

POSTAL SERVICES ACT

(313/2001, amendments up to 1365/2006 included)

Chapter 1 **General provisions**

Section 1 *Purpose of the Act*

- (1) The purpose of the Act shall be to ensure the availability of high-quality postal services and in particular of a universal service under equal terms in the whole country.
- (2) The Government shall be responsible to ensure that a universal service is available in the whole country.

Section 2 *Scope of application of the Act*

- (1) The Act shall apply to the provision of postal services and the universal service of a postal undertaking.
- (2) The Act shall not apply to
- 1) the conveyance and distribution of newspapers and periodicals;
 - 2) restricted distribution and conveyance of items of correspondence of minor importance, the extent of which is not of essential significance for the implementation of the objective provided for in paragraph 1;
 - 3) postal operations required by or relating to the own operations of an entrepreneur;
 - 4) the conveyance and distribution of items of correspondence agreed upon by a separate customer-specific agreement based on the speed and certainty of conveyance or another corresponding individual agreement; nor to
 - 5) the transmission service of packages other than a universal service.

Section 3 *Definitions*

For the purposes of this Act:

- 1) *postal operations* shall mean the provision of postal services and universal service in accordance with this Act;
- 2) *postal services* shall mean the transmission of items of correspondence and postal packages covered by the universal service from the sender of the item or from another postal undertaking to the addressee of the item or to another postal undertaking for a fee; postal service shall include the clearance, sorting, conveyance and delivery of items;
- 3) *universal service* shall mean the permanent provision of postal services in accordance with section 4 to all users throughout the country;
- 4) *an item of correspondence* shall mean an addressed letter or a postcard not weighing more than two kilos left to be conveyed by a postal undertaking; the

other characteristics of an item of correspondence and the types of items of correspondence shall, where necessary, be defined in the delivery terms of the postal undertaking;

5) *a postal package* shall mean an addressed package falling under universal service and left to be conveyed by a postal undertaking; the other characteristics of a postal package and the types of postal packages shall, where necessary, be defined in the delivery terms of the postal undertaking;

6) *a postal undertaking* shall mean a holder of a licence referred to in section 6;

7) *a universal service provider* shall mean a holder of a licence referred to in section 6 whose licence is subject to the universal service obligation;

8) *the sender of a postal item* shall mean a natural or legal person who has deposited an item of correspondence or a postal package to be transmitted by a postal undertaking for a valid fee; and

9) *the addressee of a postal item* shall mean the recipient of an item of correspondence or a postal package indicated therein.

Chapter 2 Universal service

Section 4 *Contents of the universal service*

- (1) A universal service of postal services shall be available throughout the country including
- 1) a transmission service for items of correspondence up to two kilos and for postal packages up to ten kilos addressed to the addressee;
 - 2) in the case of items arriving in the country, a conveyance and distribution service for items up to thirty kilos; as well as
 - 3) a service for registered items and insured items.
- (2) A universal service provider shall maintain at least one facility providing universal service in each municipality. When arranging the availability of postal services, a postal undertaking shall take into account the population of the municipality, its surface area, the communication needs evident in the municipality and other local circumstances as well as the development of new forms of postal services.
- (3) The users of postal services shall have the possibility to deposit items of correspondence covered by the universal service in a clearance point located within a reasonable distance from their homes to be conveyed by a postal undertaking. The universal service shall include at least one clearance and one distribution every working day.
- (4) The universal service shall cover both national and cross-border services referred to in this section.

Section 5 *Quality standard of universal services*

(1) National items of correspondence covered by the universal service and deposited to be transmitted by a postal undertaking and to be distributed on the following working day and for which a valid fee has been paid shall be distributed so that no less than 85 percent of the items are delivered on the following working day and no less than 98 percent on the second day from the date of depositing.

(2) Cross-border postal items within the European Community shall be distributed so that no less than 85 percent of the items are delivered on the third day from the date of depositing the items and 97 percent of the items are delivered on the fifth day from the date of

depositing the items. The universal service provider shall comply with the quality standards of intra-Community cross-border postal items both in the case of all intra-Community post and in the case of post between two Community Member States.

Chapter 3 Carrying out postal operations

Section 6 *Licence and its terms*

- (1) Postal operations may be carried out by organisations, offices, institutions and foundations that have been granted a licence therefore by the Government.
- (2) A licence shall be granted, if
 - 1) the applicant has sufficient financial resources to fulfil the obligations of an undertaking carrying on postal operations;
 - 2) there is no justifiable reason to suspect the ability of the applicant to comply with the provisions and regulations relating to postal operations;
 - 3) the applicant has the ability for regular operations in accordance with the licence; and that
 - 4) the area for which the licence is applied forms a coherent licence area with regard to administration and operations.
- (3) The licence shall include regulations on distribution complying with the provisions of section 5 unless the Government upon granting the licence decides otherwise for a particularly weighty and justifiable reason.
- (4) In order to guarantee a universal service covering the whole country, the Government shall impose a universal service obligation in the licence on a postal undertaking that, on the basis of financial resources, prior operations or another corresponding reason, can be deemed to have the prerequisites for responsibility for the provision of a universal service. If it is necessary in order to guarantee universal service and if the imposition of the obligation is not unreasonable from the point-of-view of the postal undertaking, a postal undertaking may be imposed a universal service obligation also for another region or for other postal services covered by the universal service than those for which the undertaking has applied for a licence.
- (5) In addition, the licence may include provisions on the operating area of the postal undertaking, types of items of correspondence, clearance, pricing as well as other provisions necessary to ensure the quality, availability and efficiency of the services. The terms of the licence may be amended upon the consent of the licence holder and also otherwise for a particularly justifiable reason from the point of view of the purpose of the Act, such as ensuring the provision of universal service.

