

Monday, 6 June 2005

Journal Officiel de la République Française

Law No. 2005-516 of 20 May 2005 on regulation of postal activities

Summary Corrigendum Legislation record

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Text No. 1

ACTS

Law No. 2005-516 of 20 May 2005 on regulation of postal activities (1)

NOR: ECOX0300058L

The National Assembly and the Senate have passed,

The President of the Republic has enacted the following law:

Section 1

Book I, Title I, Chapter 1 of the Post and Electronic Communications Code shall be amended as follows:

1) It shall be headed: “The universal postal service and postal service obligations” and shall comprise Articles L.1 to L.3-4;

2) Three paragraphs shall be inserted at the beginning of Article L.1, worded as follows:

“For the purposes of this Code, postal services comprise clearance, sorting, transport and delivery of postal items in the course of regular rounds.

“A postal item is any item to be delivered at the address indicated by the sender on the item itself or on its wrapping and presented in the final form in which it is to be carried. Postal items include books, catalogues, newspapers, periodicals and postal packages containing merchandise with or without commercial value.

“An item of correspondence is a postal item not exceeding two kilograms and containing a communication in written form on a physical medium; books, catalogues, newspapers and

periodicals are not items of correspondence. Direct mail forms part of items of correspondence.”;

3) A paragraph shall be inserted after the third paragraph of Article L.1, worded as follows:

“Deliveries shall be provided to appropriate installations at the home or premises of every natural or legal person or, by way of derogation, subject to conditions laid down by decree.”;

4) The last three paragraphs of Article L.2 shall be replaced by five paragraphs worded as follows:

“Postal services relating to items of domestic correspondence or incoming cross-border correspondence, including those sent by express mail, shall be reserved for La Poste if they weigh less than 100 grams and their price is under three times the basic tariff. From 1 January 2006 the reserved sector shall consist of services covering items of domestic correspondence and incoming cross-border correspondence, including those sent by express mail, weighing less than 50 grams and whose price is under two and a half times the basic tariff. Books, catalogues, newspapers and periodicals shall be excluded from the sector reserved for La Poste.

“The basic tariff referred to above is the applicable rate for an item of correspondence in the first weight band of the fastest standardised category. Taken as a standard for demarcating reserved services, its value cannot exceed one euro.

“By way of derogation from the second paragraph, the person who is the originator of the mail or a third party acting solely on behalf of that person may provide postal services for this mail.

“A *Conseil d'Etat* decree, adopted after consultation of La Poste and after consulting the Postal Services and Electronic Communications Regulatory Authority and the Commission for the Public Service of Postal and Electronic Communications, shall define the particular features of the universal service that La Poste is required to provide.

“This decree shall also determine the rights and duties of La Poste for its public service missions covering postal items, including the special arrangements for the press under the second paragraph of Article L.4, together with the conditions guaranteeing the neutrality and confidentiality of the services that it provides.”;

5) An Article L.2-1 shall be inserted after Article L.2, worded as follows:

“Article L.2-1. - With bulk mailers, consolidators of mail from different customers and licence holders under Article L.3, the universal service provider may enter into contracts departing from the standard terms and conditions of universal service provision and including special tariffs for business services. The tariffs shall take account of the costs avoided in comparison with services covering the full range of features.

“The provider shall establish the tariffs and conditions of these services according to objective and non-discriminatory rules.

“These contracts shall be disclosed to the Postal Services and Electronic Communications Regulatory Authority at its request.”;

6) Article L.3 shall be worded as follows:

“Article L.3. - Providers of non-reserved postal services relating to items of correspondence, including cross-border items, shall hold a licence issued under the terms of Article L.5-1 unless their activity is limited to domestic correspondence and does not include delivery.”;

7) Four articles, L.3-1 to L.3-4, shall be inserted after Article L.3, worded as follows:

“Article L.3-1. - Licence holders under Article L.3 shall have access, on transparent and non-discriminatory terms, under technical and pricing arrangements laid down in agreements signed to this end with the universal service provider, to the facilities owned or controlled by the latter that are essential to the pursuit of their postal activities.

“These facilities shall include the postcode directory, together with a key matching codes to geographical information on roads and addresses, as well as information collected by La Poste on changes of address, a redirection service for addressee change of address, and a delivery service or option for post-office boxes in post offices.

“Article L.3-2. - Any provision of postal services shall be subject to the following requirements:

“a) The safety of users, staff and the service provider’s equipment must be guaranteed;

“b) The confidentiality of items of correspondence and the integrity of their contents must be guaranteed;

“c) Any personal data in the possession of the universal service provider or licence holders under Article L.3, together with the privacy of users of these services, must be protected;

“d) Technical requirements must be environment-friendly.

“Article L.3-3. - Postage stamps issued by La Poste shall bear the mark ‘France’.

“Article L.3-4. - A *Conseil d'Etat* decree shall define the particular features of the registered mail service used in connection with judicial and administrative procedures.

“It shall also lay down the conditions under which the universal service provider or licence holders under Article L.3 may provide this service.”

Section 2

I. - The heading of Chapter I of Law No. 90-568 of 2 July 1990 on the public service organisation of La Poste and France Télécom shall be worded as follows: “Missions of La Poste and France Télécom”.

II. - Section 6 of the aforesaid Law No. 90-568 of 2 July 1990 shall be amended as follows:

1) A subsection I and subsection II shall be inserted before the first paragraph, worded as follows:

“I. - In carrying on its activities listed in section 2 of this law, La Poste shall contribute through its network of post-office counters to national and regional planning and development in addition to its universal service obligations under Articles L.1 and L.2 of the Post and Electronic Communications Code and with due regard for the principles laid down in section 1 of Outline Law No. 95-115 of 4 February 1995 on national and regional planning and development.

“La Poste shall adapt its network of post-office counters to fulfil this mission, in particular by entering into local public or private partnerships whilst seeking optimum social and economic efficiency.

“A *Conseil d'Etat* decree shall specify the procedures for determining, at *département* level and after consulting the *département* postal coverage committee referred to in section 38 of this law, the additional access requirements for the La Poste network arising out of this mission. These requirements shall take account of the following:

“- Distance and access time of local service provided by the network of post-office counters;

“- Social, economic and demographic characteristics of the areas concerned and, in particular, if they are classified as rural rehabilitation areas or sensitive urban areas as referred to in section 42 of the aforesaid Law No. 95-115 of 4 February 1995;

“- The geographical specificities of the *département* itself and the surrounding *départements*, especially in mountain areas.

“Other than in exceptional circumstances, these requirements do not permit more than 10% of a *département*'s population to be further than five kilometres, or more than twenty minutes' car drive under normal driving conditions for the area concerned, from the closest La Poste counter.

“II. - To finance this additional geographical network, there shall be established in a special account of La Poste, which shall be responsible for its financial and accounting management, a national postal fund for geographical equalisation subject to the conditions set out in a multi-annual postal coverage contract signed between the State, La Poste and the most representative national mayors' association, after consulting the Commission for the Public Service of Postal and Electronic Communications.

“The fund's resources will come mainly from a reduction in local taxation to which La Poste is entitled under the first paragraph of subparagraph (3) of section 21 (I).

