

**CHAPTER 260
POSTAL SERVICES**

Act 14 of 2000

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POSTAL SERVICES

An Act to provide for the operation, control and regulation of postal services and for related matters.

PART 1 – PRELIMINARY PROVISIONS

1. Interpretation

(1) In this Act, unless the contrary intention appears:

"article" includes a substance or thing;

"business as a postal operator" has the meaning given by subsection (2);

"Corporation" means the Vanuatu Post Limited, a company incorporated under the Companies Act [Cap. 191] and includes any subsidiary of that company;

"court" means a court of competent jurisdiction;

"Customs officer" has the same meaning as in the Customs Act [Cap. 257];

"designated postal operator" means a postal operator that is designated under section 37 as a postal administration for Vanuatu;

"Director-General" means the Director-General of the Ministry responsible for postal services;

"letter":

(a) means any form of written communication, or any other document or article:

i. that is addressed to a specific person or a specific address; and

(ii) that is to be conveyed other than by electronic means; and

(iii) for which a charge at a rate determined under this Act is made in respect of carrying or sending it; and

b. includes an envelope, packet, package or wrapper containing a communication, document or article referred to in paragraph (a);

"licence" means a licence granted under section 4 to carry on business as a postal operator;

"Minister" means the Minister responsible for postal services;

"Ministry" means the Ministry responsible for postal services;

"postage" means the amount payable for transmission of a postal article by post, and includes any special charge or additional fee payable for a special service required in connection with the transmission of the article;

"postage stamp" means an adhesive label, or a mark or design, that is affixed to or impressed or imprinted on stationery for the purpose of paying postage for a postal article;

"postal article" means a letter, parcel or other article that has been posted and has not been delivered, and includes the contents of any such letter, parcel and article;

"postal identifier", in relation to a postal operator, means any name, logo, mark or design that:

a. is affixed to, or impressed or printed on, postal articles; and

(b) uniquely identifies that postal operator; and

(c) clearly indicates to members of the public that those postal articles have

been, or are intended to be, accepted by that postal operator for the purposes of being conveyed by post;

"postal operator" means a person who is the holder of a licence that is in force;

"postal outlet" means any building, house, room, vehicle or place where, under the control of a postal operator, postal articles are received or delivered, or where they are sorted, made up or dispatched;

"prescribed" means prescribed by the regulations made under this Act;

"public letterbox" means any receptacle that is provided by a postal operator for the purpose of receipt of postal articles for conveyance by that postal operator;

"register" means the register of licences maintained under section 13;

"subsidiary" has the same meaning as in the Companies Act [Cap. 191];

"The Post Office of Vanuatu" means the Department of the Government referred to as the Post Office of Vanuatu in the Post Office Act [Cap. 154] that was in force immediately before the commencement of this Act.

(2) For the purpose of this Act, a person carries on business as a postal operator if that person's business consists of providing, maintaining, and operating services for the transmission of postal articles within Vanuatu and to places outside Vanuatu.

(3) An article is taken to have been posted when it has been put into a letterbox, or delivered at a postal outlet, or accepted for the purpose of being conveyed by post by an employee of a postal operator in the course of his or her employment.

(4) A postal article is taken to be in the course of transmission by post from the time of its being posted to the time of its being delivered to the addressee or its being returned to the sender or disposed of under this Act.

A postal article is taken to be delivered to the addressee when it is delivered by a postal operator according to the usual manner of delivering postal articles to the addressee.

PART 2 – LICENSING OF POSTAL OPERATORS

Division 1 – Licensing procedure

2. Postal operator must hold a licence

(1) A person must not carry on business as a postal operator unless the person is the holder of a licence.

(2) A person who contravenes subsection (1) is guilty of an offence punishable on conviction by a fine of not more than VT 3,000,000.

3. Application for licence

An application for a licence to carry on business as a postal operator must:

- a. be made in writing to the Minister; and
- a. be in the form specified by the Director-General; and

- a. be accompanied by the prescribed fee.

