

LAWS

Law No. 2010-123 of 9 February 2010 on the state-owned company La Poste and postal activities

NOR: ECEX0913475L

The National Assembly and the Senate have passed,

Having regard to Constitutional Council Decision No. 2010-601 DC of 4 February 2010;

The President of the Republic has enacted the following law:

TITLE I

PROVISIONS RELATING TO LA POSTE AND AMENDING LAW NO. 90-568 OF 2 JULY 1990 ON THE PUBLIC SERVICE ORGANISATION OF LA POSTE AND FRANCE TÉLÉCOM

Section 1

A section 1-2 shall be inserted after section 1-1 of Law No. 90-568 of 2 July 1990 on the public service organisation of La Poste and France Télécom, worded as follows:

‘*Section 1-2* - I. From 1 March 2010 the public-law corporation La Poste shall be converted into a public limited company called La Poste. The company’s capital shall be owned by the State, as the majority shareholder, and by other public-law corporations, save for that part of the capital that may be owned by the staff as shareholders in the manner provided for by this law. This conversion shall not cast doubt on the nature of La Poste as a national public service.

‘On the date on which La Poste’s initial memorandum and articles of association are registered, its capital shall be wholly owned by the State.

‘A new legal person shall not be created for this conversion. All assets, rights, obligations, contacts, agreements and licences of whatever kind held by the public-law corporation known as La Poste, in France and outside France, shall become *ipso jure* and with no formalities those of the public limited company La Poste from the date of the conversion. This shall not affect those assets, rights, obligations, contacts, agreements and licences and shall not entail, in particular, any amendment of current contracts and agreements 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, nor their termination, nor, where appropriate, the early extinguishment of the debts covered by them. The conversion into a public limited company shall not affect administrative decisions taken by La Poste. All operations arising out of the conversion of La Poste into a company shall be free of charge and not give rise to payment of any tax, remuneration, compensation or fee to the State, its employees or any other public corporation.

‘II. La Poste shall be subject to the statutory provisions applying to public limited companies in so far as they are not in breach of this law.

‘The first and fourth paragraphs of Article L.225-24 of the Commercial Code shall apply in the event of vacancies for posts of directors appointed by the general meeting.

‘The first paragraph of Article 228-39 of the same code shall not apply to the La Poste company.

‘Article L.225-40 of the same code shall not apply to agreements concluded between the State and La Poste pursuant to sections 6 and 9 of this law.’

Section 2

Section 2 of the same law shall be worded as follows:

‘*Section 2* - La Poste and its subsidiaries shall constitute a state-owned group which shall fulfil public-service and public-interest missions and engage in other activities subject to the conditions laid down by this law and by the statutes and regulations governing each of its spheres of activity.

‘The postal networks shall have extensive social and geographical coverage allowing universal access to essential local services.

‘I. The public-service and public-interest missions shall be:

‘1. The universal postal service, subject to the conditions laid down by the Postal Services and Electronic Communications Code, particularly Articles L.1 and L.2;

‘2. The contribution made, through its network of post-office branches, to national and regional planning and development in the manner provided for in section 6 of this law;

‘3. Press transport and distribution services under the special arrangements provided for in the Postal Services and Electronic Communications Code, particularly Article L.4;

‘4. Banking access as provided for in the Monetary and Financial Code, particularly Articles L.221-2 and L.518-25-1.

‘II. Within ordinary law La Poste shall carry on any other activity involving clearance, sorting, transport and delivery of postal items, mail of all kinds, objects and goods.

‘Through its subsidiary La Banque Postale, La Poste shall carry on banking, financial and insurance activities as provided for in the Monetary and Financial Code in particular.

‘La Poste is authorised to carry on in France and abroad, both in its own name and through subsidiaries or holdings, any activity relating either directly or indirectly to its statutory missions and activities as well as any activity provided for by its memorandum and articles of association.’

