



## ANALYSIS

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1991, No. 12

An Act to amend the Telecommunications Act 1989  
and to make provision therein for postal services

(11 June 1991)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled and by the authority of the same as follows:

1. Short Title and commencement - (1) This Act may be cited as the Telecommunications Amendment Act 1991 and shall be read with and deemed part of the Telecommunications Act 1989 (hereinafter referred to as "the principal Act").

(2) This Act shall come into force on a date to be appointed by the Minister by notice in the Cook Islands Gazette.

2. Interpretation - (1) The principal Act is amended by deleting from section 2 the term "Network Operator" and its definition.

(2) Section 2 of the principal Act is further amended by inserting therein in alphabetical order the following terms and definitions -

"Dangerous enclosure" includes any explosive, dangerous or destructive substance or fluid, and any matter or thing capable, as packed, of causing injury or damage to any postal article or any person;

"Document exchange" means a place where documents are deposited for collection by the addressee;

"Letter" means any form of written communication or other document or article that is directed to a specific person or a specific address and is to be conveyed other than by electronic means; and includes a packet, package, or wrapper containing any such communication;

"Postage stamp" means an adhesive label or impression on any stationery denoting payment of the fee chargeable for the carriage of a postal article;

"Postal article" means a letter, parcel, or other article that has been posted and has not been delivered; and includes an article that, although it may have been delivered within the meaning of subsection (2) of section 41B has not reached the hands of the addressee;

"Company office" means any building, house, room, vehicle, or place where, under the control of the Company, postal articles are received or delivered, or where they are sorted, made up, or dispatched.

3. New Part - The principal Act is amended by inserting after Part VI the following new Part -

**PART VI A**  
**POSTAL SERVICE**

41A Restriction on carriage of letters - (1) No person other than the Company shall carry any letter for hire or reward.

(2) Nothing in subsection (1) shall apply to -

- (a) Trade announcements, circulars, printed extracts from newspapers, or advertisements, not addressed to any person;
- (b) Letters delivered by an employee of the sender;
- (c) Letters delivered by a messenger employed by the sender especially for the purpose, not being a person employed or engaged in the course of his or her business or employment in delivering or procuring the delivery of letters;
- (d) Letters exceeding 500 grams in weight;
- (e) Letters concerning goods sent with the goods and delivered therewith;
- (f) Letters containing any writ or proceeding out of any Court, or any legal instrument of any kind;
- (g) Letters sent or carried to or from a post office;
- (h) Letters carried in accordance with an agreement entered into by the Company;
- (i) Letters of 500 grams or less in weight if a charge of \$5.00 or more per letter is made in respect of the carriage, taking charge, or sending of the letter;
- (j) Transfers between document exchanges;
- (k) Letters carried to the premises of a provider of electronic mail services for the purposes of being transmitted as electronic mail, or letters carried from the premises of such a person after having been so transmitted.

(3) The Queen's Representative may from time to time, by Order in Executive Council, make regulations declaring -

- (a) That a substantial disruption to the services supplied by the Company has occurred; and
- (b) That subsection (1) shall not apply for such period as is specified in the order.

(4) Every person who carries, sends, or takes charge of any letter contrary to the provisions of this section commits an offence and shall be liable on conviction to a fine not exceeding \$1,000 in respect of every letter to which the breach relates.

41B Posting and delivery of letter - (1) An article shall be deemed to have been posted when, for the purpose of being conveyed or delivered by the Company it has been put into a Company letterbox, or delivered at a Company office, or accepted for the purpose of being conveyed by post by an employee or an agent of the Company in the course of his or her duty or authority.

(2) A postal article shall be deemed to be delivered to the addressee when it is delivered by the Company at his or her house, or office, or into his or her letterbox or rural delivery box, or into the proper private box at a Company office, or to his or her employee or agent or other person considered to be authorised to receive the article, or according to the usual manner of delivering postal articles to the addressee.

41C Stamps - (1) No person other than the Company, or any person authorised for this purpose by the Company may produce postage stamps.

(2) Every person commits an offence and shall be liable on conviction to a fine not exceeding \$10,000 who produces postage stamps in contravention of this section.

41D Letterboxes - (1) Subject to subsection (2), the Company may erect and maintain letterboxes or rural delivery boxes in any road, street, reserve, or public place, under the control of any authority.

(2) No letterbox or rural delivery box shall be so placed as to interfere with ordinary traffic.

41E Loss of or delay to postal articles - No person shall have any right to compensation and no liability shall be imposed upon the Company by reason of any loss, default, delay or omission in relation to any letter, except in relation to a letter to which section 41A(2) applies.

41F Detention of postal articles - (1) Where the Company has reason to suspect that any postal article contains any dangerous enclosure or is otherwise in contravention of this Part or any other enactment, it may detain the postal article for opening and examination in accordance with subsection (2).

(2) Every postal article which is detained under subsection (1) may be opened and examined at a Company office by 2 or more persons specially authorised for the purpose by the Company or by one such authorised person in the presence of another employee of the Company, or in the presence of an officer of the Customs Department, and shall not be opened or examined otherwise.

(3) Where a postal article is intended to be opened or has been opened under this section, the Company shall give notice to that effect to the addressee if known and, if not known, to the sender thereof if known.

