

Proposed Amendments to the Postal Service Act, Cap. 254

Enhancing flexibility in defining universal postal services

Consultation

October 2023

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1 Summary

The postal sector is subject to ongoing market developments. As part of the efforts under way to ensure the sustainability of the Universal Postal Service, revisions to specific characteristics and tariffs of postal services provided by MaltaPost plc (hereafter 'MaltaPost') were approved by the Malta Communications Authority (hereafter 'MCA') in August 2023.

Price increases on their own have limited effectiveness in ensuring long-term US sustainability, which would be better served by strategic realignments to the scope and level of the universal postal service with the intent of shaping cost evolution going forward.

The purpose of the proposed amendments to the Postal Services Act (Chapter 254 of the Laws of Malta) is to enable additional flexibility in defining the universal postal service in line with the above strategy.

Section 2 of this document describes the amendments being proposed to the Postal Services Act while Section 3 lays out the amendments .

2 Context and Purpose

2.1 Additional Flexibility

The Postal Services Act specifies certain characteristics that should be fulfilled by the universal postal service. These include, but are not limited to, the number of clearances and deliveries and their frequency, the weight thresholds for categories of postal services, and certain additional features which may be availed in addition to basic services.

The proposed amendments would transfer certain obligations that are established under primary legislation to a Schedule to the Postal Services Act which Schedule may be amended by order of the Minister after consultation with the MCA.

2.2 Changes in the Weight of Parcels within the scope of the Universal Postal Service

During discussions on measures to support the ongoing sustainability of providing universal postal services, one of the proposals made by MaltaPost was that cross-border parcel services should no longer be part of the universal service as the cross-border market is very competitive.

According to the Postal Services Act , parcels that weigh less than or equal to 20kg are part of the Universal Service. However, the EU Postal Services Directive¹ allows room for flexibility. The Directive enables a Member State to set a threshold of 10 kilograms, as long as parcels received from other EU Member States and weighting up to 20 kilograms are delivered within the national territory.

The proposed amendments thus also include the alignment of the Postal Services Act with the minimum requirements of the EU Postal Services Directive, in relation to the weight threshold of parcels forming part of the universal service.

¹ Directive 97/67/EC, amended by Directives 2002/39/EC and 2008/6/EC

3 Proposed Amendments to Cap. 254

Notes	Proposed Legislative Amendment	Explanatory Notes
	<p style="text-align: center;">A BILL</p> <p style="text-align: center;">entitled</p> <p>AN ACT to amend the Postal Services Act to make provision with respect to matters ancillary thereto or connected therewith.</p> <p>BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-</p>	
<p>Short title, scope and commencement</p> <p>Cap. 254.</p>	<p>1. (1) The short title of this Act is the Postal Services (Amendment) Act, 2023 and shall come into force on such date or dates as the Minister may by notice in the Gazette appoint, and different dates may be so appointed for different purposes and different provisions of this Act.</p> <p>(2) This Act amends the Postal Services Act and shall be read and construed as one with the Postal Services Act hereinafter in this Act referred to as the “the principal Act”.</p>	
<p>Amendment of article 2 of the principal Act</p>	<p>2. In article 2 of the principal Act in the interpretation of the term “universal service provider”, the words “by notice in the Gazette” shall be deleted.</p>	<p>This proposed amendment to the definition of a “universal service provider” offers further clarity regarding the Authority’s legal basis for designating one or more postal operators to provide different elements of the universal service and/or cover different parts of the national territory.</p>

<p>Amends article 17 of the principal Act.</p>	<p>3. Article 17 of the principal Act shall be amended as follows:</p> <p>(a) Subarticle (2) thereof shall be substituted with the following: “(2) The “universal service” in the context of the provision of postal services for the purposes of this Act means the services listed in the First Schedule to this Act, which services and any such conditions applicable thereto as may be stated in the aforesaid Schedule may from time to time be amended by the Minister after consultation with the Authority by order in the Gazette”; and</p> <p>(b) In subarticle (3) the words “as defined in this article” shall be substituted with the words “as stated in the First Schedule to this Act”.</p>	<p>This proposed amendment will establish the ‘universal service’ in a Schedule to the Act which may be amended from time to time by the Minister responsible for postal matters after consultation with the Authority by order in the Gazette.</p>
<p>Amends article 17A of the principal Act.</p>	<p>4. In article 17A (1) of the principal Act the words “by notice in the Gazette” wherever they occur shall be deleted.</p>	<p>This proposed amendment offers further clarity regarding the Authority’s legal basis for designating one or more postal operators to provide different elements of the universal service and/or cover different parts of the national territory.</p>
<p>Amends article 17B of the principal Act</p>	<p>5. In article 17B(1)(b)(i) the words "as required in article 17(2)(a), or" shall be substituted with the words "as required in paragraph (a) of the First Schedule, or".</p>	<p>Reference to “article 17(2)(a)” shall be substituted with a reference to “paragraph (a) of the First Schedule”.</p>
<p>Renumbering of the Schedule to the principal Act.</p>	<p>6. The Schedule to the principal Act shall be renumbered as the “Second Schedule” and any references in the principal Act to the “Schedule” shall be amended accordingly.</p>	<p>Due to a proposed new Schedule defining the universal service any references in the principal Act to the “Schedule” will be amended to refer to the “Second Schedule”.</p>
<p>Addition of a new</p>	<p>7. Before the Second Schedule as renumbered to the principal Act there shall be added the following:</p>	<p>The Minister responsible for postal matters will be in a position to amend the Schedule of the universal service to cater for the changing needs of</p>

<p>schedule to the principal Act.</p>	<p style="text-align: center;">“FIRST SCHEDULE (Article 17(2))</p> <p>The “universal service” in the context of the provision of postal services for the purposes of this Act means:</p> <p>(a) that on not less than five working days a week, save in circumstances deemed exceptional by the Authority, there is at least:</p> <ul style="list-style-type: none"> (i) one clearance, and (ii) one delivery to the home or premises of every person in Malta or, as the Authority considers appropriate, under such conditions as it may determine from time to time, to appropriate installations; <p>Provided that the Authority may determine the working days when the universal service is to be provided;</p> <p>(b) that as a minimum the following services are provided:</p> <ul style="list-style-type: none"> (i) the clearance, sorting, transport and distribution of postal articles up to two (2) kilograms in weight; (ii) the clearance, sorting, transport and distribution of postal parcels up to ten (10) kilograms in weight; <p>Provided that postal parcels received from other Member States and weighing up to twenty (20) kilograms are delivered throughout Malta.</p> <ul style="list-style-type: none"> (iii) services for registered articles; (iv) services for insured articles; (v) services, free of charge, for the blind or partially sighted persons as may be determined by the Authority; and (vi) a basic counter service throughout Malta." 	<p>postal service users within the limitations of the EU Postal Services Directive.</p> <p>In addition the Authority will be in a position to determine the working days when the universal service is to be provided which must not be less than five working days a week, save in circumstances deemed exceptional by the Authority. Until such a determination is carried out, at least one clearance and one delivery shall continue to be required on every day which is not a Sunday or a public holiday.</p> <p>The weight threshold of parcels would also be aligned to the minimum requirements set in the EU Postal Services Directive in this regard.</p>
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