

Full version of the Act No. 29/2000 Coll., on Postal Services and on Amendments to Other Acts (Act on Postal Services) as follows from changes executed by the Act No. 517/2002 Coll., by the Act No. 225/2003, by the Act No. 95/2005 Coll. and by the Act No. 444/2005 Coll.

## Act on Postal Services

Parliament accepted this Act of the Czech Republic:

### PART ONE

#### LEGAL REGULATION OF POSTAL SERVICES

#### TITLE I

#### GENERAL PROVISIONS

#### Section 1

#### **Scope**

(1) In compliance with the law of the European Communities<sup>1)</sup> this Act regulates the terms for providing and operating the postal services and the rights and obligations arising in providing and operating postal services, as well as special rights and special obligations of such postal service operators who shall have the obligation of providing the basic services.

(2) The postal service shall mean an activity that is performed on the basis of a postal contract and the purpose of which is the delivery of a postal item or the remitted money amount, according to terms laid down by this Act.

---

<sup>1)</sup> 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.

#### Section 2

#### **Definition of Basic Terms**

For the purposes of this Act

- a) postal item means matters which have been taken over as a single unit by the postal service operator for the purpose of providing a postal service,

- b) postal order means the postal service the purpose of which is the delivery of the remitted amount of money,
- c) operator means a person who provides postal services,
- d) sender means a person indicated as a sender on a postal item or in the postal order document; if the sender is not indicated then the sender is a person who concluded the postal contract,
- e) addressee means a person indicated as the addressee by the sender on a postal item or in the postal order document,
- f) recipient means the addressee or, as the case may be, other person who, under the postal contract, must or may be given a postal item or must or may be paid the remitted money amount,
- g) delivery means the handing over, to the recipient by the operator, of a postal item or the payment of remitted money amount,
- h) return means the handing over of a postal item or the payment of the remitted money amount to the sender by the operator or, when appropriate, to another person who, under the postal contract, must or may be given back such postal item or must or may be paid such remitted money amount,
- i) foreign postal service means the service which due to its nature is analogous to postal services whose provision was agreed abroad and whose purpose shall be the delivery in the Czech Republic of matters or a of a money amount,
- j) basic services mean postal services and foreign postal services which due to public needs are under the protection of the state ensured in the manner as provided for in this Act,
- k) foreign operator means the operator which abroad and in co-operation with the operator participates in providing the postal service to foreign countries,
- l) item of correspondence means an communication in written form on a paper to be delivered to a particular person,
- m) posting means the taking over by the operator of the subject of the service or of the remitted money amount in order to provide the postal service.

### Section 3

The provision for a charge of the services whose purpose shall be the delivery, to a person determined in advance, of an item of correspondence, or the offer of such services shall be possible only under the condition that such services shall be or should be provided on the basis of this Act. This shall not apply if it is the case of

- a) a service whose provision is based on an international agreement that is a part of rule of law of the Czech Republic,
- b) a service whose purpose is the delivery of accompanying documents together with matters relating to them,
- c) a delivery of an item of correspondence to a person determined in advance, the delivery which is a part of a service of other nature and it cannot be ensured with

respect to the given purpose within the framework of an independent postal service,

- d) a service where a communication addressed to a particular person shall be carried exclusively in other than written form on a paper, or
- e) a service whose provision was agreed abroad.

## TITLE II

### POSTAL SERVICES

#### **Conclusion of a Postal Contract**

##### Section 4

(1) By promulgating the postal terms the operator offers to any person the conclusion of the postal contract according to such postal terms; promulgating means publishing of postal terms in the operators' premises, possibly as well in a manner enabling a remote access. The operator shall submit on request the postal terms for inspection in any of its premises in which the postal contract is to be concluded. Where the applicability period of postal terms is not explicitly established it shall be possible to terminate their applicability only by a notice published in the same manner as the postal terms. Rights and obligations arising from the postal contract concluded remain unaffected by any further modification or dissolution of postal terms.

(2) The operator shall conclude the postal contract with any person who shall suggest its conclusion within the scope of the postal terms and in a manner as the postal terms provide for.

(3) The operator shall be under no obligation to conclude a postal contract if it should also contain derogations from or amendments to rights and obligations according to section 6 (5).

(4) In concluding the postal contract the operator shall be entitled to require the sender to prove that the postal item and its make up comply with postal terms..

##### Section 5

(1) For the operator an obligation shall arise from the postal contract to deliver to the recipient the postal item or the remitted money amount in a manner as the postal contract provides for. Unless agreed otherwise, an obligation shall arise for the sender from the postal contract to settle to the operator the price agreed on.

(2) For the reasons on the part of the recipient or in consequence of fulfilling the imposed on the operator by a special legal regulation<sup>2)</sup> the operator shall have no responsibility for failing to discharge the obligations under the postal contract.

(3) The sender shall make up the postal item in a manner according to section 6 (3) (b) and (c), unless agreed with the operator otherwise.

---

<sup>2)</sup> For instance, the section 86 to 87a of the Act No. 141/1961 Coll., on criminal proceedings trial (Criminal Code), as amended by later regulations.

- 2) For instance, the sections 86 to 87a of Act No 141/1961 Coll. on the judicial criminal procedure (Code of Criminal Procedure), as last amended, and Act No 13/1993 Coll. (The Customs Act), as last amended.

## Section 6

### **Postal Terms**

(1) The postal terms shall be in written form.

(2) The postal terms shall contain

- a) requirements to be satisfied by the sender prior to the conclusion of the postal contract,
- b) manner in which to proceed in posting,
- c) rights and obligations which should become the contents of the legal relation arisen  
from the postal contract.

