# **SOUTH AFRICAN** POST OFFICE SOC LTD BILL

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(As amended by the Portfolio Committee on Communications (National Assembly)) (Introduced as South African Post Office Bill) (The English text is the official text of the Bill) le em a car disserve eli ben

(MINISTER OF COMMUNICATIONS)

Application of Fasher Finance Management Act

GOVT COMMUNICATION & INFORMATION SYSTEMS Approximation of class car show oil or chief frame and shices and close y ame chief a consistantine of the financial onicer and chief operating officer

[B 2B—2010]

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]	1	Words in bold type in square brackets indicate omissions from existing enactments.
		Words underlined with a solid line indicate insertions in existing enactments.

# POST OFFICE SOC LTD BILL

## BILL

To provide for the continued corporate existence of the South African Post Office and its subsidiaries; to provide for its governance and staff; and to provide for matters connected therewith.

**B**<sup>E</sup> IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

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I	Definitions of to subsend bourson limit marks to suo the	
	1. In this Act, unless the context indicates otherwise—	
	"Board" means the Board contemplated in section 8;	
	"Companies Act" means the Companies Act, 2008 (Act No. 71 of 2008);	
	"Department" means the Department of Communications;	15
	"executive member" means the chief executive officer, the chief financial officer	
	or the chief operating officer of the Board appointed in terms of section 16;	
	"family member", in relation to any person, means his or her parent, sibling,	
	child, including an adopted child or a step-child, or spouse (whether by statutory,	
	customary or religious law), and including a life partner who is a person living with	20
	that person as if they were married to each other;	20
	"financial statements" means statements consisting of at least a balance sheet, an	
	income statement, a cash-flow statement and other statements that may be	
	prescribed, and includes any notes to these statements;	0.5
	"member" means an executive or non-executive member of the Board;	25
	"Minister" means the Minister charged with the administration of the Depart-	
	ment;	
	"Postal Services Act" means the Postal Services Act, 1998 (Act No. 124 of 1998);	
	"Postbank" means the South African Postbank Limited, the public company	
	referred to in the Postbank Act;	30
	"Postbank Act" means the South African Postbank Limited Act, 2010 (Act No. 9	
	of 2010);	
	"Post Office" means the South African Post Office SOC Ltd established in terms	
	of the Post Office Act;	
	"Post Office Act" means the Post Office Act, 1958 (Act No. 44 of 1958);	35
	"Public Finance Management Act" means the Public Finance Management Act,	
	1999 (Act No. 1 of 1999);	
	"subsidiary" means—	
	(a) Courier and Freight Crown (Ptv) I td:	
	(a) Courier and Freight Group (Pty) Ltd;	10
	(b) The Document Exchange (Pty) Ltd;	40
	(c) the Postbank;	
	(d) any other company or juristic person which exists when this Act commences,	
	but which is dormant and not deregistered in terms of the Companies Act, and	
	of which the Post Office is the holding company or owner; and	
	(e) any other subsidiary of the Post Office established under section 22(1).	45
(	Objects of Act	0
	The State of	
	2. The objects of this Act are to	
	(a) provide for the continued existence of the South African Post Office SOC Ltd;	
	(b) provide for the governance of the Post Office;	
	(c) ensure the provision of universal, accessible, reliable and affordable postal	50
	the second and provide of the residence of the Re respired	100
	(d) ensure the provision of a wide range of postal services in the interest of the	
	the economic growth and the development of the Republic; and	
	(e) encourage the development of human resources and capacity-building within	
		55
	the postal industry, especially among historically disadvantaged groups.	33
	an excellent of at enforcing adjudge and juguilar postal services to all areas	
	committee and any more where proceedings we not sustainable	

#### Continued existence of Post Office

	25 Justing the Mignage	
	The South African Post Office SOC Ltd, the postal company contemplated in	
	3 of the Post Office Act, continues to exist as a public company, notwithstanding	
	al by this Act of provisions in the Post Office Act relating to the postal company.	5
	the characteristic of the State in the Post Office.	3
	the shareholding of the State in the Post Office; the land and the Post	
(b)	any rights, assets, liabilities or obligations acquired or incurred by the Post Office before the commencement of this Act;	
(c)		
	affairs of the Post Office immediately prior to the commencement of this Act;	10
(d)		()
(e)	the validity of any act lawfully performed by or on behalf of the Post Office prior to the repeal referred to in subsection (1); or the state of the Post Office	
(f)		15
	ne powers and duties of the State as a member and shareholder of the Post Office	
	exercised and performed by the Minister. of small radigam allower	
	Notwithstanding the Companies Act, the Minister exercises the power to add	
	er the memorandum of incorporation of the Post Office.	
	ny such addition or alteration—	20
(i)	may not be in conflict with this Act; and	
(ii)	must be aimed at giving effect to the main object of the Post Office, namely to	
	provide a postal service;	
(iii)	must take into account the—	
	(aa) developmental role of the Post Office; and	25
	(bb) promotion of universal access to, and the provision of, an affordable	
	postal service, taking into account the cost of postal services, financial sustainability and the competitiveness of the Post Office.	
(5) Th	ne memorandum of incorporation of the Post Office must inter alia provide that	
the Post	Office—	30
(a)		
(b)	the Minister granted after consultation with the Minister of Finance:	
	(i) The alienation or encumbrance by the Post Office, otherwise than in the	
	normal course of its business, of assets of the Post Office with a market	35
	value of more than 10 per cent of the market value of all the assets of the Post Office;	
	(ii) the cessation or alteration of the main object or main business of the Post Office;	
	(iii) the alienation of shares held by the Post Office in any subsidiary thereof	40
	so that the Post Office retains 50 per cent or less of the voting shares of the subsidiary;	40
	(iv) the merger of the Post Office with another company or the entering into	
	of a partnership or joint venture by the Post Office; and	
(c)	consultation with the Minister of Finance.	45
Duties o	of Post Office	
	11 है कि दो ज़िल्ली	1
	Subject to the Postal Services Act and the licence issued to the Post Office in the said Act, the Post Office must take reasonable measures, within its available	
	s, to achieve the progressive realisation of the following duties:	50
(a)	Ensure the universal and affordable provision of postal services;	
	ensure the provision of a wide range of affordable postal services in the	
	interest of the economic growth and development of the Republic;	
(c)	be innovative in the provision of postal services;	
(d)	The state of the s	55
13747		
(e)	ensure the achievement of universal access to postal services by providing an	
	acceptable level of effective, reliable and regular postal services to all areas, including rural areas and small towns where post offices are not sustainable;	

(f) ensure greater equity in respect of the distribution of services, particularly within the areas of the historically disadvantaged communities, including rural areas; (g) ensure that the needs of disabled persons are taken into account in the provision of postal services; 5 (h) ensure the development of human resources and capacity-building within the postal industry, especially amongst historically disadvantaged groups; (i) act in the best interest of postal users and other clients; (j) maintain an effective and efficient system of collecting, sorting and delivering mail nationwide in a manner responsive to the needs of all categories of mail 10 users: (k) actively provide and develop a citizens' post office that contributes to community and rural development and education, thereby serving as an interface between government and the community; and (1) ensure compliance with international commitments relevant to the postal 15 industry. (2) (a) The Post Office and any subsidiary must comply with policy made by the Minister in terms of section 29(2). (b) Any decision taken by the Board of the Post Office or by the Board of a subsidiary which is in conflict with a policy contemplated in paragraph (a) is of no force and effect. 20 **Powers of Post Office** b who are students of a richer of 5. Without derogating from its powers as a company in terms of the Companies Act, but subject to any applicable provisions of the Public Finance Management Act and this Act, the Post Office may-(a) purchase or otherwise acquire immovable property and encumber or dispose 25 of such property; (b) purchase, erect, or cause to be erected, any buildings, installations or plants; (c) utilise buildings or facilities for the benefit of the Post Office; (d) purchase, hire or otherwise acquire or hold movable property, and let, pledge, encumber or dispose of such property of which it is the owner; 30 (e) hire services or let its own services or make them otherwise available; (f) sell or in any other manner make available to any person for use any patent, licence, concession or right of manufacture or any other right conferring the power to use any information, expertise, process or technology which has been developed by the Post Office and which is the property of the Post Office 35 or which has been acquired by the Post Office from a third party; (g) acquire patents, licences, concessions, rights of manufacture or other similar rights conferring the power to use any technology, process, expertise or information and use, exercise, develop or grant licences in respect of such

rights, concessions, technology, processes, expertise or information, or 40 otherwise exploit it beneficially;

(h) establish subsidiaries under section 22.

#### Performance agreement of Post Office and subsidiaries

6. (1) The Post Office must annually by a date determined by the Minister conclude a performance agreement with the Minister in terms of which the performance of the 45 functions of the Post Office will be measured for the following year.

(2) (a) The Post Office must, after concluding the agreement contemplated in subsection (1), conclude a performance agreement with its subsidiaries in terms of which the performance of the subsidiaries will be measured for the following year.

(b) The Post Office must provide the Minister with copies of such performance 50 agreements.

(3) Subsidiaries must on a quarterly basis submit performance reports to the Post Office.

(4) The Post Office must on a quarterly basis submit a performance report to the Minister, which must include the performance reports contemplated in subsection (3).