“Post-office counters located in rural rehabilitation areas, in sensitive urban areas or within a commune that has entered into a coverage agreement with La Poste with one or more other communes, whether or not as part of a corporation, shall be entitled to a significant increase in the amount that they receive for postal equalisation.

“A decree adopted after consulting the Commission for the Public Service of Postal and Electronic Communications shall specify the implementing provisions for this subsection II.”;

2) The existing provisions shall constitute subsection III.

Section 3

Section 38 of the aforesaid Law No. 90-568 of 2 July 1990 shall be worded as follows:

“Section 38 - In order to implement local consultation on La Poste network development projects, a *département* postal coverage committee consisting of elected representatives shall be set up in each *département*. It shall meet in the presence of a government representative, who shall be responsible for coordinating its work with that of the *département* committee for public service organisation and modernisation, and a representative from La Poste, who shall act as secretary.

“The accessibility requirements for the La Poste network referred to in section 6 shall be determined after consulting the *département* postal coverage committee. In the *département* the *département* postal coverage committee shall, taking into consideration mountain areas, rural rehabilitation areas and sensitive urban areas, recommend the apportionment of the national postal fund allocation for geographical equalisation defined in this section.

“A decree, adopted after consulting the Commission for the Public Service of Postal and Electronic Communications, shall specify the committee’s composition, powers and operating rules.”

Section 4

The fourth paragraph of section 10 of the aforesaid Law No. 90-568 of 2 July 1990 shall be worded as follows:

“Seven persons selected for their qualifications, including representatives of national users associations and a representative of the communes, appointed by decree.”

Section 5

I. - In Book I, Title I of the Post and Electronic Communications Code, Article L.4 shall be repealed, Chapter II shall become Chapter III, and Articles L.5 and L.6 shall become Articles L.6 and L.6-1.

II. - In the same title a Chapter II shall be reinstated, worded as follows:

“Chapter II

“Regulation of postal activities

“Article L.4. - The Minister for Postal Services shall prepare and implement the rules applying to postal services.

“The Minister for Postal Services and the Minister of the Economy shall, after a published opinion from the Postal Services and Electronic Communications Regulatory Authority, approve the tariffs for services provided to the press in connection with public-service press transport and distribution and subject to the special arrangements provided for in this Code. The pricing structure of these services must promote pluralism, especially for general and political information.

“The Minister for Postal Services may request the Postal Services and Electronic Communications Regulatory Authority to institute the penalty procedure provided for in Article L.5-3.

“Article L.5. - The Postal Services and Electronic Communications Regulatory Authority shall be consulted on bills and draft regulations relating to postal services.

“At the request of the Minister for Postal Services it shall be involved in preparing the French position in this field and shall similarly participate, for matters within its competence, in work carried out in relevant EU and international organisations.

“Article L.5-1. - The Postal Services and Electronic Communications Regulatory Authority shall be responsible for issuing the licences applied for by the providers referred to in Article L.3. Licences shall be issued for a ten-year period. They shall be renewable. They shall not be transferable.

“The Authority can refuse a licence only through a reasoned decision on grounds based on the applicant’s financial, economic or technical inability to comply on a long-term basis with the obligations attaching to its postal activity and, in particular, the requirements referred to in article L.3-2, or because the applicant has been subject to one of the penalties described in Articles L.5-3, L.17, L.18 or L.19. It can cite grounds based on protection of public order, defence requirements or public security only upon a substantiated recommendation from the Minister for Postal Services.

“The decision to grant a licence shall indicate the particular features of the postal services authorised, the area over which they may be provided, the procedures for handling complaints from service users in the event of loss, theft or failure to comply with service-quality standards – including cases involving more than one provider – as well as the obligations on

the holder to allow supervision of its postal activity by the Postal Services and Electronic Communications Regulatory Authority.

“A *Conseil d'Etat* decree shall specify the rules and conditions of application of this article and in particular service-quality standards and the terms of their supervision.

“Article L.5-2. - The Postal Services and Electronic Communications Regulatory Authority:

“1) Shall ensure that the universal service provider and licence holders under Article L.3 comply with obligations arising out of the legislative and regulatory provisions pertaining to performance of the universal service and of the activities referred to in Article L.3 and with decisions taken to apply these provisions. Under the terms of Article L.5-3, it shall impose penalties for any breaches established;

“2) Shall be informed by the universal service provider of the technical and tariff conditions under which licence holders under Article L.3 may have access to the facilities essential to pursuit of their postal activities and referred to in Article L.3-1 and, to this end, shall inspect any agreements signed under Article L.3-1;

“3) Shall determine, after studying the proposal from La Poste or, in the absence of a proposal, on its own initiative after having notified the latter, the particular features of the multiannual tariff framework for universal service provision, being able where appropriate to draw a distinction between bulk mail and individual mail, and shall ensure compliance with this. It shall approve tariffs for services coming under the reserved sector. Failure by the Authority to reply within one month of receipt of the full application shall be deemed to constitute approval; any objection entered by the Authority shall take the form of a reasoned decision explaining the logic, especially the economic logic, behind it. The Authority shall be notified of the tariffs for non-reserved services forming part of the universal service by the universal service provider, prior to their coming into force and within a time-limit specified by the decree provided for in Article L.2. It may publish its opinion. The Authority shall take account of the competitive market situation in its decisions and opinions, especially when considering bulk mail pricing;

“4) Shall ensure compliance with quality targets for the universal service determined by order of the Minister for Postal Services under the arrangements laid down by the decree provided for in Article L.2; it shall commission an independent body to produce an annual service quality study, the results of which it shall publish;

“5) Shall publish an opinion on the economic aspects of the tariffs referred to in the second paragraph of Article L.4 prior to their approval by the Minister for Postal Services and the Minister of the Economy;

“6) Shall, in order to implement the principles of separation and transparency of accounts, and especially to guarantee the financing conditions of the universal service, define the cost accounting principles, establish the accounting system specifications and ensure compliance by the universal service provider with the cost-accounting obligations laid down in the decree provided for in Article L.2. To this end, within the scope of the universal service, the Authority shall inspect the audit results of the statutory auditors, confidentiality notwithstanding. It shall commission an annual audit, at the universal service provider's expense, by a competent body that it has approved and which is independent of the universal

service provider, of the compliance of the universal service provider's accounts with the principles that it has laid down. It shall ensure that the approved independent body publishes a compliance report;

“7) Shall take into consideration, in all its reasoned decisions and opinions, the financial equilibrium of universal service obligations, and explain its logic, especially its economic logic;

“8) Shall recommend to the Minister for Postal Services, if it appears that the universal service cannot be financed by the provider of that service under fair conditions, all the measures necessary to guarantee provision of that service.

“Article L.5-3. - The Postal Services and Electronic Communications Regulatory Authority may, either on its own initiative or at the request of the Minister for Postal Services, of a professional organisation, of a recognised users association, of the natural or legal person concerned, of the universal postal service provider or of a licence holder under Article L.3, impose penalties under the terms of this article on the universal service provider or a licence holder under Article L.3.