Section 3

Section 6 of the same law shall be amended as follows:

1. Four sentences shall be inserted after the first sentence of the second paragraph of paragraph I, worded as follows:

‘This network shall comprise at least 17,000 post-office branches across French territory taking into account the specific features of the latter, especially in overseas departments and

collectivities. La Poste shall offer users broadband Internet access on a trial basis until 31 December 2011 from personal terminals in some hundred representative post offices. Three months prior to this date the government shall deliver a report to Parliament in the light of which the scheme may be extended or adjusted by law. La Poste's change of status shall not affect local public and private partnerships for the purpose of adapting its network of post-office branches.'

2. In the penultimate sentence of the second paragraph of paragraph I, the words 'this partnership' shall be replaced by the words 'these partnerships'.

3. A paragraph shall be inserted after the first paragraph of paragraph II, worded as follows:

'A report on management of the equalisation fund, indicating the total allocation for each *département* and the information for apportioning it, shall be forwarded to Parliament and the chairmen of the *département* postal coverage committees annually.'

4. A paragraph shall be inserted after the second paragraph of paragraph II, worded as follows:

'The multi-annual postal coverage contract shall set out guidelines for managing the national postal fund for geographical equalisation. It shall also specify the conditions, with regard, for example, to opening hours, basic provision of postal and financial services, quality, information, improvement and service commitments to users, that must be met by post-office branches on the basis of their characteristics and with due regard for the principles of sustainable development. The conditions relating to post-office branch opening hours shall provide for adjustment of these hours to the lifestyle of the community served. The contract shall make provision, especially in communes with over fifty thousand inhabitants, on a trial basis and after consultation with staff representatives, for opening of one post office up to twenty-one hundred hours one working day a week, after consulting the *département* postal coverage committee. It shall also specify the circumstances in which a post office's opening hours may be reduced in view of its recorded activity over a significant reference period.'

Section 4

I. Section 6 of the same law shall be amended as follows:

1. In the first paragraph of paragraph II, the words 'the cost of' shall be inserted after the word 'finance';

2. A paragraph IV shall be added, worded as follows:

'IV. The Postal Services and Electronic Communications Regulatory Authority shall be responsible for annually evaluating the net cost of the additional network required for the national and regional planning mission assigned to La Poste under paragraph I. La Poste shall forward to the authority, at its request, any accounting records and information needed for this evaluation. A *Conseil d'Etat* decree, adopted after consulting the Commission for the Public Service of Postal and Electronic Communications and published no later than 31 March 2010, shall specify the evaluation method to be used.

'The Postal Services and Electronic Communications Regulatory Authority shall, after consulting the Commission for the Public Service of Postal and Electronic Communications, deliver an annual report to the government and Parliament on the net cost of this network.

‘The fund referred to in the first paragraph of paragraph II shall be provisioned by La Poste in proportion to the reduction in local taxation to which La Poste is entitled under Article 1635 *sexies*, paragraph II, subparagraph 3 of the General Tax Code. This reduction shall be reviewed annually on the basis of the evaluation made by the Postal Services and Electronic Communications Regulatory Authority.’

II. The first paragraph of section 21, paragraph I, subparagraph 3 of the same law shall be supplemented by a sentence worded as follows:

‘The rate of the abatement shall be reviewed annually pursuant to Article 1635 *sexies*, paragraph II, subparagraph 3 of the General Tax Code.

III. Article 1635 *sexies*, paragraph II, subparagraph 3 of the General Tax Code shall be supplemented by a paragraph worded as follows:

‘From the 2011 financial year, the rate of the abatement referred to in the first paragraph of this subparagraph 3 shall be set annually, within a 95% limit, so that the revenue from this abatement contributes to financing the cost of La Poste’s additional geographical network as evaluated by the Postal Services and Electronic Communications Regulatory Authority pursuant to section 6, paragraph IV of Law No. 90-568 of 2 July 1990 on the public service organisation of La Poste and France Télécom and subject to the conditions laid down by a *Conseil d’Etat* decree.’