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### Government support to Post Office and loans by Post Office and subsidiaries

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	Parliament may fund the normal expenditure of the Post Office out of money	
appropria	ated for the purpose. It was real to the notate to see your of money	
	request for financial support must be prepared by the Post Office by a date	
	ed by the Minister in order for it to be subjected to the evaluation process for	5
	in the annual compilation and exposition of the government's expenditure	
	for appropriation purposes.	
	he payment of financial support is subject to the appropriation made by	
	ent and must be for such purposes and periods and subject to such conditions as	
	ster may determine, after consultation with the Minister of Finance.	10
	The Post Office and its subsidiaries may not borrow money without the prior	10
	pproval of the Minister, granted after consultation with the Minister of Finance.	
	by decision to borrow money taken without such approval is of no force and	
effect.	And it into the first the manner of the particular and the	
	intolicy.	
Board o	(2) (a) The Post Office and any subsidiar must comply will properly soft of the Post Office	15
	and Aller An expenditure for the Bugget of the Poort Office and to the College of	
8. (1)	The Board of the Post Office is responsible for managing the affairs of the Post	4
Office.	And a state of the	
4 .	e Board consists of—	4
	not more than 11 non-executive members appointed in terms of section 11,	
	one of whom must be the managing director of the Postbank by virtue of his	
100	or her office; and garged and all amortions and allegs the area.	
	three executive members appointed in terms of section 16.	
	e Chairperson and Deputy Chairperson must be appointed by the Minister from	
	executive members of the Board.	25
	e Board may designate any other non-executive member to act as chairperson	25
	the Chairperson and Deputy Chairperson are absent or unable to perform their	
	e Board must upon invitation by the Minister nominate non-executive members	
	pard for appointment to the Board of the Postbank, as contemplated in section	
	of the Postbank Act.	30
	e non-executive members of the Board appointed to the Board of the Postbank	30
	untable to the Board of the Post Office in respect of their functions performed as	
Board m	embers of the Postbank.	
	the man will be the second of	
Function	ns of Board	
	rights remember the sower to use any reducing remeass expe-	
	Board of the control there is a place of the control of the control of the Board of the control of the Board of the control of the Board of the Control of t	35
(a)	must give effect to the corporate plan of the Post Office contemplated in	
	section 52 of the Public Finance Management Act in order to achieve the	
27.1	objectives of the Post Office; Healoge was a small state of the	
(b)	is the accounting authority of the Post Office;	140
(c)	takes decisions on behalf of the Post Office and gives effect to those decisions;	40
(d)	provides guidance and gives instructions to the chief executive officer	
(e)	concerning the exercise of the functions of the Post Office;	
(e)	must notify the Minister immediately of any matter that may prevent or materially affect the achievement of the objects or financial targets of the Post	i è
10 1	Office; and	45
(f)	generally, must refer to the Minister any matter that may adversely affect the	45
07	functioning of the Post Office	
	The Police of th	
Disquali	fication from membership of Board, and disclosure	
37.10	to bus marries must on a noblerly their security recommendation of the ter-	
10. (1)	A person may not be appointed as a Board member or remain a member of the	
Board if	he or she—	50
(a)	is a member of Parliament, any provincial legislature or any municipal	
	council;	
	is an unrehabilitated insolvent;	
(c)	has been declared by a court to be mentally ill or disordered;	
(d)	has at any time been convicted, whether in the Republic or elsewhere, of—	55

- (i) theft, fraud, forgery or uttering a forged document, perjury, an offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), or any other offence involving dishonesty; or
- (ii) an offence under this Act;
- (e) has been sentenced, after the commencement of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), to a period of imprisonment of not less than one year without the option of a fine;
- (f) has at any time been removed from an office of trust on account of misconduct:
- (g) has any direct or indirect interest in conflict with the business of the Post 10 Office; or
- (h) is not a South African citizen.
- (2) A person who is subject to a disqualification contemplated in subsection (1)(a), (b) or (g) may be nominated for appointment as a Board member, but may only be appointed if at the time of such appointment he or she is no longer subject to that disqualification. 15
- (3) (a) A person nominated for appointment as a member of the Board must, before appointment and upon a request from the Minister, submit to the Minister a written statement containing—
  - (i) a full disclosure of all his or her financial interests; and
  - (ii) a declaration that he or she has no direct or indirect interests that are in conflict 20 with the business of the Post Office as contemplated in subsection (1)(g) or section 13.
  - (b) If, after appointment, a member of the Board acquires any-
    - (i) further financial interest contemplated in paragraph (a)(i), the member must immediately in writing disclose that fact to the Minister and the Board; or
    - (ii) direct or indirect interest contemplated in subsection (1)(g) or section 13, the member must immediately declare that fact to the Minister and the Board.
- (4) (a) Any member of the Board of the Post Office referred to in section 3(2)(c) must as soon as possible after the commencement of this Act, but not later than three months thereafter, submit to the Minister and the Board a written statement containing the 30 disclosure and declaration referred to in subsection (3)(a).
- (b) If a member of the Board of the Post Office, referred to in paragraph (a), has any direct or indirect interest in conflict with the business of the Post Office as contemplated in subsection (1)(g) or section 13, when this Act commences, the member must as soon as possible after making the statement contemplated in paragraph (a), but not later than 35 six months after the commencement of this Act, divest himself or herself of that interest.

(c) Subsection (3)(b) also applies to a Board member referred to in paragraph (a).

#### Appointment of non-executive members of Board

- 11. (1) For the purposes of appointing the non-executive members of the Board, the Minister must—
  - (a) by notice in at least two newspapers and in the Gazette invite interested persons; and
  - (b) in writing invite trade unions recognised by the Post Office, to submit, within the period and in the manner mentioned in the notice, the names of persons fit to be appointed as members of the Board, with due regard to section 8(5).
- (2) The Minister may appoint a nomination committee to make recommendations to the Minister for the appointment of the non-executive members of the Board contemplated in subsection (1)(a).
  - (3) If a nomination committee is established, the Minister must-
    - (a) ensure that the committee is broadly representative of the various racial 50 groups and geographic areas of the Republic and that both males and females are represented; and
    - (b) ensure that the committee members have the necessary skills, knowledge, qualifications and experience to serve on the committee.
- (4) The Minister and, if applicable, the nomination committee in making a 55 recommendation to the Minister, must consider—
  - (a) the proven skills, knowledge, qualifications and experience of a candidate in areas of
    - (i) financial management;
    - (ii) project management;

40

	(iii) governance compliance; he grireste to gray of than a Halt. (()	
	(iv) risk management; and dime I have been said the said	
	(v) transformation and diversity equity;	
	(vi) banking business;	
	(vii) postal services and postal service management; or	5
	viii) any other field of expertise relevant to the Post Office;	2
	the need for representation of historically disadvantaged persons;	
	the requirement that some members of the Board must be fit and proper	
(0)	persons to hold the office of a member of the Board of a banking institution,	
	as contemplated in the Banks Act, 1990 (Act No. 94 of 1990), for purposes of	10
	section 8(5); and	10
(d)	whether a candidate has any direct or indirect interest in conflict with the	
<i>(u)</i>	business of the Post Office as contemplated in section $10(1)(g)$ .	
(5) Th	e Minister must ensure that the non-executive members of the Board represent	
	nt spread of skills, knowledge, qualifications and experience to enable the Post	
	function efficiently and effectively.	13
	Nominations of suitable persons as contemplated in subsection (4) must	
	at least one and a half times the number of Board members to be appointed.	
	a suitable person or the required number of suitable persons are not nominated	
	implated in subsection $(1)(b)$ and $(4)$ , the Minister may call for further	20
	ons in the manner set out in subsection (1).	20
	The Minister must appoint—	
	two non-executive members of the Board from suitable persons nominated by	
	trade unions contemplated in subsection $(1)(b)$ ; and	
	the other non-executive members of the Board from suitable persons as	25
()	contemplated in subsection (4).	
(b) Th	e Minister must, within 30 days after appointing the members, by notice in the	
Gazette p	publish the names of the members so appointed and the date of commencement	
	erms of office, the year and are religious and train and train single and a series at	
(8)(a)	Any vacancy occurring in the Board in terms of section 12, must be filled in the	30
manner p	provided for in this section.	
(b) An	y member appointed under this subsection holds office for the rest of the period	
of the pro	edecessor's term of office, unless the Minister directs that such member holds	
office for	r a longer period, which may not exceed one subsequent term of up to three	
years.	to War and the state of the Board - Insurers - In agreement to different war	35
(9) A 1	non-executive member of the Board—	
(a)	holds office for a period not exceeding three years;	
<i>(b)</i>		
	unless otherwise determined by the Minister; is appointed according to the terms and conditions determined by the	
(c)	is appointed according to the terms and conditions determined by the	40
-11,97	Minister; must be paid from the revenue of the Post Office such remuneration and	
(d)		
	allowances as may be determined by the Minister, taking into consideration	
	prescriptions and guidelines issued by the Minister for the Public Service and	15
11070		45
(e)	is appointed on a part-time basis.	
Docional	tion, removal from office and vacancies	
Resigna	tion, removal from onice and vacancies	
12 (1)	A non-executive member of the Board may resign by giving to the Minister—	
(a)	one month's written notice; or	
		50
	e Minister may, after having afforded the member of the Board concerned a	50
	le opportunity to be heard, remove the member from office if that member—	
(a)	acted in conflict with this Act or the memorandum of incorporation of the Post	
146	Office: All was credition eating sure and and entering	
(b)	refuses or fails to make a disclosure or declaration contemplated in section	55
	10(3)(b);	
(c)	after having been appointed, acquires any direct or indirect interest	
111 /	contemplated in section $10(3)(b)(ii)$ , read with section $10(1)(g)$ ;	
(d)	is a member of the Board of the Post Office referred to in section 3(2)(c) and—	
	(i) refuses or fails to submit to the Minister and the Board the written	60
	statement contemplated in section 10(4)(a); or	

- (ii) refuses or fails to divest himself or herself of the interest contemplated in section 10(4)(b);
- (e) neglected to properly perform the functions of his or her office;
- (f) is a member of the Board appointed to the Board of the Postbank, and the Registrar of Banks has informed the Minister in accordance with the Banks Act, 1990 (Act No. 94 of 1990), that the member is no longer a fit and proper person to hold that appointment; or
  - (g) is absent from three consecutive Board meetings without prior leave of the Chairperson.
- (3) Any member of the Board must vacate the office if he or she becomes disqualified 10 from membership of the Board in terms of section 10.

#### Fiduciary duties of Board members

- 13. In addition to any other applicable legislation, the following shall apply to members of the Board:
  - (a) A member of the Board may not be present, or take part in, the discussion of 15 or the taking of a decision on any matter before the Board in which that member or his or her family member, business partner or associate has a direct or indirect interest.
  - (b) A member of the Board or his or her family member, business partner or associate, or an organisation or enterprise in which a member of the Board or his or her family member, business partner or associate has a direct or indirect interest, may not—
    - (i) offer goods or services to the Post Office or conclude any business with the Post Office; or
  - (ii) make improper use, in any manner whatsoever, of the position of a Board 25 member or of any information acquired by a Board member by virtue of his or her position as a Board member.
    - (c) A member of the Board must perform his or her functions at all times with the utmost good faith, honesty and integrity, care and diligence and, in furtherance of his or her functions, without limiting their scope, must—
      - (i) take reasonable steps to inform himself or herself about the Post Office, its business and activities and the circumstances in which it operates;
  - (ii) take reasonable steps, through the processes of the Board, to obtain sufficient information and advice about all matters to be decided by the Board to enable him or her to make conscientious and informed 35 decisions;
    - (iii) regularly attend Board meetings;
  - (iv) exercise an active and independent discretion with respect to all matters to be decided by the Board;
    - (v) exercise due diligence in the performance of his or her functions as a 40 member.

