

# Postal Services Act (2010:1045)

issued 1 July 2010.

The following is enacted<sup>1</sup> by a decision<sup>2</sup> of the Riksdag (Swedish Parliament).

## Chapter 1. Introductory provisions

### Scope of the Act

#### Section 1

This Act contains provisions concerning postal operations and universal postal service.

### Definitions

#### Section 2

In this Act

*user* means every natural or legal person benefiting from the provision of postal services as a sender or recipient,

*letter* means an addressed mail item that is enclosed in an envelope or other wrapping weighing at most 2 kg together with viewcards, postcards and similar mail items.

*non-deliverable letter* means a letter that

1. cannot be distributed to the recipient,
2. is unfranked, or insufficiently franked, or
3. has been returned by a postal administration or a postal undertaking abroad to the postal undertaking that conveyed the letter from Sweden.

*postal item* means an addressed mail item weighing at most 20 kg and which is deposited in the final form in which it shall be transported by a postal services provider,

*postcode system* means a system of digit series relating to the subdivision of Sweden into postcode areas expedient for mail services,

*postal operations* means regular clearance, sorting, transport and distribution of letters for a charge,

*postal service* means clearance, sorting, transport and distribution of postal items for a charge,

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<sup>1</sup> Cf. the 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 (OJ L 15, 21.1.1998, p. 14, Celex 31997L0067), last amended by Directive 2008/6/EC of the European Parliament and of the Council (OJ L 52, 27.2.2008, p. 3, Celex 32008L0006).

<sup>2</sup> Government Bill 2009/10:216, Report 2009/10:TU19, Riksdag Communication 2009/10:378.

*universal postal service* means nationwide postal service of good quality and whereby all users can receive postal items and, at reasonable prices of conveyance, can deposit such mail items.

## **Chapter 2. Postal operations**

### **Licence to conduct postal operations**

#### **Section 1**

A licence under this Act is required to conduct postal operations. A licence shall be granted only if it may be assumed that the applicant will conduct postal operations in the manner stated in Section 6.

#### **Section 2**

Questions concerning licences shall be determined by the authority appointed by the Government (the licensing authority).

#### **Section 3**

The licensing authority shall, upon application, issue a preliminary decision on whether a licence is required under Section 1 for a particular operation. A preliminary decision applies for the period and subject to the preconditions otherwise stated in the decision.

### **Licence conditions**

#### **Section 4**

A licence under Section 1 to conduct postal operations may be issued subject to conditions concerning the obligations of the licence holder to

1. satisfy that prescribed by Section 6 in a particular manner,
2. provide the entire or parts of the universal postal service in accordance with Chapter 3, Section 1 and to satisfy in a particular manner that prescribed there and by Chapter 3, Section 2,
3. publish information annually about the number of complaints and how complaints have been dealt with,
4. have regard in their operation to the needs of people with disabilities for special postal services, and
5. take into account the needs of Sweden's Total Defence for postal services during times of alert.

The Government, or the authority appointed by the Government, may issue regulations concerning licence conditions.

#### **Section 5**

Licence conditions shall apply for a fixed term and may be issued in conjunction with the granting of a licence, the expiry of the term of validity of a previously issued condition or if there are otherwise special reasons to do so.

Licence conditions may be amended during a current conditions period only in accordance with a reservation in the condition issued or upon the licence holder consenting to the

amendment and after other licence holders whose operations are directly affected by the amendment have been given an opportunity of expressing their views.

### **General requirements for postal operations, etc.**

#### **Section 6**

Postal operations shall be conducted under circumstances that satisfy reasonable demands for reliability and so that the protection of the personal integrity of senders and recipients is maintained.

#### **Section 7**

Loss of letters, damage to letters or delay of letters only afford the sender entitlement to compensation from the postal undertaking if this has been agreed between the undertaking and the sender.

#### **Section 8**

The Government, or the authority appointed by the Government, may issue regulations concerning if and to what extent a letter shall indicate who has conveyed it.

### **Non-deliverable letters**

#### **Section 9**

A non-deliverable letter shall be returned, if possible, to the sender. If the sender's address is not known the letter shall be sent to the licensing authority. However, this does not apply to viewcards, postcards, or similar mail items that are not enclosed in an envelope or other wrapping.

#### **Section 10**

A non-deliverable letter that is contained in an envelope or other wrapping may only be opened by the licensing authority and only if the wrapping does not have such information about the sender as enables the letter to be returned to the sender.

#### **Section 11**

A non-deliverable letter that has been opened may not be examined in more detail than necessary in order for it to be returnable to the sender. If the recipient, but not the sender, is indicated by the content of the letter, the letter may be sent to the recipient.

#### **Section 12**

Opened letters that are still non-deliverable shall be stored at the licensing authority.

