

No. S 9

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order made under Article 83(3))**

**POSTAL SERVICES ORDER, 2023**

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CONSTITUTION OF BRUNEI DARUSSALAM  
(Order made under Article 83(3))

POSTAL SERVICES ORDER, 2023

In exercise of the power conferred by Article 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

**PART 1**

**PRELIMINARY**

**Citation and long title**

1. (1) This Order may be cited as the Postal Services Order, 2023.

(2) The long title of this Order is "An Order to provide for the operation and provision of postal systems and postal services in Brunei Darussalam and for matters connected therewith or incidental thereto".

**Interpretation**

2. (1) In this Order, unless the context otherwise requires —

"addressee", in relation to a postal article, means the person to whom the communication is addressed;

"authorised officer" means any person appointed as an authorised officer under section 3(2);

"Authority" means the Authority for Info-communications Technology Industry of Brunei Darussalam established by section 3 of the Authority for Info-communications Technology Industry of Brunei Darussalam Order, 2001 (S 39/2001);

"code of practice" means a code of practice issued or approved under section 25;

"correspondent", in relation to a postal article, means the sender or person to whom it is addressed;

"direct mail" means a letter consisting solely of advertising, marketing or publicity material and comprising an identical message (except for the addressee's name, address and identifying number and other modifications which do not alter the nature of the message) which is

sent to more than one addressee, to be conveyed and delivered at the address indicated by the sender on the letter itself or on its wrapping;

"equipment" includes any appliance, apparatus or accessory used or intended to be used for postal purposes;

"installation or plant used for posts" includes all buildings, lands, structures, machinery, equipment, boxes and receptacles used or intended for use in connection with the transmission of postal articles by post;

"letter box" means any box or receptacle which the owner or occupier of any premises has provided or agreed to be used for the receipt of postal articles addressed to those premises;

"mail bag" means any form of container or covering in which postal articles in the course of transmission by post are enclosed by a licensee in Brunei Darussalam or a foreign postal administration for the purpose of conveyance by post, whether or not it contains any such articles;

"Minister" means the Minister of Transport and Infocommunications;

"parcel" means a postal article which is posted at a post office in Brunei Darussalam as a parcel in accordance with the provisions of this Order or is received at a post office in Brunei Darussalam by parcel post;

"post" means any system for the collection, despatch, conveyance, sorting, handling and delivery of postal articles by or through a postal licensee;

"post office" includes any building, house, room, vehicle or place used for the provision of any postal service;

"postage" means the fee chargeable for the transmission by post of postal articles;

"postage stamp" means any label or stamp for denoting any postage or other sum payable in respect of a postal article, and includes any adhesive postage stamp or stamp printed, impressed or otherwise indicated on a postal article, whether the postage stamp is issued under this Order or by the government of any other country;

"postal article" means any article or thing transmissible by post, but does not include such article or thing as the Authority may prescribe to be not transmissible by post;

"postal licence" means a postal licence granted under section 8(1);

"postal licensee" means a person to whom a postal licence has been granted under section 8;

"postal service" means any service for the conveyance of postal articles from one place to another by post, and includes the incidental services of receiving, collecting, sorting, sending, despatching and delivering such postal articles and any other services which relate to any of those services and is provided in conjunction with any of them;

"posting box" includes any pillar box, wall box or other box or receptacle provided by or under the authority of a public postal licensee for the purpose of receiving postal articles for transmission by post;

"public postal licensee" means a person designated by the Authority under section 9;

"public postal licensee's installation or plant" means any installation or plant used for posts belonging to or used by a public postal licensee;

"sender", in relation to a postal article, means a person whose communication it originates from;

"standard of performance" means a standard of performance issued or approved under section 25;

"universal service" means postal services, which include basic postal services, as the Authority may determine, to be provided to consumers throughout Brunei Darussalam;

"vessel" includes any ship, boat, air-cushioned vehicle or floating rig or platform used in any form of operations at sea or any other description of vessel.

(2) In this Order, unless the context otherwise requires, "letter" means any communication in written form on any kind of physical medium to be conveyed and delivered (otherwise than electronically) to a particular addressee or address indicated by the sender on the letter itself or on its wrapping, but does not include any book, catalogue, newspaper or periodical.



(3) For the purposes of subsection (2), any reference to communication to be conveyed or delivered otherwise than electronically shall be a reference to a communication to be conveyed or delivered otherwise than —

*(a)* by means of a telecommunication system within the meaning of the Telecommunications Order, 2001 (S 38/2001); or

*(b)* by any other means but while in electronic form.

(4) For the purposes of this Order —

*(a)* the deposit of a postal article into any posting box of a postal licensee, or its delivery to any employee of a postal licensee or any agent authorised by the postal licensee to receive postal articles of that description on its behalf, shall be a delivery to the postal licensee;

*(b)* the delivery of a postal article —

(i) by leaving it at the premises to which it is addressed or redirected, unless the premises are a post office from which the postal article is to be collected;

(ii) by depositing it into the letter box of the premises to which it is addressed or redirected; or

(iii) to the addressee's agent or to any other person considered to be authorised by the addressee to receive the postal article,

shall be a delivery to the addressee; and

*(c)* a postal article shall be regarded to be in the course of transmission by post from the time of its being delivered to a postal licensee to the time of it being delivered to the addressee, or it being returned to the sender or otherwise disposed of under this Order.

## PART 2

### ADMINISTRATION

#### Administration of this Order

3. (1) The Authority is responsible for the administration of this Order.

(2) The Authority may appoint such number of authorised officers to carry into effect any specific provision of this Order or of any regulations made thereunder.

**Functions and duties of Authority**

4. (1) It shall be the function and duty of the Authority –

(a) to promote the efficiency and international competitiveness of the postal industry in Brunei Darussalam;

(b) to ensure that postal services are reasonably accessible to all people in Brunei Darussalam and are supplied as efficiently and economically as practicable and at performance standards that reasonably meet the social, industrial and commercial needs of Brunei Darussalam;

(c) to promote the development of postal systems and postal services in accordance with, as far as practicable, recognised international standard practice;

(d) to promote and maintain fair and efficient market conduct between persons engaged in commercial activities connected with the operation and provision of postal systems and postal services for the conveyance of postal articles in Brunei Darussalam;

(e) to promote the effective participation of all sectors of the Brunei Darussalam postal industry in markets, whether in Brunei Darussalam or elsewhere;

(f) to exercise licensing and regulatory functions in respect of postal systems and postal services in Brunei Darussalam;

(g) to exercise regulatory functions in respect of the determination and approval of prices, tariffs, charges and the provision of postal services and other related services;

(h) to act internationally as the national body representative of Brunei Darussalam in respect of postal matters;

(i) to advise the Government on national needs and policies in respect of all postal matters and on matters pertaining to the Authority generally; and

(j) to further the advancement of technology relating to postal systems and postal services.