45

- (vi) comply with any internal code of conduct that the Post Office may establish for Board members;
- (vii) not engage in any activity that may undermine the integrity of the Post Office;
  - (viii) not make improper use of his or her position as a member or of information acquired by virtue of his or her position as a member;
  - (ix) treat any confidential matters relating to the Post Office, obtained in his or her capacity as a Board member, as strictly confidential and not divulge them to anyone without the authority of the Post Office or as required as part of that person's official functions as a member of the Board.

#### Procedures at meetings, and committees of Board

- **14.** (1) (a) The Board determines its procedures at meetings.
- (b) Seventy per cent of serving members constitutes a quorum at any meeting of the 55 Board.
- (c) A decision taken by the Board or an act performed under that decision is not invalid merely by reason of
  - (i) any irregularity in the appointment of a member;

	a vacancy in the Board; or the fact that any person not entitled to sit as a member sat as such at the time	
	when the decision was taken,	
	such decision was taken by a majority of the members present at the time and	
	o to sit, and those members at the time constituted a quorum.	5
(2)(a)	The Board may appoint one or more committees with the concurrence of the	
	but must appoint the following committees:	
	Remuneration and Performance Committee;	
	Human Resources and Transformation Committee; and	10
	Audit Committee.	10
	mmittees that exist when this Act takes effect, continue to exist for a period of	
	hs after the commencement.	
	e Board must—	
		15
(b)	determine the—	
	(i) terms of reference of a committee;	
	(ii) composition of a committee;	
	(iii) tenure of members of a committee;	
	(iv) reporting mechanisms of a committee; and	20
	(v) method and reasons for removal of a member from a committee.	
	n-executive members of the Board must make up the majority of the members	
of a com		
	e Board may appoint any person with particular knowledge, expertise or	
	tions to assist a committee in the performance of its functions.	25
	less specially delegated by the Board, a committee has no decision-making	
	and can only make recommendations to the Board.	
	committee must meet as often as is necessary in order to carry out its functions	
	determine its own procedures. The base of the Board,	30
(o) Eac	committee must be chaired by a non-executive member of the board.	30
Delegation	on and assignment of functions by Board	
Delegativ	and assignment of functions by Dourd.	
15, (1)	The Board may, by resolution passed by 75 per cent of its members—	
	delegate any of its powers and assign any of its duties to any member of the	
	Board or any committee established in terms of section 14, the chief executive	
	officer, the chief financial officer, the chief operating officer or any employee	35
	of the Post Office; and	
(b)	amend or revoke such delegation or assignment.	
(2) No	twithstanding a delegation or assignment contemplated in subsection (1), the	
	not divested of any power or duty so delegated or assigned.	
	Any delegation or assignment contemplated in subsection (1)—	40
	may be made subject to such conditions as the Board may determine; and	
	must be communicated to the delegatee or assignee in writing.	
	e written communication contemplated in paragraph (a)(ii) must contain full	
	rs of the matters being delegated or assigned and of the conditions subject to	4.5
	e power may be exercised or the duty must be performed.	45
	the power to appoint the chief executive officer, chief financial officer or chief	
<i>(u)</i>	operating officer; and the second of the sec	
(h)	its role in deciding on—	
(0)	(i) the appointment of the chief executive officer, chief financial officer or	50
	chief operating officer;	50
	(ii) the mandate and strategic plan of the Post Office.	
	The state of the s	
Appoint	ment of chief executive officer, chief financial officer and chief operating	
officer		
	Southern Leading Committee	

16. (1) The Board must, with the approval of the Minister, appoint a chief executive 55 officer, chief financial officer and chief operating officer to ensure that the Post Office meets its objects.

(2) The Board must invite applications for the posts of chief executive officer, chief financial officer and chief operating officer by publishing advertisements in the media.

11 (3) A person appointed as chief executive officer, chief financial officer or chief operating officer must-(a) have the qualifications or experience relevant to the functions of the Post Office: and 5 (b) not be disqualified as contemplated in section 10. Conditions of appointment of chief executive officer, chief financial officer and chief operating officer 17. (1) The appointment of the chief executive officer, chief financial officer and chief operating officer is subject to the conclusion of an annual performance agreement with the Post Office. 10 (2) The chief executive officer, chief financial officer and chief operating officer are appointed for a term not exceeding five years and may, subject to the approval of the Minister, be reappointed for one additional term not exceeding five years. (3) The chief executive officer, chief financial officer and chief operating officer hold office on terms and conditions determined by the Board, with the concurrence of the 15 Minister. (4) The chief executive officer, chief financial officer and chief operating officer are members of the Board by virtue of their office. (5) The chief executive officer, chief financial officer and chief operating officer are entitled to a remuneration package determined by the Board with the concurrence of the 20 Minister, the Minister acting after consultation with the Minister of Finance. (6) The chief executive officer, chief financial officer and chief operating officer are accountable to the Board. Termination of employment of chief executive officer, chief financial officer and chief operating officer 25 18. (1) The Board must, with the concurrence of the Minister and subject to compliance with the Labour Relations Act, 1995 (Act No. 66 of 1995), terminate the employment of the chief executive officer, chief financial officer and chief operating officer-(a) for misconduct, which includes any act or failure to act contemplated in 30 section 12(2); or (b) for failing to perform the duties connected with that office diligently. (2) The Board may suspend the services of the chief executive officer, chief financial officer or chief operating officer pending the finding of any misconduct proceedings against him or her, during which period the chief executive officer, chief financial officer 35 or chief operating officer is also suspended as an executive member of the Board. (3) The chief executive officer, chief financial officer or chief operating officer must vacate the office if he or she becomes disqualified from membership of the Board in terms of section 10. (4) The chief executive officer, chief financial officer and chief operating officer may 40 resign by written notice of at least 30 days to the Chairperson of the Board. Acting chief executive officer, chief financial officer and chief operating officer

19. (1) The Board may in writing appoint any senior employee of the Post Office to act as chief executive officer, chief financial officer or chief operating officer when the holder of that office—

(a) is temporarily unable to perform the duties connected with that office;

(b) has been suspended from office; or

(c) has vacated or has been removed from that office and a new chief executive officer, chief financial officer or chief operating officer, as the case may be, has not yet been appointed.

(2) An acting chief executive officer, acting chief financial officer or acting chief operating officer may exercise all the powers and must perform all the duties of the chief executive officer, chief financial officer or chief operating officer, as the case may be.

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Delegation	by	chief	executive	officer,	chief	financial	officer	and	chief	operating
officer										

officer	
20. (1) The chief executive officer, chief financial officer and chief operating officer	
nay delegate to an employee of the Post Office any of his or her powers and assign any	
of his or her duties.	5
(2) Any delegation or assignment contemplated in subsection (1)—	3
(a) may be made subject to such conditions as the Board may determine;	1
(b) must be communicated to the delegatee or assignee in writing;	
(c) may be amended or withdrawn in writing by the chief executive officer, chief	
financial officer or chief operating officer, as the case may be; and	10
(d) does not prohibit the holder of the office that made the delegation or	10
assignment from exercising that power or performing that duty.	
(3) Notwithstanding a delegation or assignment contemplated in subsection (1), the	
chief executive officer, chief financial officer or chief operating officer, as the case may	
be, is not divested of any power or duty so delegated or assigned.	15
to not divested of any power of daty so delegated of assigned.	10
Personnel of Post Office	
21. (1) (a) The Board must determine the structure or organogram of the Post Office	
and the conditions of service, remuneration and service benefits of the personnel of the	
Post Office after consultation with the chief executive officer and with the concurrence	
of the Minister, the Minister acting after consultation with the Minister of Finance.	20
(b) The conditions of service contemplated in paragraph (a) must include—	
(i) in respect of all members of staff, obligations comparable with sections	
10(1)(a) and 10(3); and	
(ii) in respect of members of staff in employment at the date of commencement of	
this Act, obligations comparable with section 10(4).	25
(2) The work relating to the functions of the Post Office is performed by such persons	
as the chief executive officer may appoint.	
(3) The chief executive officer must determine and supply each employee with a copy	
of the code of conduct, applicable to all members of staff of the Post Office and	
usticiable for purposes of disciplinary proceedings, to ensure—	30
(a) compliance with applicable laws;	
(b) the effective, efficient and economical use of the Post Office's resources; and	
(c) the promotion and maintenance of a high standard of professional ethics.	
(4) Personnel may be transferred or seconded to the Post Office from the public	2.5
service subject to the provisions of the Public Service Act, 1994 (Proclamation No. 103	35
of 1994).	
(5) Every employee required by the Post Office to do so must, before performing the	
functions of his or her post, take an oath or make an affirmation before a justice of the peace in the form set out in Schedule 1.	
Subsidiaries and accountability	40
22333	
22. (1) The Post Office may establish subsidiary companies.	
(2) Sections 10, 13, 21(1), (2) and (3), 23, 24, 25, 27, 28 and 30 apply with the changes	
equired by the context to any subsidiary of the Post Office.	
(3) (a) The Post Office must, before it establishes a subsidiary or revives a dormant	
ubsidiary, submit a feasibility study and business plan of the proposed subsidiary to the	45
Minister for consideration.	
(b) The Minister may, subject to section 51(1)(g) of the Public Finance Management	
Act, after consideration of the feasibility study and business plan and after consultation	
with the Minister of Finance, approve the establishment of the subsidiary or revival of	50
he dormant subsidiary, as the case may be.	50
(c) The Minister must, before the approval contemplated in paragraph (b), table the easibility study and business plan in the National Assembly for consideration.	
(4) The Board of any subsidiary is accountable to the Post Office in respect of the	
(4) The Board of any substituty is accommable to the Post Office in respect of the	

#### **Application of Public Finance Management Act**

performance of its functions.