Section 7 *Licence application*

- (1) The application for a licence relating to postal operations addressed to the Government shall indicate the following:
 - 1) the name and place of registered office of the applicant;
 - 2) the area that the licence is applied for;
 - 3) information on the quality of postal operations planned;
 - 4) an account of the delivery terms of postal services;
 - 5) an account of the fulfilment of the prerequisites provided for in section 6, paragraph 2 of the Act;
 - 6) other accounts required by the Ministry of Transport and Communications.

(2) The application shall be accompanied by an extract from the Trade Register or the Register of Associations or another corresponding account, the Articles of Association or a corresponding partnership or other agreement, where necessary, by the charter of the foundation, the bylaws of the foundation, association or co-operative and a general plan of the postal operations to be carried out drawn up for two years, as well as a financing calculation. If the applicant is an organisation, the financial statement and annual report of the applicant last confirmed shall be appended to the application as well as a list of the owners, shareholders or members of the applicant or of other persons or organisations exercising decision-making power in the applicant organisation.

(3) The application shall be decided within six months.

Section 8

Term of validity of the licence

A licence for postal operations may be granted for a period not exceeding twenty years.

Section 9

Assignment of the licence to another

(1) A licence granted for postal operations may not be assigned to another. If the factual control of the licence holder changes, this shall be deemed as assignment of the licence and the licence may be cancelled by the Government.

(2) The assignment of a licence inside a group between a parent company and its totally owned subsidiary shall not be deemed an assignment of the licence constituting a ground for cancellation. The Ministry of Transport and Communications shall, however, be notified of this assignment without delay.

Section 10

Expiry of the licence

A licence granted for postal operations shall expire if regular operations complying with the licence have not been started within nine months from the first day of validity of the licence.

Chapter 4

General obligations of a postal undertaking

Section 11

Reception, transmission and seizure of items of correspondence

(1) A postal undertaking shall be under an obligation to receive an item of correspondence from anyone who wants it and to transmit it, for a valid fee, under its licence and delivery terms to the addressee of the item.

(2) However, a postal undertaking may refuse to receive or to transmit an item of correspondence if:

- 1) the item contains dangerous goods, objects or products the transport of which is prohibited by law or which are otherwise against the law or which cause evident danger to persons or property;
- 2) the item contains living insects or other living animals;
- 3) the contents of the item are especially sensitive to heat or cold;
- 4) the item contains fragile or breaking objects or leaking substances;

- 5) an uninsured item contains money, securities or other something else that is valuable.
- (3) The seizure of an item of correspondence and the retaining of an item of correspondence shall be subject to separate provisions.

Section 12 *Distribution*

- (1) Items of correspondence shall be distributed in one-family houses to an installation or structure which, taking into account the local circumstances, is located within a reasonable distance from the address location of the addressee of the postal item. In blocks of flats, items of correspondence shall be distributed to the building customer-specifically.
- (2) Items of correspondence shall be distributed at least every working day if the distribution of items is not prevented due to reasons attributable to the addressee of the item, a provision of the law, an interruption of traffic or other similar event of force majeure, which cannot have been taken into account in the distribution of post. In the determination of the method of distribution local circumstances, the special personal needs of the addressee of the item or other appropriate grounds can also be taken into account.
- (3) Postal packages shall be distributed within a reasonable time. A notice of arrival may be used in the distribution of items distributed against a signature of receipt and of postal packages.
- (4) The requirements referred to in this section shall apply to all postal undertakings.

Section 13 *Derogations from the density of clearance and distribution*

- (1) In the case of postal services of households which are in a difficult terrain in the archipelago or in wilderness areas and which are not located along roads that are trafficable all-year, include contact vessels running at least five days a week, a postal undertaking shall have the right to derogate from the density of clearance and distribution provided for in section 4 and the density of distribution provided for in section 12. The distribution and clearance for these households shall, however, be performed at least once a week. A postal undertaking shall inform the addressee of a postal package as well as of an item from an authority without delay, however, at the latest on the third day from the arrival of the item if the addressee can be reached by telephone, e-mail or otherwise.
- (2) A postal undertaking shall submit an annual report to the Finnish Communications Regulatory Authority of the number of households referred to in paragraph 1. The number of households subject to the restriction may not exceed 300 in the whole country. The Finnish Communications Regulatory Authority shall, where necessary, decide which households are included within the scope of the derogation from the density of clearance and distribution.

Section 14 *Distribution plans and agreements*

- (1) A postal undertaking shall draw up a plan of the detailed arrangement of distribution. The addressee of an item may, for a reasonable fee, agree with the postal undertaking, on arrangements derogating from the provisions of section 12.
- (2) The Finnish Communications Regulatory Authority shall, where necessary, issue further general instructions on the placing of installations and minor structures required by the reception and distribution of items of correspondence.

