

POST OFFICE ACT, 1980

No. 10



of 1980

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**An Act to re-enact with amendments the Post Office Act (Cap. 72:01)
by deleting therefrom the references and provisions relating to
Telecommunications**

Date of Assent: 30.4.80

Date of Commencement: 9.5.80

ENACTED by the Parliament of Botswana

PART I *Preliminary*

1. This Act may be cited as the Post Office Act, 1980.

Short title

2. In this Act, unless the context otherwise requires, —
- “Director” means the Director of Postal Services appointed under section 3;
- “Department” means the Department of Postal Services;
- “friendly society” means a friendly society registered as such under any law, and includes an affiliated branch of such a society;
- “mail” means any article collected for conveyance by post and includes loose and individual articles, and any mail bag, vessel or conveyance of any kind by which postal articles are carried, whether or not it contains any such articles, and any person or animal employed in conveying or delivering mail or postal articles;
- “mail bag” includes any bag, box, parcel, basket or hamper or any envelope or covering in which postal articles in course of transmission by post are conveyed, whether or not it contains such articles;
- “Master” means the Master of the High Court;
- “money order” means a money order issued under this Act or by any postal authority for payment under this Act;
- “officer” includes any person in the service or employed in connexion with any business of the Department;
- “postage” means the amount chargeable for the conveyance of articles by post;
- “postage stamp” or “stamp” means any piece of paper or other substance or material having thereon the stamp, mark, or impression of any die, plate or other instrument made or used under this Act or by any postal authority for the purpose of denoting any postage or other postal fee;
- “postal article” means any letter, post-card, reply post-card, letter-card, newspaper, book, packet, sample packet or pattern or any parcel or other article when in course of transmission by post;
- “postal authority” includes the duly constituted postal authority of any other country, territory or place;
- “postal order” means a postal order issued under this Act or by any postal authority for payment under this Act;
- “postmaster” means the officer in charge of a post office;
- “post office” includes any house, building, room, carriage, place or structure where postal articles are received, sorted, delivered, made up or dispatched or which is used for any post office purpose, and any pillar box or other receptacle provided by or with the approval of the Department for the reception of postal articles for transmission by post;
- “railway” includes any tramway, whether the means of traction be animal or steam power, electricity or other motive force;
- “railway authority” means any company, association, public body

Interpre-
tation

or person which or who owns, works or manages a railway or tramway for the public conveyance of passengers or goods; “sender”, in relation to any postal article, means the person from whom such postal article purports to have come, unless such person proves that he is not the sender thereof.

PART II *Powers and Rights of Director*

Adminis-
tration and
control of
Department

3. (1) The administration and control of the Department shall be vested in a Director, who shall be appointed by the President.

(2) The Director shall have the supervision and control of all persons in the service of the Department and all post offices and postal services, and may issue such instructions as he may deem necessary for the conduct and guidance of officers, in carrying out the provisions of this Act.

(3) The Director may delegate any of his powers under this Act, except the power of delegation conferred by this subsection, and may at his discretion revoke any such delegation.

(4) The Director may, with the concurrence of the Minister, establish, maintain and abolish mail services, post offices and savings bank offices, make and alter postal arrangements and may from time to time, subject to the approval of the Minister, make regulations for the conduct of any business entrusted to him or for the exercise of the powers and duties assigned to him by this Act.

(5) The authority to enter into conventions and arrangements with other postal administrations, and to enter into an agreement with any postal authority for the reciprocal exchange of insured postal articles, shall be vested in the Minister.

Director
to prescribe
charges for
services

4. Subject to the approval of the Minister, the Director may prescribe and may from time to time alter charges for the conveyance of postal articles and for any other service rendered by the Department, and may cause to be made and sold postage stamps and envelopes, cards, wrappers and other articles embossed with such amounts of postage as he may deem fit.

Director
may enter
into mail
contracts

5. The Director may, with the concurrence of the Minister, enter into any contract or make any arrangements for the conveyance of postal articles within Botswana or for any other public service performed for or by the Department.

Exclusive
privilege
of Director

6. (1) The Director shall have the exclusive privilege of receiving, collecting, dispatching, conveying or delivering letters and of performing all incidental services relating thereto.