Section 5

The last paragraph of section 6, paragraph III of the above-mentioned Law No. 90-568 of 2 July 1990 shall be deleted.

Section 6

Section 9 of the same law shall be worded as follows:

‘*Section 9* - The State shall conclude with La Poste the service contract referred to in section 140 of Law No. 2001-420 of 15 May 2001 on new economic regulations. This contract shall specify the targets for the four public-service and public-interest missions referred to in section 2, paragraph I of this law. It shall set service-quality targets for the various elements of the universal postal service, including user waiting times in the post-office network and speed and efficiency for handling user complaints. It shall contain La Poste’s commitments concerning control and prevention of overindebtedness, especially with regard to revolving consumer credit and promotion of micro-credit. Six months before expiry of this service contract, the government shall forward to Parliament a provisional assessment of its implementation.’

Section 7

Section 10 of the same law shall be worded as follows:

‘*Section 10* - Law No. 83-675 of 26 July 1983 on democratisation of the public sector shall apply to La Poste.

‘However, section 5 of the same law notwithstanding, La Poste’s board of directors shall consist of twenty-one members. There shall be seven representatives of each of the categories

laid down in (1), (2) and (3) of the same section. A representative of the communes and associations of communes shall be included among the persons selected for their qualifications. A representative of La Poste users shall also be included among the persons selected for their qualifications.

‘If a public-law corporation referred to in section 1-2, paragraph I of this law, other than the State, owns a share of La Poste’s capital, La Poste’s board of directors shall, the second, third and fourth sentences of the second paragraph of this section and section 5 of the above-mentioned Law No. 83-675 of 26 July 1983 notwithstanding, have the following composition:

- ‘- One third: representatives of employees, elected in the manner provided for in Title II, Chapter II of the above-mentioned Law No. 83-675 of 26 July 1983;
- Two thirds: one representative of the communes and associations of communes and one users representative, both appointed by decree, and representatives appointed by the general meeting of shareholders so as to give the latter representation reflecting their ownership of the capital and allowing them, taken together, to hold the majority of voting rights in the board of directors.’

Section 8

Section 11 of the same law shall be worded as follows:

‘*Section 11* - The chairman of La Poste’s board of directors shall be appointed by decree. He shall be responsible for overall management of La Poste.’

Section 9

Section 23 of the same law shall be amended as follows:

1. In the first sentence of the second paragraph, the words ‘by La Poste of its legislative and regulatory obligations’ shall be replaced by the words ‘by La Poste and its subsidiaries of their legislative and regulatory obligations’ and the words ‘its contract with the State’ by the words ‘the contract referred to in section 9’.

2. In the second sentence of the second paragraph, the words ‘La Poste shall forward’ shall be replaced by the words ‘La Poste and its subsidiaries shall forward’.

3. After the words ‘preceding paragraph’, the end of the third paragraph shall be worded as follows: ‘by La Poste or one of its subsidiaries, the government may ask for the transfer to be declared void if the transfer price of the real estate concerned exceeds a ceiling set by order of the Minister for Postal Services.’

Section 10

I. Section 29-4 of the same law shall be worded as follows:

‘*Section 29-4* - As of 1 March 2010, La Poste’s body of civil servants shall be attached to the La Poste public limited company and shall come under the authority of its chairman, who shall have managerial and appointment authority with regard to them. The chairman may delegate this managerial and appointment authority and authorise subdelegation subject to formal, procedural and temporal requirements laid down by *Conseil d’Etat* decree.’

‘The chairman of La Poste may institute bonuses and allowances specific to civil servants of La Poste, which may be adjusted to take account of changes in other elements of civil servant compensation as established by section 20 of Law No. 83-634 of 13 July 1983 on the rights and obligations of civil servants.

‘La Poste staff with civil-servant status shall remain subject to sections 29 and 30 of this law.’