(3) If the addressee of an item and the postal undertaking have failed to reach a mutual agreement on the arrangements relating to the reception of postal items and no legally binding decision has been issued in the matter, the postal undertaking shall have the right to keep the items of correspondence addressed to the addressee in question available at the facility determined on the basis of the address of the addressee of the items.

Section 15

Ensuring the privacy of a confidential message and language rights

(1) A postal undertaking or an undertaking that provides services of a postal undertaking to customers under an agreement it has concluded with the postal undertaking shall ensure the privacy of a confidential message.

(2) In its operations, a postal undertaking or an undertaking that provides services of a postal undertaking to customers under an agreement it has concluded with the postal undertaking shall provide services in Finnish and Swedish in compliance with the provisions of the Language Act (148/1922) on the liability of the authorities to provide services in these languages. A postal undertaking shall also ensure that the needs of the Samí-speaking population are taken into account in the operations of the postal undertaking in compliance with the provisions of the Act on the Use of the Samí Language with the Authorities (516/1991) on the liability of the authorities to use the Samí language.

Section 16

Secrecy obligation

A person employed by a postal undertaking or a person who provides services of a postal undertaking to customers under an agreement concluded with the postal undertaking may not disclose any information on a customer or his circumstances which he has acquired in his work if the disclosure of the information violates the privacy of confidential message or a business or customer relationship.

Section 17

Right [of a postal undertaking] to open [a postal item]

(1) A postal undertaking shall not have the right to open a sealed letter.

(2) A postal package may be opened if

1) the item has been damaged and the opening is necessary in order to protect the contents or to verify their condition; or if

2) there is reason to suspect that the item may cause a danger to health or to property.

(3) A postal package may be opened by a person authorised by the Finnish Communications Regulatory Authority for this task in the presence of another person. The contents of the postal package may not be examined in more detail than is required by the reason for the opening. An opened postal package shall be marked with the indications provided for by the Finnish Communications Regulatory Authority. A record shall be drawn up of the opening, signed by the persons who participated in the opening, and delivered to the Finnish Communications Regulatory Authority. When a person employed by postal undertaking is performing duties referred to in this section, he shall be governed by the provisions on criminal liability in office.

Section 18

Ascertaining the addressee

- (1) A postal undertaking shall endeavour to ascertain the correct addressee of an item, which most likely is meant to be personal. If the addressee cannot, in spite of the endeavours, be ascertained, the item shall be returned to the sender. If neither can be ascertained, the postal undertaking shall deliver the item immediately to the Finnish Communications Regulatory Authority to be handled there. A postal item, the contents of which are likely spoilt, may, however, be destroyed. A postal undertaking is not obliged to deliver to the Finnish Communications Regulatory Authority such an open item that includes no information, which would help to find out the sender or the addressee.
- (2) An item that the addressee of the item has not wanted to accept shall be returned to the sender.
- (3) A postal undertaking may destroy a postal item that is unlikely meant to be personal and that cannot be delivered to the addressee or that the addressee has not wanted to accept and the returning of which has not been agreed with the sender of the postal item.

Section 19 *Liability of a postal undertaking*

- (1) A postal undertaking shall be liable for damage caused to the sender or addressee of an item by the delay or loss of or damage to the item. A postal undertaking shall, however, be released from liability if it can prove that the damage was caused by a circumstance which the postal undertaking cannot have avoided and the consequences of which it cannot have prevented.
- (2) If the postal undertaking or a party for whose actions the postal undertaking is liable has caused the damage wilfully or through gross negligence, it may not invoke the provisions of paragraph 1 of this section or of section 20 on release from or limitation of liability.
- (3) The liability of a postal undertaking shall begin when the sender of the item has deposited the item in a clearance point or in some other manner to be conveyed by the postal undertaking. The liability of the postal undertaking shall end when the item, in accordance with the manner of delivery agreed upon, has either been delivered in a distribution installation or structure of the addressee or to the addressee or his representative or when the necessary receipt has been received for the delivery. The postal undertaking shall have the right to record the personal identity number of the addressee and the document from which the personal identity number has been verified in the delivery documents of a postal order and a registered or insured item of correspondence.
- (4) A contract term that derogates from the provisions of this Act on liability to the detriment of the sender or addressee of an item shall be void. The provisions may, however, be derogated from by an agreement to be concluded with a party other than a consumer referred to in chapter 1, section 4 of the Consumer Protection Act (38/1978) if the derogation can be deemed reasonable due to the positions of the parties to the contract, the exceptional nature of the item or to other special circumstances.
- (5) A postal undertaking and a party for whose actions the postal undertaking is liable, shall have the right to invoke the provision of this Act on limitation and release from liability even when the claim for compensation is not based on this Act if the compensation could have been claimed under this Act.
- (6) The provisions of this Act on the liability of a postal undertaking to compensate shall not be applicable where otherwise provided in an international treaty binding on Finland.

