shall not be included as direct mail;

[1] OJ L 15, 21.1.1998, p.14.

"Directive" means Directive No. 97/67/EC of the European Parliament and of the Council of 15 December, 1997;

"Director" means the Director of Telecommunications Regulation;

"distribution" means the process from sorting at the distribution centre to delivery of postal items to their addressees;

"document exchange" means provision of means, including the supply of ad hoc premises as well as transportation by a third party, allowing self-delivery by mutual exchange of postal items between users subscribing to this service;

"essential requirements" means general non-economic reasons which can induce the State to impose conditions on the supply of postal services. Such reasons are the confidentiality of correspondence, security of the network as regards the transport of dangerous goods and, where justified, data protection, environmental protection and regional planning;

"insured item" means a service insuring the postal item up to the value declared by the sender in the event of loss, theft or damage;

"item of correspondence" means a communication in written form on any kind of physical medium to be conveyed and delivered at the address indicated by the sender on the item itself or on its wrapping but does not include books, catalogues, newspapers and periodicals;

"Member State" means Member State of the European Communities;

"Minister" means Minister for Public Enterprise;

"postal item" means an item addressed in the final form in which it is to be carried by the universal service provider. In addition to items of correspondence, such items also include, for instance, books, catalogues, newspapers, periodicals and postal packages containing merchandise with or without commercial value;

"postal services" means services involving the clearance, sorting, transport and delivery of postal items;

"public postal network" means the system of organisation and resources of all kinds used by the universal service provider for the purposes in particular of:

(a) the clearance of postal items covered by a universal service obligation from access points throughout the State,

(b) the routing and handling of those items from the postal network access point to the distribution centre,

(c) distribution to the addresses shown on items;

“registered item” means a service providing a flat-rate guarantee against risks of loss, theft or damage and supplying the sender, where appropriate upon request, with proof of the handing in of the postal item or of its delivery to the addressee;

“sender” means a natural or legal person responsible for originating postal items;

“terminal dues” means the remuneration of universal service providers for the distribution of incoming cross-border mail comprising postal items from another Member State or from a third country;

“universal service provider” means the public or private entity providing a universal postal service or parts thereof within the State, the identity of which has been notified to the Commission in accordance with Article 4 of the Directive and designated in Regulation 6(3);

“users” means any natural or legal person benefiting from universal service provision as a sender or an addressee;

“working day” means a day which is not a Saturday, Sunday or a public holiday within the meaning of the Organisation of Working Time Act, 1997 (No. 20 of 1997)

(2) A word or expression that is used in the Regulations and is also used in the Directive has, unless the contrary intention appears, the same meaning in these Regulations that it has in the Directive.

(3) In these Regulations, unless otherwise indicated -

(a) a reference to a regulation or a Schedule is a reference to a regulation of or a Schedule to these Regulations;

(b) a reference to a paragraph or subparagraph is a reference to a paragraph or subparagraph of the provision in which the reference occurs;

(c) a reference to an Article is to an Article of the Directive;

(d) a reference to an Annex is to an Annex of these Regulations; and

(e) a reference to an enactment or Regulation shall be construed as a reference to the enactment or Regulation as amended or extended by or under any subsequent enactment or Regulation.

### **Repeals**

3. (1) Sections 63, 65 and 73 of the Act of 1983 are repealed.

(2) Section 64 is repealed insofar as it relates to postal services not falling within the universal postal service as specified in Regulation 6.

(3) Section 111 of the Act of 1983 is repealed insofar as it relates to postal services.

## **Amendments**

4. (1) The Act of 1983 is amended by the insertion in section 70(2) of “relating to postal services reserved to An Post” after “under a scheme” and by the substitution of “Director” for “Minister”;
- 2) The Act of 1996 is hereby amended by the insertion
  - (a) in section 6 after “telecommunications” in each place it occurs of “or postal”;
  - (b) after subsection 6 of the following:

“(7) Notwithstanding subsection (1), The Director shall not impose a levy on telecommunications organisations or providers of telecommunications services for the purpose of meeting expenses properly incurred by the Director in the discharge of his or her functions in respect of postal services. The Director shall not impose a levy on postal service providers for the purpose of meeting expenses properly incurred by the Director in the discharge of his or her functions in respect of telecommunications services.”;
  - (c) in section 12 after “telecommunications” in each place it occurs of “or postal”

## **National Regulatory Authority**

5. (1) The Director is designated as the national regulatory authority for the postal sector.
- (2) The Director shall interpret the term significant number of addressees in relation to direct mail and publish an appropriate definition from time to time.