“This power to impose penalties shall be exercised in the following circumstances:

“1) In the event of contravention by the universal service provider or a licence holder under Article L.3 of a law or regulation relating to its activity, of decisions taken to implement this law or regulation, or of the provisions of the licence enabling it to carry on this activity, the director of the Postal Services and Electronic Communications Regulatory Authority shall give it formal notice to comply within a specified period; this period cannot be less than one month except in the case of serious and repeated contravention; the Authority may publish this formal notice;

“2) If the party concerned does not comply within the specified period with a decision taken pursuant to Article L.5-4 or L.5-5 or with the formal notice under subparagraph 1 above, or if it provides incomplete or erroneous information, the Postal Services and Electronic Communications Regulatory Authority may impose one of the following penalties, depending on the seriousness of the contravention:

“a) For a licence holder under Article L.3:

“- A warning;

“- Reduction of the licence period by one year;

“-Suspension of the licence for a maximum of one month;

“- Withdrawal of the licence;

“b) For the universal service provider or a licence holder under Article L.3 if the contravention does not constitute a criminal offence: a financial penalty the amount of which shall be proportionate to the seriousness of the contravention, the situation of the party concerned, the degree of harm and the gain derived from it, without exceeding 5% of pre-tax turnover for the last full financial year, although this ceiling shall be raised to 10% in the

event of a further contravention. If there has been no previous business that can be used to calculate this ceiling, the amount of the penalty cannot exceed EUR 150 000, raised to EUR 375 000 in the event of a further contravention of the same obligation.

“If the universal service provider or a licence holder under Article L.3 discloses inaccurate information, refuses to provide the information requested or obstructs the progress of investigation by civil servants or authorised officials, the Postal Services and Electronic Communications Regulatory Authority may, if a formal notice from the Authority’s director had no effect, impose a financial penalty of an amount not exceeding EUR 15 000.

“Penalties shall be imposed after the party concerned has received notification of the complaint and has been given an opportunity to inspect the file and make written and oral submissions.

“Financial penalties shall be collected as government debt unconnected with taxes or State property.

“Acts dating back more than three years cannot be referred to the Postal Services and Electronic Communications Regulatory Authority if no steps have been taken to investigate, record or punish them.

“Decisions to impose penalties shall give reasons, be notified to the party concerned and be published in the *Journal officiel*. They are open to an administrative-law action before the *Conseil d’Etat* and an application for stay of proceedings submitted pursuant to Article L.521-1 of the Code of Administrative Justice.

“Article L.5-4. - Either party may refer to the Postal Services and Electronic Communications Regulatory Authority a dispute concerning conclusion or performance of contracts departing from the general conditions of universal service provision for items of correspondence if this dispute concerns the rules referred to in the second paragraph of Article L.2-1. It shall deliver a ruling within four months of having given the parties an opportunity to make their submissions.

“Article L.5-5. - In the event of a dispute between the universal service provider and a licence holder under Article L.3 concerning the conclusion or performance of technical or pricing terms in an agreement on access to the facilities essential to performance of postal activity described in Article L.3-1, the case may be referred to the Postal Services and Electronic Communications Regulatory Authority by either of the parties.

“The Postal Services and Electronic Communications Regulatory Authority shall ensure that the technical and pricing conditions offered are transparent and non-discriminatory and do not affect proper implementation of public service missions relating to postal items. It shall deliver a ruling within four months of having given the parties an opportunity to make their submissions.

“Article L.5-6. - Decisions taken by the Postal Services and Electronic Communications Regulatory Authority pursuant to Articles L.5-4 and L.5-5 shall give reasons and specify, where appropriate, the technical and financial conditions under which services are to be provided. The Authority shall notify its decisions to the parties and publish them, subject to legally protected confidentiality.

“Before taking its decision it may hear any person whose examination seems appropriate.

“It may refuse discovery of documents involving professional secrecy. These documents shall then be withdrawn from the file.

“A decision taken by the Postal Services and Electronic Communications Regulatory Authority is open to an action for annulment or judicial review before the Paris Court of Appeal (*cour d’appel de Paris*) to be brought within one month of its notification. Decisions may also be referred to the Paris Court of Appeal if, upon expiry of the time-limit specified in Article L.5-4 and Article L.5-5, the Postal Services and Electronic Communications Regulatory Authority has not delivered a ruling.

“The appeal shall not be suspensive. However, the court may order a stay of execution of the decision if the latter is likely to entail manifestly excessive consequences or if new circumstances of exceptional seriousness have arisen since its notification.

“An appeal to the highest instance lodged, if necessary, against the judgment of the appeal court shall be brought within one month of notification of this judgment.”

“A *Conseil d’Etat* decree shall determine the conditions of application of this article.

“Article L.5-7. - The Postal Services and Electronic Communications Regulatory Authority may be called on by the universal service provider, bulk mailers, consolidators of mail from different customers or licence holders under Article L.3 to settle a dispute between them that does not come under Articles L.5-4 and L.5-5.

“Article L.5-8. - The chairman of the Postal Services and Electronic Communications Regulatory Authority shall refer to the Competition Council any abuse of a dominant position or any anti-competitive practice which may be brought to his notice in the field of postal activities, for example when a dispute is submitted to him pursuant to Articles L.5-4 and L.5-5. When a case is referred to the Competition Council under the procedure for urgent cases, it shall deliver a decision within thirty working days of the date of the referral.

“The chairman of the Postal Services and Electronic Communications Regulatory Authority may also seek advice from the Competition Council on any other matters falling within its province.

“The Competition Council shall notify the Postal Services and Electronic Communications Regulatory Authority of any referral falling within the latter’s field of competence and shall seek its advice on practices referred to it in the field of postal activities.

“The chairman of the Postal Services and Electronic Communications Regulatory Authority shall inform the Public Prosecutor of any acts likely to constitute a criminal offence.

“Article L.5-9. - As provided in this article, the Minister for Postal Services and the Postal Services and Electronic Communications Regulatory Authority may, to the extent necessary to fulfil their missions and on the basis of a reasoned decision, collect from the universal service provider and licence holders under Article L.3 any information or documents required to ensure that these parties are complying with the legislative and regulatory provisions

relating to their activity, with any decisions taken to guarantee implementation of these provisions, and with the licence enabling these parties to carry on their activities.

“Investigations shall be carried out by civil servants and officials of the Ministry for Postal Services and of the Postal Services and Electronic Communications Regulatory Authority authorised for this purpose by the Minister for Postal Services and sworn in according to the requirements of a *Conseil d'Etat* decree.

“Investigations shall give rise to a report. A duplicate shall be sent within five days to the parties concerned.

“The Minister for Postal Services or the Postal Services and Electronic Communications Regulatory Authority shall appoint, and have sworn in on the same terms as above, any person competent to provide an expert opinion where appropriate.

“The civil servants and officials charged with the investigation shall have access to all necessary information held by postal service providers or parties carrying on a postal activity. They shall obtain disclosure, at their request, of invoices, accounting records and any necessary documents, make copies of them and gather all the information and evidence required to carry out their task, either through appointments or on the spot.