Section 20 *Limitation of liability*

- (1) The compensation to be paid to a party that has suffered damage because of a delay of an item shall be the amount of the damage, however, not exceeding:
- 1) 50 EUR in the case of an ordinary item of correspondence;
 - 2) 85 EUR in the case of a registered letter or a letter with an advice of receipt;
 - 3) 150 EUR in the case of another item of correspondence or a postal package.
- (2) The compensation to be paid to a party that has suffered damage because of damage to or loss of an item shall be the amount of the damage, however, not exceeding:
- 1) 50 EUR in the case of an ordinary item of correspondence;
 - 2) the insured value in the case of an insured item;
 - 3) 340 EUR in the case of another item of correspondence;
 - 4) 25 EUR per kilo in the case of a postal package.
- (3) The compensation to be provided for under this Act may be adjusted as reasonable if the injured party has contributed to the damage or if another circumstance, which is not part of the action that has caused the damage, has also been a reason for the damage.
- (4) The maximum amounts of the compensations provided for in paragraphs 1 and 2 may be adjusted by a Government resolution to correspond to a change in the value of money.

Section 21

Complaint and statute of limitations

- (1) A complaint regarding damage to an item shall be filed with the postal undertaking, under the threat of forfeiting the right of action, within a reasonable time from the time when the addressee has or should have detected the damage. The complaint of an externally noticeable damage shall, however, be filed upon the receipt of the item if the item is conveyed personally to the addressee or his representative that is not a consumer.
- (2) The right to compensation has been forfeited unless the complaint is filed with the postal undertaking in writing within one year or, if the damage is caused wilfully or through gross negligence, within three years from the time when
- 1) the liability of the postal undertaking has ended under section 19, paragraph 3 if the right is based on damage to or a delay of an item; or when
 - 2) the postal undertaking has notified the addressee of the loss of an item if the right is based on a loss of an item.

Section 22

Placing of mail boxes

- (1) The municipality shall be under an obligation to allow the placing of installations and minor structures, such as mail boxes, required by the clearance and distribution of items of correspondence in public areas indicated in the zoning or building plan when their placing cannot otherwise be arranged in a manner reasonable from the point of view of the postal undertaking or the addressee of items and with reasonable costs. The installations and minor structures required by clearance and distribution or their use may not cause unnecessary danger to traffic or essential harm to the other use of the public area.
- (2) The owner of a lot, other real estate or building shall be under an obligation to allow that the installations or minor structures required by clearance and distribution are fixed to a wall, gate or fence or on the ground under the conditions referred to in paragraph 1. The obligation may, however, be imposed only if it is reasonable from the point-of-view of the owner.
- (3) The installations or minor structures required by clearance and distribution may be placed in the road-side area, protected area or area of sight distance of a public road referred to in the Act on Public Roads (243/1954) if the placement or the use of the boxes does not cause unnecessary danger to traffic or essential harm to road maintenance.

Section 23

Decision of the municipal building supervision authority on the placement of mailboxes as well as the duty to compensate

- (1) If the parties do not agree on the placing of mailboxes, the matter shall be provided for by the municipal building supervision authority taking into account the other use of the site in question and the requirements of appropriate postal operations. In its decision, the municipal building supervision authority shall also take into account the general instructions issued by the Finnish Communications Regulatory Authority under section 14.
- (2) A compensation shall be paid for the harm and damage caused by the mail boxes in accordance with the provisions of the Act on the Redemption of Real Property and Certain Rights (603/1977). An agreement relating to the compensation shall also be binding on a subsequent owner of the real estate or building.

Section 24

Delivery terms

- (1) The delivery terms shall be published in writing. They shall be available to a user free of charge.
- (2) The delivery terms shall indicate:
- 1) the rights and obligations of the customer of the postal undertaking and of the postal undertaking;
 - 2) the measures available to the customer of the postal undertaking in cases where an item has been delayed, lost, stolen, damaged or in the case of non-compliance with the service quality standards; these measures shall be transparent, simple and reasonable in cost;
 - 3) the legal remedies of the customer;
 - 4) the possibility of the customer of the postal undertaking to refer to the competent authority issues in which the customer and the universal service provider have not reached a joint position;
 - 5) the manner of imposing or confirming payments;
 - 6) the manner of notifying the customer of changes in payments; and
 - 7) the grounds for securities or other derogating payment guarantees required from the customer.
- (3) A tariff of the payments relating to postal services clearly indicating all the issues relating to pricing shall be available to the customer free of charge. If a special tender or agreement on the delivery of postal services is made, it shall be in writing or in electronic form so that the contents cannot be unilaterally amended and so that it will remain available to the parties.
- (4) Before a postal undertaking introduces delivery terms intended for households they shall be submitted to the Finnish Communications Regulatory Authority and the Consumer Ombudsman for approval. The Finnish Communications Regulatory Authority shall decide the matter after obtaining the favourable opinion of the Consumer Ombudsman. The customer shall be notified of new delivery terms no later than one month prior to their entry into force.

Section 25

Monitoring the quality of postal services

A postal undertaking shall annually publish information on the quality of its services, which shall also indicate the number of complaints and their handling.

Section 26

Pricing

- (1) The prices charged by a universal service provider shall be reasonable, fair and they shall allow all users to have access to the services. The pricing shall be transparent and non-discriminatory.
- (2) A universal service provider shall price an ordinary domestic item of correspondence to be delivered on the following working day uniformly throughout the country. The obligation shall apply to the methods of payment generally used for individual letters. The application of uniform pricing shall not prevent the universal service provider from concluding individual price agreements with customers.
- (3) The prices shall be geared to costs. The provisions of this Act concerning pricing are subject to the terms of any international agreement binding on Finland. (1365/2006)
- (4) Notification of changes in pricing shall be given no later than one month before the change takes place.

