

UNOFFICIAL TRANSLATION

Postal Services Act ¹⁾
Act No. 1536 of 21 December 2010
as amended by Act No. 172 of 26 February 2014

Purpose and scope of the Act

1. The purpose of this Act is to

- 1) promote the creation of an open postal market in which competition is effective, and
- 2) ensure the carriage of addressed items through the provision of nationwide postal services of a high quality, at affordable prices and adapted to the needs of users.

2. – (1) This Act shall apply to the provision of postal services for commercial purpose, the distribution of unaddressed items for commercial purpose and the conditions for citizens' and enterprises' use of postal services.

(2) In this Act, the provision of postal services for commercial purpose shall be understood to mean collection for commercial purpose, sorting for commercial purpose or distribution for commercial purpose of addressed items of up to 20 kg, including items to and from abroad.

(3) This Act shall not apply to the carriage of addressed parcels carried under an agreement concluded in advance between the undertaking providing carriage of the parcel and the sender, unless carriage is provided on the basis of an individual licence, cf. section 14.

(4) The Minister for Transport may lay down rules stipulating that undertakings providing distribution of individualised, unaddressed items for commercial purpose shall be subject to the provisions or parts of the provisions laid down in the Act which apply in relation to undertakings providing postal services for commercial purpose.

Conditions governing the granting of a licence to the provision of postal services

3. – (1) Undertakings providing postal services for commercial purpose shall be granted a licence by the Minister for Transport to exercise this right.

(2) A licence in pursuance of subsection 1 may be granted to undertakings which

- 1) are not subject to insolvency proceedings,
- 2) have no overdue public debts exceeding DKK 50,000,
- 3) have a financial basis for operating the business properly from a commercial point of view,
- 4) have not been found guilty of a criminal offence carrying with it an obvious risk of abuse of the right to provide postal services, cf. section 78 (2) of the Danish Criminal Code,

- 5) have not been found guilty of serious or repeated infringements of social and employment laws, including legislation governing the protection of employees, and
- 6) in other respects are able to render probable that it will be possible to operate the business properly.

(3) The conditions specified in subsection 2 shall also apply to members of the management of an undertaking applying for a licence.

(4) The granting of a licence shall be conditional on an obligation of the undertaking to contribute to the compensation mechanism stated in section 18, unless the undertaking is subject to a universal service obligation, cf. section 14.

(5) The Minister for Transport shall lay down further rules regarding contents of an application and a licence to the provision of postal services.

Non-application and revocation of a licence to the provision of postal services

4. A licence to provide postal services shall no longer apply if the undertaking becomes subject to insolvency proceedings.

5. – (1) The Minister for Transport may revoke a licence to provide postal services where a postal service provider or members of the undertaking's management

- 1) wilfully or repeatedly have infringed this Act, rules laid down in pursuance of the Act or the provisions applicable to the licence,
- 2) have overdue public debts of DKK 100,000 or more, or
- 3) no longer fulfil the conditions specified in paragraph 3) of section 3 (2).

(2) A licence to a postal service provider not subject to a universal service obligation, cf. section 14, may furthermore be revoked where the postal services provided in terms of geographical coverage area, service and quality are not as indicated by the undertaking, cf. section 6 (3).

(3) The decision of the Minister for Transport to revoke a licence may be brought before the courts on the request of the postal service provider. The request shall be submitted to the Minister for Transport no later than four weeks after the postal service provider has been informed of the decision. Hereinafter, the Minister for Transport shall bring the case before the courts following the procedures of civil law.

(4) If a decision, whereby the revocation of a licence is found to be illegal, is appealed, the court having made the decision or the court to which the case has been referred may decide that the postal service provider shall not be allowed to provide postal services during the appeal hearing.

Obligations of postal service providers, letter boxes etc.

6. – (1) Postal service providers shall mark postal items in such a manner as to make it possible to identify the postal service provider.

(2) The Minister for Transport shall lay down further rules regarding exemptions from the obligation provided for in subsection 1 to mark postal items.

(3) Postal service providers not subject to a universal service obligation under section 14 shall indicate the geographical coverage area as well as the service and quality of the postal services provided when applying for a licence in pursuance of section 3 (1) and are obliged to inform the Minister for Transport of later changes to the postal services provided.

(4) Postal service providers are obliged to carry postal items forming part of the postal services and within the geographical coverage area indicated by the undertaking.