II. A paragraph shall be inserted after the first paragraph of section 30 of the same law, worded as follows:

‘La Poste may establish a mandatory supplementary social-protection scheme for the staff referred to in sections 29 and 44 of this law under Article L.911-1 of the Social Security Code and subject to conditions laid down by decree. La Poste contributions to fund the benefits provided by this scheme shall be excluded from the basis of assessment for the employer’s social-insurance contributions for the staff referred to in sections 29 and 44 of this law as provided for in Article L.242-1 of the Social Security Code. When calculating the net taxable income of the staff referred to in sections 29 and 44 of this law, the contributions paid pursuant to this paragraph shall be treated in the same way as the premiums and contributions referred to in Article 83, paragraph 1 *quater* of the General Tax Code.

Section 11

I. A section 29-6 shall be inserted after section 29-5 of the same law, worded as follows:

‘*Section 29-6* - La Poste employees affiliated to the Institution for Supplementary Pension Provision for Non-permanent State and Local-authority Employees on the date on which the La Poste company affiliated to the institutions for supplementary pension provision referred to in Article L.922-1 of the Social Security Code shall remain affiliated to it until termination of the contracts binding them to their employer or until their transfer to a company affiliated to an institution referred to in the same Article L.922-1.

‘The rights acquired by these affiliates, former affiliates and their entitled dependants shall be maintained at the Institution for Supplementary Pension Provision for Non-permanent State and Local-authority Employees.

‘An agreement between the federations of institutions for supplementary pension provision referred to in Article L.922-4 of the Social Security Code and the Institution for Supplementary Pension Provision for Non-permanent State and Local-authority Employees shall regulate financial transfers between these bodies in the light of their respective revenue and charges. If such an agreement is not signed by 30 June 2010, a *Conseil d’Etat* decree shall regulate these financial transfers.

‘The La Poste company shall affiliate to institutions for supplementary pension provision referred to in Article L. 922-1 of the same code in the six months following signature of the agreement specified in the third paragraph of this section and no later than 31 December 2010.’

II. The first paragraph of section 31 of the same law shall be worded as follows:

‘La Poste shall employ contract employees under the collective agreements system.’

Section 12

Section 32 of the same law shall be amended as follows:

1. The first paragraph shall be preceded by the figure 'I.', and the reference to 'Articles L.441-1 to L.441-7' shall be replaced by reference to 'Part III, Book III, Title I'.

2. The third paragraph shall be preceded by the figure 'III.', and the words 'each establishment or group of establishments of the public operator' shall be replaced by the words 'each establishment or group of establishments of La Poste', while the words '*contrat de plan* (plan contract) of the public operator' shall be replaced by the words 'contract referred to in section 9'.

3. The fourth paragraph shall be replaced by four paragraphs worded as follows:

'The other provisions of Part III, Book III of the Labour Code, with the exception of Title II, shall apply to all La Poste staff, including those referred to in sections 29 and 44 of this law. Capital can be increased and reserved shares transferred through one or more employees' mutual funds, pursuant to Articles L.3332-18 *et seq.* of the Labour Code, subject to the following provisions.

'The value of the company shall be determined by the Holdings and Transfers Board no later than one month from the date on which the matter was referred to it by the Minister for the Economy. This valuation shall be made by objective methods in common use for full or partial disposal of company assets, taking into account, with appropriate weighting in each case, asset value, profits, existence of subsidiaries, and future prospects. It shall be published. The transfer price shall be established on the basis of the company value thus determined. The subscription price shall be set in accordance with the last paragraph of Article L.3332-20 of the Labour Code no later than sixty days after the date of this valuation.

'The staff of La Poste and its subsidiaries, together with their entitled dependants, can hold only a minority share of La Poste's capital.

'Part III, Book III, Title II of the Labour Code can be applied to all La Poste staff subject to the conditions laid down by a *Conseil d'Etat* decree.'

4. The last paragraph shall become the third paragraph and shall be preceded by the figure 'II.', and the reference 'Book IV, Title IV, Chapters II, III and IV' shall be replaced by the reference 'Part III, Book III, Titles II, III and IV'.