Section 27

Cost accounting

- (1) A universal service provider shall use accounting systems indicating that the prices of the different services are reasonable and proportional to costs.
- (2) Within its internal accounting systems, a universal service provider shall keep separate accounts at least for the services included in the universal service and other services. In the case of services included in the universal service, the costs shall be calculated by item categories.
- (3) A universal service provider shall submit descriptions of the accounting systems to the Finnish Communications Regulatory Authority.

Section 28

Cooperation obligation

- (1) A postal undertaking shall ensure that an item of correspondence deposited by mistake to be transmitted by it is delivered to be transmitted by another postal undertaking if the address location of the addressee of the item of correspondence is not within the licence area of the former postal undertaking.
- (2) A postal undertaking shall ensure that items deposited to be delivered by another postal undertaking can be distributed to an addressee whose address location is in an installation or structure, such as a Post Office box, which is under its control.
- (3) The terms of agreements between postal undertakings shall be fair and reasonable. The agreement shall include delivery terms and grounds for pricing. The agreement shall take into account compliance with the quality standards provided for in this Act. The postal undertaking shall submit the agreement to the Finnish Communications Regulatory Authority, which shall be deemed to have approved the agreement if it has not notified otherwise within one month from the submission of the agreement. If the Finnish Communications Regulatory Authority deems that the agreement is not in compliance with the requirements provided in this paragraph or elsewhere in the law, it may set a reasonable period of time for the postal undertaking within which the agreement shall be amended.

Section 29

Other obligations

(1) In its operations, a postal undertaking shall be prepared to handle postal operations in exceptional circumstances. It shall, by means of readiness plans and advance preparations for operation in exceptional circumstances as well as by means of other measures, ensure the undisturbed performance of its tasks to the extent possible also in exceptional circumstances. The Ministry of Transport and Communications may issue instructions relating to the preparedness for exceptional circumstances.

(2) A postal undertaking shall comply with the provisions on a postal undertaking or its tasks laid down elsewhere.

(3) A universal service provider shall ensure that the notification procedure provided for in the law is available throughout the country. The provider of universal service or an undertaking that provides services of the provider of universal service to customers under an agreement concluded with the provider of universal services, shall, when it is performing duties relating to the service of notice, be governed by the provisions on criminal liability in office.

Chapter 5

Guidance and supervision of postal operations

Section 30

General guidance, development and supervision

(1) The general guidance and development of postal operations shall belong to the Ministry of Transport and Communications.

(2) It shall be the task of the Finnish Communications Regulatory Authority to supervise the compliance with this Act and the provisions and orders issued thereunder. The Finnish Communications Regulatory Authority shall publish an annual report on compliance with the quality standards provided for in section 5.

Section 31 (886/2005)

Supervision fee for postal operations

A postal undertaking is obliged to pay the Finnish Communications Regulatory Authority an annual fee for the supervision of postal operations. The total sum of supervision fees collected from undertakings covers the total costs incurred to the Finnish Communications Regulatory Authority for performing the duties provided in this Act concerning postal undertakings.

Section 31 a (886/2005)

Amount of the supervision fee for postal operations

(1) The supervision fee for postal operations is 0.0024 per cent of a postal undertaking's turnover from licensed postal operations in Finland for the financial period that ended two years before the due date of the supervision fee. The minimum supervision fee is 2,000 euros.

(2) The supervision fee collected from a new postal undertaking is 2,000 euros for the first year of operation and 10,000 euros for the second year of operation. The fee for the third and following years is determined in accordance with the provisions of subsection 1.

(3) If the financial period is other than a calendar year, the turnover will be converted into a sum corresponding a calendar year's turnover by multiplying it by the figure 12 divided with the number of months in the financial period concerned.

(4) If postal operations referred to in subsection 1 come to an end in the middle of an invoicing period, the Finnish Communications Regulatory Authority shall determine the amount

of the fee for the conducted postal operations referred to in subsection 1. If during the time between the financial period on which the fee is based and the due date of the fee, postal operations referred to in subsection 1 have been assigned to another company, the Finnish Communications Regulatory Authority shall determine the fee for the company in operation on the due date taking into consideration the confirmed turnover of the postal operations referred to in subsection 1 for the financial period on which the fee is based.

(5) Where changes have taken place in the undertaking's group ownership relations between the end of the financial period on which the fee is based and the due date of the fee, the amount of the fee will be determined on the basis of the undertaking's share of turnover of postal operations referred to in subsection 1 for the financial period on which the fee is based.

(6) No collected fees will be returned, even if the undertaking ended postal operations referred to in subsection 1 or its licence was cancelled in the middle of the invoicing period.

Section 31 b (886/2005)

Turnover on which the fee is based if the undertaking is part of a group

(1) If a postal undertaking is part of a group referred to in section 1(6) of the Accounting Act (1336/1997), the basis for the postal undertaking's fee is its share of the joint turnover of postal undertakings liable for payment by the same group for postal operations carried out in Finland after deduction of the undertakings' intercompany turnover for such operations. The procedure for determining the fee also applies in case of non-Finnish parent companies.