4. Grant of licence

(1) The Minister must, on receiving an application for a licence, grant a licence to the applicant if:

- a. the application complies with the requirements of section 3; and
- a. the Minister is satisfied that:
 - i. the applicant is capable of providing the services required to be provided as a postal operator; and
 - i. neither the applicant nor any person concerned in the management of the applicant has been convicted of an offence by any court in Vanuatu or elsewhere within the last 10 years; and

(c) the Minister has obtained the prior approval of the Council of Ministers to the grant of the licence.

2. Any licence granted by the Minister without the prior approval of the Council of Ministers is null and void.

2. If an application for a licence is refused, the Minister must give the applicant written notice of the refusal and a statement of reasons for the refusal.

5. Requirements of licence

(1) A licence must be in writing and must:

- (a) specify the period for which the licence is granted, being a period which must not exceed 5 years; and
- (b) fix the fees payable for the licence, including any annual fees; and
- (c) set out the conditions of the licence; and
- (d) specify the services to be provided by the postal operator under the licence.

(2) A licence cannot be assigned or transferred.

6. Conditions of licence

(1) The Minister must, subject to the prior approval of the Council of Ministers, determine the conditions of a licence when it is granted.

(2) The Minister may, subject to the prior approval of the Council of Ministers:

- (a) vary the conditions of a licence; or
- (b) impose further conditions of a licence.

(3) Before changing the conditions of a licence under subsection (2), the Minister must give the postal operator concerned:

- a. written notice of the proposed change; and

a. at least 14 days in which to make submissions in writing on the proposed change.

(4) The Minister must take into account any submissions made by the postal operator in making his or her decision.

(5) The Minister must give the postal operator written notice of any change to the conditions of the licence.

7. Revocation of licence

(1) The Minister may, subject to the prior approval of the Council of Ministers, revoke a postal operator's licence if the postal operator:

- a. contravenes any of the conditions of the postal operator's licence; or
- a. was licensed on the basis of materially false or misleading information or documents; or
- a. contravenes any of the provisions of this Act.

2. If the Minister intends to revoke a postal operator's licence, the Minister must give the operator:

- a. written notice of the proposed revocation; and
- a. at least 14 days in which to make submissions in writing to the Minister in relation to the proposed revocation.

2. The Minister must take into account any submissions made by the operator in deciding whether to revoke the licence.

2. The Minister must give the postal operator written notice of the revocation of its licence.

8. Renewal of licence

(1) A postal operator may, at any time during the 6 months before the operator's licence is due to expire, apply in writing to the Minister for the licence to be renewed.

2. Subject to subsection (3), the Minister may renew the licence by issuing to the applicant a new licence.

2. The Minister must not renew the licence without the prior approval of the Council of Ministers.

2. The conditions of the new licence need not be the same as the conditions of the licence that it replaces.

(5) In deciding whether to renew a licence, the Minister must have regard to:

- (a) the postal operator's performance in delivering postal services during the period of the current licence; and
- (b) whether the operator is capable of continuing to provide the required services.

(6) If the Minister:

(a) refuses to renew the licence; or

(b) renews the licence, but not on the same conditions;

the Minister must give the applicant written notice of this and a statement of reasons for the decision.

9. Offence relating to false or misleading declaration

(1) A person must not in relation to an application for a licence:

(a) either orally or in writing, make any statement or provide any information that to the person's knowledge is false or misleading in a material particular; or

(b) produce to the Minister, or make use of, any document knowing it to contain any such information.

(2) A person who contravenes subsection (1) is guilty of an offence punishable on conviction by a fine of not more than VT 1,000,000.

Division 2– Corporation to be a postal operator

10. Corporation to be a postal operator

(1) On the commencement of this Act, the Corporation is taken to be a postal operator.

(2) The Corporation does not have to apply for a licence, but the Minister must issue the Corporation with a licence as soon as practicable after the commencement of this Act.

(3) All of the provisions of this Act apply to the Corporation accordingly.

(4) The Corporation must provide postal delivery services throughout Vanuatu. However, if another postal operator is providing postal delivery services in a particular area of Vanuatu, the Corporation does not have to provide postal delivery services in that area.

11. Information to Minister

(1) The Corporation must supply to the Minister such information as is requested in writing by the Minister for the purposes of monitoring:

(a) the efficiency and quality of services provided by the Corporation; and

(b) the Corporation's compliance with any agreement entered into between the State and the Corporation in relation to prices, frequency, quantity and quality of postal delivery services, including services outside Port Vila and Luganville; and

(c) the access the Corporation provides to other postal operators to postal delivery service facilities owned or used by the Corporation.