(2) Any person who for reward performs any act within the exclusive privilege conferred upon the Director by this section shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P20 in respect of every letter so handled.

- (3) Nothing in this section shall extend to any letter —
- (a) sent or conveyed to any post office in Botswana or, with the consent of the Director, to any other post office;
 - (b) exceeding the dimensions prescribed for letters;
 - (c) containing process of, or proceedings or pleadings in, any court of competent jurisdiction or affidavits or depositions;
 - (d) exclusively concerning goods sent and to be delivered therewith; or
 - (e) sent by hand without payment of a fee.

7. (1) The Director shall have the right of conveyance to and from any station, siding or stopping place, by any of the ordinary or special trains or carriages belonging to any railway authority, of such mail as the Director may from time to time require to be conveyed, and such railway authority shall observe all reasonable requirements of the Director regarding the acceptance and delivery of mail and shall be responsible for its safe custody.

Conveyance
of mail by
railway

(2) A railway authority shall provide and afford all reasonable facilities for receiving and delivering mail without delay at all stations, sidings and stopping places and shall permit the free access thereto of any officer authorized to collect and deliver mail.

(3) In the absence of any contract between the Director and any railway authority in respect of the conveyance of mail, there shall be paid by the Director to such railway authority for the conveyance of mail and the delivery thereof at any station, siding or stopping place such annual sum as may be agreed upon or, failing agreement, determined by arbitration in accordance with the Arbitration Act, but not exceeding P15 per annum for each kilometre of railway open for public traffic dating from the day upon which the mail is first conveyed.

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(4) When the service for mail purposes is less frequent than twice a week in each direction, the payment to be made shall not exceed P10 per annum for each kilometre of railway opened for public traffic.

(5) The conveyance of mail over any section of railway which may not be regularly used for that purpose shall be paid at a rate not exceeding the rate ordinarily charged to the public for the conveyance of parcels over that section.

(6) Where the service of a railway authority is not sufficiently frequent to meet the requirements of the Department, the Director shall have the right to call upon such railway authority to provide such service as he may require, and in such case there shall be paid by the Director in lieu of the tariffs prescribed in subsections (3) and (4) such sum as may be agreed upon or, failing agreement, determined by arbitration in accordance with the Arbitration Act.

8. The Director shall have the right at any time to call upon any railway authority to convey, free of charge, and in such a

Conveyance
of postal
officers

manner as not to interfere with the custody of the mail, any officer appointed to such custody during the conveyance of mail by railway.

Postal
officers,
vehicles,
mail, etc.,
exempt from
tolls

9. No duty, toll or ferry charge shall be demanded or taken from or in respect of the passing of any mail or any person, horse or vehicle engaged in any service of the Department.

Postal
officers,
vehicles,
etc., to have
precedence
in public
streets, etc.

10. Any person, horse or vehicle engaged in connexion with the conveyance of mail shall have precedence over all other persons, horses or vehicles other than fire-engines, ambulances and police vehicles.

PART III *Transmission of Postal Articles*

Rates of
postage

11. (1) Subject to the provisions of this Act, there shall be paid on every article for transmission by post such postage and other sums as may be prescribed.

(2) Save as is otherwise provided in this section, the postage and any fee which may be payable in respect of any article posted shall be prepaid by means of unused postage stamps issued by the Director, and in default thereof there shall be payable in money, at the time of delivery of the article, an amount equal to double the amount of any deficiency in prepayment, and any amount so to be paid shall be indicated in such manner as may be prescribed.

(3) Any newspaper upon which the postage is wholly unpaid at the time of posting may be forthwith destroyed or otherwise disposed of as the Director may direct.

(4) Subject to regulations —

(a) the postage upon large quantities of postal articles posted at one time may be received in cash at or before the time of posting;

(b) the postage upon postal articles addressed to persons licensed to receive unpaid postal articles may be received in cash at any time.

(5) Subject to any condition he may see fit to impose, the Director may authorize the use of postage stamps perforated with initials.

(6) The Director may licence, subject to any condition he may see fit to impose, the use of postal franking machines for impressing upon postal articles marks approved by him denoting that postage has been paid.

