

## Postal Act<sup>1</sup>

Passed 6.04.2006 by an Act (RT<sup>2</sup> I 2006, 18, 142), entered into force 1.07.2006, clause 5 (2) 3) entered into force 01.01.2007.

Amended by the following Acts (date of passage, *Riigi Teataja* citation, date of entry into force):

10.01.2007 (RT I 2007, 7, 38) 01.01.2008  
22.11.2007 (RT I 2007, 66, 408) 01.01.2008  
6.12.2007 (RT I 2007, 69, 424) 01.01.2008  
4.12.2008 (RT I 2008, 53, 297) 01.01.2009  
10.12.2008 (RT I 2008, 59, 330) 01.01.2009

## Chapter 1

### General Provisions

#### § 1. Scope of application and purpose of Act

(1) This Act provides for:

- 1) the requirements for postal services;
- 2) the requirements for postal service providers;
- 3) the organisation of state supervision;
- 4) liability for violation of this Act.

(2) The purpose of this Act is to ensure:

- 1) provision of the universal postal service;
- 2) provision of high quality postal service;
- 3) protection of the rights of users of postal services.

(3) The provisions of the Administrative Procedure Act apply to the administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

(4) The provisions of the Register of Economic Activities Act apply to entries in the register of economic activities (hereinafter register) provided for in this Act, taking account of the specifications provided for in this Act.

(5) This Act applies to the cross-border postal services of a universal postal service provider in the case of forwarding of postal items in the territory of Estonia in so far as this is not in conflict with the Acts of the Universal Postal Union binding on the Republic of Estonia.

(6) Chapter 3 of this Act applies to postal services for the provision of which a licence is required.

## § 2. Postal service

(1) Postal service means the forwarding of addressed postal items as an economic activity.

(2) Forwarding means a process which includes the clearance, sorting, transport and delivery of postal items to the addressee.

(3) A postal item is deemed to be addressed if it bears the name and postal address of the addressee of the postal item or an indication referring thereto or is supplied with an accompanying document referring to the postal address.

(4) In the case of postal services provided within the state, the addressee and sender of a postal item are located in Estonia.

(5) In the case of cross-border postal services, the addressee or the sender of a postal item is located outside Estonia.

(6) Postal service does not mean the delivery of written communications and other items in the person's own name or for the purpose of the person's own economic activities.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

## § 3. Addressee and sender of postal item and user of postal services

(1) The addressee of a postal item (hereinafter addressee) is a person to whom or whose postal address a postal item has to be delivered according to the will of the sender.

(2) The sender of a postal item (hereinafter sender) is a person who is responsible for the content of a postal item and according to whose will and in whose name the postal item is deposited with the postal service provider for forwarding.

(3) The addressee and the sender are the users of postal services.

## § 4. Types of postal items and postal services

(1) The following are postal items:

- 1) items of correspondence;
- 2) postal parcels;
- 3) periodicals.

(2) An item of correspondence means an object or objects which is or are addressed and properly packaged and deposited with a postal service provider for forwarding. For example, letters, publications and small packages are items of correspondence.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(3) A postal parcel means an object or objects which is or are addressed and properly packaged and deposited with a postal service provider for forwarding.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(4) A periodical means an addressed publication ordered from the sender and deposited with a postal service provider by the sender for forwarding periodically, with a frequency of at least once a quarter.

(5) The following are postal services:

- 1) the forwarding of ordinary items;
- 2) the forwarding of registered items;
- 3) the forwarding of insured items;
- 3<sup>1</sup>) the forwarding of bulk items;

[RT I 2008, 53, 297 – entered into force 01.01.2009]

- 4) the forwarding of express mail items (hereinafter express mail);
- 5) the forwarding of direct mail items (hereinafter direct mail);
- 6) the forwarding of periodicals;
- 7) other postal services.

(6) The following items of correspondence and postal parcels shall be forwarded as ordinary items:

- 1) items of correspondence and postal parcels issued to the addressee or a representative of the addressee without signature;
- 2) items of correspondence and postal parcels the value of which has not been declared to the postal service provider;
- 3) items of correspondence and postal parcels in the case of the loss of or damage to which the postal service provider is not required to pay compensation.

(7) The following items of correspondence and postal parcels shall be forwarded as registered items:

- 1) items of correspondence and postal parcels issued to the addressee or a representative of the addressee against signature or on the basis of other means of identification;

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- 2) items of correspondence and postal parcels the value of which has not been declared to the postal service provider;

3) items of correspondence and postal parcels in the case of the loss of or damage to which the postal service provider is required to provide to the sender a flat-rate guarantee determined by the postal service provider beforehand.

(8) The following items of correspondence and postal parcels shall be forwarded as insured items:

1) items of correspondence and postal parcels issued to the addressee or a representative of the addressee against signature or on the basis of other means of identification;

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2) items of correspondence and postal parcels the value of which has been declared to the postal service provider;

3) items of correspondence and postal parcels in the case of the loss of or damage to which the postal service provider is required to pay to the sender the value of the item declared by the sender.

(8<sup>1</sup>) The following shall be forwarded as bulk items:

1) items of correspondence which are deposited with the postal service provider by the sender at the same time for forwarding to at least 100 addressees;

2) postal parcels which are deposited with the postal service provider by the sender at the same time for forwarding to at least 25 addressees.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(9) The following items of correspondence and postal parcels shall be forwarded as express mail:

1) items of correspondence and postal parcels issued to the addressee or a representative of the addressee against signature or on the basis of other means of identification;

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2) items of correspondence and postal parcels forwarded by courier with the aim of expeditious and reliable delivery;

3) items of correspondence and postal parcels in the case of which the sender has the possibility to obtain information concerning the location of the postal item at any time during the journey of the item, to intervene in the delivery of the postal item and also to re-organise the forwarding of the item as necessary.

(10) The following items of correspondence shall be forwarded as direct mail:

1) items of correspondence issued to the addressee or a representative of the addressee without signature;

2) items of correspondence consisting of marketing or public material;

3) items of correspondence forwarded to at least 100 addressees at the same time;

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4) items of correspondence comprising an identical message and having the same weight and measurements as the other items forwarded at the same time, except for the addressee's name, address and identifying number as well as other modifications which do not alter the nature of the message;

5) items of correspondence the wrapping of which bears an indication "*reklaam*" [advertising], "*reklaam posti teel*" [advertising by post] or "*otsepost*" [direct mail].

(11) The following is not deemed to be direct mail:

1) the forwarding of invoices;

2) the forwarding of postal items which meet the conditions provided for in clauses 10 1)-5) of this section together with a postal item which fails to meet the specified conditions.

(12) If direct mail fails to meet at least one of the conditions provided for in clauses 10 1)-4) of this section, it is deemed to be an ordinary item.

(13) The requirements for the forwarding of registered items and insured items in the framework of the universal postal service shall be established by a regulation of the Minister of Economic Affairs and Communications.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

#### § 5. Universal postal services and universal postal service provider

(1) Universal postal services mean the continued and high quality provision of postal services provided for in subsection (2) of this section at an affordable price throughout the whole territory of the Republic of Estonia on the bases and pursuant to the procedure provided by legislation.

(2) Universal postal services include the following domestic and cross-border postal services:

1) the forwarding of items of correspondence weighing up to 2 kilograms as ordinary, registered and insured items;

2) the forwarding of postal parcels weighing up to 20 kilograms as registered and insured items.

(3) Universal postal services do not include the forwarding of postal items as bulk items.