- (2) The Board must ensure that the provisions of the Public Finance Management Act, in particular sections 52 (submission of annual budget and corporate plan) and 55 (annual reporting on financial affairs), are duly complied with.
- (3) (a) The Minister must table in Parliament the annual report and financial statements of the Post Office and its subsidiaries, contemplated in section 55 of the Public Finance Management Act—

(i) within 14 days after receiving the report, if Parliament is in session; or

- (ii) if Parliament is not in session, within 14 days after the commencement of the next Parliamentary session.
- (b) The annual report and financial statements must clearly differentiate between the 10 annual report and financial statements of the Post Office and those of its subsidiaries.
- (4) The Board must submit such other accounts, reports and statements as the Minister or the Minister of Finance, or both, may require.

#### **Investigation of Post Office**

- 24. (1) The Minister may appoint a person to investigate the affairs or financial 15 position of the Post Office and compliance by the Post Office with this Act and may recover from the Post Office the fees and disbursements incurred by that person during the investigation.
- (2) The Post Office or an employee of the Post Office must, for the purposes of subsection (1), provide the Minister or a person authorised by the Minister with such data, information, books, accounts, documents and assets of the Post Office as the Minister or the authorised person may require.

#### Intervention by Minister

- 25. (1) The Minister may direct the Post Office to take any action specified by the Minister if the Post Office—
  - (a) is in financial difficulty or is being mismanaged;
  - (b) fails to perform its functions effectively or efficiently;
  - (c) has acted unfairly or in a discriminatory or inequitable way towards a person to whom it owes a duty under this Act or the Postal Services Act; or
  - (d) has failed to comply with any law or any policy envisaged in this Act. 30

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- (2) A directive contemplated in subsection (1) must state—
  - (a) the reason for issuing the directive;
  - (b) the steps which must be taken to remedy the situation; and
  - (c) a reasonable period within which the steps contemplated in paragraph (b) must be taken.
- (3) If the Post Office fails to comply with the directive contemplated in subsection (1) within the stated period, the Minister may—
  - (a) after having given the Post Office a reasonable opportunity to be heard; and
- (b) after having afforded the Post Office a hearing on any submissions received, replace the members of the Board in the same manner as the departing members have been appointed or, where circumstances so require, appoint a person as an administrator to take over the relevant function of the Post Office.
  - (4) If the Minister appoints an administrator in terms of subsection (3)—
    - (a) the administrator may do anything which the Post Office might otherwise be empowered or required to do by or under this Act, to the exclusion of the Post 45
       Office;
    - (b) the Board may not, while the administrator is responsible for the relevant function, exercise any of its powers or perform any of its duties relating to that function:
  - (c) an employee or a contractor of the Post Office must comply with a directive 50 given by the administrator.
  - (5) The Minister must—
  - (a) review the performance of the Post Office regularly whilst it is under administration; and
  - (b) within six months of appointing the administrator, table a report on his or her 55 findings in the National Assembly.
- (6) Once the Minister is satisfied that the Post Office is able to perform its functions effectively, the Minister must terminate the appointment of the administrator.

(7) (a) Notwithstanding subsection (3), the Minister may dissolve the Board if the	
Minister, on good cause shown, loses confidence in the ability of the Board to perform	
its functions effectively and efficiently, a ylob sur tocalth, learning no go grounder matters	21
(b) The Minister may dissolve the Board only-	
(i) after having given the Board a reasonable opportunity to be heard; and	5
(ii) after having afforded the Board a hearing on any submissions received,	
(c) If the Minister dissolves the Board, the Minister—	
(i) may appoint an administrator to take over the functions of the Board and to do	
anything which the Board might otherwise be empowered or required to do by	
or under this Act, subject to such conditions as the Minister may determine;	10
and serious and the mental surfaments of each or any or serious and the surface land	
(ii) must, as soon as it is feasible but not later than three months after the	
dissolution of the Board, replace the members of the Board in the same way	
as the way in which they were appointed.	
(8) (a) The costs associated with the appointment of an administrator shall be for the	15
account of the Post Office.	10
(b) The appointment of the administrator terminates when the Board members have	
been replaced in terms of subsection $(7)(c)(ii)$ .	
(9) Notwithstanding this section, the Minister retains the right at any time to approach	
a competent court for relief in any matter he or she considers appropriate in furtherance	20
of this Act.	120
The state of the s	
Limitation of liability	
Limitation of habinty	
26. Neither the Post Office nor any employee of the Post Office is liable for any	
damage or loss caused by—	
(a) the exercise of a power or the performance of a duty under this Act or the	25
Postal Services Act; or	
(b) the failure to exercise a power or perform a duty under this Act or the Postal	
Services Act,	
unless the exercise of or failure to exercise the power, or performance of or failure to	
perform the duty, was unlawful, grossly negligent or in bad faith.	30
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Application of Companies Act to Post Office	
The state of the companies of the state of t	
27. (1) The provisions of the Companies Act apply to the Post Office, subject to	
subsection (2).	
(2) Notwithstanding sections 5(4) and 9 of the Companies Act, a provision of the	
Companies Act does not apply to the Post Office in circumstances where—	35
(a) because of any special or contrary arrangement made by this Act, such a	
provision is clearly inappropriate or inapplicable; or	
(b) the Minister of Trade and Industry has issued a declaration under section 28	
with regard to the provision.	
Cartain provisions of Companies Ast may be declared inspulsable to Dest Office	40
Certain provisions of Companies Act may be declared inapplicable to Post Office	40
28. (1) (a) Notwithstanding section 9 of the Companies Act, the Minister may request	
the Minister of Trade and Industry to declare any provision of the Companies Act to be	
inapplicable to the Post Office.	
(b) The request must be fully motivated by the Post Office.	
(2) (a) The Companies and Intellectual Property Commission must publish	45
particulars about the request and the motivation contemplated in subsection (1) by	10
notice in the Gazette.	
(b) In such notice, the Commission must invite interested persons to submit	
representations to a person named in the notice within the period stipulated in that	
notice.	50
(3) (a) After having considered the representations contemplated in subsection (2), if	
any, the Minister of Trade and Industry may, by notice in the Gazette, declare the whole	
or any part of the provision concerned to be inapplicable to the Post Office with effect	
from the date stipulated in that notice.	
(b) The Minister of Trade and Industry may only issue the declaration if satisfied on	55
reasonable grounds that the inapplicability of that provision to the Post Office-	
(i) will contribute to the efficiency of the Post Office;	

(ii) will not reduce or limit the accountability of the Post Office as a public entity or reduce the transparency of its functioning and operations; and (iii) will not be prejudicial to the rights, interests or claims of the creditors or employees of the Post Office or to the rights or interests of any other person. Regulations and policy Programme of the State of Stat 29. (1) The Minister may make regulations regarding-(a) any matter relating to the functioning of the Board that is necessary to ensure efficiency and effectiveness in the performance of its functions; and (b) any ancillary or incidental administrative or procedural matter that is necessary to prescribe for the proper implementation or administration of this 10 (2) The Minister may make policies on matters of national policy applicable to the Post Office and its subsidiaries, consistent with the objects of this Act, and may at any time thereafter amend any such policies made. (3) When making or amending a policy under subsection (2) the Minister must— 15 (a) obtain Cabinet approval; table the policy in the National Assembly at least 30 days before publishing the final version of the policy in terms of paragraph (c); and publish the final version of the policy in the Gazette. Offences and penalties 20 30. (1) A person commits an offence if he or she— (a) fails to provide access to any books, accounts, documents or assets when required to do so in terms of section 24 or when required by the administrator contemplated in section 25(3); fails to give data or information, or give false or misleading data or 25 information when required to do so in terms of section 24 or when required by the administrator contemplated in section 25(3); (c) fails to comply with a directive issued under section 25(4)(c); (d) intentionally refuses to perform a duty or obstructs any person in the exercise of a power or performance of a duty in terms of this Act; 30 (e) accepts any unauthorised fees or reward, either directly or indirectly as a result of a person's position with the Post Office; uses the name, logo or design of the Post Office without the authorisation of the Post Office; or places or maintains or permits to be placed or maintained in, on or near any 35 house, premise, wall, door, window, box, post, pillar or other place belonging to a person or under a person's control the words "Post Office" or any other word or a mark which may imply or may give reasonable cause for believing that house, premises, wall, door, window, box, post, pillar or other place to be a post office. (2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment. (3) Where a person is again convicted for an offence contemplated in subsection (1), he or she is liable to a fine or imprisonment for a period not exceeding 10 years or to both 45 a fine and such imprisonment. (4) Any member of the Board who fails to comply with section 10(3)(b)(i) or (ii) or 10(4)(b) or who contravenes section 13(c)(vii) or (viii), or any former member who failed to comply with or contravened any of those sections while being a member, commits an offence and is liable on conviction to a fine or to imprisonment not 50 exceeding five years or to both a fine and such imprisonment. (5) Any person referred to in section 13(b) who contravenes that section, or any former member of the Board who contravened that section while being a member, or any person, other than a member of the Board, referred to in section 13(b) who contravened that section during the tenure of a former member, commits an offence and is liable on 55 conviction to a fine or to imprisonment not exceeding five years or to both a fine and

such imprisonment.

Repeal and amendment of laws to the the transpose and time to be about our U.A.