(3) From the postal terms according to (2) (a) the following shall always follow

- a) the manner in which the conclusion of the postal contract is to be suggested to the operator,
- b) mandatory make up of the postal items, its allowable dimensions and weight,
- c) postal item contents which shall be considered as dangerous or requiring special treatment, as well as mandatory special make up of such postal item or other essentials to be satisfied by the sender,
- d) postal item contents that are not allowed.

(4) From the postal terms according to (2) (c) the following shall always follow

- a) manner of delivery,
- b) procedure of the operator in the event when the postal item or the remitted money amount was undeliverable,
- c) price<sup>3)</sup> of the postal service, manner of its settlement and scope of demands of the sender for its refund if the operator failed to satisfy its obligation according to postal contract,
- d) manner of accepting and dealing with objections to the operator's action through which it has infringed the obligation according to the postal contract, as well as the manner of filing a claim following from that infringement,
- e) scope of the operator's liability for the damage that has arisen according to section 13 (1),
- f) limitation of the amount of the compensation for the damage according to section 13 (4),

---

<sup>3)</sup> Act No. 526/1990 Coll., on prices, as amended by later regulations.

- g) manner of accepting and dealing with suggestions concerning the damage that has arisen during the provision of the postal service, as well as the manner of filing a claim to the compensation following from the damage that has arisen,
- h) procedure of the operator in opening the postal item according to section 8,
- i) procedure of the operator in the selling or destruction of the postal item or its part according to sections 9 and 10, including the time limit by the expire of which the treatment of such postal item shall be conditioned.

(5) In concluding the postal contract it shall be possible to settle derogations from or amendments to the rights and obligations according to section 6 (2) (c), however, on condition that such possibility was indicated in the postal terms and that such derogation and amendments shall not change the nature of the postal service offered.

---

<sup>3)</sup> Act No 526/1990 Coll. on prices, as last amended.

## Section 7

### **Rights Following from the Postal Contract**

(1) Until the delivery of the postal item or the remitted money amount only the sender shall have the right to handle the postal item or the remitted money amount; the operator may handle the postal item or the remitted money amount only to the extent which is necessary and in such a manner which makes part of the provision of the postal service.

(2) Other persons and bodies may handle the postal item or the remitted money amount only in the case when it was agreed so or when a special legal regulation provides so<sup>3a)</sup>.

(3) The rights following from the postal contract shall be forfeited after expire of one year from the posting, unless this Act provides otherwise.

---

<sup>3a)</sup> For instance, sections 86 to 87a of Act No 141/1961 Coll. on judicial criminal procedure (Code of Criminal Procedure), as last amended; sections 7 to 12 of Act No 154/1994 Col. on security information service; sections 11 to 16 of Act No 67/1992 Coll. on military defence intelligence, as amended by Act No 153/1994 Coll. and Act No 88/1995 Coll.; Act no 13/1993 Coll. (Customs Act), as last amended.

## Section 8

### **Opening of a Postal Item**

- (1) The operator shall be entitled to open a postal item if
- a) it is undeliverable and at the same time it cannot be given back or should not be given back under the postal contract,

- b) there is a justified suspicion that it contains any matter considered as dangerous according to postal terms or any matter whose posting is not allowed according to postal terms,
- c) it was damaged,
- d) there is justified suspicion that a damage has arisen or could arise prior to the delivery, or
- e) it is necessary in order to comply with the obligations imposed on the operator by a special legal regulation<sup>3b)</sup>.

(2) The provisions of the (1) shall not apply to a postal item whose outer make up clearly shows that the postal item is inviolable<sup>4)</sup> according to an international agreement that is a part of rule of law of the Czech Republic.

(3) The operator shall notify the addressee of the opening of a postal item at the delivery of the postal item or, if appropriate, the sender at the return of the postal item.

(4) When the postal item is being opened its contents may be inspected only in the scope that is necessary for the purpose of the inspection. During the process of the opening the protection of facts that are protected according to a special regulation<sup>5)</sup>, as well as the protection of the postal secrecy (section 16) and the secrecy of correspondence must be provided for<sup>6)</sup>.

---

<sup>3b)</sup> For instance, Act No 246/1992 Coll. on the protection of cruelty to animals, as last amended.

<sup>4)</sup> For instance, Article 27 (2) and (3) of Decree No 157/1964 Coll. on the Vienna Convention on Diplomatic Relations.

<sup>5)</sup> For instance, Act No 148/1998 Coll. on the protection of official secrets and on the amendments to certain Acts.

<sup>6)</sup> Article 13 of the Charter of Basic Rights and Freedoms.

## Section 9

### **Sale by the Operator of a Postal Item**

(1) After the expiry of the settled period the operator shall be entitled to sell the postal item or its part, if

- a) the postal item is undeliverable and at the same time it cannot be returned or should not be returned under the postal contract, or
- b) there is a justified suspicion that the contents of the postal item shall be devalued prior to its delivery.

---

(2) The postal item cannot be sold if it is inviolable according to an international agreement that is a part of rule of law of the Czech Republic<sup>4)</sup>. Such postal item contents which are subject to the secrecy of correspondence<sup>6)</sup> may not be sold.

(3) If possible, the yield of the sale, after deducting the holding cost, selling cost and outstanding part of the price (hereinafter only „net yield“), shall be delivered to the sender by the operator. If the net yield was not delivered the sender shall have the right to ask for its delivery within time limit of one year from the posting); after a futile expiry of this time limit the right to the delivery of the net yield shall expire and the net yield shall fall to the operator.

#### Section 10

### **Destruction by the Operator of a Postal Item**

(1) The operator shall be entitled to destroy the postal item or its part after expiry of the settled time limit, if the contents of the postal item were completely or partly devalued.