(4) A universal postal service provider is a person to whom a licence for the provision of universal postal services has been issued.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

#### § 6. Designation of universal postal service provider

- (1) A universal postal service provider shall be designated as a result of a public competition organised by the Estonian Competition Authority.
- (2) If a public competition fails, the Estonian Competition Authority shall impose the obligation to provide universal postal services for up to five years on a postal service provider who, at the time of the competition specified in subsection (1) of this section, held a licence for the provision of universal postal services.
- (3) The Estonian Competition Authority shall issue a licence for the provision of universal postal services to a person or persons who wins or win the public competition or on who the obligation to provide universal postal services is imposed pursuant to subsection (2) of this section.
- (4) Upon designation of a universal postal service provider pursuant to the provisions of subsections (1) and (2) of this section, the need to ensure the provision of universal postal services in short-term and long-term perspective in a cost-effective manner which does not endanger competition and at an affordable price shall be taken into account.
- (5) The conditions for organising a public competition specified in subsection (1) of this section shall be established by a regulation of the Minister of Economic Affairs and Communications.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

#### § 6<sup>1</sup>. Affordable price charged from users for universal postal services

- (1) The conditions for organising public competitions specified in subsection 6 (5) of this Act shall set out an affordable price for the services provided for in subsection 5 (2).
- (2) The same affordable price specified in subsection (1) of this section shall be determined for each service belonging to the set of universal postal services by a regulation of the Minister of Economic Affairs and Communications on the proposal of the Estonian Competition Authority throughout the territory of the state.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

#### § 6<sup>2</sup>. Specifications for designation of universal postal service provider

- (1) The conditions for organising public competitions specified in subsection 6 (5) of this Act shall include the obligation of the tenderer to submit at least the following information:

- 1) the incremental costs of and revenue involved in the provision of universal postal service;
- 2) ordinary business expenses incurred without the universal postal service obligation and charges from users for provision of the services provided for in subsection 5 (2) of this Act.

(2) When the costs specified in clause (1) 1) of this section are being determined:

- 1) only the costs necessary for performance of the universal postal service obligation shall be taken into account;
- 2) the costs which the postal service provider would incur also without the universal postal service obligation (ordinary business expenses), and costs which have been incurred before the beginning of the calendar year of submission of the tender shall not be taken into account.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

#### § 7. Postal network

- (1) Postal network means a set of equipment and facilities used by a postal service provider for the forwarding of postal items. A postal network is divided into a clearance network and a distribution network.
- (2) Clearance network means a set of equipment and facilities which a postal service provider uses for the collection of postal items from access points.
- (3) Distribution network means a set of equipment and facilities which a postal service provider uses for the delivery of postal items to addressees.
- (4) An access point means a place of business and other facilities used for the provision of postal services.
- (5) A post office means a permanent place of business where the provision of all postal services specified in the licence is ensured.
- (6) A letterbox means a facility for the collection of postal items which is permanently fixed and located in the clearance network of the postal service provider.
- (7) The requirements for access points used for the provision of universal postal services and their location shall be established by a regulation of the Minister of Economic Affairs and Communications.

#### § 8. Requirements for post box and location of post box

- (1) A post box is a facility for the delivery of postal items which is in the possession of the addressee.
- (2) A post box and its location must ensure the preservation of postal items.
- (3) The apartment or house number or the name of the farm shall be indicated on a post box. In addition, the name of a legal person shall be indicated on the post box of the legal person.
- (4) Postal service providers shall be ensured access to post boxes.
- (5) In a city, town or small town, a post box shall be attached to the fence surrounding the front of a private dwelling house or a terraced house, or located in the ground floor vestibule of an apartment building. If a private dwelling house or a terraced house does not have a fence, the post box shall be located near the front door at a lighted place.
- (6) In a village, according to the agreement between the owner of a post box and a universal postal service provider, the post box shall be located at a place which is at a reasonable distance from the residence or seat of the person and in a place which is accessible by means of transport throughout the year.
- (7) A universal postal service provider shall be informed of the location of a post box or changes in its location pursuant to the procedure provided for in the standard conditions of the provider.
- (8) Upon failure to comply with the requirements for post boxes and their location provided for in this section, a postal service provider has the right to refuse to forward postal items to the addressee due to being undeliverable as provided for in § 30 of this Act.

#### § 9. Postal payment means

- (1) Postal payment means are postage stamps and franking machine impressions or other impressions entered on a postal item in proof of payment for the forwarding of the postal item.
- (2) A postage stamp attached to a postal item proves payment for postal services. The word "*Eesti*" [Estonia] and the nominal value of the postage stamp in Arabic numerals shall be printed on a postage stamp.
- (3) A postage stamp may be used only in proof of payment for universal postal services.
- (4) A universal postal service provider has the exclusive right to put postage stamps on the market and revoke them.

(5) A universal postal service provider shall put postage stamps on the market and revoke them on the basis of Acts, the Universal Postal Convention and internationally recognised customary practices.

(6) The procedure for the putting on the market of postage stamps and revocation of postage stamps shall be established by a regulation of the Minister of Economic Affairs and Communications.

## Chapter 2

### Licence and Notification of Activities

#### § 10. Licence

(1) A licence is required for the provision of the following postal services:

- 1) the universal postal service;
- 2) the forwarding of items of correspondence as ordinary items, registered items, insured items or bulk items;

[RT I 2008, 53, 297 – entered into force 01.01.2009]

3) the forwarding of postal parcels as ordinary items, registered items, insured items or bulk items.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(2) A licence for the provision of universal postal services shall be issued to only one person.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(3) A separate licence shall be applied for the domestic and cross-border provision of each postal service specified in clauses (1) 2) and 3) of this section

(4) A licence is not required for the forwarding of periodicals, for direct mail or express mail.

[RT I 2007, 69, 424 – entered into force 01.01.2008]

#### § 11. Applying for licence

(1) In order to obtain a licence, a person (hereinafter applicant) shall submit a written application to the Estonian Competition Authority containing at least the following information:

[RT I 2007, 66, 408 – entered into force 01.01.2008]

- 1) the name of the applicant;

- 2) the address of the seat and other details of the applicant;
  - 3) the personal identification code or registry code of the applicant, except in the case of a person being founded;
  - 4) the name of the provided postal service;
  - 5) the date of commencement of activities.
- (2) In addition to the information specified in subsection (1) of this section, the following shall be submitted:
- 1) in the case of a legal person being founded, a copy of the memorandum of association or the foundation resolution which is authenticated notarially or pursuant to the procedure equivalent to notarial authentication;
  - 2) in the case of an operating legal person, except during the first year of operation, the annual report of the year preceding application;
  - 3) documents certifying the existence of a postal network necessary for the provision of the services or the right of use of such network;
  - 4) a proposal regarding the conditions of the licence provided for in subsection 14 (2) of this Act;
  - 5) the standard conditions for the provision of postal services (hereinafter standard conditions).
- (3) Before submitting an application, an applicant shall pay the state fee.
- (4) [Repealed – RT I 2008, 53, 297 – entered into force 01.01.2009]

#### § 12. Decision on issue of licence and on refusal to issue licence

- (1) The Estonian Competition Authority shall make a decision to issue or refuse issue of a licence on the basis of the submitted application, additional documents and information submitted additionally at the request of the Estonian Competition Authority.  
[RT I 2007, 66, 408 – entered into force 01.01.2008]
- (2) A decision specified in subsection (1) of this section shall be made within thirty days as of the receipt of the documents and information specified in § 11 of this section.
- (3) Before deciding on the issue of a licence, the Estonian Competition Authority shall:  
[RT I 2007, 66, 408 – entered into force 01.01.2008]
- 1) verify payment of the state fee;
  - 2) verify the data concerning the applicant in the register with which the person is registered, and the absence of tax arrears;

3) check the punishment register whether the person applying for the licence and persons who have the right to manage the applicant have punishments in force for a criminal offence related to office or for an economic offence;

4) decide the grant of approval or refusal to grant approval to standard conditions.

(4) The Estonian Competition Authority shall deliver the decision to issue or refuse issue of a licence to the applicant within five working days after the decision is made.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(5) The Estonian Competition Authority shall enter the information specified in subsection 14 (1) of this Act in the register.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

### § 13. Grounds for refusal to issue licence

The Estonian Competition Authority shall refuse to issue a licence if:

[RT I 2007, 66, 408 – entered into force 01.01.2008]

1) the applicant fails to submit the information required pursuant to this Act by the due date or submits misleading or inaccurate information or falsified documents;

2) the applicant or the activity specified in the application does not conform to the requirements provided by this Act or legislation established on the basis thereof;

3) the applicant has tax arrears;

4) the licence issued to the applicant or a person controlling the applicant within the meaning of the Competition Act has been revoked within three years prior to the submission of the application for a new licence;

5) the applicant or the person who has the right to manage the applicant has a punishment in force for a criminal offence related to office or for an economic offence, and data concerning his or her punishment have not been expunged from the punishment register;

6) the standard conditions are not in accordance with legislation or do not comply with the objectives provided for in this Act or

7) the applicant has not paid the state fee.