(2) Further provisions on how the information necessary for determining the fee must be delivered to the Finnish Communications Regulatory Authority may be given by Ministry of Transport and Communications decree.

Section 31 c (886/2005)

Determining and collecting the fee for the supervision of postal operations

(1) The fee for the supervision of postal operations is collected annually in four instalments. The fee is payable by order of the Finnish Communications Regulatory Authority. Further provisions on the collection of the fee may be given by Ministry of Transport and Communications decree.

(2) For the purposes of determining the fee the Finnish Communications Regulatory Authority has the right to obtain all relevant information about the turnover of the undertaking's postal operations carried out in Finland as referred to in section 31 a for the financial period ending two years before the fee collection year. Postal undertakings belonging to the group shall also deliver to the Finnish Communications Regulatory Authority an account of which instalments incurred by the mutual postal operations of the group undertakings have been deducted from the postal operations turnover in accordance with section 31 b(1). The postal undertaking shall submit the information to the Finnish Communications Regulatory Authority within a month from the approval of the financial statements. A copy of the approved financial statements and group accounts shall be submitted as an attachment.

(3) The fee for the supervision of postal operations may be collected without a judgment or decision following the procedure provided in the Act on collecting taxes and charges through recovery proceedings (367/1961). If the fee is not paid by the due date, an annual interest on late payments for the amount due will be collected in accordance with the interest rate referred to in section 4 of the Interest Act (633/1982). If the amount of the interest for late payment is less than five euros, the authorities may collect a charge of five euros instead of the interest for late payment.

Section 32
Right to obtain information

Notwithstanding other provisions on secrecy of documents, the Ministry of Transport and Communications as well as the Finnish Communications Regulatory Authority shall have the right to obtain from a postal undertaking information relating to the finances of the postal undertaking and its operations carried out in compliance with this Act and necessary for the performance of tasks referred to in this Act.

Chapter 5 a
Responsibilities in ensuring the provision of postal services

Section 32 a
Responsibilities of the Finnish Communications Regulatory Authority in ensuring the provision of postal services

- (1) The Finnish Communications Regulatory Authority shall ensure that postal services are provided. It shall aim to find out the addressee or sender of a postal item delivered to it by a postal undertaking in compliance with section 18, paragraph 1.
- (2) The Finnish Communications Regulatory Authority has a right to open a sealed letter while ensuring that postal services are provided, if:
 - 1) it is necessary in order to find out the addressee of a postal item so that the item can be delivered or to find out the sender of a postal item so that the postal item can be returned; or
 - 2) there is a reason to suspect that the item may cause a danger to health or property.
- (3) The Finnish Communications Regulatory Authority has a right to open a postal package while ensuring that postal services are provided, if:
 - 1) the item has been damaged and the opening is necessary in order to protect the contents or to verify their condition; or
 - 2) there is a reason to suspect that the item may cause danger to health or property;
 - 3) a postal undertaking has not been able to deliver the postal item to the addressee or return it to the sender.
- (4) A person, who in the Finnish Communications Regulatory Authority is responsible for ensuring that postal services are provided, may open a postal item only in the presence of another person. The contents of an opened postal item may not be examined in more detail than is required by the reason for the opening. The reason for and the date and place of the opening as well as the provision by virtue of which the item was opened must be marked on the cover of the item or in a separate enclosure. The persons who opened the item shall sign the marking. A record referred to in section 17 shall be drawn up of the opening.

Section 32 b
Returning a postal item to a postal undertaking

- (1) If an opened postal item includes information, according to which it can be redelivered, the Finnish Communications Regulatory Authority shall return the postal item to the postal undertaking with markings of the opening. In order to ensure the confidentiality of the message, the postal item shall be sealed before it is returned. Address information or other such information that can help to redeliver the item shall be delivered to the postal undertaking.

- (2) The postal undertaking shall redeliver a postal item it has received from the Finnish Communications Regulatory Authority with markings of the opening, if the addressee or the sender can be identified on the basis of the information in the postal item.
- (3) The postal undertaking may collect a fee for redelivering or returning a package and for returning a postal item in compliance with the provisions of chapter 6 on remote marketing of the Consumer Protection Act.

Section 32 c
Keeping and destroying an opened postal item

- (1) If no information can be found in an opened postal item that would help to redeliver it, the Finnish Communications Regulatory Authority shall keep the item for a period of six months. The period will start from the day when the item was opened.
- (2) If the addressee or sender of a postal item referred to in section 18 has not been ascertained within that six-month period, the item must be destroyed by appropriate means ensuring the confidentiality of the message. If the item contains something else than a message, which is meant to be personal, the remaining content may be sold through appropriate means.
- (3) Money from the sale of contents of the items shall be entered as income to the Finnish Communications Regulatory Authority deducted by the expenses from the sale. If the items include money, it will also be entered as income to the Finnish Communications Regulatory Authority.
- (4) An item may be destroyed without complying with the deadline enacted in paragraph 1, if:
- 1) the contents of the item are likely spoilt;
 - 2) the contents of the item may cause danger to health or property; or
 - 3) the item does not seem to be meant personal or if due to some other corresponding reason it seems unnecessary to keep the item.