(2) In discharging the functions and duties imposed on it by subsection (1), the Authority shall have regard to the following —

(a) efficiency and economy;

(b) the social, industrial and commercial needs of Brunei Darussalam for postal services;

(c) the state of and trends in the development of postal systems and postal services and the evolution of standards and protocols used in the postal industry, both in Brunei Darussalam and elsewhere;

(d) fostering the development and expansion of postal services in the world in collaboration with foreign postal administrations, other countries and international organisations;

(e) maintaining fair competition between persons engaged in the provision of postal systems and postal services for the conveyance of postal articles;

(f) enabling persons providing postal systems and postal services in Brunei Darussalam to compete fairly in the provision of such systems and services outside Brunei Darussalam;

(g) the provision of postal services at rates consistent with efficient service;

(h) the promotion of research and development in the field of postal systems and postal services; and

(i) collaboration with educational institutions for the promotion of technical education in the field of postal systems and postal services.

(3) The Authority may undertake such other functions as the Minister may, by notification published in the *Gazette*, assign to the Authority, and in so doing, the Authority is deemed to be fulfilling the purposes of this Order, and the provisions of this Order apply to the Authority in respect of such functions.

(4) Nothing in this section shall be construed as —

(a) imposing on the Authority, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court to which it would not otherwise be subject;

(b) precluding the Authority from interrupting, suspending or restricting any postal service provided by the Authority; and

(c) precluding the Authority from ensuring the provision of any special service for any person or section of the public where the special service is required.

#### **Powers of Authority**

5. (1) Subject to the provisions of this Order, the Authority may carry on such activities as appear to it to be advantageous, necessary or expedient for it to carry on for or in connection with the discharge of its functions and duties under this Order, and in particular, the Authority may exercise any of the powers specified in the Schedule.

(2) This section shall not be construed as limiting any power of the Authority conferred by or under any other written law.

### **PART 3**

#### **EXCLUSIVE PRIVILEGE AND LICENSING ETC. OF POSTAL SERVICES**

##### **Exclusive privilege with respect to conveyance etc. of postal articles**

6. (1) Subject to the provisions of this Order, the Authority shall have the exclusive privilege of conveying from one place to another postal articles and performing all incidental services of receiving, collecting, sorting, sending, despatching and delivering postal articles.

(2) Subject to the provisions of this Order, no person shall convey within Brunei Darussalam any postal article from one place to another (whether the place is within or outside Brunei Darussalam), or perform such incidental services of receiving, collecting, sorting, sending, despatching and delivering postal articles, unless the person –

(a) is the Authority;

(b) holds a postal licence authorising him to do so; or

(c) is acting as an employee or agent of the Authority, or of a person who is authorised under a postal licence to do so.

##### **Exceptions to section 6**

7. (1) The privilege conferred by section 6 shall not be infringed by –

(a) postal articles not exceeding three in number sent by a person for delivery by the person to another without hire, reward or other profit for receiving, carrying or delivering the postal articles;

(b) any postal article solely concerning the affairs of either correspondent by an employee of either correspondent;

(c) the conveyance of any letter solely concerning any goods or other property which is to be delivered with the letter, without hire, reward or other profit for receiving, carrying or delivering the postal article, if the letter is open to inspection and has thereon the words "Consignee's letter" or other words to the same effect; and

(d) the conveyance from one place to another of —

- (i) any postal article which weighs more than 20 kilograms;
- (ii) any postal article by direct mail;
- (iii) any postal article by the sender personally; or
- (iv) any document in respect of which a method of service other than post is required or authorised by written law.

(2) The Minister may, after consulting the Authority, by order published in the *Gazette*, delete, vary or add to the exceptions in subsection (1).

**Power to license conveyance of postal articles etc.**

8. (1) The Authority may, with the approval of or in accordance with the terms of any general authority given by the Minister, grant a postal licence to any person or class of persons authorising the person or class of persons to do anything —

(a) which would otherwise contravene section 6; and

(b) which is specified in the postal licence,

and any such postal licence may be granted subject to such conditions as the Authority thinks fit.

(2) A postal licence may be granted either to any person or class of persons and may include (without prejudice to the power to impose conditions conferred by subsection (1)) conditions requiring the licensee —

(a) to enter into agreements or arrangements with any person, class of persons or another postal licensee for —

- (i) the interconnection of, and access to, postal systems;

(ii) the sharing of installation or plant used for posts belonging to any postal licensee; and

(iii) such other purpose as may be specified in the postal licence,

on such conditions as may be agreed to by the licensee and such other persons or licensees or, in default of agreement, as may be determined by the Authority;

(b) to pay to the Authority a fee on the grant of the postal licence or to pay to the Authority periodic fees during the currency of the postal licence or both, of such amount as may be determined by or under the postal licence;

(c) to comply with any direction given by the Authority as to such matters as are specified in the postal licence or are of a description so specified;

(d) to comply with codes of practice and standards of performance that are applicable to the licensee; and

(e) to do or not to do such things as are specified in the postal licence or are of a description so specified.

(3) Any payment required by subsection (2) to be rendered to the Authority may be recovered by it in any court of competent jurisdiction as if it were a simple contract debt.

(4) No person shall question whether the grant of a postal licence under subsection (1) was, or was not, effected with the consent of or in accordance with the terms of a general authority given by the Minister, and the validity of a postal licence granted under that subsection shall not be impugned on the ground that it was granted neither with the approval of nor in accordance with the terms of a general authority given by the Minister.

(5) The grant of postal licences under this section shall be at the discretion of the Authority.

(6) Anything done under and in accordance with a postal licence granted under subsection (1) shall not constitute an infringement of the privilege conferred by section 6.

#### **Designation of public postal licensee**

9. The Authority may, with the approval of the Minister, designate any postal licensee as a public postal licensee to perform all or any of the functions relating

to the provision of postal services within the exclusive privilege of the Authority under this Order.

#### Modification of postal licence conditions

10. (1) Subject to this section, the Authority may modify the conditions of a postal licence granted under section 8.

(2) Before making modifications to the conditions of a postal licence of a postal licensee under this section, the Authority shall give notice to the licensee —

(a) stating that it proposes to make the modifications in the manner as specified in the notice;

(b) stating the compensation payable for any damage caused by the modifications proposed, where the postal licensee is a public postal licensee; and

(c) specifying the time (not being less than 28 days from the date of service of notice on such licensee) within which written representations with respect to the proposed modifications may be made.

(3) On receipt of any written representation referred to in subsection (2), the Authority shall consider such representation and may —

(a) reject the representation; or

(b) amend the proposed modifications or compensation payable in accordance with the representation, or otherwise,

and, in either event, the Authority shall thereupon issue a direction in writing to such licensee requiring that effect be given to the proposed modifications specified in the notice or to such modifications as subsequently amended by the Authority within a reasonable time.

(4) The Authority shall not enforce its direction —

(a) during the period referred to in section 61; and

(b) whilst the appeal of the postal licensee is under consideration by the Minister.

(5) If no written representation is received by the Authority within the time specified in subsection (2) or if any written representation made under subsection (2) is subsequently withdrawn, the Authority may forthwith carry out the modifications as specified in the notice given under subsection (2).

**Suspension or cancellation of postal licence etc.**

11. (1) If the Authority is satisfied that a person who is granted a postal licence under section 8 or any regulations made under this Order is contravening, or has contravened, whether by act or omission —

- (a) any of the conditions of the postal licence;
- (b) any provision of any code of practice or standard of performance;
- (c) any direction of the Authority given under section 26,

the Authority may, by notice in writing, do either or both of the following —

- (i) issue such written order to the person as it considers requisite for the purpose of securing compliance thereof;
- (ii) require the payment, within a specified period, of a financial penalty of such amount not exceeding \$1,000,000 as it thinks fit.