41G Disposal of article detained under this Part - (1) Subject to the provisions of this Part if any postal article opened or examined is found to be in contravention, or to have been posted in contravention, of this Part or of any other enactment, the Company may direct that the postal article be forfeited; and any such article shall be destroyed or otherwise disposed of in accordance with the directions of the Company.

(2) If any postal article opened is found to be in fraud or violation, or to have been posted in fraud or violation, of the Customs Act 1913 or any other Act relating to Customs or any Order in Executive Council or regulation made under any such Act, it shall be handed over to the Customs Department to be dealt with in accordance with such Act, Order or Regulation.

(3) Every postal article opened and found to contain any valuable or saleable enclosure shall, together with its contents, be safely kept pending its disposition under this section, and a list of any such postal articles together with a memorandum of the contents thereof shall be made and preserved.

41H Offender not relieved from liability - The detention, destruction, or disposal under this Part of a postal article or its enclosure shall not relieve any person from liability for any offence against this Part or any other Act.

41I Obligation to pass on postal articles - Where a postal article that has not been delivered comes into the possession of a person other than the addressee, that person shall either deliver it to the addressee or return it to the Company.

41J Wrongful divulgence of contents of a postal article or of information obtained from postal article - (1) Every officer, employee, or agent of the Company commits an offence and shall be liable on conviction to imprisonment for a term not exceeding 6 months who divulges to any person, except so far as is lawfully permitted, any information from or as to the contents of a postal article that has come to his or her knowledge in the course of his or her duty.

(2) Every person, other than an officer, employee, or agent of the Company acting in the course of his or her duty, commits an offence who, having examined the contents of a postal article not intended for him or her, divulges without good and sufficient cause to any person any information obtained by him or her from or as to the contents of the postal article.

41K Posting of objectionable thing - Every person commits an offence, who posts or causes to be posted, without reasonable excuse, any postal article containing any noxious substance or thing, or any dead animal.

41L Posting indecent article - Every person commits an offence who, with the intention of offending the recipient, posts or causes to be posted any postal article containing any indecent article or representation of any kind.

41M Unlawfully opening postal articles - Every person who wilfully and without reasonable cause or excuse opens or causes to be opened any postal article which is not addressed to him or her, commits an offence and shall be liable on conviction to imprisonment for a term not exceeding 6 months.

41N Posting of dangerous enclosure - (1) Every person commits an offence and shall be liable on conviction to imprisonment for a term not exceeding 1 year who posts, or causes to be posted, any postal article containing any dangerous enclosure.

(2) Nothing in subsection (1) shall apply to poisons when sent and packed in accordance with conditions prescribed by any enactment or by the Company.

41O Recording on a postal article incorrect time and place of posting - Every person commits an offence who falsely marks any postal article so as to lead any person to believe that it was posted at a time or place other than the time at which or place from which it was in fact posted.

41P Theft of postal article by officer - (1) Every officer and every employee or agent of the Company who steals, or for any purpose whatever contrary to his duty secretes or destroys a postal article of any kind other than a postal article to which subsection (2) of this section applies commits an offence against this Act and shall be liable on conviction to imprisonment for a term not exceeding 5 years, or, if the article contains therein any chattel, money, or valuable security, shall be liable on conviction to imprisonment for a term not exceeding 7 years.

(2) Every officer and every employee or agent of the company who steals, or for any purpose contrary to his duty secretes or destroys any postal article being a printed paper without a cover or in an open cover commits an offence against this Act and shall be liable on conviction to imprisonment for a term not exceeding 2 years.

41Q Theft of money from postal articles - Every person who steals from or out of a postal article any chattel, money, or valuable security shall be liable on conviction to imprisonment for a term not exceeding 7 years.

41R Theft of postal article by person other than officer

(1) Every person, other than an officer, who steals any postal article of a kind other than a postal article to which subsection (2) applies commits an offence against this Act and shall be liable on conviction to imprisonment for a term not exceeding 3 years.

(2) Every person, other than an officer, who steals any postal article being a printed paper without a cover or in an open cover commits an offence against this Act and shall be liable on conviction to imprisonment for a term not exceeding 6 months.

41S Receiving of postal matter dishonestly obtained -

(1) Every person who receives any mail or postal article or the contents of any postal article obtained by any offence against this Act knowing the same to have been dishonestly obtained commits an offence against this Act and shall be liable to the same penalty as the person who committed the offence by which the mail or postal article or contents was obtained.

(2) The provisions of the Crimes Act 1969 relating to receiving property dishonestly obtained shall, as far as they are applicable, and with the necessary modifications, apply to any offence under this section.

41T Offences - (1) Every person who commits an offence against this Part in respect of which a penalty is not specifically provided elsewhere in this Act shall be liable on conviction to a fine not exceeding \$1,000.

(2) Any information in respect of an offence against this Part may be laid at any time within 12 months from the time when the matter of the information arose, and any proceedings brought under this Part by way of complaint may be commenced at any time within 12 months from the time when the matter of complaint arose.

4. Reference to network operator deleted - The principal Act is amended by deleting therefrom every reference to network operator wherever that reference appears and substituting with all necessary modification, reference to the Company.

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This Act is administered by  
Telecom Cook Islands Limited