(2) Also prior to the expiry of the settled time limit the operator shall be entitled to destroy the postal item or its part, if it is necessary in the interest of protecting the health of the people.

(3) If a postal item is undeliverable and at the same time it cannot be returned or should not be returned under the postal contract, the operator shall destroy it after expiry of the settled time limit.

(4) The provisions of (1) to (3) shall not relate to a postal item which is inviolable according to an international agreement that is a part of rule of law of the Czech Republic<sup>4)</sup>.

#### Section 11

### **Delivery of the Remitted Money Amount to the Sender**

In the case when the remitted money amount was not delivered or returned, the operator shall disburse it, provided the sender asks so within ten years from the posting; after a futile expiry of such time limit the right to the delivery of the amount involved shall expire and the money amount shall fall to the operator.

### **Liability for the Damage that has Arisen in the Provision of the Postal Services**

#### Section 12

(1) The operator shall be liable for the damage that has arisen in providing postal services in the extent set by this Act and by the postal contract.

(2) The operator shall be liable only for the damage that has arisen in the time from the posting until the delivery or the return of the subject of the service.

(3) The operator shall not be liable for the damage caused by the sender or the recipient.

(4) The operator shall not be liable for the damage caused by an unavoidable event, unless agreed otherwise.

(5) The operator shall not be liable for the damage that has arisen by confiscation or withholding of the postal item or remitted money amount or by other measure, provided such actions were carried out under this Act or under a special legal regulation.<sup>2)</sup>

(6) The operator shall not be liable for the damage that has arisen due to a special nature or defective contents of the postal item.

(7) Until the delivery of a postal item or a remitted money amount the right to the indemnity shall fall to the sender; after its delivery such right shall fall to the addressee.

(8) The right to the indemnity may not be assigned to another person, unless agreed otherwise.

(9) The damage shall be settled in monetary form.

### Section 13

(1) Only in the scope settled in the postal contract the operator shall be liable for the damage that has arisen from the loss of or damage to or shortage of the postal item contents. For other damages that have arisen on a postal item the operator shall be liable only if the postal contract provides so.

(2) In the case when the postal item is lost, the operator shall settle the damage in the amount of the price equal to that of the postal item at the time and place of its posting. However, if the flat rate compensation has been agreed on, the operator shall settle the damage in the amount of the flat rate compensation agreed on.

(3) If the contents of the postal item is damaged or incomplete, the operator shall settle the damage in the amount of the difference between the price of the postal item at the time and place of its posting and the price which could be attributed to the damaged or incomplete postal item at the time and place of its posting; however, if it is expedient to carry out the mending, the operator shall settle the damage in the amount of the costs of the mending.

(4) If, in compliance with the postal contract, the sender has indicated on a postal item an amount for the purpose of its pricing the damage shall be settled up to that amount as a maximum. In other cases the damage shall be settled up to the amount as a maximum as agreed in the postal contract; when such an amount was not agreed, the amount of the settlement shall not be limited.

(5) If it is proved that the loss of or damage to or shortage of the postal item contents have arisen by intentional activity of the operator's employee or a person authorised to act on behalf of the operator or another person used by the operator, or by intentional activity of an operator who is a natural person, the compensation for damage shall be provided in the amount according to (2) and (3), while neither the limitation of the extent of the liability agreed according to (1) nor the limitation of the amount of the compensation for damage according to (4) shall be taken account of. If a flat rate compensation was agreed according to the second sentence

of (2), a claim to the indemnity according to the first sentence of (2) may be lodged against the operator instead of a claim to a flat rate compensation.

#### Section 14

For the damage that has arisen in connection with a postal order the operator shall be liable only if the postal contract provides so.

#### Section 15

### **Postal Items and Postal Orders to Foreign Countries**

(1) In concluding a contract on a postal item to foreign countries or a contract on a postal order to foreign countries the provisions of the sections 2 to 14 shall apply, as appropriate, taking account of the participation of the foreign operator and of the regulations applicable abroad.

(2) The time limit of forfeiture of rights following from the contract on a postal item to foreign countries or a contract on a postal order to foreign countries may be agreed differently from the provision of the section 7 (3), provided the co-operation of the foreign operator in providing the postal services is conditional on the time limit arranged so.

(3) The liability of the operator for the damage that has arisen in connection with the postal item to foreign countries or postal order to foreign countries may be agreed differently from the provisions of the sections 12 to 14, provided the co-operation of the foreign operator in providing the postal services is conditional on such liability arrangement.

(4) In the customs proceedings<sup>9)</sup> the operator shall act as direct representative of the sender, unless otherwise agreed on.

---

<sup>9)</sup> Section 107 (2) (a) of Act No 13/1993 Coll.

### TITLE III

### POSTAL SECRECY

#### Section 16

(1) The operator, the person taking part in the provision of postal services and the person executing the activity under section 37 (hereinafter only „the bearer of the postal secrecy“) shall be under obligation to keep reticence about facts, relating to the postal service that is being provided or that was provided, which they have learned during the performance of their activity. They may use such facts only for the purpose of providing postal services or for the activities according to section 37;

---

<sup>9)</sup> Section 107 (2) (a) of Act No. 13/1993 Coll., the customs Act, as amended by Act No. 35/1993 Coll., and Act No. 113/1997 Coll.

they shall not allow other person to get acquainted with such facts without authorisation.

(2) The provisions of (1) shall not apply to information from which it cannot be inferred who was the sender or the addressee.

(3) The information about the postal service that is being provided or that was provided may be communicated by the bearer of the postal secrecy to the sender, the addressee, the legal successor to the sender or the addressee, the representative of the sender or the addressee, or to other persons who shall act in agreement with the sender or the addressee to their benefit.