31. The laws mentioned in Schedule 2 are hereby repealed or amended to the extent set out in the third column of that Schedule. The light word and to restrict the

#### Short title and commencement

Regulations and points

32. This Act is called the South African Post Office SOC Ltd Act, 2011, and takes effect on a date determined by the President by proclamation in the Gazette.

efficiency and effectiveness in the performe we have another any effect of the control of the effect of the efficiency of the effect of the efficiency of th

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(b) fails to g a data or mission as or greatly to made a final dicting a service of a reservice of a reservice of the service of

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(4) Any mandres or the Board who truls to comply with the second to the board who truls to entire the second to see the second to se failed to classy with or contravence and these sections and being a number

and person referred to in section 13th who contravers all a serious or and tornial weighber of the Board who control ened that with a while being a member, it was person rather than a member of the Board, referred or in section (30), who can be enec that section for he tie tenure of a former member commission of more and is called

#### Schedule 1

#### (Section 21(5))

OATH TO BE TAKEN OR AFFIRMATION TO BE MAI I (name in full)	
solemnly swear/affirm* faithfully in my position as an emphonest, trustworthy and fair without respect of persons ac best of my knowledge, that I will not contrary to the law o divulge the contents of any letter, telegram or official paper.	oloyee of the Post Office to be cording to the law and to the r to my duty communicate or per of any description or, nor
open or detain or cause or suffer to be opened or detained ar or any telegram nor on any account whatever destroy or telegram or official paper entrusted to my care, that responsibility entrusted to me whenever and wherever such	make away with any letter, 10 I will give account of any
	Signature
Sworn/Affirmed* before me at	
on the day of 20	
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"nets"	Justice of the Peace
	20
*delete which is not applicable	
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ing the provide transfer dates: (he)	
Show the man beautiful and the state of the	
as the case may bel, the \funsier	
shall effect the incorporation in \$	
terms of the Companie Act of [two]	

#### Schedule 2

#### (Section 31)

# LAWS REPEALED OR AMENDED

Act No. and Year
Act No. 44 of 1958

	No. and Year Short Title	Extent of amendment or repeal
	to an actions, builting (in)	<u>a</u> public [companies] <u>company</u>
	n on other enterpolities	namely, [a postal company to con-
	recording and thousand	duct a postal service and] a tele-
	w today a remite of	communications company to con-
	) he generally have be-	duct a telecommunications service,
	end to broit?	which [companies] company shall
	y Statutes	bear [names] the name approved
	we will and the	by the Minister, and the issue to
	i ca renewlings	[each] the company of a certificate
	WIRDER ZHERDIO	to commence business.
	trion out in trial	[(2) The Minister shall on be-
-	mound an in money	half of the State sign all docu-
	Braile W. Braillean Dr.	ments that are required to be
	drom a Hilly man	signed by the promoters of the
1)]	most sense to art	companies.
-31	per cent of the ma	(3) The Director-General—
	The Total order and	(a) shall be appointed as the first
	ten at to one	director of each successor
	277740	company and shall in that
	the re-militages, add 100	capacity in respect of each
	minus of the main	company sign the documents
	Cantingge on Hope	which are required to be
	- of the company	signed by a director of the
311		company for the purpose of
of	shares held in t	incorporation of the com-
	nd you at omeranou	pany and the issue to the
li:	siding thereat so in	company of a certificate to
	con vittaggmins bis	commence business;
	40 per cent or have	(b) shall occupy the post of direc-
	the voting shares	tor of a successor company
	the subsidiary:	until the date immediately
	oddy the merger of t	preceding the transfer date
	company vivi	concerned.]
	the /maganoa torilo	(4) [Each successor] The tele-
	To omi naireme	communications company—
	on to uliferate that	(a) shall upon incorporation issue
	no aft of an age	one share with a nominal value
	27000	of one rand to the State:
- 27	unese to solution await months	(b) shall in its memorandum of
	tion providing, unungst oth	
	things in the case at the part	[association] incorporation in-
	company that the affairs	ter alia provide that [that suc-
	the company must be ma	cessor] the telecommunications
	aged to a board of directo	company and its subsidiaries—
		(i) shall have as its main ob-
31	appointed in James at Am a	ject and main business [in
	continuous to selfa	the case of the postal
	id shall, upair from too shar	company to conduct the
	reterred to in subsection (4):	postal service and in the
	and sections 5(1) of	case of the telecommuni-
7,11	IZECANGO, not reaso a	cations company] to con-
	:251ath	duct the telecommunica-
	Provided that paragraphs thatit, and tar small not small not apply to the re-	tions service;

Act No. and Year In Short Title 19912	
pa learning within	[(ii) shall not have the power to
it nely la postal compair to con-	perform the following acts
the sector letters is truly	without the approval of
and very the service interests.	the Minister granted with
THE RESERVE TO SERVE THE PARTY OF THE PARTY	the concurrence of the
ene my fedir amon nedw	Minister of Finance,
laur Idames, Italian and	namely—
by the Marriage of the rough	(aa) the alienation or en-
de despera	cumbrance by the
Service Language of the	company otherwise
(Lt. file Mapity shall no me	than in the normal
half of the Spine sign at doc.	cause of its business
is a transfer of the one	of assets of the com-
in a morning of ed centure	pany with a market
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a makenumakti nati d	per cent of the mar-
term of a retailingly in there on	ket value of all the
director of cach shows an	assets of the com-
tail) in this bits company	pany;
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mare nob salt a las magnici-	ation of the main ob-
at all bareagon on digital	ject or main business
and the analysed as and homes.	of the company;
harmaginary sail out transport	(cc) the alienation of
-se of the nuclear opposite	shares held by the
and an order of the course on the	company in any sub-
- to a report to strugger a	sidiary thereof so that
concent transporter	the company retains
street to be a my start a lad. A	50 per cent or less of
conquire trescores palsa not	the voting shares of
until the out mountil	the subsidiary;
providing the transfer don-	(dd) the merger of the
Linder and the	company with an-
Plach successor I cele-	other company or the
ALL ALL DE THE	entering into of a
more lightless for payone in	partnership or joint
Carlo say a male son	venture by the com-
91 min mil 11	pany;
r do a company of the	(c) must have articles of associa-
is military (politicalization)	tion providing, amongst other
we want from an original so	things in the case of the postal
and a second of the second	company, that the affairs of
or a friend or and but a careful to	the company must be man-
in small name in the state of	aged by a board of directors
mi) constitute to	appointed in terms of the ar-
latent out the people on.	ticles of association;
mempany to citable the	(d) shall, apart from the shares
and all time are relatively	referred to in subsection $(4)(a)$
case of the components	and sections 5(1) and
Cathina an aparti	12U(4)(a), not issue any
duct the local arrival	shares:
79 (8)	Provided that paragraphs (b)(ii), (c)
	and (d) shall not apply to the tele-
	communications company.

Act No. and Year	Short Title	Extent of amendment or repeal
100		(5) Notwithstanding the provisions of the Companies Act, the postal
		company and the telecommunica- tions company may have fewer than
1/211		seven members.]
		(6) The powers and duties of the State
		as a member and shareholder of [each]
0.00		the successor company shall be exer-
-0	100	cised and performed by the Minister.
- inth-	7 4	[(7) A successor company shall not
1 1 2 100		conduct any business and shall not
301		acquire any assets, liabilities, rights or
H(1(7))		obligations prior to the transfer date
40 0 10		concerned.]".
distance (1)		6. Amendment of section 4— (a) by the substitution for the heading
-1010 - 001		of the following heading:
a wherean		"Transfer of telecommunica-
of section of the first		tions enterprise to successor
1000 00 1100 0		company"; and
Summon larvage		(b) by the substitution for subsections
and the second second		1, 2 and 3 of the following subsec-
abilitied from the	off of the fire	tions, respectively:
7.		"(1) On a date determined by
-m)		the Minister by notice in the Ga-
A 100		zette—
0.1 000 0.0		[(a) The postal enterprise shall
nod mo		be transferred to the postal company, from which date
mist.	Henry	the postal company shall,
11 /11/2010		subject to the provisions of
10 S IN 100		any other law, have the
D-90 (8/23 De-		power to conduct the postal
the Dack Totale		service;]
T) (1)		(b) the telecommunications enter-
in mich tours		prise shall be transferred to the
1/1 - 12		telecommunications company,
and the contract		from which date the telecom-
to a suprimite serve a	E HITSE OF	munications company shall,
sunt land but		subject to the provisions of any other law, have the ex-
tras passed in ferms		clusive power to conduct the
STUDY DIE VEITING		telecommunications service.
are the may been		(2) (a) The value of the assets
ma velet war on on		and liabilities of the [enterprises]
-took salte so built		enterprise transferred in terms of
first to wait as a		subsection (1) shall be determined
and the militain of safe		by the Minister with the concur-
of the out off		rence of the Minister of Finance,
neet meet	oo, insquie	and the net asset value of [those
		enterprises] the enterprise shall
		likewise be determined, regard be-
		ing had to the obligations imposed
		upon the [postal company and the] telecommunications company
		by section 12U.
		by section 120.

Act No. and Year   Short Title   Mark	Extent of amendment or repeal
(5) North distribution of proving	(b) For the purposes of the
of the transmitter out the countries	Income Tax Act, 1962 (Act No. 58
-out trompant by him designing	of 1962), or any other law in terms
and red and the gampany man	of which a tax or levy may be
million durie	imposed, it shall be deemed that
V no 200 1 10 111	expenses were actually incurred
Street of the st	by [a] the successor company in
The state of the s	acquiring the assets transferred to
at least the same	it in terms of subsection (1) and
100	that, notwithstanding the provi-
ma flora in major mis Labora	sions of any other law, the ex-
metal mane and Calabi per a mena actions.	penses concerned, including the
and a line of the line	
	cost of the assets, are equal to the
11 1771.03	value determined in terms of sub-
	section $(2)(a)$ .
- Items	(3) (a) In so far as the [postal
-71	enterprise and the] telecommu-
	nications enterprise have the use
	of State land immediately prior to
	the date referred to in subsection
Test of addressed	(1), such land shall on the said
TOTAL CONTRACTOR OF THE CONTRA	date pass to the [postal company
and the state of t	or the] telecommunications com-
Sec. 10 (1)	pany, [as the case may be,] and it
().1 ((19)6)	shall be deemed that such land
	was on the said date sold by the
	State President in terms of the
Hote (Million Decreso)	provisions of the State Land Dis-
ming of anything	posal Act, 1961 (Act No. 48 of
art out care	1961), to the company [con-
them agency by or and	cerned].
in answering our or rounding	(b) Notwithstanding the provi-
ett vota 2001 - Otto ens	sions of section 5 of the State
favear wit moon or it readily	Land Disposal Act, 1961, and
1010-192	section 18 of the Deeds Registries
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Act, 1937 (Act No. 47 of 1937), a
Depte 1	registrar as defined in section 102
1997	of the Deeds Registries Act, 1937,
-lat / value	
G02 - 000 N	shall, on submission to him or her
	of a certificate by the Ministers of
or accorded to the	Public Works and Land Affairs
Att 1	that State land has passed in terms
mi palma - word promise	of paragraph (a), free of charge
20 The # 10 HARDIN HARDS	make such entries and endorse-
the state of the s	ments as he or she may deem
seaffage de la location de	necessary in or on any relevant
h o as the constitution of	register, title deed or other docu-
100 Charles and	ment in his or her office or laid
a a with a growth	before him or her, in order to effect
	the transfer in the name of the
page of the same	company [concerned].
-cetholight	
Situ 1900 mg	

