

Decrees, orders, circulars

GENERAL TEXTS

MINISTRY OF THE ECONOMY, FINANCE AND INDUSTRY

Decree No. 2005-1068 of 30 August 2005 implementing section 16 of Law No. 2005-516 of 20 May 2005 on regulation of postal activities

NOR: ECOT0526354D

The Prime Minister,
Acting upon a report from the Minister of the Economy, Finance and Industry,
Having regard to the Monetary and Financial Code;
Having regard to the Post and Electronic Communications Code;
Having regard to the Construction Code;
Having regard to the amended Law No. 90-568 of 2 July 1990 on the public service organisation of La Poste and France Télécom;
Having regard to Law No. 2005-516 of 20 May 2005 on regulation of postal activities, in particular section 16;
Having regard to the amended Decree No. 84-708 of 24 July 1984 implementing Law No. 84-46 of 24 January 1984 on the activity and supervision of credit institutions;
Having regard to the amended Decree No. 90-1214 of 29 December 1990 on the specifications of La Poste;
Having regard to Decree No. 93-735 of 29 March 1993 on the reserve for housing, amended by Decree No. 2000-369 of 28 April 2000;
Having regard to Decree No. 93-977 of 31 July 1993 on attachments and assignments served on public treasurers and Post Office Cheque Centres or branches of the National Savings Bank;
Having regard to the opinion of the National Joint Technical Committee of La Poste dated 25 May 2005;
Having regard to the opinion of the Supervisory Committee of the Deposits and Loans Fund dated 25 May 2005;
Having regard to the opinion of the Commission for the Public Service of Postal and Electronic Communications dated 15 June 2005;
Having regard to the opinion of the Financial Regulation and Legislation Advisory Committee dated 13 May 2005;
Having heard the *Conseil d'Etat* (Finance Division),

Decrees:

TITLE I

TRANSFER OF ASSETS, RIGHTS AND OBLIGATIONS ASSOCIATED WITH PASSBOOK AND OTHER ACCOUNTS AND CONTRACTS OF ALL KINDS OPENED OR CONCLUDED BY LA POSTE FOR THE NATIONAL SAVINGS BANK

Article 1. – Subject to the rules specific to “Livret A” passbook accounts, the assets, rights and obligations associated with passbook and other accounts and contracts of all kinds opened or concluded by La Poste for the National Savings Bank (*Caisse nationale d'épargne*) – in particular those necessary for credit institutions' compliance with prudential obligations and the rules on

covering risks – shall be transferred under the terms of Articles 2 to 6, through the agency of La Poste, to the credit institution referred to in subsection II, subparagraph 1, of section 16 of the above-mentioned law of 20 May 2005. This transfer shall take effect on the date specified in Article 5.

Article 2. – All assets, rights and obligations entered under assets and liabilities in the balance sheets of the units for “National Savings Bank Home-Buyers’ Savings Plans” (*épargne-logement*) and “National Savings Bank Popular Savings Plans” (*plans d’épargne populaire*) of the own funds centralised at the Deposits and Loans Fund (*Caisse des dépôts et consignations*) shall be transferred to La Poste.

Off-balance sheet liabilities relating to these units shall also be transferred to La Poste.

The assets, rights and obligations specified in the first paragraph and the liabilities specified in the second paragraph shall be transferred to La Poste at their net book value on the date of the transfer for the assets, rights and obligations specified in the first paragraph, and at their book value on the date of the transfer for the liabilities specified in the second paragraph. On the same date, they shall be recorded in the accounts of La Poste in accordance with the standards applying to La Poste. In particular, the amounts entered under “general banking risk fund” items shall be entered in the La Poste balance sheet under the item “additional contributions to assets”.

Current litigation being handled by the Deposits and Loans Fund in relation to assets and liabilities transferred under this article and arising prior to the date of the said transfer shall be taken over by La Poste from the date of this transfer.

Article 3. – All assets, rights and obligations associated with additional savings passbook accounts (*livrets supplémentaires*) and popular savings passbook accounts (*livrets d’épargne populaire*) of the National Savings Bank centralised at the Deposits and Loans Fund shall be transferred to La Poste.

To this end, the Deposits and Loans Fund shall pay La Poste a sum equivalent to the total amount of deposits centralised for these passbooks on the date of transfer, plus unpaid accrued interest on the date of transfer, calculated according to the rules specific to the said passbooks, and minus the proportion of deposits in popular savings passbook accounts still centralised at the Deposits and Loans Fund pursuant to Article R. 221-58 of the Monetary and Financial Code, and the unpaid accrued interest on them at the date of transfer. On the date of transfer La Poste shall enter in its accounts a claim on the Deposits and Loans Fund for a total amount corresponding to this proportion.

Article 4. – All assets, rights and obligations associated with industrial development accounts (Codevi) of the National Savings Bank centralised at the Deposits and Loans Fund shall be transferred to La Poste.