Section 13

A section 32-3 shall be inserted after section 32-2 of the same law, worded as follows:

'*Section 32-3* - La Poste may make free allotments of shares under the terms of Articles L.225-197-1 to L. 225-197-4 of the Commercial Code, subject to the provisions of section 32, paragraph III of this law. These allotments may also be made to La Poste staff referred to in sections 29 and 44 of this law. Upon expiry of the acquisition period referred to in the fifth paragraph of paragraph I of Article L.225-197-1 of the Commercial Code, the shares allotted free of charge shall be transferred to one or more employees' mutual funds. The mandatory period for holding the shares specified in the same paragraph I shall apply to employees' mutual fund certificates received in exchange for the transfer.

'For the free allotment of shares referred to in the first paragraph, the value of the company shall be determined and published in the same manner as that provided for in the third

paragraph of section 32, paragraph III of this law. Furthermore, within the same period of one month from the date on which the matter is referred to it by the Minister for the Economy, the Holdings and Transfers Board can object to the operation if the conditions go against the proprietary interests of public corporations. The Board's objection shall be published. The free shares must be allotted no later than sixty days from the date of the valuation.'

Section 14

Section 48 of the same law shall be restored as follows:

'Section 48 - I. The initial memorandum and articles of association of the public limited company La Poste and the interim arrangements for its management until its statutory bodies have been set up shall be laid down by a *Conseil d'Etat* decree. Once these statutory bodies have been set up, the memorandum and articles of association can be amended as provided for in the Commercial Code with regard to public limited companies.

'II. The accounts of the public operator La Poste for the 2009 financial year shall be approved under ordinary law by the general meeting of the La Poste company. The balance sheet of the La Poste company as at 31 December 2010 shall be drawn up on the basis of the public operator's balance sheet as at 31 December 2009 and the income statement for the 2010 financial year.

'III. Elected staff representatives in office as at 28 February 2010 shall remain in office until their term expires and subject to the conditions of the above-mentioned Law No. 83-675 of 26 July 1983.

'IV. The conversion of La Poste into a public limited company shall not affect the current powers of its statutory auditors at the time of the conversion.'

Section 15

I. The same law shall be amended as follows:

1. Section 1 shall be repealed.

2. The words 'each of' in the first paragraph of section 12 shall be deleted.

3. Every time they occur, in the first paragraph of section 12, in section 27, in the second paragraph of section 30, in the second and eighth paragraphs of section 33 and in the first paragraph of section 34, the words 'the public operator' shall be replaced by the words 'La Poste'.

4. In section 20, the words 'and telecommunications' shall be inserted after the word 'persons', and the words 'postal public service carried out by La Poste' shall be replaced by the words 'universal postal service as defined in Article L.1 of the Postal Services and Electronic Communications Code, carried out by the universal postal service provider in France as designated in Article L.2 of the same code'.

5. In section 21, paragraph I, subparagraph 3, each occurrence of the words 'this operator' shall be replaced by the words 'this company'.

6. In the first paragraph of section 33-1, the words ‘the public operator’ shall be replaced by the words ‘the company’.

7. The second sentence of section 4 shall be deleted.

8. Section 8 shall be amended as follows:

a) The first paragraph shall be deleted;

b) In the second paragraph, the word ‘also’ shall be deleted and the words ‘the public operator’ shall be replaced by the words ‘La Poste’.

9. In the second paragraph of section 21, paragraph I, subparagraph 3, ‘1996’ shall be replaced by ‘2010’.

10. Sections 7, 14, 15, 19, 24, 25, 26, 28, 36, 39 and 40 shall be repealed.

11. In section 27, the words ‘in the framework of regulations specifying its rights and obligations and according to conditions complying with the principles set forth in Article 25’ shall be deleted.