(5) Postal items forming part of the postal services provided by a postal service provider and which by mistake come into the hands of another postal service provider shall, in return for payment, be delivered to the rightful postal service provider or sender on conditions which are transparent, non-discriminatory and cost-based. Postal items which cannot readily be delivered shall be kept by the postal service provider for a period of two months as a minimum.

(6) Postal service providers offering delivery of postal items to a post office box address shall, in return for payment, make it possible for other postal service providers to deliver postal items to the post office box on conditions which are transparent, non-discriminatory and cost-based.

7. – (1) Distribution of addressed and unaddressed items shall be provided to the recipient's letter box, clustered delivery box, letter slot, post office box or other delivery locations agreed to with the recipient. By agreement with the sender or the recipient, addressed items may be delivered to a postal service outlet.

(2) Postal items may furthermore be delivered to the person empowered to receive the postal item.

(3) Postal service providers may omit distribution of postal items addressed to recipients who fail to comply with the provisions laid down for the installation of letter boxes, clustered delivery boxes or letter slots, or who fail to give access to the clustered delivery box.

8. – (1) Owners of residential and non-residential buildings, detached and semi-detached houses with one or more households etc. are obliged to install a letter box by the property line. Owners of properties to which farm land is attached are obliged to install a letter box by the natural property line, however not more than 50 m away from the dwelling.

(2) Clustered delivery boxes must be installed in or at multi-storey buildings with more delivery locations (households, businesses etc.). Owners of multi-storey buildings shall be responsible for the installation of clustered delivery boxes as well as for giving postal service providers access to them.

(3) Owners of recreational dwellings are obliged to install a letter box by the property line. In areas for recreational dwellings developed according to planning permission issued after 1 January 1973, clustered delivery boxes must be installed in a central location. In connection with the development of areas for recreational dwellings, adequate land must be reserved for the installation in a central location of clustered delivery boxes. The person to whom planning permission is granted shall be responsible for the procurement of adequate land for the installation in a central location of

clustered delivery boxes. Owners of the recreational dwellings are obliged to install and maintain the clustered delivery boxes.

(4) The Minister for Transport shall lay down further requirements as to the installation of letter boxes and clustered delivery boxes as well as rules relating to delivery of mail to institutions, hospitals, rest homes, etc.

(5) The Minister for Transport may grant an exemption from the requirement as to the installation of letter boxes or clustered delivery boxes if the installation would contravene preservation, building or fire technical regulations.

(6) The Minister for Transport may furthermore grant an exemption from the requirement as to the installation of clustered delivery boxes in buildings where the dwellings are arranged as sheltered housing units for the elderly or assisted living facilities.

9. – (1) Upon the decision of the relevant local authority, mail recipients who are unable to collect their mail from a letter box or clustered delivery box shall be entitled to delivery of addressed items straight to their doorstep. The first paragraph shall solely apply to the mail recipient's address as listed in the national register.

(2) The Minister for Transport may lay down further rules governing delivery of mail straight to the doorstep. Besides, the responsibility for issuing relating guidelines lies with the Minister for Transport.

10. The Minister for Transport may impose an order on the postal service provider to provide the postal services stated in section 6 (4) as well as impose an order to deliver mail to the doorstep, cf. section 9 (1).

Secrecy of mail

11. – (1) Anyone performing work for a postal service provider may not disclose information to third parties on the use by others of postal services or give third parties the opportunity to acquire such information by themselves.

(2) The obligation of secrecy shall continue to apply even after the termination of the relevant work performance for the postal service provider.

12. – (1) Where it has not been possible to find the recipient or the sender, postal items handed over to a postal service provider for carriage may be opened without judicial authorisation by the relevant undertaking. Postal items may likewise be opened without judicial authorisation where this is done to determine the extent of or limit any damage to the postal item.

(2) The Minister for Transport shall lay down further rules governing the opening of undeliverable postal items as specified in subsection 1, including rules relating to storage, delivery, disposal and destruction.

Address databases

13. – (1) Postal service providers may establish and use an address database.

(2) For use in updating the address database, relevant information in electronic form may, in return for payment, be obtained from the Central Office of Civil Registration (CPR Office) in accordance with the rules laid down in Part 10 of the Danish Act on the Civil Registration System, the Central Business Register (CVR) and the Building and Housing Register (BBR). From the CPR Office, the postal service provider subject to a universal service obligation (universal service provider) may furthermore obtain data on named newborns and arrivals domiciled in this country.

