

## **Consolidated Act No. 844 of 6 July 2011**

### **Consolidated Act on Post Danmark A/S**

This is an Act to consolidate Act No. 409 of 6 June 2002 on Post Danmark A/S as amended by Act No. 542 of 17 June 2008 and section 34 of Act No. 1536 of 21 December 2010.

#### *Formation, object etc. of the company*

**1.** – (1) The Minister for Transport<sup>1)</sup> shall form a public limited company which shall take over the business operated hitherto by the independent public company Post Danmark as well as relating assets and liabilities. In connection with the formation, the contributed capital (existing business) shall be taken over with effect from 1 January 2002 for accounting and tax purposes.

(2) The name of the company is Post Danmark A/S. The Minister for Transport shall be empowered to approve changes of the company name.

(3) On the formation of the company, its share capital shall be worth DKK 500 million.

**2.** – (1) The object of the company is to provide postal services. Further, the company may carry on business within distribution, communication, transport and logistics. In addition, the company may, through the post office network, carry on other business with the aim of supporting the post office network.

(2) In the event that the Minister for Transport pursuant to section 14 (1) of the Postal Services Act by way of an individual licence designates Post Danmark A/S as universal service provider, Post Danmark A/S shall be bound accordingly.

(3) The company shall be run on a commercial basis.

**3.** Post Danmark A/S shall be subject to the law governing public limited companies with amendments consequential upon this Act.

**4.** – (1) The Minister for Transport shall be empowered to sell shares in Post Danmark A/S.

(2) As part of the formation of a company structure for Post Danmark A/S and Posten AB, the Minister for Transport shall be empowered to replace the Danish state's shares in Post Danmark A/S with shares in a holding company with registered office in Sweden.

**5.** – (1) On its formation, Post Danmark A/S shall take over the business operated by Post Danmark and assume all of the rights and obligations which rest upon the company.

(2) The rights and obligations of Post Danmark A/S may be registered according to this Act.

6. As a wholly state-owned public limited company, Post Danmark A/S may use the crowned coach horn as a distinctive mark.

7. (Repealed)

*Exclusive sales agreement*

8. – (1) Post Danmark A/S may enter into an exclusive sales agreement with a bank to make post offices existing at any time, including fixed and movable systems and associated personnel, available for the provision of financial services as well as on relating payment, cf., however, subsection (2). At the conclusion of an exclusive sales agreement with a bank on the provision of financial services, the obligations of Post Danmark A/S under the agreement entered into shall also apply to any third party with whom the bank may have made an agreement on the provision of financial services.

(2) According to agreement with the bank, Post Danmark A/S shall, however, be entitled to provide financial services by itself or by a third party subject to compliance with the object stated in section 2.

(3) Post Danmark A/S shall from the bank with which an exclusive sales agreement is entered into be entitled to obtain the information which is found necessary for Post Danmark A/S to carry out tasks relating to financial services provided under the exclusive sales agreement. Post Danmark A/S shall be given access to the bank's computer systems if necessary for the ability of Post Danmark A/S to carry out the relevant tasks for the bank.

(4) Anyone performing work for Post Danmark A/S may not disclose or make unauthorised use of confidential information acquired in connection with the provision of financial services under the exclusive sales agreement or give third parties the opportunity to acquire such information. Unless more severe penalty is incurred under other legislation, any breach of the confidentiality shall be punishable by a fine or up to four months' imprisonment.

(5) The obligation of confidentiality shall continue to apply even after the termination of the relevant work performance for Post Danmark A/S.

(6) The provisions of subsections (4) and (5) shall apply correspondingly to anyone who in other respects is or has been involved in the provision of financial services provided under agreement with Post Danmark A/S.

(7) Agreements and decisions between Post Danmark or Post Danmark A/S and the bank that are subject to the Danish Competition Act shall, notwithstanding section 13 of the Competition Act, be exempted from the right of access to files and publication, provided that they relate to the cooperation between the parties or with others on tasks usually carried out within a bank's own framework and provided that publication would give other undertakings an unjustified competitive advantage. Such information shall be given to members of the Competition Council if necessary for the exercise of the Council's authority under the Competition Act, cf. the second clause of section 13 (5) of the Competition Act.

### *Personnel*

9. – (1) Civil servants in the employ of the independent public company Post Danmark who accepted the offer of transition to employment on collective agreement terms with effect from 1 January 2002 shall keep the right to civil servant pension paid by the Danish state after the transition. The same applies to civil servants on leave or unpaid leave at the time of Post Danmark's presentation of the offer and who accept the offer that the company is obliged to present to them at the resumption of their work. Pension costs shall be paid by the Danish state in accordance with the provisions of the law governing civil servant pension.

(2) Civil servants transferred to employment on collective agreement terms, who shall keep the right to civil servant pension paid by the Danish state, may be employed with Post Danmark A/S or associated companies, in that Post Danmark A/S's payment obligation in relation to the Danish state shall be upheld, cf. section 11 (2). On the transfer of personnel to associated companies, Post Danmark A/S shall notify the Danish state thereof in writing.

(3) The Minister for Finance may approve that civil servants transferred to employment on collective agreement terms, who have kept the right to civil servant pension paid by the Danish state and who, in connection with the transfer of tasks, are transferred to employment outside associated companies of Post Danmark A/S, shall still be entitled to civil servant pension paid by the Danish state, provided that the payment obligations in relation to the Danish state, cf. section 11 (2), shall continue to rest upon Post Danmark A/S.