(4) The bearer of the postal secrecy referred to in (1) may be exonerated from his obligations only by the sender, the addressee, the legal successor of the sender and the representative of the sender or of the addressee.

(5) The inspection of the contents of the postal item may be done only by the operator during the procedure of the opening of the postal item according to section 8 (1).

(6) The provisions of (1) to (5) shall not apply to such a case when the postal service operator is obliged, under this Act or under a special legal regulation<sup>2)</sup>,

- a) to notify the persons and bodies, authorised according to a special legal regulation<sup>3a)</sup>, of information about the postal service that is being provided or was provided or to enable them to obtain such information, or
- b) to issue to the persons and bodies, authorised according to a special legal regulation<sup>3a)</sup>, a postal item or a remitted money amount,
- c) to make or enable other measures.

(7) The operator of postal services shall

- a) issue, for an indispensable time limit, to the bodies authorised to use intelligence technology according to a special legal regulation<sup>9a)</sup> a postal item or enable them to make other measures relating to the postal item, namely on the request of the head of such body or of the person authorised by this head and under the conditions laid down by a special legal regulation<sup>9a)</sup>,
- b) keep reticence about the proceedings according to subparagraph a).

---

<sup>9a)</sup> For instance, sections 7 to 12 of Act No 154/1994 Coll. on the security information service; sections 11 to 16 of Act No 67/1992 Coll. on military defence intelligence, as amended by Act No 153/1994 Coll. and Act No 88/1995 Coll.

## **Section 17 – to be deleted**

### TITLE IV

#### OPERATION OF POSTAL SERVICES

#### **Conditions for Operating the Postal Services**

## Section 18

(1) The operation of postal services shall be conditioned by the Trade Authorisation according to a special legal regulation<sup>10)</sup>.

(2) The operation of postal services whose purpose is the delivery of an item of correspondence shall be conditioned, in addition, by a postal licence or by a special postal licence according to this Act.

(3) The provision of (2) shall not apply

- a) to a postal service which is provided free of charge,
- b) to a postal service which is provided for a price higher than or equal to the amount to be set by the Government Order,
- c) to a postal service whose purpose is the delivery of a postal item with the weight higher than or equal to the weight to be set by the Government Order,
- d) to a postal service whose purpose is the delivery of a postal item in a foreign country,
- e) to a postal service which is provided on the basis of an international agreement that is a part of rule of law of the Czech Republic,
- f) to a postal service whose purpose is the delivery of accompanying documents together with matters related to them, or
- g) to a postal service where the communication addressed to a particular person is carried solely in other than in written form on a paper.

---

<sup>10)</sup> Act No 455/1991 Coll. on engaging in a trade (The Trades Licensing Act), as last amended.

## Postal Licence

### Section 19

(1) The contents of the postal licence are the following

- a) obligation to ensure universal accessibility of basic services throughout the Czech Republic's territory (hereinafter only "postal obligation"),
- b) authorisation to operate postal services according to section 18 (2) (hereinafter only "postal authorisation").

(2) The Czech Telecommunications Office (hereinafter only "the Office") shall publish in the Postal Bulletin a list of postal services and foreign postal services which shall be considered as basic services with respect to the needs of the public.

### Section 20

(1) The Office shall decide on granting a postal licence following an application in writing submitted on call of the Office and published in the Postal Bulletin (hereinafter only „the call“). The application shall be accompanied by documents

demonstrating the satisfaction of conditions according to section 21 (1) (a) and (c), including a proposal of postal terms according to section 21 (1) (b). In the call the Office shall indicate basic services subject to the postal obligation, as well as other services which the postal licence holder shall ensure according to special legal regulations<sup>11)</sup>.

(2) There is no legal right to be granted a postal licence.

(3) The Office may grant a postal licence for a period of 5 years as maximum. The period for which the licence is to be granted shall not interfere with the period for which another postal licence was granted.

---

<sup>11)</sup> For instance, Act No 252/1994 Coll. on broadcasting and television charges, as amended by Act No 135/1997 Coll.

## Section 21

### **Conditions for Granting a Postal Licence**

(1) The postal licence may be granted only to a person who

- a) holds a trade authorisation to operate the services referred to in the call,
- b) submits a proposal for postal terms of postal services referred to in the call and whose competence is a prerequisite for the approval of the postal terms by the Office,
- c) disposes of technical, organisational, economic and personnel prerequisites for operating the services referred to in the call, including the provision of their universal accessibility throughout the Czech Republic's territory.

(2) In deciding about granting a postal licence the Office shall also take account of the scope of the hitherto applicant's business activities in the field of postal or other analogous services.

## Section 22

### **Granting the Postal Licence**

(1) In its decision on granting a postal licence the Office shall

- a) set the period for which the postal licence is being granted,
- b) impose the postal obligation in the scope according to section 20 (1) and grant the postal authorisation,
- c) gives approval, excepting the prices<sup>3)</sup>, to the postal terms of postal services as referred to in the call and submitted by the applicant for a postal licence,
- d) stipulates other obligations of the postal licence holder so that the postal obligation is implemented in the quality that is inevitable in the public interest

---

<sup>11)</sup> For instance, Act No. 252/1994 Coll., on broadcasting and television charges, as amended by Act No. 135/1997 Coll.

(hereinafter only „basic requirements of quality“), the basic requirements of quality applying particularly to the speed, reliability and regularity of basic services, adequate density of workplaces ensuring the posting, opening hours of the business premises, the method of delivery and returning, appropriate provision of information on services offered, manner of their use and a swift and efficient dealing with objections.