The length of the period of storage is decided by the authority. Contents that are subject to deterioration or which consist of printed matter, advertisement sheets or the like that may be assumed to be of no value may be destroyed immediately.

### **Section 13**

An opened letter that could not be delivered belongs to the State on the expiry of the period of storage. Written messages should then be destroyed immediately.

Contents other than a valid Swedish means of payment should be sold, provided it is appropriate to do so and the sale may not be assumed to involve a violation of the personal integrity of anyone. In other cases the contents should be destroyed.

Contents that cannot be sold and thereby should be destroyed may instead be donated to charitable purposes, provided it may be assumed that this would not violate the personal integrity of anyone.

### **Duty of confidentiality, etc.**

### **Section 14**

A party who in postal operations has acquired knowledge or access to any of the information mentioned in items 1 to 3 may not, without authorisation, reveal or use that of which he or she has thereby become cognizant. The information that is subject to the duty of confidentiality is

1. information relating to special letters conveyed within the operation,
2. other information concerning an individual person's links with the operation as regards letter mail service, or
3. information referable to measures to hold upon receipt or seize mail items under the provisions of Chapter 27 of the Swedish Code of Judicial Procedure.

The duty of confidentiality under the first paragraph, items 1 and 2 does not apply in relation to the sender and the recipient of their letter.

As regards information concerning an individual person's address, the duty of confidentiality applies only if it may be assumed that revelation of the address would entail a danger for someone being exposed to abuse or other serious detriment.

### **Section 15**

A party who conducts postal operations and has in so doing become cognizant of or has had access to information as referred to in Section 14, first paragraph, shall on request provide

1. information concerning the address, telephone number and workplace of an individual to an authority which, in a specific case, needs such information for the purpose of service under the Service Act (1970:428), provided the authority considers that it may be assumed that the person sought for service is in hiding or there are otherwise extraordinary reasons for doing so,
2. information concerning the address of an individual to the Swedish Enforcement Authority that needs the information for operations concerning execution, provided the authority considers that the information is of material importance for dealing with a matter,
3. information concerning the address of an individual to the Swedish Tax Agency that needs the information in operations concerning checking taxes or charges or in investigations concerning the correct population registration district under the Population Registration Act (1991:481), provided the agency considers that the information is of material importance for dealing with a matter,
4. information concerning the address of an individual to the Swedish Social Insurance Agency or the Swedish Pensions Agency that needs the information to check entitlement to payments, provided the authority in question considers that the information is of material importance for dealing with a matter.

A party who conducts postal operations shall, in accordance with that mentioned in the first paragraph, also provide on request information concerning suspicion of the commission of an offence to a prosecution authority, police authority or some other authority that is bound to intervene against the offence, unless a less severe sanction than imprisonment for two years is prescribed for the offence.

### **Section 16**

A party who conducts postal operations under this Act shall, notwithstanding Section 14, assist the Swedish Customs in checks concerning postal items under the Customs Act (2000:1281), or the Swedish Customs Powers at Swedish-EU Borders Act (1996:701). However, this only applies to checks concerning suspicion of narcotics offences.

### **Section 17**

In public service operations, the provisions of the Public Access to Information and Secrecy Act (2009:400) apply instead of Sections 14 and 15.

The provisions in the Personal Information Act (1998:204) apply to the provision in postal operations of other personal information than that referred to in Section 14, first and third paragraphs.

### **Section 18**

Chapter 20, Section 3 of the Swedish Penal Code contains provisions concerning the liability of a party breaching the duty of confidentiality under this Act.

## **Chapter 3. Universal postal service and other postal services**

### **Scope of the universal postal service**

#### **Section 1**

The universal postal service shall satisfy the requirements that

1. at least one clearance and one distribution of postal items shall be made every working day and not less than five days a week, except in circumstances or geographical conditions that the licensing authority considers constitute reason for exemption,
2. the density of the points of contact and of the access points shall take account of the needs of users,
3. the provisions concerning routing times, issued by the Government or by the authority appointed by the Government, are complied with,
4. it shall be possible to insure postal items and to obtain a receipt from the recipient confirming that a postal item has been received,
5. single postal items shall be conveyed at uniform prices, and
6. hold the conditions for the service available to the public.

The Government, or the authority appointed by the Government, may issue regulations regarding which services are to be included in the universal postal service and about the requirements for routing times.

Exemptions from the first paragraph, item 1 are to be made by the European Commission and the national regulatory authorities within the European Union.

### **Pricing and accounting**

#### **Section 2**

Pricing of the universal postal service shall be transparent, non-discriminatory and cost-oriented, and also promote efficient provision of the service.