Transmission
without
payment

12. The Minister may, in accordance with any condition he may see fit to impose, authorize the transmission without payment of any postal article upon the public service.

13. (1) For the purposes of this Act any publication consisting wholly or in part of news or of articles relating thereto or to other current topics, with or without advertisements and with or without reproductions of photographs or other illustrations, shall be deemed to be a newspaper if —

Definition
of newspaper
and supple-
ment

- (a) it is registered as such with the Director;
- (b) it is published at intervals of not more than one month; and
- (c) the full title and date of publication are printed at the top of the first page thereof, and the whole or part of the title and the date of publication at the top of every subsequent page.

(2) Any publication consisting wholly or in part of matter similar to that of a newspaper, or of advertisements printed on paper or consisting wholly or in part of reproductions of photographs or other illustrations, shall be deemed to be a supplement to a newspaper if —

- (a) the publication purporting to be such a supplement is published and posted with the newspaper;
- (b) the whole or part of the title and the date of the newspaper are printed at the top of each page thereof; and
- (c) all sheets comprising the supplement are put together in a part of the newspaper.

14. Whenever the dispatch or delivery of letters from a post office would, in the opinion of the Director, be delayed by the dispatch or delivery at the same time of other classes of postal articles, the latter or any of them may be detained in that post office for subsequent dispatch or delivery.

Precedence
of letters

15. (1) The sender of any postal article may, upon payment of the prescribed fee in addition to the ordinary postage, have that article registered and obtain a receipt for it; but no such registration or receipt shall confer on any person any right to compensation or impose upon any officer any liability for the loss of any such article or of the contents thereof.

Registration
of postal
articles

(2) The Director may, however, in his discretion pay compensation for the loss of any registered postal article or of the contents thereof:

Provided, however, that in an appropriate case the Director shall make full compensation for the loss of any registered postal article.

(3) Any postal article containing coin, bank notes, stamps, precious metals, precious stones or other article of a like nature which have an intrinsic or marketable value shall, if posted unregistered, be liable to compulsory registration and to a consequent charge on delivery equal to double the amount of any deficiency in prepayment as a registered article, but no compensation shall be paid in case of loss of any postal article compulsorily registered.

Insurance
of postal
articles

16. The Director may provide for the insurance of postal articles subject to such terms and conditions as may be prescribed.

When postal
articles
deemed to
be in course
of trans-
mission or to be
posted or
delivered

17. For the purposes of this Act —

- (a) a postal article shall be deemed to be in course of transmission by post from the time of its being delivered to a post office to the time of its being delivered to the person to whom it is addressed;
- (b) the placing of a postal article in a pillar box or other receptacle provided for the purpose by or with the approval of the Department, or the delivery of a postal article to an officer or other person authorized by the Director to receive postal articles of that description, shall be deemed to be delivery to a post office;
- (c) the delivery of a postal article at the house or office of the person to whom the article is addressed or to his servant or agent or other responsible person or at the address specified on such article shall be deemed to be delivered to the person addressed; and
- (d) delivery into a private box or private bag shall be deemed to be personal delivery to the addressee.

Redirection
and inter-
ception
of postal
articles

18. (1) The redirection of any unopened postal article (other than a parcel) from one place to another may be effected free of charge provided the postage from the original place of posting to the new address has been fully prepaid, but registered articles redirected by the public shall be subject in each case to a further fee for registration.

(2) Any redirected article which appears to the Director to have been opened or tampered with shall be treated as if it were posted for the first time and shall be chargeable accordingly.

(3) Any article arrested or intercepted in transit through the post —

- (a) at the request of either the sender or the addressee thereof, shall be liable to an additional charge equal to the ordinary rate of postage from the place of the original address to the place of the new address and any article which under the provisions of this Act may be returned to the sender thereof shall if reposted be liable again to postage;
- (b) for delivery to the sender or addressee at the office in which stoppage is effected, shall be liable to such special fee as may be prescribed.
- (4) Nothing contained in subsection (3) shall require the Director to arrest or intercept any postal article.