(2) The granted postal licence cannot be assigned to another person without the approval of the Office. The Office may give its consent to the assignment of the postal licence to another person only if this person meets conditions according to section 21 (1).

## Section 23

### **Amendment to the Postal Licence**

(1) On the postal licence holder's proposal the Office, which may also act on its own initiative, may amend the scope of postal obligations,

- a) if the public interest in ensuring the accessibility of another basic service requires so,
- b) if it is necessary in order to adhere to the obligations following from the law of the European Communities<sup>1)</sup> or to adhere to international obligations of the Czech Republic<sup>12)</sup>, or
- c) if the reason for inclusion of a certain service among basic services ceases to exist.

(2) If the Office extends the scope of the postal obligation by another postal service, it shall invite the postal licence holder to submit within a set time limit the postal terms of such postal service to the Office for approval.

(3) On the postal licence holder's request the Office, which may also act on its own initiative, may amend the basic requirements of quality

- a) if it is in the interest of satisfying the public needs, or
- b) if it is necessary in order to adhere to obligations following from the law of the European Communities<sup>1)</sup> or to adhere to international obligations of the Czech Republic<sup>12)</sup>.

(4) On its own initiative, the Office may withdraw the approval of postal terms of certain postal service, to which the postal obligation applies,

- a) if it is in the interest of satisfying the public needs, or
  - b) if it is necessary in order to adhere to obligations following from the law of the European Communities<sup>1)</sup> or to international obligations of the Czech Republic<sup>12)</sup>.
-

(5) If the Office withdraws the approval of postal terms, it shall invite the postal licence holder to submit within a set time limit to the Office the adapted text of the postal terms for approval.

(6) The Office may give approval to the amendment to postal terms of certain postal service to which the postal obligation applies, if the postal licence holder submits a proposal for a new text of such postal terms.

(7) The provisions of paragraphs (2) and (4) to (6) concerning the approval of the Office with respect to postal terms shall not apply to prices<sup>3)</sup>.

---

<sup>12)</sup> For instance, the obligations according to the Universal Postal Convention and its Final protocol, the Postal Payment Services Agreement, Letter Post Regulations and their Final protocol, Parcel Post Regulations and their Final protocol, the Postal Payment Services Agreement and their Final protocol.

## Section 24

### **Withdrawal of the Postal Licence**

(1) On its own initiative, the Office shall decide on the withdrawal of the postal licence, if the postal licence holder

- a) has ceased to satisfy any condition on the basis of which he was granted the postal licence, or
- b) fails to satisfy the obligations laid down by this Act or by the decision on granting or amending the postal licence or fails to enable the inspection according to section 37 (2) (a), even if he was warned in written form by the Office of a possible withdrawal of the postal licence for such reasons, and he failed to provide for the remedy not even in a reasonable time limit set out by the Office.

(2) The Office shall decide on the withdrawal of the postal licence, if the licence holder asks so in writing.

## Section 25

### **Termination of a Postal Licence**

The postal licence shall expire

- a) by the expiry of the time limit for which it was granted,
- b) on the day of the dissolution of the legal person or the death of the natural person to which it was granted,
- c) on the day stipulated in the decision of the Office on the withdrawal of the postal licence under the section 24 (1), or
- d) on the day stipulated in the decision of the Office on the withdrawal of the postal licence under the section 24 (2), within two years at the latest from the day of the delivery to the Office of the application for the withdrawal of the postal licence.

## **Special Postal Licence**

### Section 26

(1) The Office shall grant one or more special postal licences, if it has a justified concern about the postal licence holder abilities to comply with his obligations regarding the basic services.

(2) The contents of a special postal licence is as follows

- a) the obligation to ensure the universal accessibility within the stipulated area of established basic services (hereinafter only "special postal obligation"),
- b) the authorisation to operate within the stipulated area the postal services according to section 18 (2) (hereinafter only "special postal authorisation").

### Section 27

(1) The Office shall decide on granting a special postal licence following an application in writing submitted on its call. The application shall be accompanied by documents demonstrating the satisfaction of conditions according to section 28 (1) (a) and (c), including a proposal for postal terms according to section 28 (1) (b). In the call the Office shall stipulate the scope of basic services to be provided for, and it shall also stipulate the territory in which the basic services are to be provided.

(2) There shall be no legal right to be granted a special licence.

(3) The Office may grant a special postal licence for a period of three years as a maximum.

### Section 28

(1) The special postal licence may be granted only to a person who

- a) holds a trade authorisation to operate the services referred to in the call,
- b) submits a proposal for postal terms of postal services referred to in the call and whose competence is a prerequisite for the approval of the postal terms by the Office,
- c) disposes of technical, organisational, economic and personnel prerequisites for operating the services referred to in the call, including the provision of their universal accessibility throughout the Czech Republic's territory.

(2) In deciding about granting a special postal licence the Office shall also take account of the scope of the hitherto applicant's business activities in the field of postal or other analogous services.

### Section 29

#### **Granting a Special Postal Licence**

(1) In the decision on granting a special postal licence the Office shall

- a) set the period for which the special postal licence is being granted,

- b) impose the special postal obligation in the scope according to section 27 (1) and grant a special postal authorisation,
- c) gives approval, excepting the prices<sup>3)</sup>, to the postal terms of postal services referred to in the call and submitted by the applicant for the special postal licence,
- d) set the basic requirements of quality applying to the implementation of the special postal obligation.

(2) The granted special postal licence cannot be assigned to another person without the approval of the Office. The Office may give its consent to the assignment of the special postal licence to another person only if this person meets conditions according to section 28 (1).