Act No. and Year Short Title	Extent of amendment or repeal
of the contract of the	[(c) If a particular piece of
Asia (a) Inches	State land was used jointly by
on a decirity of the department of the	the postal enterprise and the
The state of the s	telecommunications enterprise
Comment of the state of the sta	immediately prior to the date
the few density and the second	mentioned in subsection (1), and
all a fundamental and a succession of the	the successor companies after
Children to the second	that date agree to divide that
exhalt cean to interpret	piece of land between them
the make some entries more and	without the payment of compen-
own semonts as to six or six of the	sation by one party to the other
restrict the office of make of make	or without giving anything in
war to a true a travers of the	exchange therefor, the subdivi-
- region of a bushing or an at	sion of the land concerned shall
emon state in return to them.	be exempted from the payment
the postal comman bring at	of transfer duty, stamp duty or
to died the engine of the contract	other fees if, upon the registra-
eduction of the same of the sa	tion of the subdivision, a certifi-
12 TB 00 00 7 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	cate signed by the secretaries of
to an and a section of	both successor companies is
CONTRACTOR OF CONTRACTOR	submitted in which it is certified
5 1 and 10 at 101 ct 1 at 100 ct 100	that an agreement as contem-
one to expert the plant of the	plated in this paragraph has
of the face of the oil emitteen	been concluded.]";
performs the residence of the summer.	(c) by the substitution in subsection
partie attemptice of a committee	(4) for paragraph (a) of the follow-
mings and progress a sign	ing paragraph:
med out may about my pooper	"(a) Any servitude, other real
Washing ad the	right or lease existing immedi-
man - manufil (dual)	ately before the date referred to
in a draw with my	in subsection (1) in favour of the
- Propriet trop - Dr - 2007 H	State, the department or the
nin ne be cas manne and share	Director-General and which is
In other and whill all our time, resignations	exercised in favour of [the
abstitute of Telegraphic Contraction	postal enterprise or] the tele-
can durith a sentente be und a sand	communications enterprise
Straight an	shall on the said date pass to
appropriate to the spiral or sell-	[the postal company or] the
of the second second second	telecommunications company[,
alt to greature course given the	as the case may be].";
mest it ill shaw the time to see	(d) by the substitution in subsection
with this redirect street or a second	(4)(b) for subparagraph (i) of the
made the description	following subparagraph:
(c) which references are the property of	"(i) register the passing of the
nedworker of the core are not give in	servitude, other real right or
sa our wind it was ent our con-	lease to the company [con-
The provided in leteromagnoscillon	cerned] in terms of para-
mid as sign of a right of a control	graph (a); or";
ne overtion all in soliton and the	(e) by the substitution in subsection
many products assessment of production	(4A) for the words "a successor
adt in section in a little s	company" of the words "the suc-
in the for too pure see it so home	cessor company", wherever they
principal paint the action of	occur;
IN NO 18 OF THE PARTY OF THE	(f) by the deletion of paragraph (a) of
the year of the control of the contr	subsection (5); and
- 1 - 1 - 1	(g) by the substitution for subsections
	(6), (7), (8), (9), (10) and (11) of
	the following subsections, respec-
	tively:

Act No. and Year In Short Title In 1/3	-
to a sir autominut a H (3)	"(6) The successor company [con-
shire hand was need printer	cerned] may apply for the registration
the postal entermise and the	of any registerable right relating to
- the till inches almost a site	intellectual property or inventions (in-
The median of the one of	cluding the registration as patents of
Davie was read to be easily under	patentable inventions) transferred by
-th company " - a de sil	the State in terms of this section to the
real date agree to Solle that	successor company [concerned].
pied di ceteraga then	(7) The Registrar of Trade Marks
energing to require the country	shall make such entries, notes and
sation to our party to the other	endorsements as he or she may deem
of whitener group anythran in	necessary in or on any relevant register,
Tribute therefor the shally-	certificate or other document in his or
itan imries brid m	her office or submitted to him or her so
and an inches and a second	
	as to effect the transfer of trade marks
so where grower part of the party	to [the postal company or] the tele-
where hample is a return	communications company in terms of
efficiency and one of the vill to high	this section, and may request the [suc-
in the reference of the design of the	cessor] company [concerned] to sub-
contract of the contract of th	mit or produce to him or her such
affart is a distribution by the beautiful as	information or document as he or she
that is an amount of the	may deem necessary for such purpose.
and brance of the bridge	(8) If any doubt arises as to whether
, frequence across server	anything for the purposes of this Act
low to all the me	pertains to or is connected with [the
31 1000	postal enterprise,] the telecommuni-
(may go)	cations enterprise, the department or
The state of the state of	anyone else, the decision of the Minis-
country automatical and artist	ter shall be conclusive.
manustria to the field of	(9) (a) [Each] The successor com-
- Termina and appropriation	pany may establish subsidiary compa-
NA DE BEAT HIGHE TO PROVIDE	nies of which the successor company
the Day of Sant	shall be the sole member and share-
A Total	
	holder and shall allow the assignments,
errymer land	substitutions and transfers contem-
	plated in this section to be made to such
- 15-41	subsidiary.
no gen at laptice and	(b) The provisions of this Act appli-
Heliote man for co	cable to [such] the successor company,
od w w. on	shall apply mutatis mutandis to the
- 47-01	subsidiary thereof while the successor
the state of the s	company is the sole member and share-
and the state of	holder of the subsidiary.
11 11 11	(10) No stamp duty, transfer duty or
	any other tax or levy shall be payable in
	respect of the transfer of [the postal
	enterprise or] the telecommunications
	enterprise in terms of this section.
	(11) Any officer in the employment
	of [a] the successor company shall be
	deemed to be an officer in the service of
- 1- 10- 11-	
	the State for the purposes of section 7
	of the State Land Disposal Act, 1961
1/4"	(Act No. 48 of 1961), and section 24 of
0	the Expropriation Act, 1975 (Act No.
	63 of 1975).".

ct No. and Year Short Title	
the contraint questioned (4)	7. Deletion of section 7A.
panyly as the cost may be the	0 A described 100/ 1- 11
proof of which small he on the	8. Amendment of section 12V by the
(47w4)3)	substitution for the words "each suc-
the in summand in early all	cessor company" of the words "the
morn) as break at or more	successor company".
or to the defense or comment	
es their setton for com-	9. Substitution for subsection (1) of sec-
wall, down brings then	tion 89 of the following subsection:
post, sider as other place	"O. 1. O. 1. 1. O. 1. 1.
belonging in the ander his	"Order of transmission of [tele-
AO and a strong out became	grams] telephonic communica-
tion they make you at your	tions
mark which may imply it	00 (1) [77-1
they alderdowner ayin and	89. (1) [Telegrams and tele-
for beligning that herew	phonic] Telephonic communica-
premises with their sta-	tions shall be sent for all persons
don, nex much pulses in	alike, without favour or preference,
on a man and prolite	and shall as far as practicable be
2001	transmitted in the order in which
the place of main alls or at	they are received, but [telegrams
mits to be placed or man	and] telephonic communications re-
rained or in tentain on an	lating to the preservation of the
	peace of the Republic or of the
vehicle or reset the word	adjacent territories or the arrest of
"mani" or any otherword or	criminals or the discovery or pre-
mark which may empty or	vention of crime or any other matter
may give reasonable caus	connected with the administration
tor lating the that such to	of justice shall have precedence
hieters a well is well for the	over all other [telegrams and] tele-
in equal process (const.)	phonic communications: Provided
a regulation contribution of the	[that nothing in this section con-
a min designing to thomas	tained shall be held to prevent
they, or in any as about, pro-	precedence being given to any
special most representation and	class of telegrams under such con-
Invoice of advertise in the man	ditions and upon payment of such
off see multiplication sees the	special rates of charges as may be
Our ves, roughly, such	prescribed by the telecommunica-
Kidoprije vijed aktije.	tions company: And provided fur-
White As the Property wants	ther] that no person shall be permit-
to freeze carbo into the cold	ted to occupy a telecommunications
mante in carrolla description of the contract	line in such a manner as unreason-
manier one leaner region -	ably to impede the speedy transmis-
of the constitution of the court	sion of other [telegrams and] tele-
cartier is done in an in order	
o restaurant per management (1991)	phonic communications.".
to alique pe altestop, a viran	10. Deletion of section 90.
Fifteen Asia Statement College	10. Deterior of section 90.
within the arrests of the second section	11. Substitution for section 99 of the
many add in grand magnitude	following section:
and a storodi for vacama	following section.
	"Ilmouthonized was of would
ocalindo o cinaro	"Unauthorized use of words
south be equily it an offence of	["Post Office", "mail",] "yellow
on act and note vines in along	page directory", "telex direc-
exceeding R2 (excess games winter	tory", "telephone directory", etc.
to a notion as exceeding a	
mounts or or both or h time and	99. Any person who without the
THE PROPERTY OF THE PARTY OF TH	authority of [the postal company

Act No. and Year Short Title	Extent of amendment or repeal
per deploy to modolina.	or] the telecommunications com-
	pany[, as the case may be (the
W. Amendment in section (2) by the	proof of which shall be on the
the that when the war uses	accused)]—
15 0.0 00 in the cold of	[(a) places or maintains or suf-
August Reserve	
and a second	fers to be placed or main-
	tained or to remain in, on or
no, or a to openio detect	near any house, premises,
- The months of the decision of	wall, door, window, box,
	post, pillar or other place
(III - proceeding 10 25 11)	belonging to him under his
ediameter markulat temes	control the words "Post Of-
Arrivis.	
	fice" or any other word or a
Six I the point they have	mark which may imply or
and Local and the	may give reasonable cause
1 100 m called	for believing that house,
	premises, wall, door, win-
	dow, box, post, pillar or
on one tay to sell to those one	other place to be a post
de de sette et esta antile	
High as redeed to the pro-	
yty measurements of sockies of bros-	(b) places or maintains or per-
of the general section of the contract of the	mits to be placed or main-
not to a street ally the powers	tained or to remain on any
The state of the s	vehicle or vessel the word
	"mail" or any other word or
20 14 15 16 16 16 16 16 16 16 16 16 16 16 16 16	mark which may imply or
the second second	may give reasonable cause
in leason with the discount	
the desired with the guideline	for believing that such ve-
of a phan one residence of the	hicle or vessel is used for the
and one employed maring, among	conveyance of mails; or]
and builty out to goodlen tadd!	(c) in connection with any publi-
	cation or proposed publica-
Crossin of tales, of those brooks	tion, or in any invitation, pro-
providence the ign of the site	spectus, order form, notice,
orland (dispersion upon control	
in a secretary trapportunity of the colonials	
special rates of charges at the fire	ing to any publication, uses the
present or the following	words "telephone directory",
i fizar e fin / gragos a mai	"yellow page directory",
	"yellow pages", "telex direc-
of the second second	tory" or any other word or a
and the second violation and	mark, in circumstances or in a
1017 (7:102 1)	
the street of the street	manner which may imply or
C Greenmount	may give reasonable cause for
	believing that such a publica-
	tion or proposed publication is
(Y ) (	a telephone directory, yellow
To be a second of	page directory, telex directory
	or other publication published
(//	
10000	on the authority of [the postal
	company or] the telecommu-
The confirmation	nications company,
and the latest terms of th	shall be guilty of an offence and
19500 /	liable on conviction to a fine not
	exceeding R2 000 or imprisonment
and the second	
	for a period not exceeding six
The second second	months or to both such fine and
	such imprisonment.".