(2) Where the Authority is satisfied that —

(a) the person who is granted a postal licence is again likely to contravene, whether by act or omission, any condition, provision or direction referred to in subsection (1);

(b) the person who is granted a postal licence has gone into liquidation other than for the purpose of amalgamation or reconstruction;

(c) the person who is granted a postal licence is no longer in a position to comply with the provisions of this Order or the conditions of his licence;  
or

(d) the public interest so requires,

the Authority may, *in lieu* of an order or a financial penalty under subsection (1)(i) or (ii) or both, by notice in writing and without any compensation, do all or any of the following —

- (i) cancel the postal licence or part thereof;
- (ii) suspend the postal licence or part thereof for such period as it thinks fit;



(iii) reduce the period for which the postal licence is to be in force.

(3) An order under subsection (1)(i) —

(a) shall require the person concerned (according to the circumstances of the case) to do, or not to do, such things as are specified in the order or are of a description so specified therein;

(b) shall take effect at such time, being the earliest practicable time, as is determined by or under that order; and

(c) may be revoked at any time by the Authority.

(4) Any person who fails to comply with any order under subsection (1)(i) is guilty of an offence and liable on conviction to a fine not exceeding \$100,000, imprisonment for a term not exceeding 3 years or both.

(5) In any proceedings brought against any person for an offence under subsection (4), it shall be a defence for him to prove that he took all reasonable steps and exercised all due diligence to avoid contravening the order.

(6) Any financial penalty payable by any person by virtue of subsection (1) shall be recoverable by the Authority as a debt due to the Authority from that person; and the person's liability to pay shall not be affected by his postal licence ceasing (for any reason) to be in force.

#### **Residual power of Authority to provide postal services**

12. (1) The Authority may provide any postal service notwithstanding that it has granted a postal licence to any person under section 8 in any of the following circumstances —

(a) if the Authority is of the opinion that a person licensed under section 8 has failed to discharge or is not discharging to the Authority's satisfaction the obligations imposed by the Authority on that person in the postal licence; or

(b) to give effect to any direction of the Minister under section 48.

(2) Where the Authority undertakes the provision of postal services under subsection (1), sections 2, 12, 13, 14, 15, 16, 20 to 24, 28 to 35, 37 to 39, 41 to 45, 62 and 63 apply, with the necessary modifications, to the Authority in respect of the provision of such services and the references to public postal licensees or postal licensees in those sections shall be read as references to the Authority.

**Charges and other terms for services provided by Authority**

13. (1) The Authority may make, in relation to any service provided by the Authority under this Order, a scheme or schemes for determining either or both of the following —

(a) the charges which, except in so far as they are the subject of an agreement between the Authority and a person availing himself of the service, are to be made by the Authority;

(b) the other terms and conditions which, except as provided, are to be applicable to the service.

(2) A scheme made under this section may make different provision for different cases or classes of cases determined by, or in accordance with, the provisions of the scheme.

(3) A charge eligible by virtue of this section may be recovered by the Authority in any court of competent jurisdiction as if it were a simple contract debt.

(4) A scheme or any amendment thereof made under this section shall come into operation on such date as may be determined by the Authority.

(5) Nothing in this section shall be construed as prohibiting the Authority from levying any charge or collecting any dues for anything done or any service rendered by reason only of not being incorporated in a scheme and the rates, charges and fees payable to the Authority for any service rendered shall be in accordance with such rates, charges and fees as may be determined by the Authority.

**PART 4**

**POSTAL SERVICES AND POSTAL SYSTEMS**

**Power to specify documents for remittance of money**

14. (1) A public postal licensee may provide for the remittance of any sum of money through the post or any electronic or other system established by or among foreign postal administrations and postal licensees.

(2) A public postal licensee may specify the documents to be used in connection with the remittances under subsection (1).

**Documents to be deemed valuable securities**

15. Any document specified by a public postal licensee to be used for the remittance of money through the licensee is deemed to be a valuable security.

**Examination of postal articles**

16. (1) All postal articles received from outside Brunei Darussalam may be examined while in the custody of a postal licensee by any proper officer of customs, and may be opened by an officer or employee of the postal licensee in the circumstances under subsection (2) in the presence of any proper officer of customs for the purpose of such examination.

(2) Subject to subsection (1), a licensee may open a postal article in the following circumstances –

(a) to secure the contents or to ascertain the condition of the contents of damaged postal articles;

(b) to determine the addressee or sender of an undeliverable postal article in accordance with the rules made by the Authority;

(c) if there are reasonable grounds to suspect that there is a physical danger to persons or property;

(d) if there are reasonable grounds to suspect that there is a health risk to persons;

(e) if it has the consent of the addressee or sender to do so;

(f) by an order of court; or

(g) as required by the relevant authorities or any other written law.

(3) In this section, "proper officer of customs" has the same meaning as in section 2(1) of the Customs Order, 2006 (S 39/2006).

**Forfeiture of postal articles**

17. Any postal article found on any examination under section 16 to contain any dutiable goods, that postal article not having affixed thereto a true declaration of those goods, shall be liable to forfeiture in accordance with the Customs Order, 2006 (S 39/2006).

**Presumption as to importer**

18. The addressee of any postal article containing any dutiable goods shall be presumed, until the contrary is proved, to have imported the same.

**Letter boxes**

19. (1) The Authority may do all or any of the following —

(a) issue or approve the specifications relating to the number, place, dimensions and other characteristics of letter boxes;

(b) approve the installation and use of such other mail delivery systems or arrangements;

(c) amend or revoke any specification issued or approved under paragraph (a) or any approval under paragraph (b).

(2) Where any specification is issued or approved, or amended or revoked by the Authority under subsection (1), the Authority shall —

(a) publish a notice of the issue, approval, amendment or revocation, as the case may be, of the specification in such manner as will secure adequate publicity for such issue, approval, amendment or revocation;

(b) specify in the notice referred to in paragraph (a) the date of issue, approval, amendment or revocation, as the case may be; and

(c) ensure that, so long as the specification remains in force, the specification, and all amendments to the specification, are available for inspection by members of the public.

**Posting boxes and postal label vending machines**

20. (1) A public postal licensee may, with the approval of the Authority, erect, relocate and remove any posting box and postal label vending machine in any public road, street or highway, or in any other public place.

(2) The public postal licensee shall have the exclusive right to provide a posting box throughout Brunei Darussalam.

**Postage stamps**

21. (1) His Majesty the Sultan and Yang Di-Pertuan may cause postage stamps to be provided of such kinds and denoting such values as His Majesty the Sultan and Yang Di-Pertuan may think necessary for the purposes of this Order.

(2) No person other than the Authority or a public postal licensee may cause postage stamps that bear the word "Negara Brunei Darussalam" in any language to be provided.

(3) Any postage stamp provided under this section shall be used for the prepayment of postage or other fees or sums chargeable under this Order in respect of any postal articles to be conveyed or delivered by or through the Authority or the public postal licensee, except where the Authority or the public postal licensee determine that prepayment may be made in some other manner.

(4) All philatelic archival materials produced by a public postal licensee shall belong to the Government, and all philatelic archival materials shall be kept in such custody as the Government directs.