### § 14. Decision to issue licence and conditions of licence

(1) The following shall be set out in a decision to issue a licence:

1) the date of issue of the licence;

2) the period of validity of the licence;

- 3) the name and registry code or personal identification code of the recipient of the licence;
  - 4) the address of the registered office and other contact details of the recipient of the licence;
  - 5) the postal service for the provision of which the licence is issued;
  - 6) the conditions of the licence.
- (2) The conditions of a licence include the following:
- 1) the date of commencement of activities;
  - 2) the geographical area where the holder of the licence provides services and, if necessary, the geographical area where another postal service provider provides services in the name of the holder of the licence;
  - 3) the number of access points, information regarding their location and the minimum business hours of post offices;
  - 4) other conditions arising from the rights or obligations provided for in this Act or legislation established on the basis thereof.
- (3) Upon provision of postal services within the state, the geographical area specified in clause (2) 2) of this section may be:
- 1) the Republic of Estonia;
  - 2) region A which includes the following seven counties: Harju county, Hiiu county, Järva county, Lääne county, Pärnu county, Rapla county and Saare county, or
  - 3) region B which includes the following eight counties: Ida-Viru county, Jõgeva county, Lääne-Viru county, Põlva county, Tartu county, Valga county, Viljandi county and Võru county.
- [RT I 2008, 53, 297 – entered into force 01.01.2009]
- (4) The geographical area of provision of universal postal services is the Republic of Estonia.
- (5) The conditions of a licence shall be established by the Estonian Competition Authority and these are an inseparable part of the licence.
- [RT I 2008, 53, 297 – entered into force 01.01.2009]
- (6) Upon establishment of the conditions of a licence, the following shall be taken into account:
- 1) the proposal of the applicant;
  - 2) public interest;
  - 3) the need to protect the rights of the users of the postal service;

4) the rights and obligations provided for in this Act and legislation established on the basis thereof.

(7) The conditions of a licence enter into force on the date of entry into force of the licence or within the term specified by the Estonian Competition Authority.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

#### § 15. Amendment of standard conditions and conditions of licence

(1) The Estonian Competition Authority may amend the conditions of a valid licence and establish new conditions for the performance of obligations arising from legislation and on the basis of a reasoned application of the holder of the licence.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(2) The Estonian Competition Authority shall decide amendment of the conditions of a licence within thirty days after the receipt of the corresponding application of the holder of the licence or entry into force of amendments to legislation.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(3) The Estonian Competition Authority shall decide the grant of approval or refusal to grant approval to amendments to standard conditions within thirty days after the receipt of the corresponding application of the holder of the licence.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(4) The Estonian Competition Authority shall decide to refuse grant of approval to amendments to standard conditions or conditions of a licence if the requested conditions are in conflict with the requirements of legislation or the objectives of this Act.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(5) The Estonian Competition Authority shall deliver the decision on the grant of approval or refusal to grant approval to amendments to standard conditions and the decision on the amendment or refusal to amend the conditions of a licence to the holder of the licence within five working days as of the date on which the decision is made.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(6) The Estonian Competition Authority shall, on its own initiative, deliver the decision on the amendment of the conditions of a licence or on the establishment of new conditions to the holder of the licence at least sixty days before the amendments to the conditions of the licence or the new conditions enter into force.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(7) An amendment to the standard conditions shall enter into force at the time chosen by the applicant but not earlier than thirty days after the date on which the Estonian Competition Authority makes the decision.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(8) Upon amendment of the conditions of a licence or establishment of new conditions, the Estonian Competition Authority shall make a corresponding entry in the register.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

#### § 16. Validity of licences

(1) A licence enters into force on the day following the date on which the decision to issue the licence is made unless a later date is provided for in the licence.

(2) A licence expires upon:

- 1) expiry of the period of validity of the licence and failure to submit an application for extension of the period of validity in accordance with this Act;
- 2) expiry of the period of validity of the licence and failure to grant approval for the application for extension of the period of validity submitted in accordance with this Act;
- 3) revocation of the licence;
- 4) termination or dissolution of the person to whom the licence is issued and the decision on the dissolution or a corresponding notation has entered into force in the register or
- 5) the death of the person to whom the licence is issued.

#### § 17. Period of validity of licence

(1) The Estonian Competition Authority shall issue a licence for the provision of postal services specified in clause 10 (1) 1) of this Act for five years.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(2) The Estonian Competition Authority shall issue a licence for the provision of postal services specified in clauses 10 (1) 2) and 3) of this Act for five years.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

#### § 18. Extension of licence

(1) The Estonian Competition Authority may extend the period of validity of a licence on the basis of the application of the holder of the licence. Extension of the period of validity of a licence shall be subject to the provisions of this Chapter which concern application for, issue of and refusal to issue licences and the conditions of such licences.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(2) An application for the extension of a licence shall be submitted to the Estonian Competition Authority not later than sixty days before the expiry of the period of validity of the licence.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(3) Upon expiry of a licence for the provision of universal postal services, the Estonian Competition Authority shall organise a public competition specified in § 6 of this Act at least 180 days before the expiry of the period of validity of the specified licence.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(4) The period of validity of licences for the provision of postal services provided for in clauses 10 (1) 2) and 3) of this Act shall be extended for a further period of five years provided that no circumstances arose during the initial period of validity of the licence which may constitute grounds for refusal to issue or extend a licence or for the revocation of a licence.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(5) Upon extension of the period of validity of a licence, the conditions of the licence shall remain in force unless the Estonian Competition Authority decides to amend them or to establish new conditions.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(6) Upon extension of the period of validity of a licence, the Estonian Competition Authority shall make a corresponding entry in the register.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

## § 19. Suspension of licences

(1) If the holder of a licence is unable to comply with the conditions of the licence or the obligations prescribed in this Act, the holder of the licence shall immediately notify the Estonian Competition Authority thereof in writing. The notification shall list the obligations which the holder of the licence is unable to perform, specify the reasons for failure to perform the obligations and the term for suspension of the licence.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(2) The Estonian Competition Authority has the right to suspend a licence by the date requested by the holder of the licence if the reasons submitted by the holder of the licence materially prevent the provision of postal services under the conditions provided for in the licence, this Act or other legislation.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(3) The Estonian Competition Authority shall make a decision within thirty days after the receipt of a notification provided for in subsection (1) of this section.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(4) The Estonian Competition Authority has the right to suspend a licence on its own initiative if the holder of the licence fails to perform the conditions of the licence or the obligations prescribed in this Act and a term for the elimination of deficiencies has been designated. The licence shall be suspended until the beginning of the term for elimination of the deficiencies.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(5) The Estonian Competition Authority shall deliver the decision to suspend or refuse suspension of a licence or a part of the licence to the holder of the licence within five working days after the corresponding decision is made.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(6) Upon suspension of a licence, the Estonian Competition Authority shall make a corresponding entry in the register.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

## § 20. Revocation of licences

(1) The Estonian Competition Authority may revoke a licence if:

[RT I 2007, 66, 408 – entered into force 01.01.2008]

- 1) the holder of the licence fails to perform the obligations provided for in this Act or legislation established on the basis thereof or fails to fulfil the conditions of the licence;
- 2) the activities of the holder of the licence damage the rights of other postal service providers or their interests protected by law;
- 3) the holder of the licence has failed to commence the activities specified in the licence by the date prescribed by the licence or terminates such activities within the period of validity of the licence;
- 4) circumstances become evident in connection with the activities of the holder of the licence which constitute grounds for refusal to issue a licence under this Act;
- 5) according to tax authorities, the holder of the licence has repeatedly materially violated tax laws during the period following the issue of the licence;
- 6) the holder of the licence has repeatedly failed to comply with a precept of the Estonian Competition Authority;

[RT I 2007, 66, 408 – entered into force 01.01.2008]

- 7) the holder of the licence applies therefor or
  - 8) the holder of the licence is declared bankrupt.
- (2) Upon revocation of a licence, the Estonian Competition Authority shall delete the information concerning the holder of the licence from the register.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

#### § 21. Giving notification of provision of postal services

(1) A person who wishes to commence the provision of postal services for which a licence is not required shall notify the Estonian Competition Authority thereof in writing not later than ten days after commencement of the activities.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

- (2) A notification shall contain at least the following information:
- 1) the name of the person;
  - 2) the address of the seat and other details of the person;
  - 3) the personal identification code or registry code, except in the case of a person being founded;
  - 4) the name of the provided postal service;
  - 5) the geographical area of provision of the postal services;
  - 6) the date of commencement of activities.
- (3) The information specified in subsection (2) of this section shall be published in a register.