## **Universal Service**

6. (1) (a) Users at all points in the State shall enjoy the right to a universal service involving the permanent provision of a postal service of a specified quality and, subject to Regulation 10(1), at affordable prices for all users.
- (b) The Director, after consultation with interested parties, shall issue directions to a universal service provider in respect of the quality of the postal service to be provided hereunder.
- (c) The Director shall publish details of any directions under subparagraph (b) in Iris Oifigiúil.
- (2) The Director shall issue directions to a universal service provider, after consultation with interested parties, to ensure that the density of the points of contact and of access points takes account of the needs of users.
- (3) (a) An Post is designated as a universal service provider for the purpose of the Directive and these Regulations with the obligation to provide universal service in accordance with Regulation 6(1).

- (b) The Minister may designate one or more additional postal service providers or other persons as a universal service provider having an obligation to provide all or part of the universal service.
  - (c) The Minister may by order withdraw or amend any designation made under subparagraph (a) or (b) provided that, prior to the effective date of any such withdrawal, the Minister has designated at least one other postal service provider or other person, as the case may be, under this Regulation in respect of the service concerned in the geographic area or areas of the State affected by such withdrawal.
- (4) (a) A universal service provider shall guarantee, on every working day and not less than 5 days a week, save in circumstances or geographical conditions deemed exceptional by the Director, as a minimum:
- (i) one clearance,
  - (ii) one delivery to the home or premises of every natural or legal person or, by way of derogation, under conditions at the discretion of the Director, one delivery to appropriate installations.
- (c) The Director may issue directions to a universal service provider, after consultation with interested parties, for the purpose of ensuring compliance by the provider with its obligations under sub-paragraph (a) and with the requirements set out in Regulation 7.
- (c) The Director shall communicate any exception or derogation granted in accordance with paragraph 4 to the Commission and to all national regulatory authorities.
- (5) Universal service shall include the following minimum facilities:
- a) the clearance, sorting, transport and distribution of postal items up to 2 kilogrammes;
  - (b) the clearance, sorting, transport and distribution of postal packages up to 20 kilogrammes;
  - (c) services for registered items; and
  - (d) services for insured items within the State and to and from all countries which as signatories to the Convention of the Universal Postal Union declare their willingness to admit such items whether reciprocally or in one direction only.
- (6) The minimum and maximum dimensions for the postal items in question shall be those laid down in the 1994 Seoul Convention and the Agreement concerning Postal Parcels adopted by the Universal Postal Union.
- (7) The universal service as defined in this Regulation shall cover both national and cross-border services.

### **Requirements of Universal Service**

7. A universal service provider shall meet the following requirements with respect to provision of the universal service:
  - (a) the service shall guarantee compliance with the essential requirements;
  - (b) an identical service shall be offered to users under comparable conditions;
  - (c) the service shall be made available without any form of discrimination whatsoever, especially without discrimination arising from political, religious or ideological considerations;
  - (d) the service shall not be interrupted or stopped except in cases of force majeure; and
  - (e) the service shall evolve in response to the technical, economic and social environment and to the needs of users.

### **Information on Universal Service**

8.
  - (a) A universal service provider shall provide users with regular, detailed and up to date information on the particular features of the universal service, with special reference to the general conditions of access to the service, as well as to prices and quality standard levels.
  - (b) Information referred to in subparagraph (a) shall be published at least annually by the universal service provider concerned in a manner determined by the Director. References in such information to technical standards will be references to those standards published in the Official Journal of the European Community as drawn up by the European Committee for Standardisation (CEN).

### **Reserved Services**

9.
  - (1) The services which shall be reserved for An Post as a universal service provider shall be the clearance, sorting, transport and delivery of items of domestic correspondence, cross-border and direct mail, whether by accelerated delivery or not, the price of which is less than five times the domestic public tariff for an item of correspondence in the first weight step of the fastest standard category, provided that they weigh less than 350g. Notwithstanding exceptions to the weight or price restrictions referred to above, the free postal service for blind and partially sighted persons operated by An Post from time to time shall form part of the services reserved to An Post as a universal service provider.
  - (2) Document exchange is not reserved.
  - (3) The High Court may, on the application of An Post, make an order prohibiting the provision by any person of any service reserved to An Post under paragraph (1), and may give such other direction or make such other order in relation to the matter as the Court considers appropriate.