Act No. and Year	Short litle	Extent of amendment or repeal
The The State		12. Substitution for section 102 of the following section:
the the man		Todo wang section
To a figure a		"Personating officers of [depart-
1 30 and -20 mil		ment, postal company or] telecom-
her the second of		munications company with fraudu-
1 m/1 (et a 1)		lent intent
19-11-28: No		
At Milley Jum Be		102. Any person who with fraudu-
	man and	lent intent personates or represents
	Hard or other	himself or herself to be an officer of
	Primaria Commission	the [department or the postal com-
	500	pany or] telecommunications com-
to the same that	DESAR LINE	pany, shall be guilty of an offence and
1	ord dias disc	liable on conviction to a fine not
	1100	exceeding R4 000 or imprisonment
		for a period not exceeding 12 months
1000 100	vi Sommingder	or to both such fine and such impris-
	(1)2-11-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1	onment.".
		The same of the sa
orthographically		13. Substitution for section 105 of the
- man group lat		following section:
of Bull of Bull of		
- morning of the		"Divulging contents of [telegrams
1	Hiras company	or] telephonic communications
to the same of the same of		105. Any officer who, not being a
furnish instructional		witness in a court of law, without the
ince summed in		consent of the sender [or addressee]
estal company bety		or receiver, or otherwise than in
The statement are		pursuance of his or her duties—
arm or lelecter out-		[(a) opens or tampers with or di-
standoud facts an		vulges the contents or sub-
order, postal rener		stance of any telegram, or dis-
ad a bashuntae Le		closes its existence otherwise
raone of symilicing		than by delivering it or giving
egant, gtti);mgs		a copy thereof to the person to
the postal rome		whom he is authorized to de- liver it or to give such copy,
the state of the s	acceptat to third.	or who maliciously or wil-
TO SOUTH THE OF		fully misdelivers, mistimes, se-
heen figure or com		cretes, intercepts, destroys,
nice of money of the use		makes away with, alters or
at a gritel a trut		omits to transmit or deliver or
sestal company ac	di setti materi	prevents or delays the delivery
Sit 1 TRUCK TO SEE	to many	or transmission of any tele-
Torrang such [made		gram or makes use for his own
Jone on the singular		purposes of any knowledge he
appar so an act		may acquire of the contents
when o cannot a		thereof;]
	resulting of that	thereor, j

Act No. and Year	Short Title	Extent of amendment or repeal and to A
	11 m. /0   100pt E	(b) divulges the existence, contents
	With the state of	or substance of any telephonic
		communication or maliciously
and the same	A STATIONES T	or wilfully intercepts a tele-
		phonic communication or pre-
Charle of a state	1	vents or delays the transmission
	description	thereof or makes use for his or
		her own purposes of any knowl-
	0.6 (4)	edge he or she may acquire of
	On y	the contents thereof,
	D-200	shall be guilty of an offence and liable
	our april 1	on conviction to a fine not exceeding
	1 1 1 10 1	R4 000 or imprisonment for a period
		not exceeding twelve months or to
	1	both such fine and such imprison-
		ment.".
	a de finale	ment
		14. Substitution for section 112 of the
		following section:
	Hr.II.	following section:
	(2)7	"In criminal proceedings, etc.,
	(P) (P)	property [in postal articles, money,
	A. A	
11 F 11 F 11 F	Annual Control of the	money orders, etc.,] may be laid in
e C 1) to show	1	[postal company or] telecommuni-
- Allianni	THE INGAEN   III	cations company
	2.0	110 Y
	1	112. In any information or com-
		plaint as to or any prosecution for any
in inpute and in	1	crime or any offence committed in
and the second		respect of the [postal company or]
	en to consumul;	telecommunications company or of
unper a th m ale		any [mail, telegram or] telecommu-
-0.0 no es elmo		nications line [or any property,
ily mayour quiet or		moneys, money order, postal order
the two translations	1	or other document authorized to be
The Paris of Section 1		used for the purpose of remitting,
Allance a sy		paying or depositing money
		through or with the postal com-
equipment (2)		pany or telecommunications com-
- the dimension		pany, as the case may be], or with
	1	respect to any act, deed, matter or
70000 3001751		thing which has been done or com-
	1	mitted with any malicious, injurious
Time to the sale		or fraudulent intent relating to or
Angle in representing		concerning the [postal company or]
of grant and a second		telecommunications company[, as
in a fill transput		the case may be], or any such [mail,
		telegram,] telecommunications line[,
-1093065 - y-III - m	00 m -0	property, moneys, money order,
	Compatibility and the second	postal order or other document], it

Act No. and Year Short Title	Extent of amendment or repeal
10 -trafet to afair a feature out	[(a) to allege that any such mail,
area a see som par the new old	telegram, property, moneys,
man was refreshing to the recent in	money order, postal order or
beautiful payment of any am o	other document belongs to or
mores under the provisions at du-	is in the lawful possession of
ver in any other law shift of	the postal company or tele-
winnisheser made, discharge the	communications company, as
posid company or telecommunical	the case may be, and to put in
Ents company, as the case in in his	the same in evidence, and it
ter officer by whom any col-	shall not be necessary to allege
are west was made, from all Eabil	or prove the same to be of any
mi he francis mi coverate. In	value;]
and one on a company	(b) to allege that any such act, deed,
gent at least that the com-	matter or thing was done or
hout your haldware to make the least treat	committed with intent to injure
heer committed or have accorded	or defraud the [postal company
in contraction increwing I's same	or] telecommunications com-
Par noticing in this section of salmer	
are ambiguitate so tear trace of their	pany[, as the case may be],
	without setting forth its or any
mount of the graphics toward.	other name, addition or descrip-
and a miscrytous the sine may	tion whatsoever; and
bed on a radius or it as a second	(c) if the offender be an officer, to
A THE PERSON OF THE PERSON AND A PERSON OF THE PERSON OF T	allege that the offender was an
think is to be per of the built	officer of the [postal company
or early of this or rectal directly new too	or] telecommunications com-
may rempose any and arrier from	pany[, as the case may be,] at
Subtility for damage in how reserve	the time of the committing of the
and the right party of coverage to the contract	offence without stating the na-
the part is says corrier on a say	ture or particulars of his employ-
emplaced a stable of the internal	ment.".
to bis or lest duties)	
	15. Deletion of section 114.
11. Deletion of semi-out 1915 and 120-5.	
	16. Substitution for section 115 of the
11 Softsmannes or earling 121 or the	following section:
for skipping and the	
	"Nonliability of [postal company
Ann a draw who is smaller	and] telecommunications company
witemille	
	115. Save as is otherwise provided
title begins in council by the	in this Act or any other law, the
(f) rector-frencial, postal compan-	[postal company or] telecommuni-
ort teaconnaistential posts company	
anishmen and the results of the	cations company[, as the case may
	be, or any officer or any person
nin quadan admin mel main been dili	conveying postal articles in
disconsiderate and the de-sale	pursuance of any contract entered
or the peace in the Jurio	into or arrangements made in
in the first Schodule."	terms of this Act or conveying mail
	which he or she is obliged to con-
substitution for section ( ) at the	vey, in terms of this Act or any
post as parwillia	other law or any employee of a mail
-	carrier] shall not be liable by reason
stin more	of any error, default, delay, omission,
	damage, destruction, nondelivery,
173, This Act shall be collent the	nontransmission or loss, whether
Samming and Telegraphy and	
	negligent or otherwise, in respect of

Act No. and Year	Short Title	Extent of amendment or repeal and the
Divide the property and	to depth of	[any postal article or telegram or
school till of the life		by reason of] anything lawfully done
	no mount	under this Act, or any other law, [and
or or agreement ingo		bona fide payment of any sum of
to and some and re-		money under the provisions of this
alin mappings		Act or any other law shall, to
or damping solvers		whomsoever made, discharge the
In 19 8 941 15 0		postal company or telecommunica-
II in satisfacts of		tions company, as the case may be,
He server		and the officer by whom any such
The second street of		payment was made, from all liabil-
-10 01 MOI 1	Chertely	ity whatsoever in respect of any
	10000	such payment, notwithstanding
	100	
		any forgery, fraud, mistake, neg- lect, loss or delay which may have
0.97		been committed or have occurred
V.	=).	in connection therewith]: Provided
		that nothing in this section contained
		shall be construed as exempting the
		[postal company or] telecommuni-
	00	cations company[, as the case may
	10	be,] from liability for damage or loss
		caused to any person by reason of
-1/2 (// - 1). I	10	fraud on the part of an officer in
17 (100.01)	2	relation to his or her official duties [or
971 1		as exempting any mail carrier from
of a		liability for damage or loss caused
	5 5 600	to any person by reason of fraud on
	5	the part of such carrier or of any
		employee of such carrier in relation
		to his or her duties].".
	1.00	
		17. Deletion of section 119B and 120A.
The state of the s	0	
		18. Substitution for section 121 of the
		following section:
1	TOTAL TOTAL	
101		
1000	Printedator 10	affirmation
		The second secon
-11		The second secon
T es so		
	Include Inter	
	(0,014 0	
or street that		
	No.	
11 1112		Control of the Contro
1900 - P 1200 - 1	1	in the First Schedule.".
		19. Substitution for section 123 of the
A STATE OF	100	following section:
	1100	
		"Short title
100		
		123. This Act shall be called the
		Post [Office] and Telecommunica-
		tion-related Matters Act, 1958.".