Article
deemed to be
posted in
contravention
of Act

19. A postal article received in a post office shall be deemed to have been posted in contravention of this Act if —

- (a) the postage stamps thereon have been previously used, obliterated or defaced;

- (b) any blasphemous, indecent, obscene, offensive or libellous matter appears on the outside thereof or any indecent or obscene matter is enclosed therein; or
- (c) it is posted or contains anything in fraud of or contrary to the provisions of this Act or any other law.

20. Any postal article which is —

- (a) without address or bears an illegible address or is otherwise undeliverable;
- (b) refused by the person to whom it is addressed; or
- (c) posted or is reasonably suspected to have been posted in contravention of this Act or any other law,

Articles to be sent by postmasters to returned letter office for disposal

shall be sent to the returned letter office of Botswana and dealt with as may be prescribed:

Provided that any article referred to in paragraph (a) or (b) which bears on the outside thereof the name and address of the sender may be returned to him.

21. Any postal article containing or suspected of containing anything upon which customs duty is payable shall be dealt with in such manner as may be prescribed.

Articles subject to customs duty

22. (1) Any postal article, other than a letter, may be opened in the post for examination in order to ascertain whether or not that article is entitled to transmission at the rate of postage prepaid thereon or has been posted in contravention of this Act.

Articles other than letters may be opened for examination

(2) The decision of the Director as to whether or not any postal article is a letter or any description of postal article shall be final.

23. Any postal article originally posted within Botswana which is sent to the returned letter office in accordance with section 20, or which is undelivered, shall be opened by an officer authorized by the Director for that purpose and shall, unless it contains any valuable or saleable enclosure or has in the opinion of the Director been posted in contravention of this Act or with intent to evade payment of the postage properly chargeable thereon, be returned to the sender thereof if his name and address are known, and may, if the sender refuses to receive it or if his name and address are not known, be sold or destroyed.

Treatment of unclaimed letters in returned letter office

24. (1) Any postal article opened under the provisions of this Act which contains any valuable or saleable enclosure shall be safely kept and a record thereof and of its contents shall be made and preserved.

Unclaimed articles of value and articles posted in contravention of Act

(2) The Director shall, unless any such postal article or the contents thereof have in his opinion been posted in contravention of this Act or with intent to evade payment of the postage properly chargeable thereon, cause notice of his possession of that article and of the contents thereof to be sent to the person to whom it is addressed or, if he cannot be found, to the sender thereof if he can be found.

(3) The Director shall, upon application by the person to

	whom the notice has been sent, cause such postal article and its contents to be delivered to such person upon payment of all charges due thereon. (4) If no application under subsection (3) is made within 3 months after the sending of a notice under subsection (2), or if the postal article in question or the contents thereof has in the opinion of the Director been posted in contravention of this Act or with intent to evade payment of any charge properly payable thereon, such article and its contents shall (without affecting the liability to any penalty or punishment to which the sender may be subject) be destroyed, sold or otherwise disposed of as the Director may direct. (5) The proceeds of the sale of any postal article or the contents thereof, as well as any such contents consisting of money or any order or security for money, shall be paid into and form part of the postal revenue. (6) Any such order or security for money shall for the purpose of procuring payment be deemed to be the property of the Director.
Sender of undelivered article liable for all charges due	25. (1) The sender of an undelivered postal article shall on demand pay all charges due thereon, and shall, in the event of his refusal to pay such charges, be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P2. (2) This section shall not be construed as releasing the person to whom a postal article is originally addressed from liability to pay the charges due thereon if such a postal article is delivered to him.
Delay, return to sender or delivery to other than addressee of article prohibited	26. Save as expressly provided in this Act, no postal article shall be delayed in transmission or returned to the sender or be delivered to any person not named in the address thereof except with the consent in writing of the addressee or on the special authority of the Director.
Undelivered articles of no value and newspapers may be destroyed	27. Notwithstanding anything to the contrary contained in section 23 or 26, an undelivered postal article, not being a letter or parcel, which appears to be of no appreciable value or importance, and an undelivered newspaper may, after retention for the period prescribed, be sold, destroyed or otherwise disposed of as the Director may direct.
Articles addressed to insolvent person	28. When the estate of any person has been sequestrated by a competent court in Botswana, the Director shall cause all postal articles addressed to such person to be delivered to the trustee in such insolvent estate or, if no trustee has been appointed, to the Master.
Articles addressed to deceased person	29. Postal articles addressed to a deceased person may be delivered to the executor or administrator of such deceased person on the production of letters of administration or, pending

production of letters of administration, at the address indicated thereon.