“They may have access to all business premises, property and vehicles, excluding dwellings and parts of premises used as dwellings, used by these parties, subject to authorisation by the president of the Court of First Instance (*tribunal de grande instance*) or the judge whom he has delegated for this purpose. They may have access to these premises only between 6 a.m. and 9 p.m. or during opening hours if they are open to the public.

“The Minister for Postal Services and the chairman of the Postal Services and Electronic Communications Regulatory Authority shall ensure that the information gathered pursuant to this article shall not be disclosed if it is protected as confidential under section 6 of Law No. 78-753 of 17 July 1978 laying down various measures to improve relations between the administration and the public and various administrative, social and fiscal provisions.

“Article L.5-10. - In order to be able to deliver postal items, the universal service provider and licence holders under Article L.3 shall have access on the same terms, set out in a *Conseil d'Etat* decree after consultation of the Postal Services and Electronic Communications Regulatory Authority, to private letter boxes.”

III. - Book I, Part I, Chapter I, section 2 of the Construction Code shall be supplemented by a Subsection 3 worded as follows:

“Subsection 3

“Private letter-box access by postal service operators and newspaper deliverers

“Article L.111-6-3. - For the purpose of Article L.5-10 of the Post and Electronic Communications Code, owners or, in the case of joint ownership, the co-owners’ association represented by the building manager shall allow the universal postal service provider and operators licensed under Article L.3 of the same Code to have access, under the same arrangements, to private letter boxes.

“Newspaper deliverers and sellers/hawkers registered with the Press Distribution Council (*Conseil supérieur des messageries de presse*), acting on behalf of a press organisation or a press umbrella company licensed under Article L.3 of the Post and Electronic Communications Code, shall have access to private letter boxes under the same arrangements as officials responsible for home delivery acting on behalf of the operators described in the previous paragraph.”

Section 6

Subparagraph (3) of Article L.311-4 of the Code of Administrative Justice shall be worded as follows:

“3) Articles L.5-3 and L.36-11 of the Post and Electronic Communications Code against decisions to impose penalties taken by the Postal Services and Electronic Communications Regulatory Authority;”.

Section 7

In the last sentence of the second paragraph of section 9 of Law No. 90-568 of 2 July 1990 on the public service organisation of La Poste and France Télécom, the word “rates” shall be deleted.

Section 8

I. - Section 31 of the aforesaid Law No. 90-568 of 2 July 1990 shall be amended as follows:

- 1) At the beginning of the first sentence of the first paragraph, the words “When special requirements of the organization of certain services or departments or the specificity of certain functions so require” shall be deleted;
- 2) The first sentence of the last paragraph shall be supplemented by the words “, staff representatives and trade-union management representatives”;
- 3) The last sentence of the last paragraph shall be deleted;

4) It shall be supplemented by a paragraph worded as follows:

“A *Conseil d'Etat* decree shall determine the terms on which employees of La Poste are represented in consultation bodies responsible for ensuring the collective expression of their interests, in particular concerning organisation of services and departments, terms of employment and vocational training. It shall also specify, taking into account the objective of harmonising staff institutions within La Poste, the terms on which individual representation of private-law employees is ensured and shall establish rules of protection for their representatives that are at least equivalent to those provided for staff representatives under the Labour Code.”

II. - Two sections 31-2 and 31-3 shall be inserted after section 31-1 of this law, worded as follows:

“Section 31-2. - A strategy discussion committee shall be set up in La Poste to keep union organisations informed about La Poste’s development prospects and to gather their views on the group’s strategic guidelines.

“A social dialogue committee shall also be set up to provide consultation with union organisations concerning national management projects and topical issues and to keep them informed.

“Through negotiation and consultation La Poste shall seek to enter into agreements with union organisations in all areas of industrial relations relating to postal activity. Negotiating and consultation bodies shall be set up for this purpose at national and local levels after consulting representative union organisations.

“These bodies shall monitor implementation of agreements signed. A national conciliation committee shall be responsible for promoting friendly settlement of disputes.

“Section 31-3. - Parts III and IV of Book II of the Labour Code shall apply to all employees of La Poste, subject to adjustments specified by a *Conseil d'Etat* decree taking account of the special provisions relating to civil servants and the employment of contract staff.”

Section 9

A paragraph shall be inserted after the third paragraph of section 32 of the aforesaid Law No. 90-568 of 2 July 1990, worded as follows:

“Chapters III and IV of Book IV, Part IV, of the Labour Code shall apply to all staff of the public operator, including those referred to in sections 29 and 44 of this law. The implementing provisions for these chapters shall be determined in accordance with the public operator’s planning contract (*contrat de plan*).”

Section 10

Article L.6 of the Post and Electronic Communications Code shall be worded as follows:

“Article L.6. - The universal service provider and licence holders under Article L.3 shall disclose to the tax administration and to judicial authorities that so request in criminal cases any changes of residence of which they are aware.”

Section 11

Book I, Title VIII of the Post and Electronic Communications Code shall be amended as follows:

1) Article L.17 shall be worded as follows:

“Article L.17. - A fine of EUR 50 000 shall be imposed for:

“1) Providing postal services reserved for La Poste under Article L.2;

“2) Transporting items of correspondence in breach of Article L.3 or of a decision to suspend the licence granted under Article L.3.”;

2) Article L.18 shall be worded as follows:

“Article L.18. - Natural persons guilty of one of the offences laid down in Article L.17 shall incur the following additional penalties:

“a) Prohibition, for a maximum period of one year, from exercising the professional or social activity in the course of which or on the occasion of which the offence was committed;

“b) Confiscation of the thing which was used or intended for the commission of the offence or the thing which is its product, except for articles subject to restitution, as provided for in Article 131-21 of the Penal Code;

“c) Closure, for a maximum period of one year, of the establishment, or one or more of the establishments, of the enterprise that was used to commit the offences in question;

“d) Display or dissemination of the decision delivered, as provided for in Article 131-35 of the Penal Code.”;

3) Article L.19 shall be worded as follows:

“Article L.19. - Legal persons may be found criminally liable for the offences laid down in Article L.17 as provided for in Article 121-2 of the Penal Code and shall be subject to a fine under the terms of Article 131-38 of this Code.

“Persons guilty of one of the offences laid down in Article L.17 shall incur the additional penalties referred to in subparagraphs (2), (3), (4), (5), (8) and (9) of Article 131-39 of the

Penal Code; the prohibition referred to in subparagraph (2) of this article shall cover the activity in the course of which or on the occasion of which the offence was committed.”;

4) Article L.20 shall be worded as follows:

“Article L.20. - I. - In addition to senior law-enforcement officers and members of the police acting in accordance with the Code of Criminal Procedure, the civil servants and officials referred to in Article L 5-9 may investigate and report the offences set out in this Title.

“To investigate and report offences, the civil servants and officials referred to in Article L.5-9 may have access to business premises, property and vehicles, request disclosure of any business documents and make copies of them, and gather any information or evidence, either through appointments or on the spot. These civil servants and officials may have access to the premises only between 6 a.m. and 9 p.m. or during opening hours if they are open to the public.