12. Section 29-1, paragraph 1, shall be amended as follows:

a) In the fourth paragraph, the reference to ‘Book IV, Titles II and III’ shall be replaced by a reference to ‘Part II, Book III, Titles I to IV’;

b) At the beginning of the second sentence of the fifth paragraph, the words ‘Book II, Titles III and IV, as well as Chapters III and IV of Title VI, of the Labour Code shall apply’ shall be replaced by the words ‘The fourth part of the Labour Code shall apply’.

13. In section 30 *bis*, the words ‘of Law No. 87-517 of 10 July 1987’ shall be replaced by the words ‘of the Labour Code’.

14. At the beginning of section 31-3, the words ‘Titles III and IV of Book II of the Labour Code shall apply’ shall be replaced by the words ‘The fourth part of the Labour Code shall apply’.

15. Section 33 shall be amended as follows:

a) In the first paragraph, the words ‘particularly joint associative activities’ shall be deleted;

b) In the third paragraph, the words ‘not relevant to social activities’ shall be deleted, and the words ‘a representative of each of the two operators’ shall be replaced by the words ‘a representative of La Poste and a representative of France Télécom’;

c) The fourth, seventh, ninth and tenth paragraphs shall be deleted.

16. In the first sentence of the second paragraph of section 34, the words ‘plan contract of the public operator’ shall be replaced by the words ‘contract specified in section 9’.

II. In Article L.323-8-6-1 of the Labour Code, the words ‘the public operator La Poste’ shall be replaced by the words ‘La Poste’.

Section 16

In the first paragraph of Article L.323-2 of the Labour Code, the words ‘the public operator La Poste’ shall be replaced by the words ‘La Poste until 31 December 2011’.

Section 17

Paragraph 4 of Article 261 of the General Tax Code shall be supplemented by a subparagraph 11, worded as follows:

‘11. Provision of services and supply of goods pertaining to these services – excepting passenger transport and telecommunications – that come under the universal postal service as defined by Article L.1 of the Postal Services and Electronic Communications Code, carried out by the universal postal service provider in France as designated in Article L.2 of the same code.’

TITLE II

PROVISIONS RELATING TO TRANSPOSITION OF DIRECTIVE 2008/6/EC OF 20 FEBRUARY 2008 AND AMENDING CERTAIN PROVISIONS OF THE POSTAL SERVICES AND ELECTRONIC COMMUNICATIONS CODE

Section 18

Article L.1 of the Postal Services and Electronic Communications Code shall be amended as follows:

1. In the first sentence of the second paragraph, the words ‘, including in the form of coded geographical coordinates,’ shall be inserted after the word ‘wrapping’.

2. The fourth paragraph shall be supplemented by a sentence worded as follows:

‘Prices shall be cost-oriented and provide incentive for efficient provision whilst taking into account the characteristics of the markets where they apply.’

3. At the beginning of the fifth paragraph, the word ‘It’ shall be replaced by the words ‘The universal postal service’.

4. A paragraph shall be inserted after the fifth paragraph, worded as follows:

‘Services relating to single postal items and provided by the universal postal service provider shall be available at the same tariff throughout metropolitan France. The tariff applying to single items of correspondence sent from or to overseas departments, Mayotte, Saint Pierre and Miquelon, Saint Barthélemy, Saint Martin, the Wallis and Futuna Islands or the French Southern and Antarctic Lands shall be the tariff in force in Metropolitan France if these items come within the first weight band. The same shall apply to single items of correspondence within the first weight band sent from metropolitan France or the above-mentioned territorial collectivities to French Polynesia or New Caledonia.’

5. The final paragraph shall be deleted.

Section 19

The first four paragraphs of Article L.2 of the same code shall be replaced by two paragraphs worded as follows:

‘La Poste shall be the universal postal service provider for a period of fifteen years from 1 January 2011. At three-yearly intervals the government, after consulting the Commission for the Public Service of Postal and Electronic Communications and the Postal Services and Electronic Communications Regulatory Authority, shall report to Parliament on La Poste’s performance of its universal postal service mission and the means being used to improve it.