In addition to the provision of the first paragraph, the following applies to the party designated to provide the entire or parts of the universal postal service

1. the internal accounting system shall have different accounts to clearly distinguish between services and products that are included in the universal postal service and those that are not,
2. the internal accounting system, besides as provided in item 1, shall be structured in compliance with the 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<sup>3</sup>, last amended by Directive 2008/6/EC<sup>4</sup> of the European Parliament and of the Council, and
3. report annually on the operation to the licensing authority in accordance with Directive 97/67/EC.

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<sup>3</sup> OJ L 15, 21.1.1998, p. 14 (Celex 31997L0067).

<sup>4</sup> OJ L 52, 27.2.2008, p. 3 (Celex 32008L0006).

If the party designated to provide the entire or parts of the universal postal service applies special prices and other special conditions, the pricing and associated conditions shall, besides complying with the provisions of the first paragraph, be transparent and non-discriminatory.

The licensing authority may, in accordance with Article 14.8 of Directive 97/67/EC decide to make exemptions from the requirements contained in the second paragraph.

The Government, or the authority appointed by the Government, may issue regulations concerning the requirements referred to in the first to third paragraphs.

### **Section 3**

The Government may prescribe that prices for services included in postal operations and which are covered by the universal postal service may not exceed specified levels.

## **Access to universal postal service and other postal services**

### **Section 4**

Access to the universal postal service shall be ensured by procurement if this is necessary considering the costs of providing the service.

### **Section 5**

The Government, or the authority appointed by the Government, shall continuously monitor developments in the postal sector, and also monitor that postal services satisfy public needs and that a properly functioning universal postal service of good quality is available to all users.

## **Chapter 4. Common provisions concerning postal operations and universal postal service, etc.**

### **Postcode system**

#### **Section 1**

There shall be a postcode system in Sweden. The Government, or the authority appointed by the Government, shall designate a licence holder who provides postal services to provide and manage the postcode system as well.

#### **Section 2**

The party providing and managing the postcode system is on request from other licence holders obliged to allot them postcodes for postbox facilities within the requested postcode area.

The licensing authority may in individual cases afford an exemption to the obligation under the first paragraph if allotment of a requested postcode would impede to a considerable extent the postcode system being used in a manner that was appropriate for the purpose.

#### **Section 3**

The party providing and managing the postcode system may not alter the postcode system without the approval of the licensing authority unless the alteration is merely restricted to an

single postal recipient. The licensing authority shall in such matters consult other licence holders, authorities responsible for the population registration system and the land registry and local authorities concerned.

An alteration of the postcode system may be effected six months at the earliest following the approval of the licensing authority. If there are special reasons to do so, the authority may decide that the alteration may be effected on an earlier occasion.

#### **Section 4**

Licence holders other than the party providing and managing the postcode system may apply to the licensing authority and request an alteration to the system.

If there are special reasons to do so, the licensing authority may decide that the alteration requested should take place. The licensing authority shall before it decides on an alteration consult the party providing and managing the postcode system, other licence holders, public authorities with responsibility for the population registration system and the land registry together with the local authorities affected.

#### **Facilities for mail delivery**

##### **Section 5**

A licence holder is obliged to make it possible for postal items, weighing at most 2 kg, which have been conveyed by other licence holders to reach the facilities for mail delivery to recipients of which the first-mentioned licence holder is in possession. The conditions for this shall be reasonable and competition neutral and also non-discriminatory with respect to the professional activities of the licence holder.

#### **Re-direction service**

##### **Section 6**

A licence holder shall upon request from another licence holder ensure that all postal items, weighing at most 2 kg, can be re-directed to addresses located outside the other licence holder's area of distribution. The conditions for this should be reasonable and competition neutral, and also non-discriminatory in relation to the provisions applied by the licence holder for its own operation.

#### **International conveyance of mail**

##### **Section 7**

A postal undertaking may participate in the international postal co-operation within the framework of the universal postal treaties, provided that:

1. the undertaking has operations and an organisation that guarantees that it can, in an acceptable manner, conduct international conveyance of mail,
2. the undertaking applies the provisions of the treaties, and
3. the Government approves of the undertaking for such participation.

##### **Section 8**

For cross-border conveyance of mail carried on within the framework of the universal postal treaties, only postage stamps may be used that have the postage value stated in Arabic figures



and the designation 'Sverige' [Sweden]. Such postage stamps may only be issued by a postal undertaking as referred to in Section 7.

Other postage designations than such postage stamps as are mentioned in the first paragraph and which are used in cross-border conveyance of mail within the framework of the universal postal treaties shall be stamped by, or with the permission of, such an undertaking as referred to in Section 7.