30. When the Director is satisfied by any advertisement, letter, circular or other documentary evidence that any person is conducting or assisting as agent or otherwise in conducting an illegal lottery, or is dealing in indecent or obscene matter, and is using the services of the Department for the purpose thereof, the Director may detain or delay all postal articles addressed to such person or his agent or representative, or to any address of such person, agent or representative without the name of any person appearing thereon, and all such postal articles may be opened and returned to the senders thereof or otherwise disposed of as the Director may deem fit.

Articles addressed to persons conducting lottery or dealing in indecent or obscene matter

PART IV *Remittance of money through Post Office*

31. Any person may remit money through the Department to any other person whether in or outside Botswana at such rates of commission as may be prescribed and the Director may authorize any officer in the Department to issue and pay money orders, postal orders or any other document prescribed for the purpose of remitting money.

Remittance of money through Department

32. The Director may refuse to issue or pay a money order, postal order or other document to a person to whom the provisions of section 30 apply and, where payment of any such order or other document is refused, such order may, if it was issued in Botswana, be returned to the person to whom it was originally issued or otherwise disposed of as the Director may deem fit, or, if it was issued outside Botswana, the amount thereof shall be returned to the postal authority of the country in which it was issued.

Director may refuse to issue or pay money orders, etc., to certain persons

33. (1) A money order, postal order or other document issued under section 31 shall be deemed to be a bank note or an order for the payment of money and a valuable security within the meaning of any law relating to forgery or theft.

Money orders, etc., to be deemed bank notes

(2) An unissued postal order shall be deemed to be public money.

PART V *Offences and Penalties*

34. Any person who without due authority or lawful excuse, the proof of which shall lie upon him, —

Forging of stamps, dies, etc.

- (a) makes, alters, imitates or imports or assists in making, altering, imitating or importing any postage stamp, date stamp, card, envelope, wrapper, cover or any money order, postal order, postal draft or savings bank warrant or any other warrant or order for the payment of money through the Department, or acknowledgment of deposit or any form or paper similar to that used or made under the authority or for the purposes of this Act or by any postal authority, or

uses, issues, offers, exposes for sale, sells, deals in, sends by post or disposes of or has in his custody or possession any such postage stamp, date stamp, card, envelope, wrapper, cover, money order, postal order, postal draft, savings bank warrant or any other warrant or order, acknowledgment of deposit, form or paper, knowing it to have been made or altered or to be an imitation contrary to this section;

- (b) engraves or in any manner makes upon any plate or material any stamp, mark, figure or device in imitation of or resembling any stamp, mark, figure or device used or made for the purposes of this Act or by any postal authority, or sells, disposes of, purchases, receives or has in his custody or possession any plate or material so engraved or made;
- (c) makes or assists in making or has in his custody or possession any mould, frame or other instrument having thereon any word, letter, figure, mark, line or device peculiar to paper provided, used or made for any postage stamp or for any other purpose of this Act or by any postal authority;
- (d) makes or assists in making or has in his custody or possession any paper in the substance of which appear any word, letter, figure, mark, line or device peculiar to paper provided, used or made for any postage stamp or for any other purpose of this Act or by any postal authority, or makes, purchases, sells, disposes of or receives or has in his custody or possession any paper provided or made for the purpose of being used for any postage stamp or for any other purpose of this Act or by any postal authority before the same has been issued for public use;
- (e) makes use of any stamp, die, plate or paper engraved or made for the purposes of this Act or by any postal authority, or sells, disposes of, purchases, receives or has in his custody or possession any paper or material whatever bearing an impression or mark of any such stamp, die, plate or paper; or
- (f) makes on any envelope, wrapper, card, form or paper any mark in imitation of or similar to or purporting to be any official stamp or mark used for the purposes of this Act or by any postal authority, or any word, letter, device or mark which signifies or implies or may reasonably be regarded as signifying or implying that any article bearing such word, letter, device or mark has been or is entitled to be sent through the post,

shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P1 000 or to a term of imprisonment not exceeding 5 years, and any stamp, die, plate, paper, instrument

or other material found in the possession of such person in contravention of this section shall be seized and forfeited to the State.