(5) In subsection (4), "philatelic archival material" includes —

(a) philatelic stamps;

(b) any other materials as the Minister may, after consulting the Authority, specify.

(6) Any person who contravenes subsection (3) is guilty of an offence.

#### **Official marks to be *prima facie* evidence of certain facts denoted**

22. In any proceedings for the recovery of any postage or other fee or sum payable in respect of a postal article —

(a) the production of a postal article having thereon the official mark of a public postal licensee denoting that the article has been refused or that the addressee is dead or cannot be found shall be *prima facie* evidence of the fact so denoted; and

(b) the person from whom any postal article purports to come, until the contrary is proved, is deemed to be the sender thereof.

#### **Recovery of postage and other sums due in respect of postal articles**

23. (1) Where any postage or other fee or sum is not prepaid or fully prepaid in respect of a postal article posted for delivery in Brunei Darussalam, a public postal licensee is entitled to be paid, as a condition of delivery, such fee, in addition to the amount of the postage or of the deficient postage payable in respect of the delivery of the article, as is payable in accordance with a determination made by the Authority.

(2) The official mark or label on a postal article denoting that any postage or other fee or sum is due in respect thereof to a public postal licensee or to the authority of any foreign country shall be *prima facie* evidence that the postage or other fee or sum denoted is so due.

**Power to deal with postal articles sent in contravention of this Order**

24. (1) Any postal article sent by post which is suspected to be sent in contravention of this Order or any regulations made thereunder may be detained and opened by a public postal licensee or otherwise dealt with in accordance with the directions of the Authority.

(2) The detention of a postal article under subsection (1) shall not exempt the sender from any proceedings which might have been taken if the postal article had been delivered in due course of post.

(3) Any postal article sent in contravention of this Order or any regulations made thereunder shall be destroyed, returned to the sender or dealt with in such other manner as the Authority may direct.

(4) The Authority may, by order in writing, direct a postal licensee to detain and open all or any postal article sent by any person or persons named in the order who are reasonably suspected of sending postal articles by post in contravention of this Order.

(5) On receipt of an order under subsection (4), a postal licensee shall detain and open the postal article or articles specified in the order, and any postal article found to have been sent in contravention of this Order shall be dealt with in accordance with subsection (3).

**PART 5**

**CODES OF PRACTICE AND DIRECTIONS**

**Codes of practice etc.**

25. (1) The Authority may —

*(a)* issue one or more codes of practice or standards of performance;

*(b)* approve as a code of practice or standard of performance any document prepared by a person other than the Authority if the Authority considers the document as suitable for this purpose; or

*(c)* amend or revoke any code of practice or standard of performance issued under paragraph *(a)* or approved under paragraph *(b)*,

with respect to all or any of the following —

(i) the operation of postal systems;

- (ii) the provision of postal services;
- (iii) the activities and conduct of postal licensees in the provision of postal services;
- (iv) competition, abuse of a dominant position in the market for postal systems or postal services and fair market conduct in the provision of postal services in Brunei Darussalam;
- (v) the acquisitions or consolidations involving a postal licensee and any other person (whether a postal licensee or otherwise);
- (vi) the carrying out of the purposes and provisions of this Order and for the due administration thereof.

(2) A code of practice may, in particular, specify the duties and obligations of any person in relation to his business operation in so far as it relates to the provision of postal services.

(3) If any provision in any code of practice or standard of performance is inconsistent with any provision of this Order, such provision, to the extent of the inconsistency –

*(a)* shall have effect subject to the provisions of this Order; and

*(b)* having regard to the provisions of this Order, shall not have effect.

(4) Where a code of practice or standard of performance is issued, approved, amended or revoked by the Authority under subsection (1), the Authority shall –

*(a)* publish a notice of the issue, approval, amendment or revocation, as the case may be, of the code of practice or standard of performance in such manner as will secure adequate publicity for such issue, approval, amendment or revocation;

*(b)* specify in the notice referred to in paragraph *(a)* the date of issue, approval, amendment or revocation, as the case may be, and the place at and the time during which the code of practice or standard of performance which is the subject of the notice may be inspected; and

*(c)* ensure that, so long as the code of practice or standard of performance remains in force, copies of that code or standard, and of all amendments to that code or standard, are available for inspection by

members of the public free of charge, and for purchase by members of the public at a reasonable price.

(5) No code of practice or standard of performance, no amendment to an approved code of practice or standard of performance, and no revocation of any such approved code of practice or standard of performance, shall have any force or effect as an approved code of practice or standard of performance until the notice relating thereto is published in accordance with subsection (4).

(6) Any code of practice or standard of performance issued or approved under this section shall not have legislative effect.

(7) Subject to subsection (8), every postal licensee shall comply with the relevant codes of practice and standards of performance issued or approved under this section.

(8) The Authority may, either generally or for such time as the Authority may specify, waive the application of any code of practice or standard of performance, or part thereof, issued or approved under this section to any postal licensee.

(9) In this section, "dominant position" means a dominant position in any market for postal systems or postal services, whether in Brunei Darussalam or elsewhere.

#### **Directions affecting postal licensee**

**26.** (1) The Authority may give directions to be observed by postal licensees –

(a) to ensure the reliability of the provision of any postal service to the public;

(b) to ensure fair and efficient market conduct by postal licensees;

(c) to ensure the technical compatibility and safety of operation of any equipment or postal system;

(d) to ensure the coordination and cooperation, on such terms as the Authority may specify, with any other person in the use or sharing of any installation, plant or system, or part thereof, owned or used by the postal licensee for the provision of any postal service; or

(e) in the public interest.



(2) A direction under subsection (1) —

*(a)* shall require the postal licensee concerned (according to the circumstances of the case) to do, or not to do, such things as are specified in the direction or are of a description as specified therein;

*(b)* shall take effect at such time, being the earliest practicable time, as is determined by or under that direction; and

*(c)* may be amended or revoked at any time by the Authority.

(3) Before giving a direction to any postal licensee under subsection (1), the Authority shall, unless the Authority in respect of any particular direction considers that it is not practicable or desirable, give notice —

*(a)* stating that the Authority proposes to make the direction and setting out its effect; and

*(b)* specifying the time within which representations or objections to the proposed direction may be made,

and shall consider any representation or objection which is duly made.

(4) Every postal licensee shall comply with every direction of the Authority given to the licensee under this section.

#### **Advisory guidelines**

**27.** (1) The Authority may make advisory guidelines about any aspect of postal services and postal systems.

(2) The advisory guidelines may be made about —

*(a)* any matter in respect of which codes of practice and standards of performance may be made under section 25; or

*(b)* the use, construction, design or performance of anything relating to postal systems or postal services.

(3) The Authority shall —

*(a)* give a copy of each advisory guideline to the Minister; and

*(b)* publish each advisory guideline in such manner as the Authority thinks fit.

**PART 6**

**OFFENCES AND PENALTIES**

**Obstruction of public postal licensees**

28. (1) Any person who —

(a) whilst in any premises used for the purposes of the business of a public postal licensee, intentionally obstructs the course of business of the licensee; or

(b) assaults or intentionally obstructs or incites anyone to obstruct or impede an officer or employee of a public postal licensee in the performance of his duties,

is guilty of an offence.