### **Tariff Principles and Transparency of Accounts**

10. (1) The tariffs for each of the services provided by a universal service provider which form part of its universal service shall comply with the following principles:
  - (a) prices must be affordable and must be such that all users have access to the services provided;
  - (b) prices must be geared to costs;
  - (c) with the consent of the Minister, the Director may decide that a uniform tariff shall be applied throughout the State;
  - (d) the application of a uniform tariff shall not exclude the right of An Post to conclude individual agreements on prices with customers; and
  - (e) tariffs must be transparent and non-discriminatory.
- (2) Where the Director is of the opinion that a universal service provider is not complying with the principles laid down in paragraph (1) the Director may, after consultation with the Minister and in the case of paragraph (1)(c) with the consent of the Minister, issue directions to the provider for the purposes of satisfying the requirements specified in paragraph (1).

### **Agreements on Terminal Dues**

11. (1) In order to ensure the cross-border provision of the universal service, a universal service provider shall arrange in its agreements on terminal dues for intra-Community cross-border mail that the following principles are respected:
  - (a) terminal dues shall be fixed in relation to the costs of processing and delivering incoming cross-border mail,
  - (b) levels of remuneration shall be related to the quality of service achieved, and
  - (c) terminal dues shall be transparent and non-discriminatory.
- (2) The Director may issue directions to a universal service provider, after consultation with interested parties, for the purpose of ensuring compliance by the provider with the principles set out in paragraph (1);
- (3) The implementation of the principles set out in paragraph (1) may include transitional arrangements, designed to avoid undue disruption on postal markets or unfavourable implications for economic providers of postal services, provided there is agreement between the operators of origin and receipt. Such arrangements shall, however, be restricted to the minimum required to achieve these objectives.

### **Accounting**

12. (1) The accounting procedures of a universal service provider shall be conducted in accordance with the provisions of this Regulation.

- (2) In accordance with directions laid down by the Director, a universal service provider shall keep separate accounts within its accounting systems, for each of the services within the reserved sector on the one hand and the non-reserved sector on the other. The accounts for the non-reserved sector shall clearly distinguish between services which are part of the universal service and services which are not. Such internal accounting systems shall operate on the basis of consistently applied and objectively justifiable cost accounting principles.
- (3) The accounting system referred to in paragraph (2) shall, without prejudice to paragraph (4), allocate costs to each of the reserved and to the non-reserved services respectively in the following manner:
  - (a) costs which can be directly assigned to a particular service shall be so assigned:
  - (b) common costs, that is costs that cannot be directly assigned to a particular service, shall be allocated as follows:
    - (i) whenever possible, common costs shall be allocated on the basis of direct analysis of the origin of the costs themselves;
    - (ii) when direct analysis is not possible, common cost categories shall be allocated on the basis of an indirect linkage to another cost category or group of cost categories for which a direct assignment or allocation is possible; the indirect linkage shall be based on comparable cost structures;
    - (iii) when neither direct nor indirect measures of cost allocation can be found, the cost category shall be allocated on the basis of a general allocator computed by using the ratio of all expenses directly or indirectly assigned or allocated, on the one hand, to each of the reserved services and, on the other hand, to the other services.
- (4) Other cost accounting systems may be applied only if they are compatible with paragraph (2) and have been approved in advance in writing by the Director. The Director shall inform the Commission prior to their application.
- (5) A universal service provider shall comply with one of the cost accounting systems described in paragraphs (2) and (3) which shall be verified by auditors engaged by the provider and shall publish a statement to that effect in its annual report.
- (6) The Director shall keep available, to an adequate level of detail, information on the cost accounting systems applied by a universal service provider and shall submit such information to the Commission on its request.
- (7) On request from the Director or the Commission, detailed accounting information arising from these systems shall be made available in confidence to the Director and to the Commission by a universal service provider.

### **Quality of Service**

13. (1) Quality-of-service standards in relation to the universal service, paying attention in particular, to routing times and to the regularity and reliability of services, shall be set and published from time to time by the Director, having taken into account the



views of interested parties, in the case of national services. The quality standards for intra-Community cross-border mail are set out in the Schedule to these Regulations.

- (2) Compliance with quality-of-service standards by a universal service provider shall be monitored by the Director under standardised conditions to be specified in accordance with the procedure laid down in Article 21. A report on the results of the monitoring exercise shall be published by the Director at least once a year.