Section 32 d
Public liability

Provisions regarding criminal public liability shall be applied to a person who has any sort of an employment relationship to the Finnish Communications Regulatory Authority while he or she is ensuring that postal services are provided.

Section 32 e
Secrecy obligation and an exception to the publicity of an official document

- (1) Postal items and documents included in them that are in possession of the Finnish Communications Regulatory Authority and that it has received while performing the duty referred to in this chapter, shall be kept secret.
- (2) Nobody employed by the Finnish Communications Regulatory Authority is allowed to reveal information about a postal item or its contents that he or she has received while performing the duty referred to in this chapter. The provisions of the Act on the Openness of Government Activities (621/1999) shall apply to the secrecy obligation, exploitation prohibition and violation of the secrecy obligation.
- (3) The above provisions of this section shall not prohibit the Finnish Communications Regulatory Authority from providing information to a postal undertaking on the records of the opening of postal items, if it is necessary in order to find out the correct addressee or sender of the item.

Section 32 f
Costs incurred to the Finnish Communications Regulatory Authority

When deciding the amount of the supervision fee referred to in section 31 to be collected from postal undertakings, the costs incurred to the Finnish Communications Regulatory Authority in ensuring that postal services are provided shall be considered.

Chapter 6
Coercive measures, sanctions and appeal

Section 33
Coercive measures

- (1) Should a postal undertaking violate this Act or the provisions or orders issued thereunder, the Finnish Communications Regulatory Authority may obligate the postal undertaking to remedy its error or omission.
- (2) The Finnish Communications Regulatory Authority may enforce its decision referred to in paragraph 1 through the imposition of a conditional fine or a threat that either part or all of the operations are suspended or that the omitted measure will be ordered to be performed at the cost of the party in question as provided for in the Act on the Conditional Imposition of a Fine (1113/1990).
- (3) The costs of work ordered to be performed shall be paid in advance from State funds and they may be collected from the neglecting party through execution without a judgement or decision as provided for in the Act on the Collection of Taxes and Fees through Execution (367/1961).

Section 34
Cancellation of a licence

- (1) If a licence holder referred to in section 6 fails to comply with this Act or with provisions or orders issued thereunder, the Government may cancel all or part of the licence if the violation of the law or orders has an essential effect on attending to postal services and if the licence holder does not correct his procedure within a reasonable period of time in spite of a request.
- (2) The Government may cancel the licence also if the license holder terminates its operations. Provisions on the cancellation of a licence due to the assignment of the licence are laid down in section 9.

Section 35
Unauthorised postal operations

- (1) Anyone who carries on postal operations without a licence referred to in section 6 shall, unless the act is subject to a more severe punishment elsewhere in the law, be sentenced for unauthorised postal operations to a fine.
- (2) The financial benefit obtained by the crime shall be ordered forfeited to the State in compliance with the provisions of chapter 2, section 16 of the Penal Code (39/1889).

Section 35 a (1365/2006)
Violation of the rules on postage stamps

(1) Anyone who with the intention of gaining undue financial benefit to him or herself or to anyone else

1) commits an act of falsifying or imitating a postage stamp, or commits an act linked to the unauthorised manufacturing of a falsified or an imitated postage stamp;

2) circulates, markets, distributes, disseminates, transports, exhibits, shows or publicises a falsified or an imitated postage stamp; or

3) uses or circulates a postage stamp that has already been used

shall be punished by a fine for a violation of the rules on postage stamps, unless a more severe penalty is provided elsewhere in law.

(2) An attempt is punishable.

(3) For the purposes of this Act a postage stamp refers to means of postal payment, including stamps, prepayment impressions, impressions of franking machines or printing presses, and international reply coupons, in circulation or withdrawn from circulation.

Section 36

Violation of the secrecy obligation

The punishment for a violation of the secrecy obligation provided for in section 16 shall be sentenced in accordance with chapter 38, section 1 or 2 of the Penal Code (39/1889) unless the act is punishable under chapter 40, section 5 of the Penal Code or unless the act is subject to a more severe punishment elsewhere in the law.

Section 37

Settlement of disputes

(1) Anyone who is dissatisfied with a plan drawn up by a postal undertaking on the basis of section 14 or the distribution of postal items may refer the matter to be decided by the Finnish Communications Regulatory Authority. The request for a decision shall be submitted to the Finnish Communications Regulatory Authority within sixty days from the notice of the matter in question. A person who intends to apply for a decision of the Finnish Communications Regulatory Authority in a matter concerning him or herself shall be given guidance in requesting the decision.

(2) Matters relating to contractual relationships between a postal undertaking and a customer or the liability to compensate shall, however, not fall under the jurisdiction of the Finnish Communications Regulatory Authority.

Section 38

Appeal

(1) A decision of the Government, the Ministry of Transport and Communications, the Finnish Communications Regulatory Authority and the municipal building supervision authority made under this Act may be appealed as provided for in the Procedure in Administrative Matters Act (586/1996).

(2) The Government, the Ministry of Transport and Communications and the Finnish Communications Regulatory Authority may order in their decision that the decision shall be complied with before it becomes final. However, the administrative court may enjoin the enforcement of the decision until the matter has been decided.