2. If a request is made to the Corporation, the Corporation must comply with that request within 14 days after receiving the request or within such further period as the Minister in any particular case allows.

2. All information supplied to the Minister must be verified by the Corporation's Chief Executive Officer.

(4) The Corporation must supply the Minister with any other information that the Minister needs for the purposes of this Act.

12. Failure to comply with information disclosure requirements

If the Corporation, without reasonable excuse:

- a. a) fails to comply with any information disclosure requirements under section 11 or the regulations made under this Act; or
- a. b) discloses false or misleading statements, reports, agreements, accounts or other information under section 11 or the regulations;

the Corporation is guilty of an offence punishable on conviction by a fine of not more than VT 1,000,000.

Division 3 – Register of licences

13. Register of licences

- (1) The Director-General must maintain a register of licences and keep it up to date.
- (2) The following particulars must be recorded in the register in respect of each licence:
 - (a) the name of the holder of the licence;
 - (b) the place of business of the licence holder;
 - (c) the number and date of the licence;
 - (d) the postal identifier or postal identifiers of the licence holder;
 - (e) the revocation of the licence;
 - (f) any other particulars that the Director-General considers appropriate.
- (3) The register may be kept wholly or partially by using a computer.
- (4) The Director-General must keep the register open for public inspection, during ordinary office hours, at the office of the Ministry.
- (5) The Director-General must supply to any person copies of all or part of the register on request and payment of a reasonable charge for the production of the copy.

14. Requirement to notify Minister of certain matters

- (1) A postal operator that intends to change its place of business or any postal identifier must notify the Director-General in writing of the change at least one month before the change is to take place.
- (2) If there is any change in the persons who are concerned in the management of a postal operator, the postal operator must notify the Director-General in writing of that change either before the change occurs or within 14 days after it has occurred.
- (3) A postal operator that fails to comply with the requirements of subsection (1) or (2) is guilty of an offence punishable on conviction by a fine of not more than VT 500,000.

Division 4 – Obligation on postal operator ceasing business

15. Postal operator must notify Minister of intention to cease business

(1) A postal operator that intends to cease carrying on business as a postal operator must notify the Minister at least one month before ceasing to carry on that business.

2. A postal operator that fails to comply with subsection (1) is guilty of an offence punishable on conviction by a fine of not more than VT 500,000.

16. Obligations on postal operator ceasing business

(1) A postal operator that ceases to carry on business as a postal operator must ensure that before it ceases to carry on business:

a. each of its public letterboxes:

i. is dismantled; or

ii. is rendered incapable of use as a public letterbox; or

(iii) is transferred to another postal operator; and

(b) all postal articles that have been accepted for posting are delivered or are otherwise dealt with under this Act.

(2) A postal operator that ceases to carry on business as a postal operator must surrender its licence to the Director-General on or before the operator ceases to carry on business.

2. A postal operator that fails to comply with any of the requirements of subsection (1) or (2) is guilty of an offence punishable on conviction by a fine of not more than VT 1,000,000.

PART 3 – POSTAL SERVICES

Division 1 – Public letter boxes and identification of mail

17. Public letterboxes

(1) Subject to subsections (2) and (3), a postal operator may erect and maintain public letterboxes in any road, street or other public place.

(2) A postal operator must comply with any reasonable conditions specified by the local authority or person having jurisdiction over the road, street or public place.

(3) A public letterbox must not be placed so as to interfere with ordinary traffic.

(4) A postal operator may remove any public letterbox erected by it.

(5) A postal operator who fails to comply with subsection (2) or (3) is guilty of an offence punishable on conviction by a fine of not more than VT 500,000.

(6) In this section:

"local authority" means any municipal council established under the Municipalities Act [Cap. 126] or any local government council established under the Decentralization Act [Cap. 230].

18. Postal operator to identify mail accepted by it

(1) As soon as practicable after a postal operator accepts a postal article for the purpose of being conveyed by post, the postal operator must affix to, or impress or print on, the postal

article the postal operator's postal identifier.