To this end, on the date of transfer La Poste shall enter in its accounts a claim on the Deposits and Loans Fund whose total amount is equivalent to the sum of the deposits received for these accounts, plus the total amount of unpaid accrued interest calculated according to the rules specific to the Codevi. This claim shall be covered by industrial development securities issued by the Deposits and Loans Fund.

Article 5. – La Poste shall, with effect from 31 December 2005, transfer to the credit institution referred to in subsection II, subparagraph 1, of section 16 of the above-mentioned law of 20 May 2005 all assets, rights and obligations associated with its financial services, including all assets, rights and obligations received pursuant to Articles 1 to 4.

This credit institution shall, in accordance with the accounting standards applying to it, record in its accounts under the items “equity capital” and “contingency reserve” those amounts entered in the La Poste balance sheet under the items “additional contributions to assets” and “contingency reserve” respectively.

Article 6. – From the date specified in Article 5, the National Savings Bank shall receive no more deposits, with the exception of “Livret A” passbook account deposits.

Article 7. – The implementing provisions for Articles 1 to 5 shall be specified by a joint order of the Minister of the Economy and the Minister for Postal Services and supplemented, as necessary, by one or more agreements entered into by La Poste and the Deposits and Loans Fund.

TITLE II

TRANSITIONAL PROVISIONS

Article 8. – Funds deposited in the passbook and other accounts and under the contracts referred to in Articles 2 to 4 prior to the date specified in Article 5 shall continue to benefit from the guarantee of the State for a period of one year from that date.

The terms of compensation of this guarantee by the credit institution referred to in subsection II, subparagraph 1, of section 16 of the above-mentioned law of 20 May 2005 shall be laid down in an agreement between the State and this institution.

Article 9. – Subject to the provisions of the first paragraph of Article 8, all transactions completed within the scope of the financial services of La Poste prior to the transfer provided for in subsection II, subparagraph 1, of section 16 of the above-mentioned law of 20 May 2005 shall continue to be governed by the provisions applicable to them on their date of completion.

In particular, post-office cheques and postal orders written prior to the date of this transfer shall continue to be governed by the provisions of Book III, Title I and Title II respectively of the Post and Electronic Communications Code as worded on the date when the cheques or orders were written.

Article 10. – Post-office cheque forms issued to customers of La Poste’s financial services prior to the date of the transfer provided for in subsection II, subparagraph 1, of section 16 of the above-mentioned law of 20 May 2005 may continue to be written for a period of no more than two years from this date of transfer. During this period, cheques written using these forms shall be deemed to be drawn on the credit institution referred to in subsection II, subparagraph 1, of section 16 of the above-mentioned law of 20 May 2005 and shall be governed by the provisions of the Monetary and Financial Code.

Article 11. – From the date specified in Article 5, additional passbook accounts opened by La Poste for the National Savings Bank prior to the transfer referred to in subsection II of section 16 of the above-mentioned law of 20 May 2005 shall be subject to the provisions of Article R. 221-27-1 of the Monetary and Financial Code.

TITLE III

MISCELLANEOUS PROVISIONS

Article 12. – Instruments relating to assignments, preventive attachments and garnishments concerning holders of accounts opened with a credit institution having entered into an agreement with La Poste within the meaning of Article L. 518-25 of the Monetary and Financial Code shall be valid only if served to the registered office of this institution or the branch where the holder’s account is held. They cannot be served in a post office.

Article 13. – An agreement entered into by the State and the credit institution referred to in subsection II, subparagraph 1, of section 16 of the above-mentioned law of 20 May 2005 shall specify the terms under which this institution shall operate the accounts of public treasurers and imprest officers.

Article 14. – Book III of the regulatory part of the Post and Electronic Communications Code shall be repealed.

Article 15. – The regulatory part of the Monetary and Financial Code shall be amended as follows:

1) Article R. 221-26 shall be replaced by the following provisions:

“*Article R. 221-26.* – The credit institution referred to in Article L. 518-26 of the Monetary and Financial Code shall open a ‘Livret A’ passbook account free of charge for any person who so requests.”

2) An article R. 221-27-1 shall be inserted after Article R. 221-27, worded as follows:

“*Article R. 221-27-1.* – Sums deposited in excess of the ceiling referred to in Article R. 221-1 by a holder of a ‘Livret A’ passbook account with the National Savings Bank shall be transferred to a

passbook account opened with the credit institution referred to in Article L. 518-26 of the Monetary and Financial Code.

“Articles R. 221-5 and R. 221-13 shall apply to passbook accounts opened to receive amounts deposited in excess of the ‘Livret A’ ceiling.”

3) In Article R. 221-40, the words “at the National Savings Bank and” shall be deleted.

4) In the second paragraph of Article R. 221-58, the words “Subject to the specific rules governing savings banks” shall be deleted.

5) In Article R. 221-76, the words “or with the financial services of La Poste” shall be deleted.

