

**STATUTORY INSTRUMENTS**

**S.I. No. 549 of 2002**

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**TELECOMMUNICATIONS (MISCELLANEOUS PROVISIONS) ACT, 1996  
(SECTION 6) POSTAL LEVY No. 3 ORDER, 2002**

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***S.I. No. 549 of 2002***  
***TELECOMMUNICATIONS (MISCELLANEOUS PROVISIONS) ACT, 1996***  
***(SECTION 6)***

***POSTAL LEVY No 3 ORDER, 2002***

I, JOHN DOHERTY, Deputy Director of Telecommunications Regulation, in exercise of the powers conferred on me by section 6 of the Telecommunications (Miscellaneous Provisions) Act, 1996 (No. 34 of 1996) as amended by the European Communities (Postal Services) Regulations, 2000, (SI No. 310 of 2000) hereby make the following Order:

1. (1) This Order may be cited as the Telecommunications (Miscellaneous Provisions) Act, 1996 (Section 6) Postal Levy No. 3 Order, 2002.

(2) This Order shall apply to the levy year commencing on 1 July 2002 and ending on 30 June 2003 and subsequent levy years.

2. (1) In this Order—

"the Act of 1996" means the Telecommunications (Miscellaneous Provisions) Act, 1996 (No. 34 of 1996);

"Director" means the Director of Telecommunications Regulation appointed under the Act of 1996;

"levy year" means a financial year of the office;

"Minister" means the Minister for Communications, Marine and Natural Resources;

"Regulations" means the European Communities (Postal Services) Regulations, 2000 (S.I. No. 310 of 2000);

"the office" means the office of the Director established by section 2 of the Act of 1996;

"universal service provider" means a public or private entity providing a universal postal service designated by the Minister in accordance with Regulation 6(3) of the Regulations;

"quarter" means a period of 3 months ending on the 31st day of March, 30th day of June, 30th day of September or 31st day of December;

"relevant financial year" means in relation to a universal service provider the financial year of the universal service provider ending in a levy year;

"relevant turnover" means in relation to a universal service provider the gross revenue excluding value added tax paid to the universal service provider in respect of postal services;

and any cognate words shall be construed accordingly.

(2) In this Order—

(a) a reference to an article or schedule is to an article of, or schedule to, this Order unless it is indicated that reference to some other Order is intended;

(b) a reference to a sub-article is to the sub-article of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

3. This Order shall apply to all universal service providers.

4. (1) A levy is hereby imposed on each universal service provider in respect of each levy year in which the universal service provider is designated as such.

(2) Subject to article 5 the levy imposed shall be payable

(a) on the 31 December 2002 in respect of the period commencing 1 July 2002 and ending on 31 December 2002,

(b) in equal instalments on the last day of each subsequent quarter in a levy year in which such designation remains in force,

(c) where the universal service provider concerned is designated universal service provider after the 31 December 2002, on the last day of the quarter in which it is designated as a universal service provider, and on the last day of each subsequent quarter,

(d) with regard to (a) above any surplus amount collected under the Postal Levy No. 2 Order 2001 shall be either

- (a) be retained by the office to be offset against levy obligations due to be collected under this Order in respect of the period 1 July to 31 December 2002 or
- (b) repaid by the Director to the universal service provider as soon as may be after 31 December 2002.

5. The amount of the levy imposed on a universal service provider in respect of any levy year in which the universal service provider is designated as such shall be 0.25 % of the relevant turnover.

6. Every universal service provider shall, within 21 weeks of the end of each relevant financial year, submit to the Director a statement, certified by a person who is qualified under the Companies Act, 1963-2001 for appointment as auditor of a company, of the relevant turnover of the universal service provider in that financial year.

7. If in respect of any levy, the total amount collected by the Director under this Order exceeds the amount authorised by section 6 (1) of the Act of 1996, the Director shall, as soon as may be after the end of the levy year, either

- (a) be retained by the office to be offset against levy obligations for the subsequent levy year, or
- (b) be repaid to each universal service provider referred to in the schedule, a proportion of the excess amount collected equivalent to the proportion of said total amount collected, paid by the universal service provider concerned.

8. (1) A levy or portion thereof payable in accordance with the terms of this Order shall be paid in cash or by cheque or postal money order to the Director of Telecommunications Regulation.

(2) A payment referred to in sub-article (1) and a statement referred to in article 6 may be delivered or (save in the case of a payment in cash) sent by post to the Director at Abbey Court, Irish Life Centre, Abbey Street, Dublin 1, or at such other address as may from time to time be notified by the Director to each universal service provider at the last address of the universal service provider.

(3) A request or repayment by the Director to a universal service provider under this Order may be delivered or sent by post to the universal service provider at the last address of the universal service provider.

(4) In this article "last address" in relation to a universal service provider means the last address notified to the Director for the purposes of this Order.

## SCHEDULE

Providers of postal services to which this Order applies

An Post

GIVEN under my hand, this 29 day of November 2002.

JOHN DOHERTY

DEPUTY DIRECTOR

## EXPLANATORY NOTE

This Order makes provision for a levy on universal service providers for the purpose of meeting expenses properly incurred by the Director in the discharge of her functions in respect of postal services.