(2) Subsection (1) does not apply if the postal operator's postal identifier is already affixed to, or impressed or printed on, the postal article.

(3) A postal operator who fails to comply with subsection (1) is guilty of an offence punishable on conviction by a fine of not more than VT 200,000.

19. Loss or delay of letters, parcels or articles

A person is not entitled to any compensation, and no liability is imposed on the State or any postal operator, for any loss or damage suffered by any person because of any loss, default, delay or omission in the receipt, transmission or delivery of any letter, parcel or other article.

Division 2 – Postage stamps and payment of postage

20. Postage stamps

(1) Subject to subsection (2), a person other than a designated postal operator must not issue postage stamps that bear the word "Vanuatu" or any abbreviation of that word.

(2) The Corporation has the exclusive right to issue postage stamps for a period of 5 years starting on the commencement of this Act.

(3) A person who contravenes this section is guilty of an offence punishable on conviction by a fine of not more than VT 500,000.

21. Payment of postage

(1) The postage in respect of the transmission of a postal article must be paid for:

(a) in money; or

a. by affixing to the article uncanceled postage stamps issued by the postal operator; or

a. by any other means determined by a postal operator.

(2) If the postage is not fully pre-paid on a postal article posted for delivery in Vanuatu, the postal operator who delivers that article is entitled to be paid as a condition of delivery such fee as is prescribed by the regulations.

(3) Any such fee is in addition to the amount of the postage or of the deficient postage payable in respect of the transmission of the article.

(4) A postal operator may collect the shortfall in payment in advance of its obligation to process, distribute or deliver the postal article.

22. Charges for postage and other services

(1) A postal operator may make, with the prior approval of the Minister, determinations fixing or varying:

(a) the rates of postage for the transmission by post of postal articles and registered items delivered by that postal operator; and

(b) fees for the provision, in relation to the transmission of postal articles by post, of

any special delivery services by that postal operator; and

(c) fees for any other services that the postal operator provides under this Act.

2. A postal operator must cause particulars of rates of postage and other fees or charges determined by it under this section:

a. to be published in the Gazette and a widely distributed newspaper; and

(b) to be displayed in a prominent place in the postal operator's premises.

Division 3 – Carriage and delivery of mail in ships or aircraft

23. Obligation to carry mail in ships or aircraft

(1) The master of any ship and the commander of any aircraft about to depart from any place in Vanuatu to any place within or outside Vanuatu must:

(a) accept any mail that is tendered to him or her by any authorized officer of a postal operator; and

(b) if required, give a written receipt for the mail; and

(c) cause a description of the mail to be entered on the manifest of the ship or aircraft; and

(d) as far as it is practicable, carefully deposit the mail on board in some place which is secure, dry and vermin proof, and lock up the mail and carry it apart from other things; and

(e) deliver the mail to the person designated by the postal operator as being responsible for onward transmission of mail on arriving at his or her destination.

(2) The Director of Customs may refuse clearance of a ship or aircraft if he or she is satisfied that the master or the commander, as the case may be, has refused contrary to subsection (1) to carry any mail.

(3) In the absence of a contract by the postal operator for the conveyance of the mail, there is to be paid to the owner of a ship or aircraft which carries mail under this section such fees and allowances as are prescribed.

(4) A master of a ship or commander of an aircraft who fails, without reasonable excuse, to comply with any provisions of this section is guilty of an offence punishable on conviction by a fine of not more than VT 2,000,000 or to imprisonment for a period not exceeding 2 years, or both.

24. Delivery of mail from ships or aircraft

(1) The master of a ship or commander of an aircraft on arrival of the ship or aircraft at any place in Vanuatu, whether or not from outside Vanuatu, must deliver to a person authorized by the relevant postal operator all mail which is on board the ship or aircraft and is intended for discharge at that place.

(2) The person authorised by the postal operator must give a written receipt for the mail if requested by the master of the ship or commander of the aircraft.

(3) The master of a ship or commander of an aircraft who:

(a) refuses or neglects to deliver mail as provided for by subsection (1); or

(b) detains or permits the detention of the mail; or

(c) does not take due care for the proper custody of the mail;

is guilty of an offence punishable on conviction by a fine of not more than VT 2,000,000 or to imprisonment for a period not more than 2 years, or both.