Section 38 a

Right of appeal of the Finnish Communications Regulatory Authority

If an Administrative Court has repealed or amended a decision of the Finnish Communications Regulatory Authority, the Finnish Communications Regulatory Authority has a right to appeal against the decision of the Administrative Court to the Supreme Administrative Court.

Chapter 7 Miscellaneous provisions

Section 39 *Executive assistance*

The Ministry of Transport and Communications and the Finnish Communications Regulatory Authority shall have the right to obtain executive assistance from the police, the customs authorities and the Frontier Guard for the enforcement of this Act and the provisions and orders issued thereunder.

Section 40 *Address register*

- (1) A postal undertaking shall have the right to maintain an address register of the senders and addressees of items for the purpose of carrying on postal operations.
- (2) In addition to the name and address information of the addressee of an item, also the personal identity number or another corresponding identifier shall be recorded in the address register. A universal service provider shall, for the purpose of carrying on postal operations, have the right to obtain from the population information system personal identity numbers and their changes, information on births and deaths and on the native language of the addressees as well as information on addresses created through zoning and the address development of sparsely populated areas and their changes.
- (3) The information in the address register shall be used to deliver items to addressees as well as to check and correct the addresses held by senders of items who have concluded an agreement for address services. The name and address information in the address register may be conveyed further for the purpose of realising the purpose of use of the address register. Personal identity number or another corresponding identifier in the address register may, however, not be conveyed further. A registered person may, however, forbid the use of his personal data for the checking and correction services of addresses.
- (4) Personal data shall be deleted from the register no later than ten years from the date when the postal undertaking has been notified of a change therein.

Section 41 *Measures in the case of termination of postal operations*

- (1) If a postal undertaking terminates its operations, it shall notify the Government thereof no later than three months prior to the termination of operations.
- (2) If the licence of a postal undertaking is cancelled, the licence is not renewed after the expiry of the licence period or if a postal undertaking otherwise terminates its operations, the Government shall decide on the measures to be taken in order to maintain postal operations.
- (3) If no agreement is concluded on the transfer of the fixed assets of a postal undertaking required for the maintenance of postal operations to another postal operator, the Government may decide on the transfer against compensation. The grounds and determination of the compensation shall comply with the provisions of the Act on the Redemption of Real Property and Certain Rights on compensation for redemption.

Section 42

Issue of postage stamps and the use of a postage payment indication

- (1) The Government may, upon application, grant a postal undertaking the right to issue internationally acceptable postage stamps. The Ministry of Transport and Communications may, upon application, grant a postal undertaking the right to issue postage stamps acceptable in Finland. The right to issue postage stamps shall, at most, be valid for the term of validity of the licence.
- (2) The Finnish Communications Regulatory Authority may, where necessary, issue provisions on the form of a postage payment indication corresponding to a postage stamp, its placement on an item of correspondence and on its other use.

Chapter 8

Provisions on entry into force and provisions on transition

Section 43

Entry into force

- (1) This Act shall enter into force on 1 January 2002.
- (2) This Act shall repeal the Act on Postal Operations of 29 October 1993 (907/1993) with later amendments.
- (3) Measures necessary for the implementation of this Act may be undertaken prior to its entry into force.

Section 44

Transitional provisions

- (1) A licence granted for postal operations until further notice and valid upon the entry into force of this Act shall be valid for twenty years from the entry into force of the Act. A licence granted for postal operations for a fixed period and valid upon the entry into force of this Act shall be valid for the term of the licence granted. If the terms of the licence are inconsistent with the provisions of this Act, the provisions of this Act shall govern.
- (2) Applications for licenses pending prior to the entry into force of this Act shall be handled in accordance with the provisions of this Act.
- (3) Section 40, paragraph 3 of this Act shall also be applied to data in the register of a postal undertaking upon the entry into force of this Act.
- (4) The register holder shall bring the address register kept by it to comply with this Act within two years from the entry into force of the Act.
- (5) A postal undertaking that has the right to issue postage stamps upon the entry into force of this Act may continue to issue postage stamps for the term of its licence.
- (6) This Act shall not be applied to an agreement concluded prior to the entry into force of this Act. The provisions of sections 19-21 of this Act on the liability to compensate shall not be applied if an item has been left to be conveyed by a postal undertaking prior to the entry into force of this Act.

Helsinki, 27 February 2001

The implementing provisions of this Act shall read as follows:

- (1) This Act enters into force on 1 January 2002.

(2) Measures necessary for the implementation of this Act may be undertaken before its entry into force.

(3) This Act shall also apply to postal items referred to in section 18 of this Act and in section 9 of the Act on Postal Operations (907/1993) that have been left to be conveyed by a postal undertaking prior to the entry into force of this Act.

The implementing provisions of the Act 866/2005 shall read as follows:

(1) This Act enters into force on 1 January 2006.

(2) This Act repeals section 19 of the Ministry of Transport and Communications decree of 11 December 2002 on fees and charges of the Finnish Communications Regulatory Authority (1126/2002).

(3) Measures necessary for the implementation of this Act may be undertaken before its entry into force.

The implementing provisions of the Act 1365/2006 shall read as follows:

This Act enters into force on 1 January 2007.