Act No. and Year Short Title	Extent of amendment or repeal
and the common of the section of	20. Substitution for the long title of the following long title:  "To provide for post and tele-
some agal of the measurement to contract	communication-related matters, and to provide for matters con-
energy are way project to the	nected therewith.".
	21. Substitution for the First Schedule of
when they are new contraction when they are new contractions and the contraction of the c	the following Schedule:
eine an pose oute frij ein it austal an en eine an pose oute frij ein it derstaat an en	"FIRST SCHEDULE
react of the Reports of of the auga- mation to discovery of prevention.	OATH TO BE TAKEN OR AFFIRMATION TO BE MADE BY
cross in mor either matter consected	EMPLOYEES
limit precidence user all other !	I (name in
years (2) Yay pervog who contravents link-	do solemnly swear/affirm* faithfully in
section is among it an offered and	my position as an employee of the tele-
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# MEMORANDUM ON THE OBJECTS OF THE SOUTH AFRICAN POST OFFICE SOC LTD BILL, 2010

#### 1. BACKGROUND

1.1 The South African Post Office Limited ("the Post Office") was established in terms of the Post Office Act, 1958 (Act No. 44 of 1958), which governed both the post and telecommunications services. In 1991 the Post Office Amendment Act, 1991 (Act No. 85 of 1991), separated the historically combined post and telecommunication services provided through a state department and created two separate independent companies.

1.2 As a legal entity, the Post Office is not only obliged to balance revenue and expenditure, but also to make profit. The Post Office is responsible for meeting its universal service obligations and for shouldering all of its obligations and liabilities. The company is

given a high level of managerial autonomy and flexibility.

1.3 Despite the high level of managerial and organisational autonomy and flexibility, the postal company is accountable to government; operates within the Postal Services Act, 1998 (Act No. 124 of 1998); and is subject to regulatory oversight by the Independent Communications Authority of South Africa (ICASA).

1.4 As a public entity the finances of the Post Office are governed by the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999). The Minister of Communications is responsible for oversight in relation to financial issues, as the Executive Authority.

1.5 The Post Office has the mandate to provide postal services to all South Africans. With reform in the sector the mandate has been extended to include the use of information and communications technology infrastructure as well as the offering of services other than in the traditional postal services.

#### 2. CURRENT REGULATORY FRAMEWORK

2.1 The White Paper on Postal Policy (1996) provides for guidelines for the structure and management of the Post Office Board.

2.2 The Postal Services Act, 1998, provides for the operational function of the Post

Office, and does not deal with matters of shareholder governance explicitly.

2.3 The Post Office Act, 1958, did not address the relationship between government and the Board of Directors, the relationship between the Board and the Executive Management of the Company and how the Board is appointed. Subsequent to that, it became apparent that a new law should be established to deal with matters of corporate governance of the Post Office.

#### 3. OBJECTS OF THE BILL

3.1 The South African Post Office Bill is aimed at providing a comprehensive legal framework addressing corporate governance of the Post Office in a single Act focusing on the Post Office as a legal entity.

3.2 Government has a fundamental obligation to provide universal postal services. The establishment of this legislation will put in place institutional arrangements that best foster efficiency, improve competitiveness and enhance accountability.

## 4. SUMMARY OF THE BILL IN The of the manufactor of the share at the

- 4.1 Clause 1 contains the definitions used in the Bill.
- 4.2 Clause 2 provides for the objects of the Act, which includes the provision of universal, accessible, reliable and affordable postal services and governance of the Post Office.
- 4.3 Clause 3 provides for the continued existence of the Post Office and for related transitional matters. It further empowers the Minister to add to or alter the memorandum of incorporation of the Post Office, and beginning mortal and small small and make
  - 4.4 Clauses 4 and 5 outline the duties and powers of the Post Office.
- 4.5 Clause 6 provides for the Post Office annually to conclude a performance agreement with the Minister. The agreement shall amongst others outline how the performance of the Post Office will be measured.
- 4.6 Clause 7 empowers the Minister after consultation with the Minister of Finance to annually grant financial support to the Post Office in respect of normal expenditure

from money appropriated by Parliament for the purpose. It further provides for the Post Office to seek approval from the Minister granted after consultation with the Minister of Finance before it can borrow money.

- 4.7 Clause 8 makes provision for the Post Office to be governed by a Board of Directors. The Board will consist of three executive members, and not more than 11 non-executive members, one of whom must be the managing director of the Postbank by virtue of his or her office. It further empowers the Minister to appoint the Chairperson and the Deputy Chairperson from amongst the non-executive Board members.
- 4.8 Clause 9 outlines the functions of the Board and provides amongst others that the Board must give effect to the corporate plan of the Post Office as contemplated in section 52 of the Public Finance Management Act.
- 4.9 Clause 10 provides for the grounds for disqualification from appointment to the Board and the obligation to make full disclosure of certain interests.
- 4.10 Clause 11 outlines the procedure to be followed in appointing non-executive members of the Board.
- 4.11 Clause 12 makes provision for the procedure to be followed by a member wishing to resign from the Board. It also provides for the circumstances under which the Minister may remove a member from office.
  - 4.12 Clause 13 sets out the fiduciary duties of the Board.
- 4.13 Clause 14 seeks to empower the Board to appoint committees. The Board is also required to appoint committees specified in the clause. It further provides for criteria for the appointment of members to these committees.
- 4.14 Clause 15 empowers the Board to delegate any of its powers and assign any of its duties to any Board member or any of its committees, or to a member of the executive management or any employee of the Post Office.
- 4.15 Clause 16 empowers the Board to appoint a chief executive officer, chief financial officer and chief operating officer with the approval of the Minister. It further provides for the procedure to be followed in making the appointments.
- 4.16 Clause 17 outlines the conditions for the appointment of chief executive officer, chief financial officer and chief operating officer. These appointments are subject to the conclusion of annual performance contracts with the Post Office. It further provides for their term of office, which is a period not exceeding five years with the possibility of reappointment for one additional term.
- 4.17 Clause 18 provides for the circumstances under which the employment of the chief executive officer, chief financial officer and chief operating officer shall be terminated.
- 4.18 Clause 19 empowers the Board to appoint any senior employee of the Post Office as acting chief executive officer, acting chief financial officer or acting chief operating officer. The provision also sets out the circumstances under which such appointments may be made.
- 4.19 Clause 20 empowers the chief executive officer, chief financial officer and chief operating officer to delegate and assign any of their powers and duties to an employee of the Post Office.
- 4.20 Clause 21 empowers the Board to determine the personnel establishment necessary to enable the Post Office to perform its functions.
- 4.21 Clause 22 provides for the establishment of subsidiaries of the Post Office and accountability.
- 4.22 Clause 23 provides for the application of the Public Finance Management Act to the Post Office.
- 4.23 Clause 24 empowers the Minister to appoint a person to investigate the affairs or financial position of the Post Office and compliance by the Post Office with the Act. It further obliges the Post Office or an employee of the Post Office to provide the Minister or a person authorised by the Minister with such information, books, accounts, documents and assets of the Post Office as the Minister or the authorised person may require.
- 4.24 Clause 25 authorises the Minister under certain circumstances to issue directives requiring the Post Office to take action specified by the Minister. A directive may for example be issued if the Post Office is in financial difficulty, if it is mismanaged, or if it fails to perform its functions effectively and efficiently. The clause also seeks to empower the Minister to replace the members of the Board or to appoint an administrator to take over certain functions of the Board if the Board fails to comply with the directive. The Minister is also empowered to dissolve the Board if, on good

cause shown, the Minister loses confidence in the ability of the Board to perform its functions effectively and efficiently.

4.25 Clause 26 provides for the limitation of liability of the Post Office or any of its employees for damage or loss caused in the performance of their functions. The limitation does however not apply in the case of unlawful or grossly negligent action or action taken in bad faith.

4.26 *Clause* 27 deals with the application of provisions of the Companies Act, 2008 (Act No. 71 of 2008), to the Post Office.

4.27 Clause 28 seeks to authorise the Minister to request the Minister of Trade and Industry to declare a provision of the Companies Act to be inapplicable the Post Office. Such declaration may only be issued in circumstances specified in the clause and only if the process provided for in the clause has been followed.

4.28 *Clause 29* empowers the Minister to make certain regulations. This clause also seeks to empower the Minister to make policies applicable to the Post Office.

4.29 *Clause 30* creates certain offences and sets out the penalties that may be imposed. 4.30 *Clause 31* provides for the repeal and amendment of laws mentioned in Schedule

2 to the Act.

4.31 *Clause 32* contains the short title and provides for the commencement date of the Act. This Bill was introduced as the South African Post Office Bill but the name was changed by the Portfolio Committee on Communications to South African Post Office SOC Ltd Bill.

#### 5. PARTIES CONSULTED

South Africa Post Office Limited (SAPO), National Treasury, Industrial Strategy Focus Group, Department of Cooperative Governance and Traditional Affairs, Government Communication and Information System (GCIS), Department of Trade and Industry (DTI), Department of Public Enterprises (DPE), Department of Social Development (DSD), Department of Science and Technology (DST), Independent Communications Authority of South Africa (ICASA), South African Social Security Agency (SASSA), all nine provincial departments of local government, Communications Workers Union, Organised Civil Society, Non-Governmental Organisations, Members of the public, National House of Traditional Leaders, Eastern Cape House of Traditional Leaders, North West House of Traditional Leaders.

#### 6. FINANCIAL IMPLICATIONS FOR STATE

Normal costs associated with legislative processes will be incurred. The Bill will have some financial implication on the Post Office due to the revision of *inter alia* its memorandum of incorporation to align it with the Bill. No major financial implications are, however, foreseen for the Post Office as the Bill predominantly captures existing processes, procedures and governance arrangements in statute.

#### 7. IMPLICATIONS FOR PROVINCES

None.

#### 8. PARLIAMENTARY PROCEDURE

8.1. The State Law Advisers and the Department of Communications are of the opinion that the Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution, since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.

8.2. The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.

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