### **Adoption of Quality Standards**

14. (1) The Director shall lay down quality standards for domestic mail which are compatible with those laid down for intra-Community cross-border services.
- (2) The Director shall notify the Commission of the quality standards which have been adopted under this Regulation.
- (3) The Director shall monitor the performance by a universal service provider of the universal service in accordance with the quality standards for domestic mail.
- (4) Where the Director is of the opinion that a universal service provider's performance levels do not meet or have not met the required standards laid down under paragraph (1), the Director shall ensure that the provider takes corrective action where necessary.

### **Exemptions from Quality Standards**

15. (1) Exemptions from the quality standards for intra-Community cross-border services may be determined by the Director where exceptional situations relating to infrastructure or geography so require. Such exemptions shall be notified to the Commission by the Director.
- (2) The Director may give directions to a universal service provider to take corrective action where necessary when quality standards for intra-Community cross-border services which form part of the universal service are not being met.

### **Complaints and Dispute Resolution**

16. (1) In accordance with guidelines which shall be laid down by the Director in consultation with a universal service provider, a universal service provider shall draw up transparent, simple and inexpensive procedures for dealing with users' complaints, particularly in cases involving loss, theft, damage or non-compliance with service quality standards. These procedures shall enable disputes to be settled fairly and promptly with provision, where warranted, for a system of reimbursement and/or compensation.
- (2) A universal service provider shall publish, together with the annual report on the monitoring of its performance, information on the number of complaints and the manner in which they have been dealt with.

### **Consultation with Interested Parties**

17. (1) The Director shall take into account the views of interested parties, including representatives of postal service providers, users, consumers and manufacturers in

relation to his or her functions under these Regulations in accordance with procedures drawn up by the Director for that purpose.

- (2) The Director shall publish a reference to the procedures referred to in paragraph (1) in the *Iris Oifigiúil*.

### **Enforcement**

18. (1) It shall be a function of the Director to monitor compliance with Regulations 6(2), 6(4), 7(1), 10(1), 11(1), 12 and 13.
- (2) A universal service provider shall furnish the Director with any such information as the Director may reasonably require for the purposes of his or her functions under these Regulations and the Directive.
- (3) A direction issued by the Director under these Regulations shall be in writing, state the reasons on which it is based and be addressed to a universal service provider, and, as soon as practicable, be delivered by hand or by registered or certified post to the registered address of the provider and shall be deemed to have been delivered as of the date so delivered.
- (4) Where the Director is of the opinion that a universal service provider has not complied with a direction issued by him or her under these Regulations, he or she may apply to the High Court for an order to direct the provider to comply with-
  - (a) the requirement or any stipulation contained therein, or
  - (b) any modification of the direction or any other condition or both made by the Court.

## SCHEDULE

### Quality standards for intra-Community cross-border mail

The quality standards for intra-Community cross-border mail in the State are to be established in relation to the time limit for routing measured from end to end (\*) for postal items of the fastest standard category according to the formula D+n, where D represents the date of deposit (") and n the number of working days which elapse between that date and that of delivery to the addressee.

#### Quality standards for intra-Community cross-border mail

Time limit	Objective
D +3	85% of items
D +5	97% of items

The standards must be achieved not only for the entirety of intra-Community traffic but also for each of the bilateral flows between the State and another Member State.

(\*) End-to-end routing is measured from the access point to the network to the point of delivery to the addressee.

(\*\*) the date of deposit to be taken into account shall be the same day as that on which the item is deposited, provided that deposit occurs before the last collection time notified from the access point to the network in question. When deposit takes place after this time limit, the date of deposit to be taken into consideration will be that of the collection on the following working day.

PE-CONS 3627/1/97 REV 1

GIVEN under my Official Seal,  
This 27th day of September, 2000 .  
MARY O'ROURKE T.D.  
Minister for Public Enterprise.

#### EXPLANATORY NOTE

(This note is not a part of the Instrument and does not purport to be a legal interpretation)

The purpose of these Regulations is to give legal effect to European Parliament and Council Directive 97/67/EC of 15 December, 1997 on common rules for the development of the internal market of the Community postal services and the improvement of quality of service.

The purpose of Directive 97/67/EC is to provide for regulation of the postal sector, and to guarantee the provision of a universal postal service of specified quality at affordable prices to all users.

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