### Chapter 3

#### Requirements for Postal Services and Postal Service Providers

#### § 22. Postal service providers and provision of postal services

- (1) A postal service provider is an undertaking which provides one or several postal services. Only the transport of postal items does not mean the provision of postal services.
- (2) A postal service provider is required to provide postal services specified in the licence to anyone who has declared a wish to receive the service under equal conditions.
- (3) The provision of postal services may be suspended or terminated during the period of validity of the licence only under the conditions provided for in §§ 19 and 20 of this Act on

the basis of the corresponding decision of the Estonian Competition Authority or due to *force majeure*.

(4) The provision of postal services shall comply with the requirements provided for in this Act, legislation established on the basis thereof, a contract entered into for the provision of postal services and a licence.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

### § 23. Contracting

(1) A postal service provider need not perform the obligations arising from a contract for the provision of postal services personally.

(2) The provisions of subsection (1) of this section do not release the postal service provider who receives a postal item from a sender for forwarding from the obligation to comply with the requirements provided for in this Act, legislation established on the basis thereof and a contract and a licence for the provision of postal services.

### § 24. Use of postal network of another postal service provider

(1) The use of a postal network of another postal service provider for the purposes of provision of postal services is permitted only upon existence of a corresponding written contract (hereinafter contract for the use of a postal network). The conditions and charges for the use of a postal network shall be accessible to everyone free of charge on the website of the postal service provider and in all the post offices of the postal service provider.

(2) Access to the postal network of another postal service provider shall be available under the same conditions and with the same quality under or with which the other postal service provider offers access to its parent company or subsidiaries, subscribers or business partners.

(3) A postal service provider may, inter alia, apply for access to the following components and facilities of the postal network:

- 1) the postcode system;
- 2) post office boxes;
- 3) the re-direction service;
- 4) the return to sender service;
- 5) the distribution network.

- (4) A postal service provider is required, at the request of another postal service provider, to negotiate the use of a postal network in good faith if this is necessary for the provision of postal services.
- (5) Postal service providers have the right to agree on the technical and commercial conditions for the use of a postal network, taking account of the provisions of this section.
- (6) All essential conditions shall be agreed on in a contract for the use of a postal network, including:
- 1) the extent of use of the postal network;
  - 2) the procedure for the deposit of postal items;
  - 3) the charge for the use of the postal network and the procedure for the settlement of accounts;
  - 4) the conditions for the delivery of postal items to addressees;
  - 5) the conditions for the retention and return of postal items which have not been forwarded due to being undeliverable.
- (7) The charge for the use of a postal network of another postal service provider shall be cost-oriented and may include a reasonable profit.
- (8) A postal service provider using the postal network of another postal service provider shall communicate a contract for the use of the postal network together with an application for amendment of the conditions of the licence to the Estonian Competition Authority within three working days after entry into the contract.
- (9) A postal service provider may refuse to enter into a contract for the use of a postal network if creation of the conditions for access is unreasonably burdensome or damages the integrity of its network or other objective bases provided for in subsection 18 (2) of the Competition Act exist.
- (10) Disputes related to access to a postal network shall be resolved by the Estonian Competition Authority in accordance with this Act and the Competition Act.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

#### § 25. Refusal to provide postal services

- (1) A postal service provider shall refuse to forward a postal item if it becomes evident that the postal item contains:
- 1)–2) [Repealed – RT I 2007, 7, 38 – entered into force 01.01.2008]
  - 3) tear gas or nerve gas balloons;
  - 4) explosive or highly flammable substances;

- 5) toxic substances or radioactive substances;
- 6) biological infectious materials;
- 7) narcotic drugs or psychotropic substances;
- 8) acids;
- 9) highly perishable foodstuffs;
- 10) live animals, with the exception of silk-worms, bees and leeches;
- 11) poisonous plants;
- 12) articles which, by their nature or their packing, may expose the addressee of the postal item and postal workers to danger, or damage other items;
- 13) obscene or immoral articles and objects;
- 14) money;
- 15) articles the importation of which is prohibited or restricted by the legislation in the country of destination;
- 16) articles the prohibition or restriction on the importation or exportation of which is provided for in other legislation.

(2) A postal service provider may specify the list specified in subsection (1) of this section in the standard conditions of the postal service provider pursuant to the Universal Postal Convention.

(3) In the case of possible physical danger arising from a postal item to persons or things, a postal service provider shall immediately inform the alarm centre thereof.

#### § 26. Postal charges

(1) Postal service providers have the right to establish charges in different amounts to users of postal services depending on the weight, measurements, time of delivery and manner of handling of the postal item.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(1<sup>1</sup>) Postal service providers have the right to establish charges in different amounts to users of postal services depending on the quantity of postal items deposited with the postal service provider. A postal service provider may apply a discount in an objectively justified, uniform and equal manner regarding all persons who comply with the conditions for the discount and the discount shall not be connected with the obligation to use other postal services. The rate of the discount must be cost-oriented and justifiable by cost saving resulting from the deposit of large quantities.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(2) A postal service provider has the right to establish a charge for another postal service provider who uses the postal network of the postal service provider for the provision of postal services on the basis of the geographical area of delivery of a postal item or the population density of the area.

(3) A postal service provider may apply a discount for postal charges if the cost of forwarding the postal item is smaller than the cost of provision of the basic service.

(4) Postal charges and the principles of discounts shall be accessible to everyone free of charge on the website of the postal service provider and in all the post offices of the postal service provider.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(5) The discount offered by a postal service provider and the conditions relating thereto shall be transparent and in compliance with the principle of equal treatment.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

#### § 27. Standard conditions

(1) The standard conditions are applicable upon provision of postal services to a user of postal services unless a different agreement has been entered into with the user.

(2) The standard conditions shall set out:

1) the type or types of the postal service;

2) the description of the postal service;

3) the requirements for postal items (measurements and weight of postal items, description of their permitted content, packaging of postal items, mandatory parts of postal address);

4) the quality requirements for postal services (manner, time and frequency of delivery of postal items) and circumstances which the service provider regards as *force majeure* and, if necessary, the exemptions established pursuant to § 37 of this Act;

5) the list of items the forwarding of which is prohibited;

6) the procedure for payment for postal services and the procedure for and manner of giving notification of changes in the charges;

7) the conditions for the forwarding, reorganisation of forwarding, returning and issue of postal items and postal item retention periods;

8) the procedure for processing and use of personal data;

9) the procedure for giving notification of the location of a post box or changes in its location in the case of provision of universal postal services;

10) the procedure for the filing of complaints to postal service providers and for the settlement of such complaints, including proceedings for the establishment of the person liable in cases where more than one undertaking is involved;

[RT I 2008, 53, 297 – entered into force 01.01.2009]

11) compensation for loss of and damage to postal items;

12) a reference to the possibility specified in this Act to file a complaint with the Estonian Competition Authority or a court;

[RT I 2007, 66, 408 – entered into force 01.01.2008]

13) other conditions necessary for the provision of postal services.

(3) The minimum and maximum measurements and weight of postal items provided for in the standard conditions of a universal postal service provider shall be in compliance with the measurements and weight specified in the Acts of the Universal Postal Union binding on the Republic of Estonia.

(4) The standard conditions shall be accessible to everyone free of charge on the website of the postal service provider and in all the post offices of the postal service provider.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

#### § 28. Marking of postal items

(1) A postal service provider shall mark a postal item or the accompanying document of the postal item which refers to the postal address such that it ensures indication of the business name of the postal service provider and the place and date of deposit of the postal item for forwarding.