“II. - The civil servants and officials referred to in Article L.5-9 may make the searches described in this article and may seize equipment and documents only with court authorisation issued by order of the president of the Court of First Instance (*tribunal de grande instance*) with jurisdiction over the district in which the equipment is located, or by a judge delegated by him.

“If the sites are located in the districts of several courts and action must be taken simultaneously in each of them, a single order may be issued by one of the presidents with jurisdiction.

“The judge shall satisfy himself that the application for authorisation submitted to him is well-founded and contains all the items of information justifying a search.

“Search and seizure shall be carried out under the authority and supervision of the authorising judge. The judge shall appoint one or more senior law-enforcement officers to be present at these operations and keep him informed of their progress. He may visit the premises during the search, which he can decide to stop or suspend at any time. If the search occurs outside the territorial jurisdiction of this Court of First Instance, he shall delegate powers to the president of the Court of First Instance in the district in which the search is being made to exercise this supervision.

“At the time of the search the order shall be served verbally and on the spot to the occupier of the premises or his representative, who shall receive a full copy of it against acknowledgement of receipt or signature in the margin of the report. In the absence of the occupier of the premises or his representative, the order shall be served by recorded delivery after the search. Service is deemed to have occurred on the date of receipt shown on the acknowledgement of delivery.

“The order shall be open to an appeal solely to the highest instance in accordance with the rules laid down in the Code of Criminal Procedure. This appeal shall not be suspensive.

“III. – The search shall be carried out in the presence of the occupier of the premises or his representative. If this is not possible, the senior law-enforcement officer shall ask for two

witnesses chosen outside the persons coming under his authority or that of the postal administration.

“Only the investigators, the occupier of the premises or his representative and the senior law-enforcement officer may inspect documents and evidence before their seizure.

“Inventories and the placing of official seals shall be carried out pursuant to Article 56 of the Code of Criminal Procedure. The originals of the report and the inventory shall be sent to the judge who ordered the search. However, postal items whose custody does not appear necessary to discovery of the truth shall be returned, after having been entered in the inventory, to the universal service provider, which shall deliver them.

“The conduct of searches or seizures may form the subject of an appeal, within two months of notification of the order authorising them, to the judge who issued the order.

“The judge shall rule on this appeal by an order which is open to an appeal only to the highest instance according to the rules laid down in the Code of Criminal Procedure. The latter appeal shall not be suspensive.”;

5) Article L.28 shall be worded as follows:

“Article L.28. - For the purpose of implementing the provisions of this Book, the Minister for Postal Services or his representative may file pleadings before the criminal courts and develop them orally at the hearing.”;

6) Article L.29 shall be worded as follows:

“Article L.29. - The placing inside mail of materials or objects prohibited under the Universal Postal Convention shall be punished by a fine of EUR 15 000.

“Natural persons guilty of the above-mentioned offence shall incur the additional penalties referred to in subparagraphs (a) and (b) of Article L.18.

“Legal persons guilty of the above-mentioned offence shall incur the additional penalties referred to in subparagraphs (8) and (9) of Article 131-39 of the Penal Code.”

Section 12

I. - Articles L.15, L.16, L.21 to L.25, L.27 and L.36 of the Post and Electronic Communications Code shall be repealed.

II. - Article L.30 of this Code shall be worded as follows:

“Article L.30. - If the customs and excise services so request, the universal service provider and licence holders under Article L.3 shall require an addressee to open items of correspondence from any place of origin that are presumed to contain items subject to internal formalities regarding movement or liable to customs duties or subject to a prohibition.”

III. - In Article L.31 of this Code, the reference “L.627 of the Public Health Code” shall be replaced by the reference “222-36 of the Penal Code”.

IV. - Articles L.36-1, L.36-2, L.36-3, L.36-4, L.36-12 and L.36-14 of this Code shall become Articles L.130, L.131, L.132, L.133, L.134 and L.135 respectively.

V. - In the second sentence of the sixth paragraph of Article L.125 of this Code, the words “the public electronic communications service” shall be replaced by the words “the public postal service and the public electronic communications service”.

VI. - Article L.126 of this Code shall be worded as follows:

“Article L.126. - There shall be a time-bar for the benefit of the universal service provider and of licence holders under Article L.3 on any application for restitution of the price of their services submitted more than one year from the date of payment.

“There shall be a time-bar for the benefit of users for amounts due in payment for services from the universal service provider or licence holders under Article L.3 if these amounts have not been claimed within one year of their due date.”

VII. - The first paragraph of Article L.131 of this Code shall be worded as follows:

“The office of member of the Postal Services and Electronic Communications Regulatory Authority shall be incompatible with any professional activity, any national elected office, any other public position and any direct or indirect interest in a company in the postal sector or the electronic telecommunications, broadcasting or information technology sectors. Members of the Postal Services and Electronic Communications Regulatory Authority cannot be members of the Commission for the Public Service of Postal and Electronic Communications.”

VIII. - Article L.131 of this Code shall be supplemented by a paragraph worded as follows:

“If held by a civil servant, a permanent position as a member of the authority shall be a position providing an entitlement to a pension under the Civil and Military Retirement Pensions Code.”

IX. - In the second paragraph of Article L.133 of this Code, the words “the authority shall submit to the Minister for Electronic Communications” shall be replaced by the words “the Authority shall submit to the ministers responsible”.

X. - Article L.135 of this Code shall be amended as follows:

1) In the first sentence of the first paragraph, the words “legislative and regulatory electronic communications provisions” shall be replaced by the words “legislative and regulatory provisions relating to electronic communications and postal activities”;

2) In the second sentence of the first paragraph, the words “regulatory authorities for electronic communications” shall be replaced by the words “regulatory authorities for electronic communications and postal services”;

3) In the last sentence of the first paragraph, the words “progress in the electronic communications sector” shall be replaced by the words “progress in the electronic communications sector and the postal sector”;

4) At the end of the first sentence of the third paragraph, the words “information regarding the electronic communications sector” shall be replaced by the words “information regarding the electronic communications sector and the postal sector”;

5) The last sentence of the third paragraph shall be worded as follows:

“To this end, the universal postal service provider, licence holders under Article L.3 and operators licensed under Article L.33-1 shall be required to provide statistical information on the use, coverage area and access arrangements of their service. The ministers responsible shall be kept informed of the results of this work.”

Section 13

I. - Article L.130 of this Code shall be amended as follows:

1) The first paragraph shall be worded as follows:

“The Postal Services and Electronic Communications Regulatory Authority shall consist of seven members appointed for their legal, technical and economic expertise in the fields of electronic communications, postal services and spatial economics, for a term of six years. Three members, including the chairman, shall be appointed by decree. Two members shall be appointed by the Speaker of the National Assembly and two by the Speaker of the Senate.”;

2) In the first sentence of the fourth paragraph, the word “three” shall be replaced by the word “five”;

3) The sixth paragraph shall be deleted;

4) In the second sentence of the seventh paragraph, the words “one of the two subparagraphs” shall be replaced by the words “the paragraph”.

II. - Members of the Authority referred to in Article L.130 of the Post and Electronic Communications Code in office at the date of publication of this law shall complete their term of office.