35. (1) Any person who, with intent to defraud, —

Removing
marks from
stamps, etc.,
with intent
to defraud

- (a) removes from an article sent by post or from a document used for the purposes of this Act any stamp which has been affixed thereon, or wilfully removes, either actually or apparently, from any stamp which has been previously used any mark or impression which has been made thereon at any post office, or knowingly utters, issues or uses any stamp or any part thereof which has been so removed or from which any such mark or impression has been removed;
- (b) erases, cuts, scrapes, defaces, obliterates or otherwise discharges or removes from, either actually or apparently, or in any manner adds to or alters any mark or impression upon, a money order, postal order, postal draft, savings bank warrant, or other order or warrant, or acknowledgment of deposit, paper or other material provided, used or made for the purposes of this Act or by any postal authority;
- (c) makes, does or practices or is concerned in any other act, contrivance or device for which no specific penalty is provided, or attempts unlawfully to evade payment of any of the rates, fees or duties payable under this Act.

shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P100 or to a term of imprisonment not exceeding 6 months.

(2) For the purposes of this Part the sender of a postal article shall, unless the contrary is proved, be deemed to be the person by whom any postage stamp upon that article was affixed.

(3) In any proceedings in respect of an offence under this section the burden of proving an absence of intent to defraud shall lie on the accused.

36. Any person authorized to receive or in any way to handle mail who —

Offences in
connexion
with carriage
and delivery
of mail

- (a) negligently loses or wilfully detains, delays, misdelivers or omits to dispatch any mail (whether or not the same is afterwards recovered or delivered) or communicates or divulges the contents of any postal article;
- (b) while in charge of any mail, leaves it, or suffers any person, not being the guard or person employed for that purpose, to travel in the place appointed for the guard in or upon any conveyance carrying that mail, or to travel in or upon any such conveyance not authorized to carry passengers or upon any horse or other animal conveying that mail;
- (c) is guilty of carelessness, negligence or any misconduct whereby the safety of any mail is endangered;
- (d) while in charge of any mail is intoxicated or loiters or

wilfully misspends or loses time so as to retard the arrival of the mail at its proper destination within the time fixed for its arrival, or does not use due care and diligence to safely convey the mail at the due rate of speed;

- (e) gives false information of any assault or attempt at robbery upon him; or
- (f) without due authority, collects, receives, conveys or delivers any postal article otherwise than in the ordinary course of post,

shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P100 or to a term of imprisonment not exceeding 6 months.

Fraudulent,
injurious and
offensive
practices in
connexion
with postal
articles
and premises

37. (1) Any person who —

- (a) with intent to defraud, puts into any post office anything purporting to be a postal article within the exemptions specified in this Act, or any postal article purporting to belong to a class in respect of which a lower rate of postage or no postage is chargeable, or any postal article containing any other postal article unstamped or insufficiently stamped which if sent alone would be liable to postage;
- (b) with intent to defraud, puts into any post office any article in or upon or with which there is any communication, intelligence, character, figure, number, mark, matter or thing not allowed by this Act or by any other law or wilfully subscribes on the outside of any posted article or otherwise a false statement of the contents thereof;
- (c) puts into any post office any article in which or with which or upon which there is any indecent or obscene matter or anything of a profane, defamatory or grossly offensive character;
- (d) without due authority, the proof of which shall lie upon him, places or paints anything whatsoever upon, or wilfully injures, disfigures or tampers with any post office or any card, notice or other property of or used by or on behalf of the Department or commits a nuisance on or against any post office or against or upon such card, notice or other property;
- (e) detains, secretes or keeps any mail or postal article which ought to have been delivered to another person or which has been found by himself or by any other person; or
- (f) by false representation induces any officer to deliver to him or to any other person any postal article not addressed to or intended for either of them,

shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P100 or to a term of imprisonment not exceeding 6 months, without prejudice to any right the

Director may have of proceeding civilly against any person convicted under paragraph (d) for compensation for such damage as may have been caused by him.