(2) In addition to the provisions of subsection (1) of this section, items of correspondence forwarded as ordinary items with agreed time of delivery in the framework of provision of the universal postal service pursuant to subsection 37 (7) of this Act shall bear a specific marking.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(3) The provisions of subsections (1) and (2) of this section do not apply to periodicals.

#### § 29. Delivery of postal items

(1) A postal item is deemed to be delivered if the postal item has been issued to the addressee in a post office, personally or through a post box.

(2) Items of correspondence and periodicals forwarded as ordinary items shall be delivered to the addressee through the post box unless there is a different agreement.

### § 30. Undeliverable postal items

(1) For the purpose of this Act, a postal item is undeliverable if:

- 1) the postal item cannot be delivered to the addressee due to the absence, inaccuracy or illegibility of the postal address or due to another similar reason;
- 2) the addressee of the postal item fails to collect the postal item from a post office during the period designated by the postal service provider or refuses to accept the postal item;
- 3) the delivery charge has not been paid for the postal item or less than the charge rate established by the postal service provider has been paid and the addressee refuses to pay the missing portion;
- 4) the postal item cannot be forwarded to the addressee due to the absence of a post box, lack of access to the post box or failure to comply with the requirements provided in this Act regarding post boxes.

(2) In the case specified in clause (1) 1) of this section, a postal service provider shall make reasonable efforts to identify the postal address of the addressee of a postal item.

(3) If a postal item is being undeliverable, the postal item shall be returned to the sender. A postal service provider has the right to demand a reasonable charge for the return from the sender.

(4) If information regarding the sender of a postal item has not been indicated on the postal item or the sender refuses to accept the postal item returned to the sender, the postal service provider has the right to open the postal item pursuant to the provisions of § 32 of this Act.

(5) If, upon opening of a postal item, information regarding the sender of a postal item is not evident or the sender refuses to accept the postal item returned to the sender, the postal service provider shall retain the postal item pursuant to the provisions of § 31 of this Act.

(6) If a postal item accepted for forwarding from another postal service provider is returned to a postal service provider, the postal service provider is required to inform the other postal service provider thereof and organise the delivery of the postal item to the other postal service provider. A charge may be demanded for the return of a postal item.

### § 31. Retention, sale and destruction of postal items not forwarded due to being undeliverable

(1) The provisions of Chapter 6 of the Law of Obligations Act applies to the retention and sale of postal items, taking account of the specifications provided for in this section.

(2) A postal service provider is required to retain a postal item not forwarded due to being undeliverable for six months as of the first occurrence of being undeliverable.

(3) A postal service provider may immediately destruct a postal item which has not been forwarded due to being undeliverable and the content of which is rapidly perishable or contains printed matter for advertising or marketing purposes.

(4) If the addressee or the sender has not claimed a postal item within the period specified in subsection (2) of this section, the postal service provider shall organise the sale or destruction of the item.

(5) A written notice and objects of small value contained in a postal item shall be destructed upon expiry of the term specified in subsection (2) of this section. Other contents of the postal item shall be sold on condition that this does not breach the inviolability of private life of the sender or addressee of the postal item.

#### § 32. Opening of postal items

(1) A postal service provider has the right to open a postal item in order to:

- 1) protect the content of a damaged postal item or document its condition;
- 2) identify the sender of the postal item in the case of the postal item being undeliverable;
- 3) enable the customs control of the postal item.

(2) At the request of the addressee, registered items and insured items shall be opened upon delivery in the presence of the postal service provider.

(3) A postal service provider has the right to demand that the sender open a registered item or an insured item upon acceptance thereof.

(4) An opened postal item shall be marked and a report shall be prepared regarding the opening pursuant to the procedure established by the postal service provider.

(5) It is prohibited to examine the contents of an opened postal item to a wider extent than required in connection with the reason for the opening of the postal item. The persons present at the opening of a postal item are required to maintain postal secrecy concerning information which becomes known to them upon the opening of the postal item.

#### § 33. Postal secrecy

(1) Postal secrecy means confidentiality of all information pertaining to the contents of a postal item and concerning the postal traffic of a specific person.

- (2) Postal service providers, employees of a postal service provider and persons who have been granted the right to manage a postal service provider shall maintain postal secrecy during and after the provision of the postal service.
- (3) The persons specified in subsection (2) of this section are prohibited from collecting information concerning the content of postal items or specific circumstances of postal traffic to a wider extent than needed for the provision of postal services. It is prohibited to use such information for purposes other than the provision of postal services.
- (4) Exceptions to the obligation to maintain postal secrecy provided in subsections (2) and (3) of this section may be made solely in the cases and pursuant to the procedure provided by law.

#### § 34. Use of personal data

- (1) A postal service provider has the right to gather and process non-sensitive personal data regarding senders and addressees pursuant to the procedure provided in legislation for the preparation and maintenance of an address register used for the provision of postal services.
- (2) The provisions of subsection (1) of this section do not give the right to collect, process and use information related to the content of postal items.
- (3) A postal service provider may, with the consent of a customer, process and use the personal data collected in order to advertise its own services, advise customers or conduct market research. The procedure for the processing and use of personal data shall be provided for in the standard conditions of the postal service provider.
- (4) A postal service provider shall not use personal data for the provision of services to third persons.
- (5) A postal service provider may disclose personal data to a third person only in the cases and pursuant to the procedure provided by law.

#### Chapter 4

##### Universal Postal Service

[RT I 2008, 53, 297 – entered into force 01.01.2009]

##### Division 1

##### Requirements for Universal Postal Service and Universal Postal Service Provider

[RT I 2008, 53, 297 – entered into force 01.01.2009]

### § 35. Cross-border postal service

(1) A universal postal service provider is required to provide cross-border postal services pursuant to the Acts of the Universal Postal Union binding on the Republic of Estonia.

(2) In the agreements on terminal dues entered into with a universal service provider of a Member State of the European Union, the following principles shall be respected:

1) terminal dues shall be fixed in relation to the costs of processing and delivering incoming postal items;

2) levels of terminal dues shall be related to the quality of the postal service achieved;

3) terminal dues shall be transparent and non-discriminatory.

(3) For the purposes of this Act, terminal dues mean the charge paid to the universal postal service provider by the foreign postal service provider which accepted a postal item for forwarding for the delivery of the postal item within the territory of Estonia or the charge paid to the accepting postal service provider by the universal postal service provider for the delivery of the postal item in the country of destination.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

### § 36. Financial services

(1) A universal postal service provider has the obligation to provide the following financial services through its postal network throughout the whole territory of Estonia:

1) payment of pensions and benefits;

2) cash transfers.

(2) Financial services shall be provided in compliance with the requirements for payment orders provided for in the Law of Obligations Act.

### § 36<sup>1</sup>. Forwarding of periodicals and procedural documents

[RT I 2008, 59, 330 – entered into force 01.01.2009]

(1) A universal postal service provider has the obligation to forward periodicals through its postal network throughout the whole territory of Estonia.

[RT I 2007, 69, 424 – entered into force 01.01.2008]

(2) The delivery of periodicals to the addressee shall be ensured six days a week once a day.

[RT I 2007, 69, 424 – entered into force 01.01.2008]

(3) A universal postal service provider and a provider of the service of forwarding of items of correspondence are required to forward any parcel subject to service in judicial or administrative proceedings regardless of its weight.

[RT I 2008, 59, 330 – entered into force 01.01.2009]

(4) The provisions of this Act and the provisions of the standard conditions of the postal service provider regarding the delivery of postal items apply to the forwarding of procedural documents only to the extent to which this is contrary to the provisions of procedural law regarding the delivery of procedural documents.

[RT I 2008, 59, 330 – entered into force 01.01.2009]

### § 37. Quality of universal postal service

(1) A universal postal service provider shall ensure the collection of postal items and the delivery of postal items to the addressees on all working days and not less than five days a week and once a day throughout the whole territory of Estonia.