(3) Personal data delivered to the database from public data files may only be used by the postal service provider in connection with the carriage of postal items for others.

(4) In return for payment and on transparent, non-discriminatory and cost-based terms, the universal service provider shall give other postal service providers within their geographical coverage area access to data on:

- 1) addresses, including the addresses of newborns and arrivals,
- 2) addresses for use in sending on mail on temporary change of address,
- 3) addresses for use in redirecting mail to a new address or post office box,
- 4) addresses of individuals entitled to delivery of addressed items straight to their doorstep, and
- 5) addresses of mail recipients having requested protection against receiving unaddressed mail.

(5) It shall not be allowed to give access to data in relation to mail sent on to a temporary address or mail redirected to a new address or post office box where the mail recipient has requested the non-disclosure of this data.

(6) Distributors may, on terms similar to those applicable to postal service providers, be given access to data on mail recipients having requested protection against receiving unaddressed mail.

Universal service obligation

14. – (1) The Minister for Transport shall designate an undertaking (the universal service provider), which shall be granted an individual licence to provide postal services subject to an obligation to carry the postal items stated in subsection 3. The licence and the conditions governing the fulfilment of the universal service obligation shall be published by the Minister for Transport.

(2) The universal service provider shall offer the users a nationwide network of public letter boxes and postal service outlets for the collection and delivery of postal items.

(3) The universal service provider shall provide nationwide postal services including the following:

- 1) Addressed letters weighing up to 2 kg.
- 2) Addressed daily, weekly and monthly papers or similar, periodicals and addressed items with uniform, printed contents, for instance catalogues and brochures, weighing up to 2 kg.
- 3) Addressed parcels weighing up to 20 kg, including a parcel service respectively with and without delivery.
- 4) Carriage of registered items and insured items.

- 5) Domestic carriage of items from abroad and carriage of items to abroad, the Faroe Islands and Greenland.
- 6) Postage free carriage of literature for the blind up to 7 kg.

15. – (1) The Minister for Transport shall lay down the conditions of the individual licence, cf. section 14, governing the fulfilment of the universal service obligation, including

- 1) physical dimensions as well as service standards and quality of service requirements for items falling within the scope of the universal service obligation and the carrying out of external quality of service monitoring and relating publication,
- 2) delivery days,
- 3) rules governing the organisation of the nationwide network of postal service outlets, and
- 4) rules governing the provision of postal services to islands and limitations of postal delivery.

(2) For the postal services encompassed by paragraphs 1) – 5) of section 14 (3), the tariffs charged by the universal service provider shall be cost-oriented, transparent and non-discriminatory.

(3) Nationwide uniform tariffs shall be charged by the universal service provider for letters and parcels handed over for carriage as single-piece items.

(4) The responsibility for approving the tariff fixed for domestic economy letters (B) posted as a single-piece item of up to 50 g lies with the Minister for Transport.

(5) In the licence granted to the universal service provider, the Minister for Transport may lay down rules regarding

- 1) the obligation of the universal service provider to conform to decisions taken by the Universal Postal Union (UPU) and international agreements, including adopted standards for postal services, and
- 2) the payment of a penalty in case of non-compliance with the provisions of the licence, including non-fulfilment of quality of service requirements.

16. If required by special circumstances and if requested by the universal service provider, the Minister for Transport may decide that, in return for payment, the provider of regular distribution on Danish territory or from Denmark to abroad shall accept postal items falling within the scope of the universal service obligation for carriage to and from postal service outlets located along the route.

17. A local authority may enter into an agreement with the universal service provider allowing the provision, in return for payment, of postal services by the local authority.

Compensation mechanism etc.

18. – (1) Where net costs representing an unfair financial burden on the universal service provider are documented in relation to the provision of postal services forming part of the universal service obligation, the net costs of the provision of the relevant postal services forming part of the universal service obligation may be shared between the postal service providers providing the services in question. The net costs and their financing shall be assessed separately for each individual main service stated in paragraphs 1) and 3) of section 14 (3).

(2) Postal service providers not subject to a universal service obligation and providing one or more of the services stated in paragraphs 1) or 3) of section 14 (3) shall make a financial contribution to a compensation mechanism to cover the net costs of the universal service obligation within each of the main services of paragraphs 1) or 3). Postal service providers shall be relieved of their contribution if they offer and provide the relevant main service on terms similar to those of the universal service provider.