‘In addition to the obligations arising out of the licence referred to in Article L.3, the provider of the universal postal service shall be subject, for such provision, to specific obligations relating to service quality and access, handling of user complaints and, for given services, compensation for failure to comply with service quality commitments. It shall keep separate accounts for its universal service activities. At the request of the Postal Services and Electronic Communications Regulatory Authority, it shall forward any accounting information or records needed to monitor compliance with its obligations.’

Section 20

The first paragraph of Article L.2-1 of the same code shall be worded as follows:

‘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, in accordance with the rules set out in the fourth paragraph of Article L.1.’

Section 21

Paragraph I of Article L.2-2 of the same code shall be amended as follows:

1. The first paragraph shall be supplemented by a sentence worded as follows:

‘This fund shall finance net costs connected with universal service obligations.’

2. The second to fourth paragraphs shall be worded as follows:

‘A public institution shall be responsible for the financial and accounting management of this fund. The service charges of this institution shall be charged to the fund.

‘Postal service providers licensed under Article L.3 shall contribute to the compensation fund for the universal postal service. Each provider’s contribution to the fund shall be calculated in proportion to the number of postal items carried within the scope of the universal service defined in the fifth paragraph of Article L.1. These providers shall keep accounts enabling the services on which the contribution is based to be identified. Any provider carrying a quantity of items of correspondence falling below a threshold set by decree shall be exempted from contributing to the fund.

‘The total net contributions owed to the fund by the licensed postal service providers and the total amounts due from the fund to the universal postal service provider for covering universal postal service obligations shall be determined by the Postal Services and Electronic Communications Regulatory Authority. To this end, and notwithstanding the accounting information forwarded under paragraph 6 of Article L.5-2, the authority may ask the universal service provider for any information or research in its possession enabling the additional cost

of universal service provision to be assessed objectively. Contributions shall be collected by the public institution referred to in the second paragraph of this section in the same way as for turnover tax, with the securities, guarantees, rights and penalties applicable to this tax. Complaints shall be submitted, investigated and decided in the same way as for this tax.'

Section 22

I. Article L.3 of the same code shall be worded as follows:

'Article L.3 - Postal services covering domestic and cross-border items of correspondence may be offered by any postal service provider provided that it obtains a licence from the Postal Services and Electronic Communications Regulatory Authority under the terms of Article L.5-1. However, such a licence is not required if these services are limited to domestic correspondence and do not include delivery.'

II. In the second sentence of the first paragraph of Article L.5-1 of the same code, the word 'ten' shall be replaced by the word 'fifteen'.

Section 23

Article L.3-2 of the same code shall be amended as follows:

1. A paragraph *b bis* shall be inserted after paragraph *b*, worded as follows:

'*b bis*) - The secrecy of correspondence, together with the neutrality of postal services with regard to sender identity and nature of postal items, must be guaranteed;'

2. Paragraphs *e*, *f*, *g* and *h* shall be added, worded as follows:

'*e*) Free, simple and transparent procedures must be set up to handle complaints, and users' interests must be respected with regard to the obligations laid down in Article L.7;

'*f*) Disabled access to services and facilities must be guaranteed under the terms of Article L.111-7-3 of the Construction Code;

'*g*) Obligations under legislation and agreements in the fields of current labour and social-security law must be respected, without prejudice to specific provisions applying to staff with civil-servant status, where appropriate;

'*h*) Public order and national defence requirements must be respected.'

Section 24

Article L.3-4 of the same code shall be repealed.

Section 25

A paragraph shall be inserted after the third paragraph of Article L.5-1 of the same code, worded as follows:

'The Postal Services and Electronic Communications Regulatory Authority shall be notified by the licence holder of any change likely to affect its operating continuity. The licence holder shall inform the Postal Services and Electronic Communications Regulatory Authority of the

planned arrangements for ensuring continued handling of items of correspondence in the event of receivership or winding-up.’