PART 4 – DETENTION, EXAMINATION AND OPENING OF POSTAL ARTICLES

25. Detention of postal articles

(1) If a postal operator has reason to suspect that a postal article:

a. has been posted in contravention of a provision of section 40; or

(b) is in contravention, or has been posted in contravention, of any provision of any other Act;

the postal operator may detain the postal article for opening and examination in accordance with subsection (2).

(2) A postal article may be opened and examined only at a postal outlet by:

(a) 2 or more persons specially authorised for the purpose by a postal operator; or

(b) one such authorised person in the presence of:

i. another employee of that postal operator; or

i. a Customs officer.

26. Postal articles found to be in contravention of this Act

(1) A postal operator may seize a postal article if the postal article:

(a) is detained under section 25(1) by the postal operator; and

a. on being opened and examined, is found to have been posted in contravention of a provision of section 40.

(2) If the postal operator believes, on reasonable grounds, that the postal article:

a. is likely to die, rot, spoil or otherwise perish; or

(b) is or is about to become dangerous and that it is necessary, in order to avoid the threat of harm to any person or property, to destroy or otherwise dispose of the postal article immediately;

the postal operator may destroy or otherwise dispose of the postal article as the postal operator thinks fit.

(3) If subsection (2) does not apply, the postal operator must retain the postal article pending the outcome of any proceedings against any person for the offence in respect of which the postal article was seized.

27. Postal operator or claimant may apply for order as to disposal

(1) A postal operator may at any time apply to the court for an order to dispose of a postal article seized under section 26(1).

(2) A person who claims to be entitled to a postal article seized under section 26(1) may at any time apply to the court for an order as to the disposal of the postal article.

28. Disposal following conviction

(1) On the conviction of any person for an offence involving any postal article seized under section 26(1) the court may also order that the postal article is forfeited to the State.

(2) If the court makes an order under subsection (1), the postal article so forfeited must be destroyed or otherwise disposed of as the Minister directs.

29. No action to lie

No action lies against any person for any act done in good faith in pursuance or intended pursuance of section 27 or 28 or of any order made under that section.

30. Postal articles believed to be in contravention of other enactments

(1) This section applies to any postal article that:

a. is detained, and opened and examined, under section 25 by a postal operator; and

a. the postal operator believes, on reasonable grounds, to be in contravention, or to have been posted in contravention, of any other Act.

(2) The postal operator must deliver the postal article to the person authorised under that Act to take delivery of it and the postal article must be dealt with in accordance with that Act.

31. Valuable postal articles to be kept safely

(1) If a postal article:

(a) is detained under section 25 by a postal operator; and

(b) on being opened and examined, is found to contain any valuable or saleable thing;

the postal operator must keep that postal article and its contents safe pending their disposal under this Part.

(2) A postal operator must make and keep:

(a) a list of all postal articles to which subsection (1) applies; and

(b) a record of the contents of each such postal article.

32. Record of postal articles detained and opened

(1) A postal operator must make and keep a record of each occasion on which a postal article is detained under section 25 by the postal operator and is opened and examined.

2. The record must include brief details of the following:
 - a. the reason the postal article was detained; and
 - (b) the contents of the postal article; and
 - (c) how the postal article and its contents were dealt with by the postal operator after the postal article was opened and examined.
- (3) Records required by this section must be kept in written form or by computer.
- (4) A postal operator must:
 - (a) at all reasonable times and on reasonable notice, allow the Director-General or any person acting under the Director-General's authority to enter the postal operator's premises for the purpose of inspecting the records kept by the postal operator under this section; and
 - (b) on the request of a person carrying out an inspection under paragraph (a):
 - (i) provide that person with access to those records; and
 - (ii) permit that person to examine those records; and
 - (iii) permit that person to produce or make a printout or copy of the records or any part of the records.

33. Offences

A postal operator who:

- (a) fails to keep records to satisfy the requirements of section 32(1) or 32(2); or
- (b) fails, without reasonable excuse, to comply with section 32(4);

is guilty of an offence punishable on conviction by a fine of not more than VT 1,000,000.

34. Offender not relieved from liability

The detention, destruction or disposal under this Act of a postal article does not relieve any person from liability for any offence against this Act or any other Act.