## Section 29a

### **Amendment to a special licence**

(1) On the proposal of the special postal licence holder the Office, which may also act on its own initiative, shall take a decision on amending the scope of basic requirements of quality

- a) if it is in the interest of satisfying public needs, or
- b) if it is necessary in order to adhere to obligations following from the law of the European Communities<sup>1)</sup> or to international obligations of the Czech Republic<sup>12)</sup>.

(2) The Office may, on its own initiative, withdraw the approval of postal terms of one of the postal service to which a special postal obligation applies

- a) if it is in the interest of satisfying the public needs, or
- b) if it is necessary in order to adhere to obligations following from the law of the European Communities<sup>1)</sup> or to international obligations of the Czech Republic<sup>12)</sup>,

(3) If the Office withdraws the approval of postal terms, it shall invite the special postal licence holder to submit within a set time limit to the Office the adapted text of the postal terms for approval.

(4) The Office may give approval to the amendment to postal terms of one of the postal services to which the special postal obligation applies, if the special postal licence holder submits a proposal for a new text of such postal terms.

(5) The provisions of (2) to (4) concerning the approval of the Office to postal terms shall not apply to prices<sup>3)</sup>.

## Section 30

### **Withdrawal of the Special Postal Licence**

---

(1) On its own initiative, the Office shall decide on the withdrawal of the special postal licence, if the special postal licence holder

- a) has ceased to satisfy one of the conditions on the basis of which he was granted the special postal licence, or
- b) fails to satisfy the obligations laid down by this Act or by the decision on granting or amending a special postal licence or fails to enable the inspection according to section 37 (2) (a), even if he was warned in written form by the Office of a possible withdrawal of the special postal licence for such reasons, and he failed to provide for the remedy not even in a reasonable time limit set out by the Office.

(2) The Office shall decide on the withdrawal of the special postal licence, if the licence holder asks so in writing.

## Section 31

### **Termination of the Special Postal Licence**

The special postal licence shall expire

- a) by the expiry of the period for which it was granted,
- b) on the day of the dissolution of the legal person or the death of the natural person to which it was granted,
- c) on the day stipulated in the decision of the Office on the withdrawal of the special postal licence under the section 30 (1), or
- d) on the day stipulated in the decision of the Office on the withdrawal of the special postal licence under the section 30 (2), within one year at the latest from the day of the delivery to the Office of the application for the withdrawal of the special postal licence.

## Section 32

### **Publication of the Decision**

The decision on granting, amending and withdrawal the postal licence and the notification of its termination; the decision on granting, amending and withdrawal the special postal licence and the notification of its termination, as well as the basic requirements of quality and postal terms as approved by the Office, shall be published by the Office in the Postal Bulletin.

## TITLE V

### RIGHTS AND OBLIGATIONS OF THE POSTAL LICENCE HOLDER AND OF THE SPECIAL POSTAL LICENCE HOLDER

## Section 33

## **Obligations of the Postal Licence Holder**

(1) The postal licence holder shall

- a) fulfil the postal obligation in a manner complying with the needs of the public and basic requirements of quality, including a permanent provision of information on basic services and the manner of their utilisation,
- b) offer postal services which are subject to the postal obligation, according to postal terms as approved by the Office.

(2) The postal licence holder shall be temporary exempted from fulfilling his obligation according to (1) (a), if such fulfilment is obstructed by obstacles which were not caused by him and which could not have been avoided even if all reasonable measures had been taken by him, particularly as regards unavoidable technical problems, consequences of natural events, lack of needed co-operation of other persons or consequences of a crisis situation. However, the postal licence holder shall proceed in such a way so that the fulfilment of obligations is restricted as little as possible and the obstacles are removed as soon as possible.

(3) The postal licence holder shall be exempted from providing a postal service which is subject to the postal obligation if the provision of such postal service would be unreasonably complicated in consequence of the fact that one of the requirements referred to in section 6 (2) (a) was not complied with or if there would be a risk of other serious consequences to his operations.

(4) Giving unjustified preference to certain persons interested in basic services or placing such persons at an unjustified disadvantage shall not be allowed. The agreement on the derogation from rights and obligations or on their completion according to section 6 (5) shall not result in giving an unjustified preferential treatment to a certain sender compared with other persons showing interest in basic services.

(5) The postal licence holder shall keep records, on an ongoing basis, in the way set by the Office, of his expenditures connected with the operation of particular services which are subject to the postal obligation. The rules, according to which the expenditures common to more activities of the postal licence holder shall be attributed to individual services which are subject to postal the obligation, are set by the postal licence holder; nevertheless, they shall be approved by the Office, The postal licence holder shall ensure that the adherence to such rules is certified once in a year by a person professionally competent and independent of the postal licence holder; such person shall be approved by the Office. The results of this certification shall be published by the Office in the Postal Bulletin.

## Section 34

### **Obligations of the Special Licence Holder**

(1) The special postal licence holder shall

- a) fulfil the special postal obligation in a manner complying with the needs of the public and basic requirements of quality, including a permanent provision of

information on basic services, which are subject to the special postal obligation, and on the manner of their utilisation,

b) offer postal services, which are subject to the special postal obligation, according to postal terms as approved by the Office.

(2) The special postal licence holder shall be temporary exempted from fulfilling his obligation according to (1) (a), if such fulfilment is obstructed by obstacles which were not caused by him and which could not have been avoided even if all reasonable measures had been taken by him, particularly as regards unavoidable technical problems, consequences of natural events, lack of needed co-operation of other persons or consequences of a crisis situation. However, the special postal licence holder shall proceed in such a way so that the fulfilment of obligations is restricted as little as possible and the obstacles are removed as soon as possible.