(2) A public postal licensee may require any person guilty of an offence under subsection (1) to leave the premises used for the purposes of its business and, if any such offender who is so required refuses or fails to comply with the requirement, he may be removed by an officer or employee of the licensee.

**Intentional damage to installation or plant used for posts**

29. Any person who intending —

(a) to prevent or obstruct the transmission or delivery of any postal article;

(b) to intercept or to acquaint himself with the contents of any postal article; or

(c) to commit mischief,

damages, removes, tampers with or touches any installation or plant or any part thereof used for posts belonging to a public postal licensee is guilty of an offence.

**Protection of installation or plant used for posts**

30. (1) No person shall, without the written approval of the Authority —

(a) lay or carry any mains, pipes, conduits, circuits or wires in, along, through, across, over or under any street or place in a manner which is likely to interfere with or cause damage to any installation or plant used for posts; or

(b) affix any placard, advertisement, notice or other thing in or on, or paint, tar or in any way disfigure any installation or plant used for posts.

(2) An application to obtain approval under subsection (1) may be refused by the Authority or the approval may be granted by the Authority on such conditions as it may determine.

(3) Where the commission by any person of an offence under subsection (1) is due to the act or default of some other person, that other person is guilty of the offence.

(4) A person may be charged with and convicted of the offence by virtue of subsection (3) whether or not proceedings are taken against the first-mentioned person.

(5) In any proceedings for an offence under subsection (1), it shall, subject to subsection (6), be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(6) Where the defence provided by subsection (5) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending 7 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

(7) Any person who contravenes or fails to comply with subsection (1) is guilty of an offence and, in addition to the forfeiture of any equipment seized, liable on conviction to a fine not exceeding \$10,000 and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part thereof during which the offence continues after conviction.

#### **Prohibition of false notice relating to public postal licensees' installation or plant**

31. Any person who, without the permission of a public postal licensee, places or maintains in or on any house or place, belonging to him or under his control, any word, letter or mark which signifies or implies or may reasonably lead the public to believe that the house or place is part of a public postal licensee's installation or plant, is guilty of an offence.

#### **Damage to public postal licensees' installation or plant**

32. Any person who wilfully removes, destroys or damages any installation or plant which belongs to a public postal licensee and is used for posts is guilty of an offence and liable on conviction to a fine not exceeding \$50,000, imprisonment for a term not exceeding 3 years or both.

**Compensation for damage caused to public postal licensees' installation or plant**

33. (1) Any person who removes, destroys or damages, whether wilfully, negligently, accidentally or otherwise, the installation or plant which belongs to a public postal licensee and is used for posts shall, in addition to any penalty for which he is liable for an offence under this Order, be liable to pay compensation for the damage he has done.

(2) The compensation shall be recoverable by civil action or suit before any court of competent jurisdiction.

(3) Subject to subsection (1), any court before which a person is charged with an offence against this Order may assess the compensation payable under this section and may make an order for the payment of the same.

(4) Any order under subsection (3) may be enforced as if it were a judgment in a civil action or suit.

**Unlawful operation of postal services**

34. Subject to section 7, any person who —

(a) conveys any postal article or performs any service incidental to such conveyance without a postal licence granted under section 8;

(b) collects, sends, tenders or delivers in order to be sent a postal article without a postal licence granted under section 8; or

(c) makes a collection of postal articles for transmission or distribution to or from any place through a postal licensee without a postal licence granted under section 8,

is guilty of an offence.

**Offences by officer, employee or agent of postal licensees**

35. (1) Any officer, employee or agent of a postal licensee who —

(a) destroys or throws away any postal article or anything contained therein;

(b) commits theft in respect of or dishonestly misappropriates or secretes any postal article or anything contained therein;

(c) except in obedience to an order under the hand of the Minister or the direction of a court, wilfully opens or causes to be opened contrary to

his duty any mail bag or postal article, or wilfully detains or delays or causes to be detained or delayed the mail bag or postal article; or

*(d)* issues or causes to be issued a document specified for use in connection with the remittance of money with fraudulent intent,

is guilty of an offence.

(2) Any officer, employee or agent of a postal licensee who —

*(a)* fraudulently puts any wrong official mark on a postal article;

*(b)* fraudulently alters, removes or causes to disappear any official mark on a postal article; or

*(c)* being entrusted with the delivery of any postal article, knowingly demands or receives any sum of money which is not chargeable under this Order,

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 12 months or both.

(3) Subsection (1) applies only to postal articles which an officer, employee or agent of a postal licensee has access to in the course of his employment as an officer, employee or agent of the postal licensee.

#### **Fraudulent sending of postal article**

36. Any person who sends any postal article bearing any facsimile, imitation or representation of postage stamps or purporting to be prepaid with any postage stamp which has previously been used to prepay any other postal article or which has otherwise been previously used is guilty of an offence.

#### **Fraudulent retention of postal article**

37. (1) Any person who —

*(a)* except in accordance with this Order or unless authorised by the Authority, wilfully retains or secretes or makes away with or keeps or detains or, when required by an employee of a public postal licensee, neglects or refuses to deliver up in the course of transmission by post any postal article or any mail bag containing any postal article; or

*(b)* except in accordance with this Order or unless authorised by the Authority, wilfully opens or causes to be opened any postal article which ought to have been delivered, or does any act whereby the due delivery of a postal article to any person is prevented or impeded,

is guilty of an offence.

(2) Nothing in subsection (1)(b) shall apply to a person who does any act to which that subsection applies where he is a parent, or in the position of a parent or guardian, of the person to whom the postal article is addressed and the addressee is a minor or his ward.

**Penalty for sending anything indecent etc. by post**

38. Any person who sends by post —

(a) any indecent or obscene article or any postal article having any word, mark or design of an indecent, obscene, seditious, scurrilous, threatening or grossly offensive character;

(b) anything which is likely to damage any postal article in the course of transmission by post or any postal equipment or injure any employee or agent of a postal licensee; or

(c) except as otherwise provided by any regulations made under this Order, any explosive, inflammable, dangerous, filthy, noxious or deleterious substance, any sharp instrument not properly protected or any living creature which is noxious or likely to damage any postal article in the course of transmission by post or any postal equipment or to injure any employee or agent of a postal licensee,

is guilty of an offence.

**Penalty for making facsimile, imitation or representation of postage stamp etc.**

39. (1) No person shall —

(a) make, deal in, distribute or sell;

(b) knowingly use for postal purposes or for the purpose of remitting or paying any money;

(c) have in his possession without any lawful excuse; or

(d) make or, without any lawful excuse, have in his possession, any die, plate, instrument or material for making,

any facsimile, imitation or representation of any postage stamp or any document used by a public postal licensee in connection with the remittance or payment of money.

(2) No person shall make, issue or send by post any stamped, franked or embossed envelope, wrapper, card, form or paper in imitation of one issued by a postal licensee.

(3) Any person who contravenes or fails to comply with subsection (1) or (2) is guilty of an offence.

(4) Any stamp, die, plate, instrument or material found in the possession of any person who has contravened or failed to comply with subsection (1) or (2) may be seized by any employee of the Authority and forfeited by a Court of a Magistrate, and shall be dealt with as the Court directs.