35. Opening of postal articles to effect delivery

- (1) This section applies to a postal article that:
 - (a) a postal operator is unable to deliver to the addressee because:
 - (i) the postal article bears no address, or bears a wrong or an incomplete or an illegible address; or
 - (ii) the addressee cannot be located; and
 - a. does not bear a return address, or that bears a return address that is wrong, incomplete or illegible.

(2) A postal operator may open the postal article for the purpose of identifying the addressee or sender of the postal article.

2. The postal article may be opened only at a postal outlet by:

(a) 2 or more persons specially authorised for the purpose by a postal operator; or

(b) one such authorised person in the presence of:

i. another employee of that postal operator; or

(ii) a Customs officer.

(4) Subject to subsection (5), if the postal article is opened, the postal operator must give written notice to the person to whom the postal article is delivered that it was opened and the reason for opening it.

(5) If the postal operator on opening the postal article:

(a) finds it has been posted in contravention of any provision of section 40; or

(b) believes, on reasonable grounds, that it is in contravention, or has been posted in contravention, of any provision of any other Act;

the provisions of this Act apply as if the postal article had been detained under section 25(1).

(6) If the postal operator knows who sent the postal article, the postal operator must return the postal article to the sender. If the postal operator does not know who sent the postal article, the postal operator must keep the postal article in safe custody for at least 3 months or until it is claimed, whichever happens first.

(7) If the postal operator has kept a postal article in safe custody for at least 3 months but the postal article remains unclaimed, the postal operator may destroy or otherwise dispose of the postal article as the postal operator thinks fit.

36. Wrongful disclosure of information by postal operators

(1) An officer, employee or agent of a postal operator must not disclose to another person any information about a postal article or its contents that he or she obtains in the course of his or her employment or duties.

(2) Subsection (1) does not apply if the disclosure is made by the officer, employee or agent in the course of his or her employment or duties.

(3) A person who, without reasonable excuse, fails to comply with subsection (1) is guilty of an offence punishable on conviction by imprisonment for not more than 6 months or a fine of not more than VT 500,000, or both.

PART 5 – OTHER MATTERS

Division 1 – Designated postal operators

37. Designation of postal operators as postal administration

(1) The Minister may, by Order in writing, designate one or more postal operators to be a postal administration for Vanuatu. A designation is for such period and subject to such

conditions as are specified in the notice. The Order must be published in the Gazette.

(2) Subject to section 38(5), the Corporation is to be the only postal administration for Vanuatu for the period of 5 years starting on the commencement of this Act as if the Corporation had been designated under subsection (1).

(3) A designated postal operator must:

- a. act as a representative of Vanuatu at the Universal Postal Union or other relevant international or regional postal organizations; and
- (b) comply with Vanuatu's obligations as a member of that Union or organization; and
- (c) pay to that Union or organization any fees, charges and other payments that Vanuatu is required to pay because of Vanuatu's membership; and
- (d) comply with the general policy of the Government in relation to that Union or organization

38. Revocation of designation or conditions

(1) Subject to subsection (2), the Minister may, by Order in writing, revoke the designation of any postal operator if the Minister is satisfied that the postal operator has failed to comply with any condition or obligation relating to the designation. The Order must be published in the Gazette.

2. The Minister must not revoke the designation of a postal operator unless the Minister has first given that postal operator an opportunity to be heard.

2. The Minister must, by Order in writing, revoke the designation of a postal operator if that postal operator makes a written request to the Minister to do so. The Order must be published in the Gazette.

(4) The Minister may at any time:

- (a) revoke or vary any condition imposed on the designation of any postal operator; and
- (b) impose any further condition on any such designation.

(5) The Minister may exercise his or her powers under subsection (1) in relation to the Corporation during the 5-year period referred to in section 37(2).

Division 2 – General obligations relating to postal operators

39. Wrong delivery of postal articles

(1) If a postal article comes into the possession of a person other than the addressee, the person must deliver it to the addressee or a postal operator.

(2) A person must not open or cause to be opened any postal article that is not addressed to the person.

(3) A person who examines the contents of a postal article not intended for the person must not disclose to another person any information that he or she obtains from the examination about the postal article or its contents.