III. - Upon publication of this law, the Speaker of the National Assembly and the Speaker of the Senate shall each appoint an additional member of the Postal Services and Electronic Communications Regulatory Authority for a term of six years extended until 31 December of the last year of this term.

Section 14

In all statutes and regulations, the words “Telecommunications Regulatory Authority” shall be replaced by the words “Postal Services and Electronic Communications Regulatory Authority”.

Section 15

An Article L.2-2 shall be inserted after Article L.2 of the Post and Electronic Communications Code, worded as follows:

“Article L.2-2. - I. - A compensation fund shall be set up for the universal postal service, subject to the conditions of implementation laid down in subsections II and III.

“The Deposits and Loans Fund (*Caisse des dépôts et consignations*) shall be responsible for the financial and accounting management of this fund in a special account. The Fund’s service charges shall be charged to the fund.

“The contribution of each postal service provider licensed under Article L.3 shall be calculated in proportion to its turnover from the universal service defined in Article L.1, excluding turnover from press transport and distribution activities or from services provided or invoiced within the scope of the universal service on behalf of third-party operators. Any service provider whose turnover thus defined is less than an amount to be determined by decree shall be exempted from contributing to the compensation fund.

“The amount of net contributions paid or received by the universal service provider and service providers licensed under Article L.3 shall be determined by the Postal Services and Electronic Communications Regulatory Authority. These contributions shall be collected by the Deposits and Loans Fund under this institution’s procedures for collecting claims.

“If an operator fails to pay, the Postal Services and Electronic Communications Regulatory Authority shall impose one of the penalties laid down in Article L.5-3. In the event of a further failure to pay, it may withdraw the licence. If the amounts due are not collected within a year, they shall be charged to the fund the following financial year.

“II. - A *Conseil d'Etat* decree, adopted after consulting the Postal Services and Electronic Communications Regulatory Authority and the Commission for the Public Service of Postal and Electronic Communications, shall specify the methods for assessing, equalising and apportioning net costs connected with universal service obligations.

“III. - A decree, adopted after a public opinion from the Postal Services and Electronic Communications Regulatory Authority regarding an application from the universal service provider which establishes, on the basis of the accounting data referred to in subparagraph (6) of Article L.5-2, that it is bearing an unfair financial burden attributable to its universal service obligations, shall determine the first year for which net contributions to the compensation fund for the universal postal service shall be collected.”

Section 16

I. - 1. Section 2 of the aforesaid Law No. 90-568 of 2 July 1990 shall be worded as follows:

“Section 2. - La Poste and its subsidiaries shall constitute a public group which, subject to the conditions laid down in the statutes and regulations governing each of its spheres of activity, shall fulfil public-interest missions and engage in competitive business.

“La Poste shall operate, domestically and internationally, a public mail service that shall include the universal postal service and, in this context, public-service press transport and distribution under the special arrangements laid down in the Post and Electronic Communications Code. It shall also operate, with due regard for the rules of competition, any other service involving clearance, sorting, transport and delivery of postal items, mail of all kinds, objects and goods.

“It shall carry on its financial activities as provided for in Article L.518-25 of the Monetary and Financial Code.”

2. The Monetary and Financial Code shall be amended as follows:

a) Article L.518-25 shall be worded as follows:

“Article L.518-25. - In the banking, financial and insurance fields, La Poste shall offer products and services, including the “Livret A” passbook account, to as many people as possible.

“To this end, and subject where appropriate to the activities that it carries on directly under the statutes and regulations that govern it, La Poste may set up, under the terms of the applicable legislation, any subsidiary with the status of a credit institution, an investment firm or an insurance undertaking and may acquire a direct or indirect interest in such institutions or firms. It may enter into any agreements with these firms or institutions for the purpose of offering, for and on their behalf, consistent with the rules of competition, any service conducive to their purpose, including any service relating to the operations set out in Articles L.311-1, L.311-2, L.321-1 and L.321-2 and all insurance products.”;

b) In the first paragraph of Article L.518-26 after the words “under the guarantee of the State” there shall be inserted the words “to receive ‘Livret A’ passbook account deposits under the terms of Articles L.221-1 *et seq.*, without prejudice to the provisions specific to ordinary savings banks”, and the words “within the scope of the missions indicated in Article L. 518-25” shall be deleted;

c) The same article shall be supplemented by a paragraph worded as follows:

“The National Savings Bank shall be managed, on behalf of the State, by a credit institution in which La Poste holds the majority of the capital subject to conditions laid down in an agreement concluded between the State, La Poste and this institution.”

II. - 1. La Poste shall transfer to a subsidiary approved as a credit institution under the terms of Article L.511-10 of the Monetary and Financial Code and subject to the provisions of Book V, Part I of this Code, all assets, rights and obligations of every kind associated with its financial services, including shareholdings, with the exception, where appropriate, of those

necessary to the activities that it carries on directly. La Poste shall hold the majority of capital in this credit institution.

In this connection, La Poste shall in particular transfer to this institution all passbook and other accounts that have been opened with it, together with the associated assets, rights and obligations. Postal current accounts, whose name may be retained, shall be governed from the date of this transfer by the Monetary and Financial Code, in particular Articles L.312-1 *et seq.*

2. Subject to the rules specific to “Livret A” passbook accounts, the credit institution referred to in subparagraph (1) may engage on its own behalf in all the activities previously carried on for the National Savings Bank, subject to the conditions set out in the statutes and regulations governing each of these activities. To this end, and without prejudice to specific rules on centralisation, 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 – in particular those necessary for credit institutions’ compliance with prudential obligations and the rules on covering risks – shall be transferred to this institution from the date of the transfer referred to in subparagraph (1) above. From this date the National Savings Bank shall receive no more deposits, with the exception of “Livret A” passbook account deposits. From the date of the transfer laid down in subparagraph (1), the Deposits and Loans Fund shall be released from all liability for the management, on behalf of the State, of the assets, rights and obligations transferred.

For a period that may not exceed two years from the date of publication of this law, the funds of the passbook and other accounts and the contracts transferred pursuant to the previous subparagraph shall enjoy the guarantee provided for in Article L.518-26 of the Monetary and Financial Code subject to the conditions laid down in an agreement concluded between the State and the credit institution referred to in subparagraph (1).

3. From the date of the transfer provided for in subparagraph (1) and until conclusion of the agreement provided for in the last paragraph of Article L.518-26 of the Monetary and Financial Code, the credit institution referred to in subparagraph (1) shall be responsible, on behalf of the State, for managing the National Savings Bank.

4. The transfers described in subparagraphs (1) and (2) shall occur *ipso jure* without the need for any formalities, notwithstanding any provisions or stipulations to the contrary. They shall have the effect of a universal transfer of assets, entailing automatic transfer, with no formalities, of the ancillaries attached to the assigned receivables and of the personal securities and securities in the form of land or other property guaranteeing them. The transfer of current contracts, whatever their legal classification, entered into by La Poste in connection with its financial services, including for management of the National Savings Bank, or entered into by the Deposits and Loans Fund, shall not justify their termination, the amendment of any of their clauses or, where appropriate, the early extinguishment of the debts covered by them. Similarly, these transfers shall not justify termination or amendment of any other agreement entered into by La Poste or companies affiliated to it within the meaning of Articles L.233-1 to L.233-4 of the Commercial Code. These transfers shall not of themselves entail transfer of any employment contract.