6) Article R. 518-46 shall be amended as follows:

a) Paragraph I shall be replaced by the following provisions:

“I. – The credit institution referred to in Article L. 518-26 of the Monetary and Financial Code shall provide administrative and commercial management of the National Savings Bank on behalf of the State as provided for in an agreement entered into by the State, La Poste and that institution.”

b) In paragraph II, the words “La Poste” shall be replaced by the words “The credit institution referred to in Article L. 518-26” and the words “and additional passbook accounts” shall be deleted.

7) In Article R. 518-47, the words “La Poste” shall be replaced by the words “The credit institution referred to in Article L. 518-26”.

8) In Article R. 518-51, the words “to the branch of the National Savings Bank where the accounts covered by the instruments are held” shall be replaced by the words “to the registered office of the credit institution referred to in Article L. 518-26”.

9) Article R. 518-52 shall be amended as follows:

a) In paragraph I, subparagraph 2, the words “or of the additional passbook account” shall be deleted, and the words “La Poste” shall be replaced by the words “the credit institution referred to in Article L. 518-26 of the Monetary and Financial Code”.

b) In paragraph II, subparagraph 1, the words “and additional” shall be deleted, and in paragraph II, subparagraph 2, the words “these passbook accounts” shall be replaced by the words “Livret A passbook account”.

10) In Articles R. 518-53, R. 518-54, R. 518-55, the words “and additional passbook accounts” shall be deleted; in the same articles, the words “La Poste” shall be replaced by the words “the credit institution referred to in Article L. 518-26”.

11) Article R. 518-56 shall be repealed;

12) In the last paragraph of Article R. 564-1, the words “the financial services of La Poste” shall be replaced by the words “La Poste”.

13) In Article R. 611-1, the first paragraph of Article R. 611-2, and the first paragraph of Article R. 611-3, the words “the financial services of La Poste” shall be deleted.

14) Articles R. 518-43 to R. 518-45, paragraph III of Article R. 518-46, and Article R. 518-48 shall be repealed.

Article 16. – The Construction Code (regulatory part: *Conseil d’Etat* decrees) shall be amended as follows:

1) In the first paragraph of Article R. 315-69, the words “or by the National Savings Bank” shall be deleted;

2) In Article R. 331-65, the second paragraph shall be deleted;

3) In paragraph II of Article R. 442-20, the words “of La Poste” shall be deleted.

Article 17. – Article 1 of the above-mentioned decree of 24 July 1984 shall be amended as follows:

- 1) In the first paragraph, the words “the financial services of La Poste and” shall be deleted;
- 2) In the second paragraph, the words “However, when the financial services of La Poste proceed to open new branches and” shall be replaced by the words “When La Poste proceeds to open new post offices which, under Article L. 518-25 of the Monetary and Financial Code, offer the banking transactions described in Article L. 312-1 of this code and”.

Article 18. – The above-mentioned decree of 29 March 1993 shall be amended as follows:

- 1) In the second paragraph of Article 1, the words “La Poste for the passbook accounts described in Article 5 of the Savings Banks Code” shall be replaced by the words “the credit institution referred to in Article L. 518-26 of the Monetary and Financial Code for the ‘Livret A’ passbook account”.
- 2) In Article 5, the words “in the passbook accounts referred to in Article 5 of the Savings Banks Code” shall be replaced by the words “in the ‘Livret A’ passbook accounts of the National Savings Bank and the savings banks (*caisses d’épargne et de prévoyance*) described in the first paragraph of Article L. 221-1 of the Monetary and Financial Code”.
- 3) In Article 5-1, the words “in the passbook accounts described in Article 5 of the Savings Banks Code and by the above-mentioned Law No. 82-357 of 27 April 1982” shall be replaced by the words “in the ‘Livret A’ passbook accounts of the National Savings Bank and the savings banks (*caisses d’épargne et de prévoyance*) described in the first paragraph of Article L. 221-1”.

Article 19. – In the title and in Article 2 of the above-mentioned decree of 31 July 1993, the words “and Post Office Cheque Centres or branches of the National Savings Bank” shall be deleted.

Article 20. – The following shall be repealed:

- 1) Articles 8, 9, 10, 13 and paragraph 5 of Article 38 of the schedule to the above-mentioned decree of 29 December 1990;
- 2) Decree No. 88-525 of 4 May 1988 setting up the computer department of the financial services;
- 3) Decree No. 90-1257 of 31 December 1990 on operation and management of the post-office current accounts of public treasurers and imprest officers and the opening, in the accounts of the Issuing Institution of the Overseas Departments, of a current account with La Poste.

Article 21. – The provisions of Articles 12 to 20 of this decree shall take effect on the transfer date specified in Article 5.

Article 22. – The Minister of the Economy, Finance and Industry and the Minister Delegate for Industry shall be responsible with respect to their own spheres for the enforcement of this decree, which shall be published in the *Journal officiel de la République française*.

Done at Paris, 30 August 2005

The Prime Minister:

DOMINIQUE DE VILLEPIN

*Minister of the Economy,
Finance and Industry,*
THIERRY BRETON

Minister Delegate for Industry,
FRANÇOIS LOOS