(2) [Repealed - RT I 2007, 69, 424 – entered into force 01.01.2008]

(3) A universal postal service provider has the right to establish permanent exceptions from the frequency of clearance and delivery of postal items:

- 1) on national holidays and public holidays;
- 2) in the case of an island which does not have a regular ferry, boat or flight connection which allows delivery of a postal item with the prescribed frequency.

(4) In the case specified in clause (3) 2) of this section, postal items shall be collected and delivered with a frequency which corresponds to the frequency of the ferry, boat or flight traffic. The exceptions do not apply in the case of postal items the sender and addressee of which are located in the territory of the same island and the island has at least one post office.

(5) At least 90 per cent of items of correspondence forwarded as ordinary items which, for the provision of domestic postal services, are deposited with the universal postal service provider through a letterbox or post office before the latest prescribed collection time shall be delivered to the addressee during the working day after deposit.

(6) A universal postal service provider has, with the agreement of the user of postal services, the right to specify a time for the delivery of postal items which is different from the one provided for in subsection (5) of this section.

(7) At least 90 per cent of items of correspondence forwarded as ordinary items the time of delivery of which, upon agreement with the user of postal services, is longer than the working day following the date of deposit of the item and which, for the provision of

domestic postal services, are deposited with the universal postal service provider through a letterbox or post office before the latest prescribed collection time shall be delivered to the addressee not later than during the third working day after deposit.

(8) If an item of correspondence is deposited after the latest prescribed collection time, the date of deposit to be taken into consideration shall be the next day when the item of correspondence is collected.

#### § 38. Quality inspection

(1) A universal postal service provider shall ensure that a person independent of the service provider inspects compliance of the universal postal service with the quality requirements.

(2) Once a year, a universal postal service provider is required to prepare and make available to the public a report concerning the results of the inspection provided for in subsection (1) of this section. The report shall contain information on the number of complaints filed regarding the universal postal service and the settlement of such complaints.

§ 39 [Repealed - RT I 2008, 53, 297 – entered into force 01.01.2009]

#### § 40. Revenue and cost accounting separation

(1) A universal postal service provider shall keep separate revenue and cost accounting:

- 1) regarding postal services belonging to the set of the universal postal service;
- 2) separately regarding each service for the provision of which common resources with postal services belonging to the set of the universal postal service are used.

(2) A universal postal service provider shall use activity based cost accounting.

(3) The revenue and cost accounting of a universal postal service provider shall be based on the process of provision of universal postal service and clearly specify the resources, activities and services necessary therefor.

(4) The universal postal service shall be provided in compliance with the principle of cost-effectiveness.

(5) The cost accounting of a universal postal service provider shall comply with the following principles:

- 1) causal relationship – costs must be related to the activities or services which cause the costs;

- 2) objectiveness – the allocation of costs must be based on objective bases and shall not bring about unjustified profit or loss for the universal postal service provider.
- (6) The requirements for the revenue and cost accounting of a universal postal service provider shall be established by a regulation of the Minister of Economic Affairs and Communications.
- (7) The compliance of revenue and cost accounting with the requirements provided for in this Act and legislation established on the basis thereof shall be assessed by an independent auditor.
- (8) A universal postal service provider shall submit a balance sheet and a profit and loss account for each area of activity in the notes to its annual accounts.
- (9) A universal postal service provider shall append to its annual accounts an explanation of the principles for allocation of expenditure among the undertakings belonging to the same group. Any amendments to the specified principles and the reasons therefor shall be set out in the annual accounts.
- (10) The Government of the Republic has the right to establish, by a regulation, additional, duly substantiated requirements for a universal postal service provider regarding its accounts and the disclosure of reports with a view to ensuring transparent reporting on the revenue and cost of activities related to the provision of the universal postal service and on transactions between undertakings belonging to the same group.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

#### § 41. Standards

- (1) A universal postal service provider shall perform the obligations provided for in this Act and legislation established on the basis thereof on the basis of the harmonised standards.
- (2) The Estonian Competition Authority shall provide information on the standards specified in subsection (1) of this section.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

#### Division 2

##### Financing of Universal Postal Service

[RT I 2008, 53, 297 – entered into force 01.01.2009]

#### § 41<sup>1</sup>. Costs related to performance of universal postal service obligation

(1) A universal postal service provider may submit to the Estonian Competition Authority an application for compensation for the unfairly burdensome costs relating to the performance of the universal postal service obligation. The application shall be submitted not later than on the tenth day of the month following the accounting quarter.

(2) Upon assessment of the costs relating to the performance of the universal service obligation, the Estonian Competition Authority shall verify whether the specified costs are justified.

(3) If, as a result of the assessment specified in subsection (2) of this section, the Estonian Competition Authority finds that performance of the universal postal service obligation is unfairly burdensome for a universal postal service provider, taking account of the revenue arising from performance of the specified obligation and any market benefit, the Estonian Competition Authority shall decide to compensate for the costs related to the universal postal service obligation to the extent provided for in subsection (4) of this section.

(4) The costs specified in subsection (3) of this section shall be compensated for a universal postal service provider only to the extent to which the price charged from users specified in § 6<sup>1</sup> of this Act does not enable covering of the costs related to performance of the universal postal service obligation and ensure a reasonable profit.

(5) In order to assess the costs specified in this section, the Estonian Competition Authority shall develop uniform methods based on the weighted average capital cost. The relevant methods shall be published on the web page of the Estonian Competition Authority.

(6) The procedure for compensation for the costs specified in this section shall be established by a regulation of the Minister of Economic Affairs and Communications.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

§ 41<sup>2</sup>. Source of financing of universal postal service, universal postal service charge and rate of universal postal service charge

(1) The costs specified in § 41<sup>1</sup> of this Act shall be compensated for out of the universal postal service charges paid by postal service providers with the obligation to pay the universal postal service charge (hereinafter the financing obligation).

(2) Universal postal service charge is a payment made by a postal service provider with the financing obligation in order to compensate for the costs specified in § 41<sup>1</sup> of this Act. The amount of the charge shall be determined such that the principles of transparency, non-discrimination and proportionality are respected.

(3) A postal service provider with a financing obligation is required to pay the universal postal service charge in the amount of 0-5 per cent of the volume of postal services specified in the licence during the previous accounting quarter or on the basis of the volume of postal services specified in the licence during the previous accounting quarter as follows:

- 1) the forwarding of items of correspondence as ordinary items, including forwarding as bulk items, 0-3 kroons per unit;
- 2) the forwarding of items of correspondence as registered items and insured items, including forwarding as bulk items, 0-25 kroons per unit;
- 3) the forwarding of postal parcels as ordinary items, registered items and insured items, including forwarding as bulk items, 0–18 kroons per unit.

(4) The rate of the charge specified in subsection (3) of this section shall be established by a regulation of the Government of the Republic on the proposal of the Minister of Economic Affairs and Communications.

(5) The Minister of Economic Affairs and Communications shall submit the proposal specified in subsection (4) of this section on the basis of the proposal of the Estonian Competition Authority.

(6) The Estonian Competition Authority shall submit the proposal specified in subsection (5) of this section on the basis of the following:

- 1) the volume, turnover and number of providers of licensed postal services;
- 2) the possible amount of the costs specified in § 41<sup>1</sup> of this Act;
- 3) the amount of the unused universal postal service charge provided for in subsection 41<sup>4</sup> (5) of this Act.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

#### § 41<sup>3</sup>. Postal service provider with financing obligation

(1) A postal service provider who has received a licence for the provision of postal services specified in clauses 10 (1) 2) and 3) of this Act has a financing obligation.

(2) In accounting, a postal service provider with a financing obligation shall keep separate revenue and cost accounting regarding the provision of services specified in the licence.

(3) In the case of a person specified in subsection (1) of this section, the financing obligation shall terminate as of the moment of expiry of the licence pursuant to the procedure provided for in subsection 16 (2) of this Act.

(4) If the financing obligation arises or terminates before the fifteenth day of the calendar month, the financing obligation is deemed to have arisen or terminated as of the beginning of the calendar month.

(5) If the financing obligation arises or terminates after the fifteenth day of the calendar month, the financing obligation is deemed to have arisen or terminated as of the following calendar month.

(6) A postal service provider with a financing obligation shall submit to the Estonian Competition Authority a written declaration which includes information on the revenue and cost accounting not later than on the tenth day of the month following the accounting quarter.