(4) If a person fails, without reasonable excuse, to comply with subsection (1), (2) or (3), the person is guilty of an offence punishable on conviction by a fine of not more than VT 200,000.

40. Posting of objectionable, indecent or dangerous items

(1) If a person:

a. posts or causes to be posted any postal article containing any indecent article or representation of any kind; and

a. does so with the intention of offending the recipient;

the person is guilty of an offence punishable on conviction by a fine of not more than VT 200,000.

(2) A person must not post or cause to be posted any postal article containing:

(a) any explosive, dangerous or destructive substance or fluid; or

(b) any matter or thing likely to cause injury to any person; or

a. any matter or thing likely to cause damage to any other postal article; or

a. any noxious substance or thing, or any dead animal.

(3) Nothing in subsection (2) applies to any of the following things if they are sent and packed in accordance with conditions prescribed by any Act or by a postal operator:

(a) poisons;

(b) forensic material (including, without limitation, blood samples or other bodily samples);

(c) any other matter prescribed for the purposes of this subsection.

(4) A person who contravenes subsection (2)(a) or (2)(b) is guilty of offence punishable on conviction by imprisonment for not more than one year or a fine of not more than VT 500,000, or both.

(5) A person who contravenes subsection (2)(c) or (2)(d) is guilty of offence punishable on conviction by a fine of not more than VT 200,000.

Division 3 – Employees and transfer of assets and liabilities, contracts and legal proceedings

41. Employees of the Post Office of Vanuatu

(1) This section applies to a person who was an employee of the Post Office of Vanuatu immediately before the commencement of this Act.

2. The employee's employment with the Post Office of Vanuatu is terminated on the commencement of this Act and the person is entitled to receive a redundancy payment in accordance with section 27 of the Public Service Act [Cap. 246] as if his or her termination were a termination under that section.

2. Immediately after the commencement of this Act, the employee is taken to be an

employee of the Corporation on the same terms and conditions of employment that he or she had as an employee of the Post Office of Vanuatu.

2. To avoid doubt:

a. the Public Service Act [Cap. 246] does not apply to the employee's employment with the Corporation; and

a. the employee's period of service with the Corporation is not continuous with his or her period of service with the Post Office of Vanuatu.

42. Transfer of assets and liabilities, contracts and legal proceedings

(1) On the commencement of this Act, the assets and liabilities of the Post Office of Vanuatu vest in the Corporation without the need for any conveyance, transfer or assignment.

(2) On the commencement of this Act, any contract to which the Post Office of Vanuatu is a party continues to have effect on and after that commencement as if:

a. a reference to the Post Office were a reference to the Corporation; and

a. the rights and obligations of the Post Office of Vanuatu under that contract were the rights and obligations of the Corporation.

(3) If the Post Office of Vanuatu was a party to proceedings that:

(a) were pending in any court immediately before the commencement of this Act; and

(b) related, in whole or in part, to an asset, liability, right or obligation mentioned in subsection (1) or (2);

the Corporation is, by force of this subsection, substituted for the Post Office of Vanuatu as a party to the proceedings to the extent to which the proceedings relate to the asset, liability, right or obligation.

(4) Subsection (1) applies to an asset or liability whether or not any Act or agreement relating to it:

a. permits a conveyance, transfer or assignment of the asset or liability; or

a. requires any consent to such a conveyance, transfer or assignment.

(5) A person or authority who has power under any Act or enactment to register, record or otherwise give effect to:

a. transactions affecting assets or liabilities mentioned in subsection (1); or

a. documents relating to such transactions;

must do whatever is necessary or desirable to give effect to, or reflect, the vesting (for example, making entries in a register).

(6) If a person or authority does not comply with the requirements of subsection (5) within a reasonable time after the vesting has occurred, the Minister may in writing direct the person or authority to take such action as is specified in the direction to give effect to, or reflect, the vesting.

(7) In this section:

"asset" means:

- (a) any legal or equitable estate or interest in real or personal property, whether actual, contingent or prospective; and
- (b) any right, power, privilege or immunity, whether actual, contingent or prospective;

"contract" includes a deed;

"liability" includes any liability, duty or obligation, whether actual, contingent or prospective.