(3) If requesting contributions from the compensation mechanism to cover the net costs for a given year, the universal service provider shall submit this request with documentation to the Minister for Transport no later than at the time of the presentation of the financial statements, including provide documentation of special net costs representing an unfair financial burden in relation to the provision of the relevant postal service for which the universal service provider has not been compensated for on fulfilment of the obligation to provide nationwide postal services. The responsibility for verifying the net costs lies with the Minister for Transport.

(4) On the basis of an assessment of the net costs of the universal service obligation and the total number of items within the relevant main service carried the same year by the universal service provider and the postal service providers not subject to a universal service obligation, the Minister for Transport shall calculate a contribution from the postal service providers not subject to a universal service obligation per item carried within the relevant main service.

(5) Contributions as stated in subsection 4 shall be determined by the annual Finance Act computed by the price level for the relevant year. Postal service providers not subject to a universal service obligation shall pay contributions to the Danish state for the postal items accepted for carriage the relevant year, cf., however, the second paragraph of subsection 2.

(6) The universal service provider shall receive a contribution from the compensation mechanism equivalent to the sums paid to the compensation mechanism, however not exceeding the assessed net costs computed by the price level for the relevant year.

(7) If requesting financial coverage of the net costs, the universal service provider shall keep separate accounts to distinguish between postal services which are part of the universal service obligation and those which are not.

(8) The Minister for Transport shall lay down further rules governing the compensation mechanism, including times for payment and requirements imposed on the postal service providers as to calculating the number of items within individual main services.

Other requirements imposed on the universal service provider

19. – (1) The universal service provider shall use the crowned coach horn as a distinctive mark for the universal service obligation. The crowned coach horn may solely be used in connection with the provision of postal services and related activities by the universal service provider.

(2) Use of the king's or the reigning queen's cypher by the universal service provider requires permission from the reigning monarch.

20. The universal service provider shall issue postage stamps with the word “Danmark” printed on them.

21. – (1) The universal service provider shall maintain the public postcode system to be used for the provision of nationwide postal services and intended to secure that road names and addresses cannot be mistaken geographically.

(2) The universal service provider shall obtain the approval of the Minister for Transport prior to a change to the postcode system.

(3) The Minister for Transport may decide that approval of a change shall not be given if the planned change implies that it will no longer be secured that a road name or an address cannot be mistaken geographically within a postcode. The Minister for Transport may furthermore decide that approval of a change shall not be given if the change will entail significant administrative costs to the business community or the public authorities.

(4) The Minister for Transport may lay down further rules regarding the making and maintenance of the postcode system.

Authorisations

22. The Minister for Transport may lay down rules governing:

- 1) The implementation or fulfilment of EU regulations on issues covered by this Act.
- 2) The obligation of postal service providers to prepare general terms and conditions informing the users of postal services provided, conditions for their provision and use, quality of service and tariffs.
- 3) The carrying out of quality of service monitoring for postal services provided by postal service providers not subject to a universal service obligation as well as relating publication.
- 4) The handling and publication of complaints.
- 5) The liability for claims for compensation in the event of delay or loss of, or damage to, postal items, including adjustments to the amounts of compensation paid by the universal service provider.

Payment, supervision and right to complain

23. – (1) The Minister for Transport may lay down rules stipulating that fees shall cover the costs associated with the Danish Transport Authority’s general supervision and issue of licences.

(2) Postal service providers shall be charged an annual special-purpose fee in payment for the Danish Transport Authority’s general supervision task, including market monitoring, statistics collection, analyses, performance monitoring, dealing with complaints, etc.

(3) The fee shall be fixed at DKK 2.70 per 1,000 addressed items carried (2011 level).

(4) The amount stated in subsection 3 shall be adjusted upwards by 2 per cent once a year with the addition of the adjustment percentage of the relevant financial year, cf. the Danish Act on a Rate Adjustment Percentage. The amount which is then arrived at shall be rounded to the nearest amount

in øre. The Minister for Transport shall give notice of the annual adjustments, the first time at 1 January 2012.

(5) The Minister for Transport may lay down rules stipulating that fees shall cover the costs associated with the Danish Transport Authority's issue of licences as well as the costs related to a specific service, cf. section 15 (4).