**Penalty for erasure of mark denoting used postage stamp**

40. Any person who, with fraudulent intent, erases or removes from a postage stamp any mark put or impressed on the postage stamp denoting that the same has been used, or sells or uses any such postage stamp for postal purposes is guilty of an offence.

**PART 7**

**INTERNATIONAL OBLIGATIONS AND NATIONAL INTERESTS**

**Right to conduct international business dealings**

41. For the purposes of the conduct of any international postal service by a public postal licensee, and subject to this Order, the public postal licensee may enter into direct communication, arrangement and agreement with the lawfully constituted postal authority of any country or territory, or with any duly authorised international agency or organisation concerned with postal matters –

*(a)* for the purpose of providing facilities, fixing rates, arranging terms of payment or accounting;

*(b)* for operational, engineering or administrative purposes; or

*(c)* for any other purpose necessary for the proper fulfilment of its functions.

**Government's overriding international rights**

42. (1) Nothing in section 41 is deemed to abrogate the right of the Government at any time to determine its relations with any country or territory or with any international agency or organisation.

(2) A public postal licensee shall so discharge its responsibilities and conduct its business as to comply with and fulfil all international agreements,

conventions or undertakings relating to postal matters to which Brunei Darussalam is a party.

**Liability for international financial obligations**

43. A public postal licensee is fully responsible for meeting all financial obligations arising from the operation of any international postal service and shall settle accounts with other postal authorities.

**Contribution by Government**

44. Where the Government considers it necessary that any postal service of an exceptional nature should be provided, and where a public postal licensee considers it uneconomic to provide the service without contribution from the Government, the Government may make such contribution towards the capital outlay necessary to provide any such service as may be estimated by the licensee and agreed to by the Government.

**Provision of postal services for governmental etc. purposes**

45. (1) The Minister may direct a public postal licensee to undertake and provide such postal services and facilities as may be necessary for aeronautical, maritime, meteorological, governmental, defence or other purposes.

(2) On being so directed by the Minister, the public postal licensee shall so provide the postal services or facilities referred to in subsection (1) and shall be entitled to fair and proper payment therefor.

**System of universal service**

46. The Authority may, with the approval of the Minister, determine a system to promote the widespread availability and usage of postal services throughout Brunei Darussalam in accordance with the following principles –

(a) the scope of universal service shall be clearly established and defined;

(b) the universal service shall be available to all persons in Brunei Darussalam;

(c) the universal service shall be accessible with sufficient access points to meet the needs of all consumers;

(d) the universal service shall be available to all consumers under transparent, objective and non-discriminatory terms and conditions;

(e) the security and confidentiality of postal articles shall be maintained;



(f) the universal service shall be offered on a permanent basis without interruption except in cases of *force majeure*;

(g) the universal service shall be provided at reasonable quality standards; and

(h) the universal service shall be provided at affordable rates throughout Brunei Darussalam.

#### **Reserved rights to public postal licensee**

47. Any postal licensee may provide postal services of postal articles up to 2 kilogrammes:

Provided that the minimum postage charges or fees comply with such conditions as the Authority may determine.

#### **Directions by Minister**

48. (1) The Minister may, after consultation with the Authority or any postal licensee, give to the Authority or that licensee such directions as the Minister thinks fit as to the exercise by the Authority or that licensee of its functions under this Order.

(2) Without prejudice to subsection (1), if it appears to the Minister to be requisite or expedient to do so —

(a) on the occurrence of any public emergency, in the public interest or in the interests of public security, national defence or relations with the government of another country; or

(b) in order —

- (i) to discharge or facilitate the discharge of an obligation binding on the Government by virtue of its being a member of an international organisation or a party to an international agreement;
- (ii) to attain or facilitate the attainment of any other object, the attainment of which in the opinion of the Minister is requisite or expedient in view of the Government being a member of an international organisation or a party to an international agreement; or
- (iii) to enable the Government to become a member of an international organisation or a party to an international agreement,

the Minister may, after consultation with the Authority or any postal licensee, give such directions to the Authority or that licensee as are necessary in the circumstances of the case.

(3) Any direction given under subsection (1) or (2) may include provisions for –

*(a)* the interception or detention of any postal article in the course of transmission by post; and

*(b)* the postal article to be delivered to any officer mentioned in the direction to be dealt with in such manner as the Minister may direct.

(4) The Authority and any postal licensee shall give effect to any direction given to it under subsection (1) or (2) notwithstanding any other duty imposed on the Authority or that licensee by or under this Order.

(5) The Authority and any postal licensee shall not disclose any direction given to that person under subsection (1) or (2) if the Minister notifies that person that the Minister is of the opinion that the disclosure of the direction is against the public interest.

(6) The Minister may make grants to postal licensees for defraying or contributing towards any loss which they may sustain by reason of their compliance with the directions of the Minister under any provision of this section.

(7) If any doubt arises as to the existence of a public emergency or as to whether any act done under this section was in the public interest or in the interests of public security, national defence or relations with the government of another country, a certificate signed by the Minister shall be conclusive evidence of the matters stated therein.

## PART 8

### ENFORCEMENT POWERS AND PROCEDURES

#### Power to require information etc.

49. (1) The Authority or any authorised officer may, for the purpose of conducting an investigation or discharging its functions under this Order or any regulations made thereunder, by order –

*(a)* require any person to furnish the Authority with any information in his possession which relates to any postal service or postal system; and

*(b)* require any person who has in his custody or under his control any document which relates to any postal service or postal system —

- (i) to furnish the Authority with a copy of or extract from the document; or
- (ii) unless the document forms part of the records or other documents of a court or public authority, to transmit the document itself to the Authority for its inspection.

(2) The Authority or any authorised officer shall be entitled without payment to keep any copy or extract furnished to the Authority under subsection (1).

(3) The Authority or any authorised officer shall at all reasonable times in the day have full and free access to all buildings, places, books, documents and other papers for the purpose of discharging the Authority's functions under this Order, and may, without payment, inspect, copy or make extracts from any such books, documents or papers.

(4) The Authority or any authorised officer may take possession of any book, document or paper where in the opinion of the Authority —

*(a)* the book, document or paper may be interfered with or destroyed unless possession is taken; or

*(b)* the book, document or paper may be required as evidence in proceedings for an offence under this Order or any regulations made thereunder.

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

(6) The power under this section to require a person to produce a document includes the power —

*(a)* if the document is produced, to require such person, or any person who is a present or past officer of his or is or was at any time employed by him, to provide an explanation of the document; or

*(b)* if the document is not produced, to require such person to state, to the best of his knowledge and belief, where it is.

(7) Any person who –

*(a)* fails to comply with any requirement specified in any order under subsection (1);

*(b)* intentionally alters, suppresses or destroys any document which he has been required under subsection (1) to furnish or transmit; or

*(c)* in furnishing any information required of him under subsection (1), makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 12 months or both and, in the case of a continuing offence, to a further fine not exceeding \$50 for every day or part thereof during which the offence continues after conviction.

(8) If a person is charged with an offence under subsection (7) in respect of a requirement to produce any document or information under subsection (1), it shall be a defence for him to prove that –

*(a)* the document was not in his possession or under his control;

*(b)* it was not reasonably practicable for him to comply with the requirement; or

*(c)* he had a reasonable excuse for failing to provide the information required.