Division 4 – Miscellaneous

43. Regulations

(1) The Minister may, by Order in writing, make regulations:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting subsection (1), the Minister may make regulations for all or any of the following purposes:

- (a) requiring the Corporation to disclose:
 - (i) information in relation to the postal delivery services provided by the Corporation; and
 - (ii) financial statements that follow generally accepted accounting principles;
- (b) prescribing rules and procedures to be followed by postal operators for the purposes of ensuring the orderly and efficient operation of the Vanuatu postal system;
- (c) prescribing the matters in respect of which fees and charges are payable under this Act.

2. Without limiting subsection (1), for the purpose of facilitating entry into the postal services market, and the development of competition in that market, the Minister may make regulations:

- (a) requiring the Corporation to disclose information about the access it provides to other postal operators to postal delivery service facilities owned or used by the Corporation; and
- (b) prescribing information about postal delivery services that the Corporation must make available including prices, terms and conditions; and
- (c) prescribing the manner in which the Corporation must disclose such information; and
- (d) prescribing time limits within which the information must be disclosed.

44. Repeal and savings

(1) The Post Office Act [Cap. 154] is repealed.

(2) If a subordinate legislative instrument made under the Post Office Act [Cap. 154] was in force immediately before the commencement of this Act, the instrument continues in force on and after that commencement as if it had been made under this Act.

(3) A reference to the Post Office of Vanuatu in an instrument continued in force under subsection (2) is taken to be a reference to the Corporation.

Commencement: 11 September 2006

REPUBLIC OF VANUATU

**POSTAL SERVICES (AMENDMENT) ACT
NO. 21 OF 2006**

Arrangement of Sections

- 1 Amendment
- 2 Commencement

REPUBLIC OF VANUATU

**POSTAL SERVICES (AMENDMENT) ACT
NO. 21 OF 2006**

Assent: 17/07/2006

Commencement: 11/09/2006

An Act to amend the Postal Services Act No. 14 of 2000.

Be it enacted by the President and Parliament as follows-

1 Amendment

The Postal Services Act No. 14 of 2000 is amended as set out in the Schedule.

2 Commencement

This Act commences on the date on which it is published in the Gazette.

SCHEDULE

**AMENDMENTS OF THE POSTAL SERVICES ACT
NO. 14 OF 2000**

1 Subsection 1(1)

Insert in its correct alphabetical position:

""reserved services" means the service of delivering any postal article sent from within

Vanuatu to a destination within Vanuatu that is:

- (a) below 250 grams in weight; or
- (b) subject to postage or delivery fee of not more than VT200."

2 Subsection 4(1)

Delete "The Minister" substitute "Subject to subsection 4(4), the Minister".

3 After subsection 4(3)

Insert

"(4) Subject to section 36A, the Minister must not grant a licence to more than 1 postal operator to carry out the reserved services."

4 Paragraph 5(1)(a)

After "which"(second occurring), insert ", other than in the case of a licence renewal,".

5 Subsection 8(2)

After "licence" (second occurring), delete "." substitute, "for such period as approved by the Council of Ministers."

6 Subsection 20(2)

Delete "5" substitute "15".

7 Subsection 22(1)

Delete "A postal operator may make, with the prior approval of the Minister, determinations for fixing or varying:" substitute "Subject to subsection 22(1A) a postal operator may make determinations to fix or vary:".

8 After subsection 22(1)

Insert

"(1A) Any variations made to the rates of postage for the reserved services must be approved by the Minister."

9 After subsection 22(2)

Insert

"(3) A postal operator must notify the Minister within 14 days after varying any rates of postage and other fees or charges under this section."

10 After section 36

Insert

"36A RESERVED SERVICES

- (1) The reserved services are reserved exclusively for the Corporation for a period of 10 years commencing on the date on which this Act comes into force.
- (2) After the expiry of the period referred to in subsection (1) the reserved services must not be licensed to more than one postal operator.

11 Subsection 37(2)

Repeal the subsection, substitute

"(2) Subject to subsection 38(5), the Corporation is to be the only designated postal operator for the period of 15 years commencing on the date on which this Act comes into force as if the Corporation had been designated under subsection (1)."

12 Subsection 38(5)

Delete "5" substitute "15".

13 Paragraphs 43(2)(b) and (c)

Repeal the paragraphs.