(3) The special postal licence holder shall be exempted from providing a postal service which is subject to the special postal obligation if the provision of such postal service would be unreasonably complicated in consequence of the fact that one of the requirements referred to in section 6 (2) (a) was not complied with or if there would be a risk of other serious consequences to his operations.

(4) Giving unjustified preference to certain persons interested in basic services or placing such persons at an unjustified disadvantage shall not be allowed. The agreement on the derogation from rights and obligations or on their completion according to section 6 (5) shall not result in giving an unjustified preferential treatment to a certain sender compared with other persons showing interest in basic services.

#### Section 34a

### **Rights of the Postal Licence Holder and of the Special Postal Licence Holder**

The basic services price regulation, which are subject to postal obligation and to the special postal obligation, carried out by the body competent to the price regulation is based, according to the special Act<sup>3</sup>, on economically justified costs associated with the provision of such services.

## TITLE VI

### POSTAGE STAMPS

#### Section 35

(1) Postage stamps shall be issued and the period of their validity established by the Ministry of Informatics; in issuing the postage stamps the Ministry shall take account of the needs of the postal licence holder. The issue, the beginning and the end of the validity of the postal stamp shall be published by the Ministry of Informatics in the Postal Bulletin.

(2) The postal licence holder shall be obliged to cover the costs of the issue of postage stamps.

(3) The postal licence holder shall have an exclusive right to put postage stamps into circulation.

(4) Valid postage stamps may be used as a certificate on the settlement of the price of the postal service as provided by the postal licence holder, unless from the postal contract follows otherwise.

(5) After the postage stamp becomes invalid its holder shall have the right to have it exchanged for a valid one with the person who put the postage stamp into circulation or to have it purchased back from him. This right shall be forfeited by the expiry of one year after the day of the termination of the postage stamp validity.

## TITLE VII

### STATE ADMINISTRATION AND REGULATION

#### Section 36

#### **State Administration in the Field of Postal Services**

The Ministry of Informatics shall exercise the state administration in the field of postal services with the exception of the matters entrusted to the Office by this Act.

#### Section 37

#### **Activity of the Office**

(1) The Office shall supervise the postal licence holder and the special postal licence holders in respect of

- a) their fulfilling the postal obligation and special postal obligation in the manner as laid down in sections 33 and 34,
- b) their offering postal services, which are subject to the postal obligation and to special postal obligation, according to postal terms as approved by the Office,
- c) their fulfilling other obligations imposed on them under this Act.

(2) The activities of the supervision according to (1) shall be exercised by the Office on its own initiative or on the initiative of a person whose interests may be affected by the manner how the postal licence holder or the special postal licence holder are providing and ensuring the basic services. The activities of the supervision shall be discharged by

- a) exercising the state inspection<sup>14a)</sup>,
- b) making use of knowledge acquired otherwise.

(3) Furthermore, the Office shall

- a) deliver its opinion on the disputes over the provision and ensuring basic services by the postal licence holder or the special postal licence holder, which it have been asked for, provided the resolution of the dispute requires so,

- b) publish, at least once in a year in an appropriate manner, including the publication in the Postal Bulletin, a summary report on the compliance with obligations imposed on the postal licence holder and on the special postal licence holders under this Act,
- c) make other actions in the interest of a proper provision and ensuring the basic services,
- d) discharge other tasks entrusted to it under this Act.

---

<sup>14a)</sup> Act No 522/1991 Coll. on state supervision, as amended by Act No 166/1993 Coll., Act No 148/1998 Coll. and Act No 132/2000 Coll.

## **Administrative Torts**

### Section 37a

(1) Any legal person or natural person engaged in business activities who has infringed<sup>14b)</sup> the provisions of this Act by

- a) providing a service whose purpose is the delivery of an item of correspondence to a person determined in advance or offering such service in a manner other than based on this Act contract, or
  - b) operating a postal service whose purpose is the delivery of an item of correspondence, without a postal authorisation or a special postal authorisation,
- shall be imposed a fine of up to 2 000 000 CZK.

(2) Any postal licence holder who

- a) fails to fulfil the postal obligation or fulfils it in a manner non-complying with section 33,
- b) offers postal services which are subject to the postal obligation according to postal terms which were not approved by the Office,
- c) fails to provide a certification according to section 33 (5) through an approved person or fails within the time limit set by the Office to suggest such a person to be approved by the Office,

shall be imposed a fine of up to 2 000 000 CZK.

(3) Any special postal licence holder who

- a) fails to fulfil the special postal obligation or fulfils it in a manner non-complying with section 34,
  - b) offers postal services, which are subject to the special postal obligation, according to postal terms which were not approved by the Office,
- shall be imposed a fine of up to 500 000 CZK.

---

<sup>14b)</sup> Section 2 (2) of the Business Code.

### Section 37b

(1) A legal person shall not be liable for an administrative tort if it demonstrates that it has made all efforts, which might have been required, to prevent the infringement of the legal obligation.

(2) In deciding about the amount of the fine to be imposed on a legal person account shall be taken of the relevance of the administrative tort, notably of the scope of such action and its consequences.

(3) The legal person's liability for an administrative tort shall expire if the administrative body fails to open the proceedings within one year from the date when it learned about the tort, however, within three years at the latest from the date when such tort was committed.

(4) The administrative torts according to section 37a shall be dealt with by the Office.

(5) The liability for the action which took place during the business activity of a natural person<sup>14b)</sup> shall be subject to the provisions of the Act on the liability and recourse of a legal person.

(6) The fines shall be collected by the Office and enforced by the locally competent customs office. The revenue from the fines shall be revenue for the state budget.

(7) The procedure of collecting and enforcing the imposed fines shall follow a special legal regulation<sup>14c)</sup>.