(4) Non-recurring payments to civil servants in connection with the transition to employment on collective agreement terms may be converted into an extension of the pensionable age in accordance with the rules relating to payment thereof stipulated by the Ministry of Finance.

(5) On demand and with the full right to file a claim against the insolvent estate, the Danish state shall pay availability pay or severance pay to civil servants transferred to employment on collective agreement terms who have kept the right to availability pay or severance pay from Post Danmark A/S in accordance with the terms of their employment and who are dismissed as a result of the company's insolvency as well as to employees who might receive availability pay or severance pay at the time of Post Danmark A/S' insolvency. On demand and with the full right to file a claim against the insolvent estate, the Danish state shall, in case of Post Danmark A/S's insolvency, pay availability or severance pay, to the same extent as would otherwise have applied to the payment obligation of Post Danmark A/S, to civil servants transferred to employment on collective agreement terms who are employed with associated companies of Post Danmark A/S or companies outside the Post Danmark A/S group, cf. subsections (2) and (3), and who are dismissed owing to the loss of their jobs as a result of the insolvency of the company in question as well as to employees who might receive availability pay or severance pay at the time of the insolvency of the company in question. The period during which the Danish state shall pay availability pay or severance pay as a result of the employer's insolvency shall be included in the calculation of the pension years of the individual employee, irrespective of the missing payment of pension contributions from Post Danmark A/S. Employees who receive availability pay or severance pay from the Danish state shall be obliged to accept other relevant employment.

**10.** – (1) Payroll costs etc. for civil servants seconded to Post Danmark A/S or other Danish companies which are associated companies of Post Danmark A/S shall be paid by the Danish state which shall also bear the expenses related to their pensions in accordance with the provisions of the law governing civil servant pension, cf., however, subsection (2).

(2) On the dissolution of the independent public company Post Danmark, Post Danmark A/S shall take over the obligation to refund to the Danish state payroll costs etc. for civil servants seconded to the company.

**11.** – (1) For civil servants seconded to Post Danmark A/S, the company shall pay the contributions etc. stipulated by the Minister for Finance to cover the pension expenses incurred by the Danish state.

(2) The same applies to civil servants who have been transferred to employment on collective agreement terms in Post Danmark A/S or associated companies or other companies.

(3) The Minister for Finance may enter into an agreement with Post Danmark A/S on the final settlement of contributions etc. to cover the pension expenses incurred by the Danish state. It may be agreed that Post Danmark A/S wholly or partly shall replace the current contribution payments with a non-recurring payment. Post Danmark A/S shall be entitled to deduct this non-recurring payment to the Danish state in the calculation of the taxable income of the company.

(4) The company shall pay an amount stipulated by the Minister for Transport to cover the expenses incurred by the Danish state in relation to the administration of civil servants seconded to the company.

*Entry into force etc.*

**12.** The Minister for Transport shall stipulate the date of entry into force of this Act. The Minister may stipulate that individual provisions of the Act shall enter into force on different dates.

**13.** Act No. 88 of 8 February 1995 on Post Danmark shall be repealed. With the repeal of this law, the independent public company Post Danmark shall be regarded as dissolved.

**14.** – (1) The members of the board of directors of the independent public company Post Danmark who have been elected by the employees shall, on the formation of Post Danmark A/S, become members of the board of directors of the company, and their term of office shall continue until the election of employee representatives to the board of directors of the company has taken place. The election shall take place before 31 December 2002.

(2) The three-year rule laid down in the third clause of section 49 (2) and in the first clause of section 49 (3) of the Danish Companies Act shall not apply to the election in pursuance of subsection (1). When the employment period is calculated in pursuance of section 49 (7) of the Companies Act, the time the employees have been in the employ of the independent public company Post Danmark shall be included.

(3) The civil servants seconded to Post Danmark A/S shall on equal terms with the company's employees be entitled to elect employee representatives to the board of directors of the company, but shall not be eligible for the board themselves.

**15. – 23.** (Omitted – consequential amendments to other Acts)

*The Faroe Islands and Greenland*

**24.** This Act shall not extend to the Faroe Islands and Greenland.

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Act No. 542 of 17 June 2008 amending the Post Danmark A/S Act (company structure for Post Danmark A/S and Posten AB), of which section 1 contains amendments of sections 4, 7 and 10, contains the following commencement provision:

**2.** The Minister for Transport shall stipulate the date of entry into force of this Act. The Minister may stipulate that individual provisions of the Act shall enter into force on different dates<sup>2)</sup>.

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The Postal Services Act, Act No. 1536 of 21 December 2010, of which section 34 contains an amendment of section 2, contains the following commencement provision:

**32.** This Act shall come into force on 1 January 2011.

Subsections (2)-(4) (Omitted – not relating to section 34 of the Postal Services Act)

*Ministry of Transport, 6 July 2011*

Hans Christian Schmidt

/Michael Birch

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**Official notes**

<sup>1)</sup> Throughout this Consolidated Act, the designation of 'trafikministeren' (Minister for Traffic) and 'Trafikministeriet' (Ministry of Traffic) has been amended to 'transportministeren' (Minister for Transport) and 'Transportministeriet' (Ministry of Transport) as established by Royal Decree of 23 November 2007.

<sup>2)</sup> Amendments entered into force on respectively 24 and 25 June 2009.