(7) Upon failure to perform the obligation to submit the declaration provided for in this section, the Estonian Competition Authority may designate a new term for the submission of the application and issue a warning stating that a penalty payment may be imposed for failure to perform the obligation. The upper limit for a penalty payment is the upper limit provided for in subsection 91 (4) of the Taxation Act. Penalty payment shall be imposed and collected pursuant to the procedure provided for in the Taxation Act.

(8) The requirements for the declaration of information on the revenue and cost accounting specified in subsection (2) of this section shall be established by a regulation of the Minister of Economic Affairs and Communications. The requirements shall set out:

- 1) the procedure for submission of the declaration;
- 2) information submitted in the declaration and the format of the declaration;
- 3) the procedure for the use of the declared information.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

#### § 41<sup>4</sup>. Payment, receipt and use of universal postal service charge

(1) Universal postal service charge shall be paid not later than on the twenty-fifth day of the month following the accounting quarter.

(2) For universal postal service charge to be paid, the Estonian Competition Authority shall send a corresponding notice not later than seven days before the due date for payment of the universal postal service charge to the postal service provider with a financing obligation. The Estonian Competition Authority shall compensate for the costs related to the universal postal service obligation to the universal postal service provider to the extent provided for in subsection 41<sup>1</sup> (4) of this section not later than on the thirtieth day of the month following the accounting quarter.

(3) A notice specified in subsection (2) of this section is an administrative act which shall contain at least the following information:

- 1) the given name, surname and position of the official who prepared the notice;
- 2) the date of preparation of the notice;
- 3) the name and address of the postal service provider with a financing obligation;
- 4) the amount of the universal postal service charge subject to payment;
- 5) the legal and factual basis for the notice, including the bases for calculation of the amount of the universal postal service charge subject to payment;
- 6) the due date for payment of the universal postal service charge;
- 7) a warning concerning the commencement of compulsory enforcement in case of failure to pay the universal postal service charge by the due date.

(4) If a postal service provider with the financing obligation fails to pay the universal postal service charge by the due date specified in subsection (1) of this section, the Estonian Competition Authority has the right to submit a notice specified in subsection (2) for compulsory enforcement pursuant to the procedure provided for in the Code of Enforcement Procedure.

(5) If the universal postal service charges paid during a calendar year exceed the costs compensated to the universal postal service provider pursuant to § 41<sup>1</sup> of this Act during the calendar year, the universal postal service charges paid but not used during the calendar year are deemed to be prepaid.

(6) Upon the expiry of a financing obligation, the paid universal postal service charges shall not be refunded.

(7) Universal postal service charge is paid into the state budget.

(8) The procedure for the payment of universal postal service charge into the state budget and for the use of the charge shall be established by a regulation of the Minister of Finance.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

## Chapter 5

### State Supervision

#### § 42. Notification

(1) The Ministry of Economic Affairs and Communications shall notify the European Commission of the following:

1) the name, personal identification or registry code and address of the seat of the universal postal service provider;

1<sup>1</sup>) measures which are taken to ensure the provision of the universal postal service;

[RT I 2008, 53, 297 – entered into force 01.01.2009]

2) ways of ensuring that users of postal services and postal service providers are notified of the conditions of access to, standard conditions and charges of the universal postal service;

[RT I 2008, 53, 297 – entered into force 01.01.2009]

3) the quality requirements for the universal postal service provided for in § 37 of this Act and the permitted exceptions.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(2) If the European Commission so requests, the Ministry of Economic Affairs and Communications and the Estonian Competition Authority are required to provide sufficient and relevant information to the European Commission which the European Commission needs to perform its functions arising from Directive 97/67/EC of the European Parliament and of the Council on common rules for the development of the internal market of Community postal services and the improvement of quality of service (OJ L 15, 201.01.1998, p. 14–25) and Directive 2008/6/EC of the European Parliament and of the Council amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services (OJ L 52, 27.02.2008, p. 3–20).

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(3) The Ministry of Economic Affairs and Communications and the Estonian Competition Authority may provide information regarding postal service providers to the supervisory authorities of other Member States of the European Union, of states which are Contracting Parties to the European Economic Area Agreement and of Candidate Countries to the European Union.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(4) If information provided by the Ministry of Economic Affairs and Communications or the Estonian Competition Authority to the European Commission includes information obtained from a postal service provider, the possessor of the information shall inform the postal service provider of forwarding such information to the European Commission.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(5) If the Ministry of Economic Affairs and Communications or the Estonian Competition Authority finds that disclosure to the supervisory authorities of other Member States of the European Union, of states which are Contracting Parties to the European Economic Area

Agreement and of Candidate Countries to the European Union of information submitted to the European Commission is not justified, the Ministry of Economic Affairs and Communications or the Estonian Competition Authority shall inform the European Commission at the time of submission of such information that the Authority does not wish the information to be communicated to the specified supervisory authorities and present an explanation concerning the reasons for failure to make the information public.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(6) If the Ministry of Economic Affairs and Communications or the Estonian Competition Authority has provided information to one supervisory authority of a Member State of the European Union, of a state which is a Contracting Party to the European Economic Area Agreement or of a Candidate Country to the European Union, the Ministry or the Authority is required to provide, upon a reasoned request, the same information to other specified supervisory authorities.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

#### § 43. Competence of Estonian Competition Authority

(1) State supervision over the requirements provided for in this Act and legislation established on the basis thereof shall be exercised by the Estonian Competition Authority.

(2) If necessary, the Estonian Competition Authority shall involve independent experts and co-operate with other Estonian and foreign supervisory authorities in order to exercise supervision.

(3) The Estonian Competition Authority has the right to inspect the cost accounting of postal service providers with a financing obligation, which is related to the provision of services specified in the licence.

(4) The Estonian Competition Authority has the right to verify the correctness of payment of the universal postal service charge and make payments from the state budget to a universal postal service provider to compensate for the unfairly burdensome costs relating to the performance of the universal postal service obligation.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

#### § 44. Precepts

(1) The Director General of the Estonian Competition Authority and a person authorised thereby have the right to issue precepts for the termination of an offence or for the restoration of a lawful situation if, in the course of supervision, a violation of this Act or legislation

established on the basis thereof or a breach of the conditions or standard conditions of a licence has been detected.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(2) A precept of the Estonian Competition Authority shall set out:

[RT I 2007, 66, 408 – entered into force 01.01.2008]

- 1) the time and place of its preparation;
- 2) the address of the Estonian Competition Authority;

[RT I 2007, 66, 408 – entered into force 01.01.2008]

- 3) the official title, given name and surname of the official who prepared the precept;
- 4) the person regarding who the precept is issued;
- 5) the circumstances of issue of the precept;
- 6) the provisions which prescribe liability for the offence;
- 7) a demand that the offence be terminated or certain acts be performed;
- 8) the term for compliance with the precept;
- 9) a reference concerning the possibilities, place, terms and procedure for the contestation of the precept.

(3) A precept shall be delivered to a person or a representative thereof against signature or sent by post within three working days after the date on which the decision is made.

(4) Upon failure to comply with a precept, the Estonian Competition Authority may impose a penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(5) The maximum rate of penalty payment specified in subsection (4) of this section is 10 000 kroons.

(6) The Estonian Competition Authority shall enter the information concerning the precept in the register within three working days after the date of issue of the precept.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(7) Upon compliance with, revocation of or establishment of the invalidity of a precept, information regarding the precept shall be deleted from the register.