## **Postal operations during war, etc.**

### **Section 9**

If Sweden is at war or at risk of war, or if such extraordinary conditions prevail as are occasioned by a war waged outside the borders of Sweden or because Sweden has been at war or at risk of war, the Government may issue such regulations concerning postal operations as are necessary having regard to national defence or security generally.

The Government, or the authority appointed by the Government, may issue regulations concerning planning and other measures that are necessary in peacetime in order to satisfy the needs of Sweden's Total Defence for postal communications under such circumstances as are mentioned in the first paragraph.

## **Dealing with complaints**

### **Section 10**

The licence holder shall lay down procedures to deal with the users' complaints. These procedures should be transparent and aimed at establishing fairness and also be rapid and entail reasonable processing costs.

### **Section 11**

Any party designated to provide the entire or parts of the universal postal service shall publish information annually about the number of complaints and how complaints have been dealt with.

### **Section 12**

The Government, or the authority appointed by the Government, may issue regulations concerning the dealing with complaints and the publication of details about complaints as referred to in Sections 10 and 11.

## **Supervision**

### **Section 13**

The licensing authority shall supervise compliance with this Act and the regulations and licence conditions that have been issued under the Act.

### **Section 14**

The licensing authority is entitled upon request to obtain the information and documents necessary for supervision.

The licensing authority is also entitled to obtain access to areas, premises and other spaces, where operations subject to supervision are conducted. This right of access does not apply to dwellings.

The licensing authority is entitled to have decisions relating to measures of supervision under the first and second paragraphs enforced through the Swedish Enforcement Authority. The provisions of the Enforcement Code applicable to enforcement of obligations that do not relate to payment obligations or eviction shall apply to such cases.

### **Section 15**

The licensing authority shall when conducting supervision, devote particular attention to make sure that agreements are reached between licence holders to ensure:

1. that those postal items, weighing at most 2 kg, that the licence holders convey reach the other licence holders' facilities for mail delivery to the recipients,
2. that re-direction of postal items, weighing at most 2 kg and which are conveyed by a licence holder, can be made to addresses that are located outside the licence holder's area of distribution, and
3. compliance with the provisions of Chapter 3, Section 2, third paragraph, concerning the pricing and associated conditions being transparent and non-discriminatory when applying special prices and other special conditions.

In the event of a dispute about such agreements as referred to in the first paragraph, the licensing authority shall without delay inquire into the circumstances and if no special reasons suggest otherwise, mediate between the parties. The authority may in such a dispute express an opinion on the request of one of the parties concerned.

### **Section 16**

The licensing authority may issue the orders necessary for compliance with this Act or with regulations or licence conditions that have been issued under this Act.

**Section 17** The licensing authority shall order a party who without licence conducts postal operations, as defined by this Act, to discontinue the operation. The licensing authority may decide how the operation shall be wound up.

If it is unsure whether a particular operation constitutes postal operations according to this Act, the licensing authority may order the party conducting the operation to provide such information about the operation as is necessary to assess whether it constitutes postal operations.

The provisions of Section 14, second and third paragraphs, shall also apply with regard to matters of decisions on measures under this section.

### **Section 18**

Orders and prohibitions under this Act may be issued subject to a default fine.

### **Section 19**

Has a party been ordered to pay an administrative fine under Chapter 3, Article 5 of the Competition Act (2008:579) or been by judgment ordered to pay a default fine under Chapter 6, Article 2 of the said Act, a default fine under Section 18 in this Act may not be imposed for the same action.

## **Section 20**

The licensing authority may revoke a licence to conduct postal operations if

1. the licence holder does not fulfil its obligations under this Act or comply with regulations or conditions issued under the Act,
2. the licence holder has not conducted postal operations during the last six months,
3. the licence holder so requests, or
4. the licence holder has been put into bankruptcy.

If it is sufficient, the licensing authority may issue a warning instead of revoking the licence in a case as referred to in the first paragraph, item 1.

If the licence is revoked, the licensing authority may decide on how the operation shall be wound up.

A decision on revocation may be combined with a prohibition on continuing the operation.

## **Charges**

### **Section 21**

The Government, or the authority appointed by the Government, may issue regulations concerning the obligation of a party who conducts postal operations or applies for a licence to conduct such operations or applies for a preliminary decision under Chapter 2, Section 3, to pay charges for the activities of the licensing authority under this Act.

## **Appeals**

### **Section 22**

A decision of the licensing authority under Section 3 may not be appealed against. Other decisions by the licensing authority under this Act or under regulations issued pursuant to the Act may be appealed against to the Administrative Court of Appeal.

Leave to appeal is required for appeals to the Administrative Court of Appeal.

The decisions of the licensing authority under this Act or under regulations issued pursuant to the Act shall apply immediately.

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This Act enters into force on 1 September 2010, at which time the Postal Services Act (1993:1684) is repealed.

On behalf of the Government

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