5. The operations described under this subsection II shall not give rise to levying of duties, taxes or charges of any kind whatsoever.

6. The implementing provisions of this section, in particular the terms on which the assets, rights and obligations described in subparagraph (2) are transferred through the agency of La Poste to the credit institution referred to in subparagraph (1), shall be specified by a *Conseil d'Etat* decree, adopted after consulting the Supervisory Committee of the Deposits and Loans Fund.

7. No later than two years after the transfer provided for in subparagraph (1), the State Audit Office shall draw up a report on the establishment of the credit institution described in that subparagraph (1), its operation and its relations of all kinds with the other companies in the La Poste group. This report shall be forwarded to Parliament.

III. - 1. La Poste and the credit institution referred to in subparagraph (1) of subsection II shall enter into one or more agreements within the meaning of the second paragraph of Article L.518-25 of the Monetary and Financial Code in order to specify the terms on which this institution may, to achieve its object, call upon the resources of La Poste and in particular its staff. These agreements shall lay down in particular the terms on which holders of passbook or other accounts opened with this institution may make withdrawals from or deposits with La Poste.

2. Civil servants in the employment of La Poste may, with their agreement, be made available for a maximum period of fifteen years, where appropriate part-time, to the credit institution referred to in subparagraph (1) of subsection II or companies of which La Poste holds the majority of capital either directly or indirectly. These companies shall reimburse La Poste for the corresponding expenses. Civil servants thus made available may at any time seek reassignment within La Poste.

IV. - 1. In Article L.221-10 of the Monetary and Financial Code, the words “The Post Office” shall be replaced by the words “The credit institution referred to in Article L.518-26”, and the words “or on behalf of whom” and “at one of its branches” shall be deleted.

2. In the first paragraph of Article L.518-1 of this Code, the words “the Post Office’s financial services departments” shall be replaced by the words “La Poste under the terms of Article L.518-25”. In the last paragraph of the same article, the words “the financial departments of the Post Office” shall be replaced by the words “La Poste under the terms of Article L.518-25”. In subparagraph (2) of Article L.564-3 of this Code, the words “the Post Office's financial services departments” shall be replaced by the words “La Poste”.

3. a) The Monetary and Financial Code shall be amended as follows:

- In the first paragraph of Article L.133-1 and in the third paragraph of Article L.141-8, the words “Post Office’s financial services” and “Post Office’s financial services departments” respectively shall be deleted;

- In the first and third paragraphs of Article L.312-1, the words “the financial departments of the Post Office or” and “the financial services departments of the Post Office and” respectively shall be deleted;

- In the second paragraph of this article, the words “, the Post Office's financial services departments” and “those of” shall be deleted;

- In the first paragraph of Article L.221-18, the words “the financial departments of the Post Office” shall be deleted;

b) In the second paragraph of Article L.333-4 of the Consumer Code, the words “as well as financial services of La Poste” shall be deleted. In the last paragraph of this article, the words “The Banque de France is prohibited, in respect of credit institutions and financial services of La Poste” shall be replaced by the words “The Banque de France and credit institutions are prohibited”. In the third paragraph of Article L.313-6 of the Monetary and Financial Code, the words “and the Post Office's financial services departments” shall be deleted. In the penultimate paragraph of the same article, the words “The Bank of France, the credit institutions and the financial departments of the Post Office” shall be replaced by the words “The Bank of France and credit institutions”;

c) In section 56 of the 2001 Supplementary Budget Act (Law No. 2001-1276 of 28 December 2001), the words “and the financial services of La Poste” shall be deleted;

d) In section 1 of Law No. 87-416 of 17 June 1987 on savings, the words “financial services of La Poste” shall be deleted.

4. References to “financial services of La Poste” shall be deleted in all existing regulations.

5. In Article L.315-3 of the Construction Code, the words “the National Savings Bank and” shall be deleted.

6. In section 1 of Law No. 92-666 of 16 July 1992 on personal equity plans, the words “, of La Poste” shall be deleted.

7. The last paragraph of section 15 of the aforesaid Law No. 90-568 of 2 July 1990, together with the last two paragraphs of section 16 of this law, shall be deleted.

8. a) The following shall be repealed:

- Book III of the Post and Electronic Communications Code;

- Book I, Part III, Chapter I, Section 2 of the Monetary and Financial Code;

b) In Article L.163-11 of the Monetary and Financial Code, the reference “L.131-88” shall be replaced by the reference “L.131-87”.

9. a) Book I, Part III, Chapter I of the Monetary and Financial Code shall be entitled “Bank and Post Office cheques” and Subsections 1 to 12 of section 1 of this chapter shall become Sections 1 to 12;

b) In Articles L.131-1 and L.131-85 of this Code, the words “this present section” and “the present section” shall be replaced by the words “this chapter”;

c) In Articles L.131-40, L.131-86 and L.131-87 of this Code, the words “the present section” shall be replaced by the words “this chapter”.

V. - 1. Until their maturity, the investments made under the provisions of section 15 of the aforesaid Law No. 90-568 of 2 July 1990 in the wording that was in force until the date of publication of the present law shall be governed by these provisions.

2. The provisions of subsections I to IV shall come into force on the date of the transfer provided for in subparagraph 1 of subsection II.

Section 17

Legal and natural persons who, at the date of the entry into force of section 5, regularly provide the services referred to in Article L.3 of the Post and Electronic Communications Code may continue to carry on their activities provided that they apply for a licence under the said Article L.3 within three months of publication of the decree provided for in Article L.5-1 of this Code.

Section 18

Section 5 of this law shall come into force from the first day of the sixth month following that of its promulgation, with the exception of the new Article L.5 of the Post and Electronic Communications Code, which shall come into force upon publication of this law.

Section 19

I. - Article L.7 of the Post and Electronic Communications Code shall be worded as follows:

“Article L. 7. - Postal service providers within the meaning of Article L.1 shall be liable under the terms of Articles 1134 *et seq.* and Articles 1382 *et seq.* of the Civil Code for any loss or damage occurring during provision of service.

“However, this liability shall take into account the particular features of the items and the postage paid according to the provisions of a *Conseil d'Etat* decree which shall establish maximum amounts of compensation.”

II. - Article L.8 of this Code shall be worded as follows:

“Article L.8. - For direct injury caused by delay in delivery of a postal item, postal service providers within the meaning of Article L.1 shall be held liable under the terms of Articles 1134 *et seq.* and 1382 *et seq.* of the Civil Code if the provider has entered into a commitment regarding the delivery time of this postal item.

“However, this liability shall take into account the particular features of the items and the postage paid according to the provisions of a *Conseil d'Etat* decree which shall establish maximum amounts of compensation.”

III. - Article L.9 of this Code shall be worded as follows:

“Article L.9. - Through marking, labelling, displaying or any other appropriate visual method, postal service providers shall give users of postal items information on tariffs, any limitations on contractual liability, the one-year period during which all claims are admissible, and special conditions of sale, in accordance with procedures laid down by order of the Minister of the Economy and the Minister for Postal Services after consultation of the National Consumer Council (*Conseil national de la consommation*).”