---

<sup>14c)</sup> Act No 337/1992 Coll. on the administration of taxes and charges, as last amended.

### Section 37c

(1) A natural person shall commit an offence if he/she

- a) destroys, damages, pollutes or illegally removes or relocates a box designed for posting or delivery, or
- b) as a sender endangers the health of people by passing over, for the purpose of providing the postal service, to the operator a postal item
  - 1. whose contents are considered according to postal terms as dangerous, while failing to comply according to postal terms with its mandatory special make-up or other required essentials according to postal terms, or
  - 2. whose contents are not allowed according to postal terms.

(2) For the offence according to (1) (a) a fine may be imposed of up to 10 000 CZK, and for the offence according to (1) (b) a fine may be imposed of up to 20 000 CZK.

## TITLE VIII

### JOINT, INTERIM AND REPEALING PROVISIONS AND PROVISIONS OF AUTHORISATION

#### **Joint Provisions**

##### Section 38

(1) The activity of the Ministry of Informatics according to section 35 and the activity of the Office according to section 37 (3) (a) and (c) shall not be subject to the Administrative Rules.<sup>15)</sup>

(2) Appeal against the decision on granting a postal licence or a special postal licence and against a decision on the amendment to a postal licence or a special postal licence shall have no dilatory effect.

(3) The applicant for a postal licence shall take part in the proceedings on granting the postal licence. The applicant for a special postal licence shall take part in the proceedings on granting a special postal licence.

---

<sup>15)</sup> Act No 71/1967 Coll. on administrative proceedings (Administrative Rules).

##### Section 39

The legal relations in providing the postal services that are not regulated by section 4 to section 15 of this Act shall be governed by the Civil Code.

##### Section 40

(1) The Office shall issue the Postal Bulletin. The Office shall publish the Postal Bulletin as well in a manner enabling a remote access.

(2) Any person shall have the right to inspect the Postal Bulletin

- a) in any premises of a postal licence holder where postal services are offered that are subject to the postal obligation,
- b) in any premises of a special postal licence holder where postal services are offered that are subject to the special postal obligation.

##### Section 41

#### **Provisions of Authorisation**

On the basis of the legislation of the European Communities<sup>1)</sup>, the Government shall establish by a Government Order the amount according to section 18 (3) (b) and the weight according to section 18 (3) (c). Nor the amount nor the weight according to the first sentence may be higher than it is necessary for the creation of economic prerequisites for a due fulfilment of the postal obligation.

## Section 42

### Interim Provisions

(1) The legal relations concerning a postal item which was posted at the Czech Post, state enterprise, prior to the effective date of this Act, shall be governed by hitherto existing legal regulations<sup>16)</sup>.

(2) Within one year from the effective date of this Act the postal service operator shall have an obligation to require of the Ministry to be granted an approval for operating the postal services. Until the approval has been granted the postal service operator shall be considered as postal service operator who was given the approval under this Act. Unless the postal service operator requires the granting of the approval within the set time limit or unless the Ministry grants the approval, the existing permission granted under special legal regulation<sup>10)</sup> shall expire.

(3) Until the end of the calendar year 2003 the Czech Post, state enterprise, shall be considered as the holder of the approval and of the postal licence under this Act.

(4) The Ministry shall stipulate the postal commitment of the Czech Post, state enterprise.

(5) If in a special legal regulation issued prior to the effective date of this Act the expression „the Post“ was used in the context of section 4 (1) of Act No. 222/1946 Coll. on the Post (Postal Act), it is understood that it means the postal licence holder.

---

<sup>16)</sup> Act No 222/1946 Coll. on the Post (Postal Act), as amended by Act No 86/1950 Coll. and Act No 88/1950 Coll.

Government Order No 240/1949 Coll. implementing the Postal Act.

Decree No 78/1989 Coll. on the rights and obligations of the Post and its users (Postal Rules), as amended by Decree No 59/1991 Coll.

## Section 43

### Repealing Provisions

The following shall be repealed

1. Act No 222/1946 Coll. on the Post (Postal Act), as amended by Act No 86/1950 Coll. and Act No 88/1950 Coll.
2. Government Order No 240/1949 Coll. implementing the Postal Act.
3. Decree No 135/1980 Coll. issuing the Rules of the Postal Newspaper Service.
4. Decree No 78/1998 Coll. on rights and obligations of the Post and its users (Postal Rules), as amended by Decree No 59/1991 Coll.

## **PART EIGHTEENTH**

### Section 60

#### **Effectiveness**

This Act entered into force on the 1st of July 2000.

\*\*\*

The Act No. 517/2002 Coll., by which some measures in the system of central organs of state administration of the Czech Republic are realized and by which some acts are changed, entered into force on 1 January 2003.

The Act No. 225/2003 Coll., by which the Act 151/2000 Coll., on Telecommunications and on Amendments to Other Acts, as amended and the Act 29/2000 Coll., on Postal Services and on Amendment to Other Acts (Act on Postal Services), as amended by the Act No. 517/2002 Coll. are changed, entered into force on the 20th day following its promulgation (20 August 2003), with the exception of the second part, which entered into force on the date of entering into force of the Accession Treatment of the Czech Republic to the European Union (1 May 2004).

The Act No. 95/2005 Coll. that changes the Act No. 29/2000 Coll., on Postal Services and on Amendment of Other Acts (Act on Postal Services), as amended, and some other Acts, entered into force on the first day of the second month following its promulgation (1 April 2005), with the exception of paragraph III, of point 2, that enters into force on the first day of fifth month following its promulgation (1 July 2005).

The Act No. 444/2005 Coll. which changes the Act 531/1990 Coll., on locally competent financial authority, as amended, and some other Acts, entered into force on 1 January 2006.