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

(10) In this section, "document" includes any electronic record within the meaning of the Electronic Transactions Act (Chapter 196).

**Power to examine etc.**

50. (1) An authorised officer may, for the purpose of investigating an offence under this Order or any regulations made thereunder, do all or any of the following –

*(a)* require any person whom the authorised officer reasonably believes to have committed that offence to furnish evidence of that person's identity;

*(b)* require, by written notice, any person within the limits of Brunei Darussalam, who appears to be acquainted with the facts or circumstances of the matter to attend before the authorised officer;

*(c)* examine orally any person who appears to be acquainted with the facts or circumstances of the matter —

- (i)* whether before or after that person or anyone else is charged with an offence in connection with the matter; or
- (ii)* whether or not that person is to be called as a witness in any inquiry, trial or other proceedings in connection with the matter.

(2) A person examined under subsection (1)*(c)* is bound to state truly what the person knows of the facts and circumstances of the matter, except that the person need not say anything that might expose the person to a criminal charge or punishment.

(3) A statement made by a person examined under subsection (1)*(c)* shall —

*(a)* be reduced to writing;

*(b)* be read over to the person;

*(c)* if the person does not understand English, be interpreted to the person in a language that the person understands; and

*(d)* after correction (if necessary), be signed by the person.

(4) Any person who —

*(a)* fails, without reasonable excuse, to furnish the information required of that person under subsection (1)*(a)*;

*(b)* fails, without reasonable excuse, to comply with a notice issued to that person under subsection (1)*(b)*; or

*(c)* furnishes any information or makes any statement under this section which the person knows to be false or misleading in any material particular,

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 12 months or both.

**Powers of arrest and search in respect of seizable offences**

51. (1) Any authorised officer or any police officer may arrest without warrant –

(a) any person found committing or attempting to commit or employing or aiding any person to commit a seizable offence under this Order; or

(b) any person against whom a reasonable suspicion exists that he has been guilty of a seizable offence under this Order,

and may search any person so arrested, except that no female shall be searched except by a female.

(2) Every person so arrested shall, together with any article as to which an offence may have been committed or attempted to be committed, be taken to a police station.

(3) For the purposes of this section, offences punishable under sections 29, 32, 35(1) and 36 to 40 are deemed to be seizable offences within the meaning of the Criminal Procedure Code (Chapter 7).

**Powers of search and arrest in respect of offences under section 34**

52. (1) Whenever it appears to any police officer or authorised officer that an offence under section 34 is being committed or is about to be committed or attempted or whenever it appears that any article is concealed or deposited or contained in or on any vessel, aircraft or vehicle or premises in contravention of those sections, the police officer or authorised officer of Authority may, if he has reasonable grounds for believing that by reason of the delay in obtaining a search warrant the article is likely to be removed –

(a) stop and examine the vessel, aircraft or vehicle or enter the premises and there search for and take possession of any article and of any book or document which is reasonably believed to have a bearing on the case; and

(b) arrest any person being in the vessel, aircraft or vehicle or premises in whose possession the article may be found or whom the police officer or the officer of the Authority may reasonably suspect to have concealed or deposited the article and may search any person so arrested, except that no female shall be searched except by a female.

(2) Every person so arrested shall, together with any such article, be taken to a police station.

(3) In this section, "document" has the same meaning as in section 49(10).

#### **Disposal of postal articles relating to offences under section 34**

53. Where any postal article connected with an offence under section 34 is seized under section 52 or any other written law, the Authority may at any time, whether on the conclusion of its investigation or otherwise, take such action as it deems appropriate to deliver any such postal article to its intended addressee or return it to its sender.

#### **Obstruction of police officer or officer of Authority**

54. Any person who intentionally obstructs a police officer or any officer of the Authority authorised to act for the Authority in the execution of his duty under section 52 is guilty of an offence.

#### **No costs or damages or other relief arising from seizure to be recoverable unless seizure without reasonable or probable cause**

55. (1) No person shall, in any proceedings before any court in respect of any equipment, article, book or document seized in the exercise or the purported exercise of any power conferred under this Order, be entitled to the costs of the proceedings or to any damages or other relief other than an order for the return of the equipment, article, book or document or the payment of their value unless the seizure was made without reasonable or probable cause.

(2) In this section, "document" has the same meaning as in section 49(10).

#### **Composition of offences**

56. (1) An officer or employee of the Authority specially authorised by name in that behalf by the Authority may, in his discretion, compound any offence under this Order which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding —

(a) \$1,000; or

(b) half the maximum fine prescribed for that offence,

whichever is the lower.

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

(3) The Minister may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, make regulations prescribing the offences which may be compounded.

(4) All sums collected under this section shall be paid to the Authority.

#### **General penalties**

57. Any person guilty of an offence against this Order or any regulations made thereunder for which no penalty is expressly provided shall, in addition to the forfeiture of any article seized, be liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 3 years or both and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part thereof during which the offence continues after conviction.

#### **Saving of prosecutions under other written laws**

58. (1) Nothing in this Order shall prevent any person from being prosecuted under any other written law for any act or omission which constitutes an offence under this Order or any regulations made thereunder, or from being liable under that other written law to any punishment or penalty higher or other than that provided by this Order or the regulations.

(2) No person shall be punished twice for the same offence.

#### **Jurisdiction of Court**

59. A Court of a Magistrate shall have jurisdiction to hear and determine all offences under this Order and, notwithstanding anything to the contrary in the Criminal Procedure Code (Chapter 7), shall have power to impose the full penalty or punishment in respect of any offence under this Order.

#### **Offences by bodies of persons**

60. Where an offence against this Order or any regulations made thereunder has been committed by a company, firm, society or other body of persons, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer or a partner of the company, firm, society or other body of persons or was purporting to act in such capacity shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly unless he proves that —

(a) the offence was committed without his consent or connivance; and

(b) he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.



**PART 9**  
**GENERAL**

**Appeal to Minister**

61. (1) Any postal licensee who is aggrieved by —

*(a)* any decision of the Authority in the exercise of any discretion vested in the Authority by or under this Order; or

*(b)* anything contained in any code of practice or standard of performance under section 25, or any direction of the Authority given under section 26,

may, within 14 days after being notified of the decision or direction or the issue or approval of the code of practice or standard of performance, as the case may be, (or such longer period as the Minister allows in exceptional circumstances, whether before or after the end of the 14 days), appeal to the Minister.

(2) Any person (other than a postal licensee) who is aggrieved by any decision or direction of the Authority given by or under section 8(1) or 11(1), may, within 14 days after being notified of the decision or direction (or such longer period as the Minister allows in exceptional circumstances, whether before or after the end of the 14 days), appeal to the Minister.

(3) Any person who makes an appeal to the Minister under subsection (1) or (2) shall, within the period specified therein —

*(a)* state as concisely as possible the circumstances under which the appeal arises, the issues and grounds for the appeal; and

*(b)* submit to the Minister all relevant facts, evidence and arguments for or against the appeal, as the case may be.

(4) Where an appeal has been made to the Minister under subsection (1) or (2), the Minister may require —

*(a)* any party to the appeal; and

*(b)* any person who is not a party to the appeal but appears to the Minister to have information that is relevant to the matters mentioned in that subsection,

to provide the Minister with all such information as he may require for the purpose of considering the appeal and making a determination for resolving it,

and any person so required to provide such information shall provide it in such manner and within such period as may be specified by the Minister.