IV. - Article L.10 of this Code shall be worded as follows:

“Article L.10. - Vicarious liability actions for damage, loss or delays brought under Articles L.7 and L.8 shall be barred by limitation one year from the day after the date on which the item was posted.”

V. - Articles L.11 to L.13-1 of this Code shall be repealed.

VI. - The heading of Book I, Title III of this Code shall be worded as follows: “Scheme of liability for postal services”.

Section 20

Article L.14 of this Code shall be repealed.

Section 21

Article L.26 of this Code shall be worded as follows:

“Article L.26. - Any fraudulent declaration of value that is different from the actual value of the contents of a postal item shall be punished by imprisonment for a term of one year and a fine of EUR 3 750.”

Section 22

In the third paragraph, subparagraph (2), of section 1 of Law No. 83-629 of 12 July 1983 regulating the activities of private security companies, the words “cash, jewellery” shall be replaced by the words “jewellery representing a minimum value of EUR 100 000, cash, unless, for employees of La Poste or credit institutions authorised by their employer, the amount is under EUR 5 335”.

Section 23

The last sentence of the first paragraph of Article L.541-10-1 of the Environmental Code shall be worded as follows:

“However, exemption from this contribution shall be granted for provision of public information by a public service, if it arises solely out of an obligation under a law or a regulation, or by a press publication within the meaning of section 1 of Law No. 86-897 of 1 August 1986 reforming the rules governing the press, and for the delivery of items of correspondence within the meaning of Article L.1 of the Post and Electronic Communications Code.”

Section 24

After the words “earnings and compensation paid by”, the end of the first paragraph of II of Article L.241-13 of the Social Security Code shall be worded as follows: “household employers and, until 31 December 2005, by the body referred to in section 2 of Law No. 90-568 of 2 July 1990 on the public service organisation of La Poste and France Télécom.”.

Section 25

I. - The above-mentioned Law No. 90-568 of 2 July 1990 shall be amended as follows:

1) In the last paragraph of section 6 and in the second paragraph of section 7, the words “its specification” shall be replaced by the words “a *Conseil d'Etat* decree”;

2) Section 8 shall be worded as follows:

“Section 8. - The general management framework for the activities of the public operator shall be determined by a *Conseil d'Etat* decree.

“A *Conseil d'Etat* decree shall also determine safeguards for fair remuneration of the public services provided by the public operator, including for press transport and distribution services.”;

3) Section 23 shall be amended as follows:

a) In the second paragraph, the words “of the obligations in its schedule” shall be replaced by the words “of its legislative and regulatory obligations”;

b) The last paragraph shall be worded as follows:

“The terms and conditions of the objection referred to in the second paragraph shall be determined by *Conseil d'Etat* decree.”;

4) In section 27, the words “provisions stipulated with respect to this matter in the specification” shall be replaced by the words “regulations specifying its rights and obligations”;

5) The last paragraph of section 33 shall be worded as follows:

“The arrangements for supervising changes to the public operator’s overall contribution to the financing of labour-relations activities shall be determined by *Conseil d’Etat* decree.”;

6) The first sentence of the second paragraph of section 34 shall be worded as follows:

“He shall prepare the plan contract of the public operator and ensure compliance with its provisions.”

II. - In Article L.1334-1 of the Defence Code, the words “sections 5 and 8” shall be replaced by the words “section 5”.

Section 26

As from 1 July 2006 a joint committee consisting of delegates from nationally representative union organisations of employees and employers, convened for the first time by a joint order of the Minister for Postal Services and the Minister for Labour which shall determine its initial composition, its provisional operating rules and its first agenda, shall meet in order to negotiate a collective agreement applying to employees of La Poste without civil-servant status and to employees of firms licensed under Article L.3 of the Post and Electronic Communications Code.

This collective agreement shall lay down the terms on which employers ensure that their employees observe the confidentiality requirements specified in subparagraphs (b) and (c) of Article L.3-2 of this Code. These requirements and the rules for their observance shall form part of the internal regulations of the firms covered by the collective agreement.

Section 27

The Post and Electronic Communications Code shall be amended as follows:

- 1) Book I, Title III shall become Book I, Title I, Chapter IV;
- 2) In Book I, the divisions and headings “Title VI. - Mail deliveries”, “Chapter I - Home deliveries”, “Chapter II - Over-the-counter deliveries”, “Title VII - Maritime post” shall be deleted;
- 3) Title VIII of Book I shall become Title II of the same book;
- 4) Article L.126 shall become Article L.11;

5) In Book I, Title I, a Chapter V shall be created with the heading “Limitation” and shall comprise Articles L.10 and L.11;

6) Book IV shall become Book III from the date of the transfer referred to in subsection II-1 of section 16 above and shall comprise a Title I headed “Common provisions” and a Title II using the heading “Final provisions” that already appears in this book and comprising Articles L.128 and L.129, which shall become Articles L.140 and L.141 respectively. Title I shall comprise Articles L.125 and L.130 to L.135.

Section 28

The transfer referred to in section 16, subsection II-1 shall take place no later than 1 January 2006.

This Act shall be enforced as a law of the State.

Done at Paris, 20 May 2005.

by the President of the Republic:

Jacques Chirac

Prime Minister,

Jean-Pierre Raffarin

Minister of Justice,

Dominique Perben

Minister of the Economy,

Finance and Industry,

Thierry Breton

Minister Delegate for Industry,

Patrick Devedjian

(1) Law No. 2005-516.

- EC Directives

Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service;

Directive 2002/39/EC of the European Parliament and of the Council of 10 June 2002 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services

- Drafting history

Senate:

Bill No. 410 (2002-2003);

Report by Mr Pierre Hérisson on behalf of the Legislation Committee, No. 162 (2003-2004);

Opinion from Mr Philippe Marini on behalf of the Finance Committee, No. 171 (2003-2004);

Debated on 27 and 28 January 2004 and passed on 28 January 2004.

National Assembly:

Bill passed by the Senate, No. 1384;

Report by Mr Jean Proriol on behalf of the Economic Affairs Committee, No. 1988;

Debated on 18 to 20 January 2005 and passed on 20 January 2005.

Senate:

Bill amended by the National Assembly, No. 149 (2004-2005);

Report by Mr Pierre Hérisson on behalf of the Economic Affairs Committee, No. 219 (2004-2005);

Debated on 8, 9 and 10 March 2005 and passed on 10 March 2005.

National Assembly:

Bill passed with amendments by the Senate on second reading, No. 2157;

Report by Mr Jean Proriol on behalf of the Economic Affairs Committee, No. 2229;

Debated on 12 and 14 April 2005 and passed on 3 May 2005.

Senate:

Bill amended by the National Assembly on second reading, No. 312 (2004-2005);

Report by Mr Pierre Hérisson on behalf of the Joint Committee, No. 327 (2004-2005);

Debated and passed on 12 May 2005.

National Assembly:

Report by Mr Jean Proriol on behalf of the Joint Committee, No. 2297;

Debated and passed on 12 May 2005.