(2) In any proceedings in respect of any offence under subsection (1) (a) or (b) the burden of proving an absence of intent to defraud shall lie on the accused.

38. (1) Any person who —

- (a) sends in or with any postal article or puts into or against any post office any fire, match or light or any explosive, dangerous, filthy, noxious or deleterious matter or thing or any matter or thing which is likely to injure or damage any post office, person or mail;
- (b) steals any mail or steals from any mail or post office or from the possession or custody of any officer or for any purpose embezzles or fraudulently secretes or destroys any postal article or any of the contents thereof;
- (c) receives any mail or postal article or any of the contents thereof knowing the same to have been stolen, embezzled or fraudulently secreted or to have been sent or intended to be sent by post; or

Placing of
dangerous
or noxious
articles
and stoppage
of mail

(d) stops any mail with intent to rob or search such mail, shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P1 000 or to a term of imprisonment not exceeding 7 years.

(2) The Director may make regulations exempting from the provisions of this section noxious or deleterious matter sent in the interests of public health or justice in accordance with such requirements as he may prescribe.

39. Any officer who otherwise than in pursuance of his duty opens or tampers with or wilfully destroys, makes away with or secretes or suffers to be opened or tampered with, destroyed, made away with or secreted any mail or postal article, and any person who opens or tampers with or wilfully destroys, makes away with or secretes any mail, shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P1 000 and to a term of imprisonment not exceeding 5 years.

Tampering
with mail

40. Any person who wilfully interferes with the conveyance of any mail or through whose act or neglect the conveyance of any mail is interfered with shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P10 or to a term of imprisonment not exceeding one month for each hour or part of an hour during which the delivery of the mail is delayed in consequence of any such interference.

Wilfully
obstructing
or delaying
mail

41. (1) Any person, not being an officer, who wilfully opens any postal article which he knows ought to have been delivered to another person, or knowingly does any act or thing whereby the

Wilful
opening
or delay of
postal article

due delivery of that article to such other person is prevented, obstructed or delayed, shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P100 or to a term of imprisonment not exceeding 6 months.

(2) Nothing in this section contained shall apply to any person who does any act to which this section applies where that person is the parent or in the position of parent or guardian of the addressee and the addressee is a minor under 16 years of age or a ward.

(3) No prosecution under this section shall be instituted except by the direction or with the consent of the Director.

Unauthorized
use of words
"Post Office",
"Botswana
Mail", etc.

42. Any person who, without the authority of the Director, the proof of which shall lie upon him, —

(a) places or maintains or suffers to be placed or maintained or to remain in, on or near any place belonging to him or under his control the words "Post Office" or any other word or mark which may imply or may give reasonable cause for believing that place to be a post office; or

(b) places or maintains or permits to be placed or maintained or to remain on any vehicle or vessel the words "Botswana Mail" or any other word or mark which may imply or give reasonable cause for believing that such vehicle or vessel is used for the conveyance of mail,

shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P100 or to a term of imprisonment not exceeding 6 months.

Unauthorized
entry of
premises,
obstruction
of business,
and refusal
to comply
with
regulations

43. (1) Any person, not being an officer, who without the express permission of the Director or of an officer having authority to give permission enters any part of a post office in which is carried on any of the operations in respect of which an oath of secrecy is required to be taken by officers, or whilst in any post office, wilfully obstructs the course of business of the Department or behaves in a disorderly manner or who wilfully obstructs, hinders or delays any officer in the execution of his duty, or who fails to comply with any regulation which has been issued by the Director to secure the comfort and convenience of the public or the safety of the premises, and which states that failure to comply therewith shall be an offence, shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P100 or to a term of imprisonment not exceeding 6 months.

(2) An officer may require any person committing an offence under this section to leave the post office in question immediately, and any such person who fails to comply with such a requirement may be removed by any officer, and any member of the police force shall on demand by an officer remove or assist in removing any such person.