(5) The Minister may reject any appeal of an appellant who fails to comply with subsection (3) or (4).

(6) Unless otherwise provided, where an appeal is lodged under this section, the decision, direction or other thing appealed against shall be complied with until the determination of the appeal.

(7) The Minister may determine an appeal under this section by confirming, varying or reversing any decision or direction of the Authority or by amending any code of practice or standard of performance.

(8) The decision of the Minister in any appeal shall be final.

#### **Exclusion of liability of public postal licensee**

62. (1) A public postal licensee shall not be liable in respect of any injury, loss or damage suffered by any person by reason of –

*(a)* any loss, misdelivery or delay of or damage to any postal article in the course of transmission by post;

*(b)* any failure to provide or delay in providing any postal service or any equipment associated therewith or service ancillary thereto;

*(c)* any failure, interruption, suspension or restriction of any postal service or service ancillary thereto or delay of, or fault in, any communication by post;

*(d)* any loss of secrecy in communication arising from the use of any postal service; or

*(e)* any wrong payment or delay in payment in connection with any remittance of money through the public postal licensee or any other irregularity in the document used in connection with the remittance,

which is due to the act or default of another person, or an accident or some other cause beyond the control of the public postal licensee.

(2) Notwithstanding subsection (1), in the event of the loss of or damage to any article enclosed in or forming part of a parcel or an insured postal article, or the loss of any registered postal article while in the custody of a public postal licensee, the licensee may pay an indemnity in accordance with the provisions of

the Convention regulating the affairs of the Universal Postal Union or any international agreement to which Brunei Darussalam is a party.

#### **Exemption from distress and attachment**

63. (1) The installation or plant used for posts of a public postal licensee shall not be subject to distress or be liable to be taken in execution under any process of a court in any bankruptcy or insolvency proceedings against any person without the prior approval of the Minister in writing.

(2) Every installation or plant used for posts placed under, over, along, across, in or on any property by a public postal licensee shall remain the property of the licensee whether or not it has become in whole or in part a fixture.

#### **Service of documents**

64. (1) Unless otherwise expressly provided in this Order, any notice, order or document required or authorised by this Order or any regulations made thereunder to be given or served on any person, and any summons issued by a court in connection with any offence against this Order or any regulations made thereunder may be served on the person concerned —

(a) by delivering it to the person or to some adult member or employee of his family at his last known place of residence;

(b) by leaving it at his usual or last known place of residence or place of business in a cover addressed to him;

(c) by affixing it to some conspicuous part of his last known place of residence;

(d) by sending it by registered post addressed to the person at his usual or last known place of residence or place of business; or

(e) where the person is a body corporate —

(i) by delivering it to the secretary or other like officer of the body corporate at its registered or principal office; or

(ii) by sending it by registered post addressed to the body corporate at its registered or principal office.

(2) Any notice, order, document or summons sent by registered post to any person in accordance with subsection (1) is deemed to be duly served on the person to whom the letter is addressed at the time when the letter would, in the ordinary course of post, be delivered and in proving service of the same it shall be

sufficient to prove that the envelope containing the notice, order, document or summons was properly addressed, stamped and posted by registered post.

#### Exemption by Minister

65. The Minister may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, by order published in the *Gazette*, exempt any person or class of persons from all or any of the provisions of this Order.

#### Regulations

66. (1) The Minister may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, make regulations for any purpose for which regulations are required to be made under this Order and generally for carrying out the purposes and provisions of this Order.

(2) Without prejudice to the generality of subsection (1), the Minister may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, make regulations for or with respect to all or any of the following matters –

(a) the classes and the conditions for the grant of postal licences by the Authority;

(b) the acceptance, transmission by post, detention and disposal of postal articles;

(c) the supply, sale and use of postage stamps;

(d) the import, manufacture, sale, supply and use of franking machines;

(e) the limit of amount of money that may be remitted through a public postal licensee and the manner and conditions under which such money may be remitted;

(f) the articles or things which may not be transmitted by post;

(g) the types of articles not to be treated as postal articles;

(h) the manner of receiving, delivering, collecting and distributing mail bags and postal articles, including facilitating access for postal licensees to letter boxes;

(i) the conditions and restrictions for the payment of indemnity for the loss of or damage to postal articles where indemnity is payable under this Order;

*(j)* the registration of postal articles and the cases where insurance of postal articles may be required;

*(k)* the fees and charges to be paid in respect of any matter or anything done, or any services rendered, by the Authority under or by virtue of this Order, including a code of practice or standard of performance;

*(l)* the waiver or refund, in whole or in part, by authorised officers of the Authority of any such fees in the circumstances of any particular case;

*(m)* the interest (such interest, if unpaid, to constitute a debt due to the Authority and be recoverable as such) to be paid for late payment of any fees or charges prescribed under this Order.

### **Repeal of Chapter 52**

67. Subject to section 68, the Post Office Act is repealed.

### **Savings and transitional provisions**

68. (1) Any subsidiary legislation and appointment made and any thing done under the repealed Act in relation to postal matters and in force immediately before the commencement of this Order shall, so far as it is not inconsistent with the provisions of this Order, continue to be in force as if made or done under this Order until it is amended, revoked or repealed under this Order.

(2) Any scheme, contract, document, licence, permission or resolution prepared, made, granted or approved under the repealed Act in relation to postal matters shall, so far as it is not inconsistent with the provisions of this Order and except as otherwise expressly provided in this Order or in any other written law, continue and be deemed to have been prepared, made, granted or approved by the Authority under the corresponding provisions of this Order.

(3) Any reference in any written law to the repealed Act or any provision thereof shall, as from the commencement of this Order, be reference to this Order or the corresponding provision of this Order.

(4) In this section, "repealed Act" means the Post Office Act (Chapter 52) repealed under section 67.

**SCHEDULE**

(section 5)

**POWERS OF AUTHORITY**

1. To grant postal licences for postal services and purposes connected therewith under this Order and to supervise and enforce compliance with the provisions of such licences.
2. To give directions to any person granted a postal licence under this Order.
3. To levy such charges and fees for the granting of such postal licences and other services provided by the Authority as may in its opinion be appropriate.
4. To regulate rates, charges and fees levied by operators of postal systems and postal services.
5. To issue or approve codes of practice, standards of performance and advisory guidelines relating to postal systems and postal services, or any other matter related to the functions of the Authority.
6. To regulate the interconnection of and access to systems of operators of postal systems and postal services.
7. To regulate the sharing of installation or plant used for posts between postal licensees.
8. To regulate the management and allocation of numbering plans and schemes for postal systems and postal services.
9. To control and regulate the provision of postage stamps by public postal licensee.
10. To levy such rates, charges and fees and to decide such rates or apportionment thereof as between itself and other foreign postal administrations as may in its opinion be appropriate.
11. To engage in conjunction with other statutory bodies or other foreign postal administrations and international agencies or organisations for the purposes of promoting postal systems and postal services.

Made this 21st. day of Syaaban, 1444 Hijriah corresponding to the 14th. day of March, 2023 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

**HIS MAJESTY  
THE SULTAN AND YANG DI-PERTUAN,  
BRUNEI DARUSSALAM.**