Section 26

Article L.5-2 of the same code shall be amended as follows:

1. Paragraphs 3 and 4 shall be worded as follows:

‘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 be notified by La Poste of tariffs for universal service provision before they come into effect. Within one month of the date on which these tariffs were forwarded, it shall publish an opinion. It shall take account of the competitive market situation in its decisions and opinions, especially when considering bulk mail pricing and shall here ensure the sustainability of the universal service whilst ensuring fair competition. It shall modify or suspend planned tariffs for any element of universal service provision if there has been a clear failure to respect the tariff principles applying to the universal service.

‘4) Shall ensure compliance with the 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 and shall ensure the publication and reliability of quality measurements for the corresponding services; it shall commission an independent body to produce an annual service quality study, which it shall publish;’.

2. Paragraph 6 shall be amended as follows:

a) In the first sentence, the words ‘so as to distinguish common costs connected with the universal service from those unconnected with it’ shall be inserted after the words ‘cost accounting principles’;

b) The last sentence shall be worded as follows:

‘It shall publish a compliance report on the universal service.’

Section 27

An Article L.5-7-1 shall be inserted after Article L.5-7 of the same code, worded as follows:

‘*Article L.5-7-1* - The Postal Services and Electronic Communications Regulatory Authority shall handle postal service user complaints that it has not been possible to resolve through the procedures set up by the licensed postal service providers.’

Section 28

Article L.17 of the same code shall be worded as follows:

‘*Article L.17* - A fine of €50,000 shall be imposed for transporting items of correspondence in breach of Article L.3 or a decision to suspend the licence granted under that same article.’

Section 29

In the first paragraph of Article L.18 of the same code, the words ‘one of the offences’ shall be replaced by the words ‘the offence’.

Section 30

In the first sentence of Article L.19 of the same code, the word ‘offences’ shall be replaced by the word ‘offence’.

Section 31

In the first paragraph of Article L.29 of the same code, the words ‘of counterfeit items or’ shall be inserted after the word ‘mail’.

TITLE III

MISCELLANEOUS PROVISIONS

Section 32

Title I shall enter into force on 1 March 2010.

Section 33

Title II shall enter into force on 1 January 2011.

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

Done at Paris, 9 February 2010.

By the President of the Republic

NICOLAS SARKOZY

The Prime Minister
FRANÇOIS FILLON

*The Minister for the Economy,
Industry and Employment*
CHRISTINE LAGARDE

*The Minister for Labour, Industrial Relations,
the Family, Solidarity and Urban Affairs*
XAVIER DARCOS

*The Minister for the Budget, Public Accounts
the Civil Service and State Reform*
ERIC WOERTH

*The Minister for the Countryside
and Regional Planning*
MICHEL MERCIER

*The Minister in charge of Industry
for the Minister for the Economy,
Industry and Employment*
CHRISTIAN ESTROSI

(1) Law No. 2010-123

- Drafting history

Senate

Bill No. 599 amended (2008-2009);
Report by Mr Pierre Hérisson on behalf of the Economics Committee, No. 50 (2009-2010);
Committee Draft Bill No. 51 (2009-2010);
Debated on 2, 3, 4, 5, 6, 7, 8 and 9 November 2009 and passed, using a fast-track procedure,
on 9 November 2009 (TA No. 16, 2009-2010).

National Assembly

Bill passed by the Senate, No. 2060;
Report by Mr Jean Proriol on behalf of the Economic Affairs Committee, No. 2138;
Debated on 15, 16 and 17 December 2009 and passed on 22 December 2009 (TA No. 388).

Senate

Bill amended by the National Assembly, No. 189 (2009-2010);
Report by Mr Pierre Hérisson on behalf of the Joint Committee, No. 192 (2009-2010);
Debated and passed on 23 December 2009 (TA No. 51, 2009-2010).

National Assembly

Report by Mr Jean Proriol on behalf of the Joint Committee, No. 2209;
Debated and passed on 12 January 2010 (TA No. 392).

- Constitutional Council

Decision No. 2010-601 DC of 4 February 2010 published in the *Journal officiel* of that date.