(6) The Minister for Transport may lay down rules stipulating that interest shall be added in pursuance of the Danish Overdue Payments Interest Act for overdue payment of the stated fees.

24. Postal service providers shall provide the Minister for Transport, upon request, with relevant financial information and information concerning their provision of postal services for commercial purpose as required for the purpose of ensuring conformity with postal legislation or for clearly defined statistical purposes.

25. – (1) The Minister for Transport shall deal with complaints about postal service providers or distributors, including complaints in the mutual relationship between postal service providers, regarding their compliance with this Act or rules laid down in pursuance of the Act.

(2) The Minister for Transport may lay down further rules regarding dealing with complaints, including rules stipulating that the Minister shall not deal with complaints falling within the competence of a private complaints or appeals board approved in pursuance of Part 2 of the Danish Act on Consumer Complaints.

26. – (1) For the purpose of supervision of the compliance with this Act and rules laid down in pursuance thereof, the Minister for Transport shall, against the presentation of adequate identification and without judicial authorisation, be entitled to make inspections of the business premises of postal service providers, if deemed necessary. This shall also include the right to examine books of account, financial records, correspondence and electronically stored data as well as the right to check postal items.

(2) The inspection stated in subsection 1 shall be made with the assistance of the police, if required.

27. The Minister for Transport may empower other administrative authorities under the Minister for Transport to exercise the powers vested with the Minister for Transport under this Act. The Minister for Transport may hereby lay down rules governing the right to appeal against the exercise of these powers, including time limits for lodging an appeal, or stipulating that the decisions cannot be appealed to the Minister for Transport.

Penalty

28. – (1) Unless more severe penalty is incurred under other legislation, any infringement of section 6 (1), section 8 (1)-(3), section 9 (1), sections 11 and 12, section 13 (3)-(5), section 16, section 19 and section 24 shall be punishable by a fine.

(2) Anyone who provides postal services without a licence under section 3 (1) shall be punishable by a fine.

(3) Any infringement of section 7 (1) and (2) by an undertaking granted a licence to provide postal services for commercial purpose, cf. section 3 (1), or by an undertaking providing distribution of unaddressed items shall be punishable by a fine.

29. In rules and regulations issued in pursuance of this Act, it may be stipulated that any infringement of provisions laid down in such rules and regulations shall be punishable by a fine.

30. Companies etc. (legal persons) may incur criminal liability under the rules laid down in Part 5 of the Danish Criminal Code.

31. Sections 152 and 152 d-f shall apply correspondingly to anyone who performs work for a postal service provider.

Commencement and transitional provisions

32. – (1) This Act shall come into force on 1 January 2011.

(2) The provision in the first paragraph of section 8 (1), however, shall first take effect from 1 January 2012 with respect to buildings erected according to planning permission issued before 1 January 1973.

(3) The provision in the second paragraph of section 8 (1), however, shall first take effect from 1 January 2012.

(4) Undertakings providing postal services for commercial purpose before this Act comes into force may, without having a licence in pursuance of section 3, continue to operate this business until 1 April 2011.

33. When this Act comes into force, Act No. 472 of 9 June 2004 on the Provision of Postal Services shall be repealed. Executive Order No. 1313 of 14 December 2004 on the Provision of Postal Services and Postal Distribution shall remain in force until it is repealed or replaced by rules laid down in pursuance of this Act.

34. Act No. 409 of 6 June 2002 on Post Danmark A/S, as amended by Act No. 542 of 17 June 2008, shall be amended as follows:

1. After section 2 (1), a new subsection shall be inserted drafted as follows:

“(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.” Subsection 2 shall hereafter become subsection 3.

35. The Danish Act on the Civil Registration System, cf. Consolidated Act No. 878 of 14 September 2009, shall be amended as follows:

1. In *paragraph 3) of section 10 (2)*, “undertakings granted a concession in pursuance of the Act on the Provision of Postal Services” shall be amended to “undertakings subject to a universal service obligation in pursuance of the Postal Services Act”.

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

Official notes

- 1) This Act contains provisions implementing Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service (Official Journal of the European Communities L 15, 1998, page 14) as amended by Directive 2002/39/EC of 10 June 2002 with regard to the further opening to competition of Community postal services (Official Journal of the European Communities L 176, 2002, page 21) as well as Directive 2008/6/EC of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services (Official Journal of the European Communities L 52, 2008, page 3).