#### § 45. Obligation to communicate information

(1) The Director General of the Estonian Competition Authority and a person authorised thereby have the right to request from postal service providers and other persons information necessary for the performance of the duties and functions imposed on the Estonian

Competition Authority. Postal service providers have the right to request information concerning postal traffic and financial and non-financial data characterising economical activity. The documents of postal service providers concerning the provision of postal services and the work equipment of postal service providers may be inspected during the business hours of the postal service providers.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(2) The Estonian Competition Authority shall prepare a request for information or documents in writing and shall specify the term for submission of the information or documents, which shall not be less than ten days.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(3) A postal service provider is required to notify the Estonian Competition Authority within thirty days in writing of any changes in the information specified in subsection 11 (1) of this Act as compared to the information communicated to the Estonian Competition Authority by the postal service provider pursuant to law.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(4) Officials of the Estonian Competition Authority are required to maintain postal or business secrets which have become known to them in the course of performing their duties and have the right to use such information only for the performance of their duties.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

#### § 46. Settlement of complaints

(1) Every person may file a complaint with the Estonian Competition Authority concerning the activities of a postal service provider which are contrary to law or concerning the conditions of the licence of the postal service provider.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(2) The Director General of the Estonian Competition Authority or a person authorised thereby shall review a complaint specified in subsection (1) of this section and make a decision thereon within sixty days as of the receipt of the complaint.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(3) The Director General of the Estonian Competition Authority and a person authorised thereby have the right to request additional information from a person who has or may have information necessary to make the decision specified in subsection (2) of this section and to conduct expert assessments or organise the conduct of expert assessments by third parties. The term specified in subsection (2) of this section shall be suspended as of the submission of

a corresponding request by the Director General of the Estonian Competition Authority or a person authorised thereby until the submission of requested additional information or receipt of the results of an expert assessment, but for no longer than one hundred and twenty days.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(4) The Estonian Competition Authority shall deliver the decision on a complaint specified in subsection (1) of this section to the person who files the complaint and to the person with regard to whose activities the complaint is filed within five working days after the decision is made.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

#### § 47. Reporting

(1) The Estonian Competition Authority shall, during the second quarter of each year, submit a written report concerning the developments and problems in the field of postal services and on the activities of the Estonian Competition Authority in this field during the previous calendar year to the Ministry of Economic Affairs and Communications.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(2) The report specified in subsection (1) of this section shall include:

- 1) an overview of the economic activities in the field of postal services together with a description of the changes which took place during the year and an analysis of the current situation;
- 2) an overview of the quality of the postal services in the field of postal services and an analysis of the situation;
- 3) an analysis of the activities of the Estonian Competition Authority, problems which have arisen in relation to the activities and proposals for planning future activities;
- 4) an opinion regarding the conformity of the cost accounting of a universal postal service provider with the requirements of this Act and legislation established on the basis thereof;
- 5) an overview of the manner the charges received for the universal postal service are used, the rate of such charges and the estimated reasonable rate for the charges payable for the universal postal service for the next calendar year.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(3) The Estonian Competition Authority shall publish the report specified in subsection (1) of this section on its web page with the exception of information prescribed for internal use.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

## Chapter 6

### Liability

§ 48. Violation of obligations of postal service provider and universal postal service provider

(1) Violation of the obligations of a postal service provider or a universal postal service provider is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 49. Use of postal network of postal service provider without legal bases

(1) Use of the postal network of a postal service provider by another postal service provider without legal bases is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 50. Procedure

(1) The provisions of the General Part of the Penal Code and the Code of Misdemeanour Procedure apply to misdemeanours provided for in §§ 48 and 49 of this Act.

(2) The Estonian Competition Authority shall conduct proceedings in matters of misdemeanours provided for in §§ 48 and 49 of this Act.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

## Chapter 7

### Implementing Provisions

§ 51. Exclusive right of universal postal service provider

(1) A universal postal service provider has the exclusive right to forward domestic letters of up to 50 grams until 31 March 2009.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(2) The exclusive right does not extend to:

- 1) the forwarding of periodicals;
- 2) direct mail;

3) domestic letters weighing up to 50 grams the charge for the forwarding of which is equal to or higher than 2.5 times the charge established regarding the lowest weight category of letters by the universal postal service provider.

#### § 52. Termination of activities of state register of postal service providers

(1) The activities of the state register of postal service providers shall be terminated on 1 October 2006.

(2) Information regarding the universal postal service provider entered in the state register of postal service providers shall be entered in the register of economic activities by 1 October 2006.

(3) Non-actual data stored in the state register of postal service providers shall be transferred to the state archives by 1 December 2006 under the conditions and pursuant to the procedure established by law.

(4) Legislation regulating the activities of the state register of postal service providers is valid until the date provided for in subsection (1) of this section.

#### § 53. Transitional provisions

(1) A licence issued for the provision of the universal postal service before the entry into force of this Act is valid until the date specified in the licence. A universal postal service provider is required to submit the standard conditions and the proposal regarding the conditions of the licence set out in clause 11 (2) 4) of this Act to the Estonian Competition Authority not later than by 1 October 2006.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(2) Licences or the corresponding parts of such licences issued to the universal postal service provider for the provision of postal services before the entry into force of this Act are valid until the entry into force of the conditions and standard conditions of the licences for the provision of the universal postal service, provided that the conditions and standard conditions are submitted pursuant to subsection (1) of this section.

(3) A universal postal service provider is required to bring its revenue and cost accounting into conformity with the provisions of this Act and legislation established on the basis thereof and submit the postal charges for the provision of the services belonging to the set of the universal postal service to the Estonian Competition Authority for approval by 1 October 2006.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(4) A person who, before the entry into force of this Act, has received the right to provide postal services on the basis of the corresponding decision of the Estonian Competition Authority, shall bring its activities into conformity with the requirements of this Act by 1 October 2006.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(5) A person who, before the entry into force of this Act, has received the right to provide postal services on the basis of the corresponding decision of the Estonian Competition Authority, need not submit the notification regarding commencement of activities provided for in § 21 of this Act.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(6) A person who, before the entry into force of this Act, has been engaged in the forwarding of periodicals shall inform the Estonian Competition Authority of its activities pursuant to the procedure provided for in § 21 of this Act by 1 October 2006.

[RT I 2007, 66, 408 – entered into force 01.01.2008]

(7) A person who has received a licence before 1 January 2009 shall submit to the Estonian Competition Authority information regarding bringing its activities into conformity with the requirements provided for in subsection 14 (3), 24 (1), clause 27 (2) 10) and subsection 41<sup>3</sup> (2) of this Act not later than on 31 March 2009.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(8) The Estonian Competition Authority shall review the information specified in subsection (7) of this section and make a decision on the grant or refusal of permission for continuation of the activities of the person within thirty days after receipt of the specified information by the Authority, but not earlier than on 31 March 2009.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(9) Licences for the provision of postal services which are issued pursuant to clauses 10 (1) 2) and 3) of this Act after 1 January 2009 are valid as of 1 April 2009.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(10) A licence for the provision of universal postal services which is issued pursuant to this Act before 1 January 2009 is valid until designation of a universal postal service provider pursuant to the procedure provided for in § 6 of this Act but for no longer than until 31 December 2009.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(11) The rate of the universal postal service charge provided for in subsection 41<sup>2</sup> (3) of this Act shall be established by the Government of the Republic by 1 April 2009.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(12) A postal service provider with a financing obligation shall submit the declaration provided for in subsection 41<sup>3</sup> (6) of this Act regarding the first accounting quarter by 10 July 2009.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

(13) Licences shall not be issued from 1 January 2009 until 31 December 2012 to postal service providers who, in another Member State of the European Union, have received the exclusive right to forward domestic letters of up to 50 grams, and also to companies controlled by the specified postal service providers.

[RT I 2008, 53, 297 – entered into force 01.01.2009]

§ 54. [Omitted from this text]

§ 55. Repeal of Act

The Postal Act is repealed.

§ 56. Entry into force of Act

(1) This Act shall enter into force on 1 July 2006.

(2) Clause 5 (2) 3) of this Act enters into force on 1 January 2007.

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<sup>1</sup> Directive 97/67/EC of the European Parliament and of the Council on common rules for the development of the internal market of Community postal services and the improvement of quality of service (OJ L 015, 20.01.1998, p. 14–25);

Directive 2002/39/EC of the European Parliament and of the Council amending Directive 97/67/EC with regard to the further opening to competition of Community postal services (OJ L 176, 05.07.2002, p. 21–25);

Directive 2008/6/EC of the European Parliament and of the Council amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services (OJ L 52, 27.02.2008, p. 3–20).

[RT I 2008, 53, 297 – entered into force 01.01.2009]

<sup>2</sup> RT = *Riigi Teataja* = *State Gazette*