44. Any person who with fraudulent intent issues, re-issues, utters or presents to any person or at any post office any money order, postal order, savings bank warrant or other warrant, order or document for the remittance, payment, collection or deposit of money through or with the Department, or transmits through the post or otherwise any letter or other communication concerning any money order, postal order, savings bank warrant or other warrant, order or document for the remittance, payment, collection or deposit of money through or with the Department, shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P1 000 or to a term of imprisonment not exceeding 5 years, and in any proceedings in respect of any offence under this section the burden of proving an absence of fraudulent intent shall lie on the accused.

Frauds in connexion with money orders, etc.

45. Any person who, with fraudulent intent, personates or represents himself to be an officer of the Department shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P400 or to a term of imprisonment not exceeding 2 years.

Personating officers of the Department with fraudulent intent
False declaration

46. Any person who in any declaration prescribed by this Act makes a false statement knowing the same to be false shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding P200.

47. Any person who attempts to commit any offence under this Act, or solicits, or authorizes or endeavours to employ, cause, procure, aid, abet, incite or counsel any other person to do any thing the doing whereof is an offence under this Act, shall be guilty of an offence and liable to the same punishment as if he actually committed the offence.

Attempting to commit or procuring commission of offences

48. Where any person admits to the Director that he has committed an offence against this Act in respect of which the option of a fine is given, the Director may, with the consent in writing of that person, determine the matter, and may without any legal proceedings require that person to pay any pecuniary penalty within the limits imposed by this Act he may deem proper, and if such penalty is not paid proceedings may be instituted against the person concerned for the offence in question as if no penalty had been assessed by the Director.

Director may settle certain cases

49. In any prosecution for any crime or any offence committed in respect of the Department or of any mail or any property, moneys, money order, postal order or other document authorized to be used for the purpose of remitting, paying, collecting or depositing money through or with the Department, or with respect to any act, deed, matter or thing which has been done or committed with any malicious, injurious or fraudulent intent relating to or concerning the Department or any such mail,

In criminal proceedings, etc., property in postal articles, moneys, money orders, etc., may be laid in Director

property, moneys, money order, postal order or other document, it shall be sufficient —

- (a) to allege that any such mail, property, moneys, money order, postal order or other document belongs to or is in the lawful possession of the Director and to put in the same in evidence, and it shall not be necessary to allege or prove the same to be of any value;
- (b) to allege that any such act, deed, matter or thing was done or committed with intent to injure or defraud the Director without setting forth his or any other name, addition or description whatsoever; and
- (c) if the offender be an officer, to allege that the offender was an officer of the Department at the time of the committing of the offence without stating the nature or particulars of his employment.

Evidence:
acceptance
of official
marks

50. In any proceedings for the recovery of any sum payable under this Act in respect of a postal article —

- (a) the official stamp or mark thereupon denoting the sum due shall be *prima facie* evidence of the liability of that postal article to the charge specified thereon; and
- (b) the production of any such postal article having thereon a post office stamp or mark denoting that the article has been refused or that the person to whom the same is addressed is dead or could not be found shall be *prima facie* evidence of the fact denoted.

Deputy may
appear for
Director

51. The Director may depute any officer to appear on his behalf in any subordinate court either as plaintiff or defendant and his authority in writing to that effect shall be sufficient.

PART VI *Miscellaneous*

Limitation
of liability

52. (1) Save as otherwise provided in this Act, no liability shall rest on the Department by reason of any error, default, delay, omission, damage, destruction, non-delivery or loss in respect of any postal article unless it is established that it was due to the negligence or malfeasance of an officer of the Department.

(2) The *bona fide* payment of any sum of money under the provisions of this Act shall, to whomsoever made, discharge the Department from all liability in respect of such payment.

(3) If any person by fraudulent means obtains payment of any sum credited to a depositor's savings bank account no liability shall rest on the Department but the Director may at his absolute discretion make good to the depositor any loss sustained or any part thereof.

53. Money orders, postal orders and any other document authorized to be used for the purpose of remitting money through the Department and savings bank warrants and other orders for the payment of money, acknowledgments of the receipt of money and any other document prescribed under this Act shall be exempt from all fees or duties except such as are chargeable under this Act.

Documents prescribed to be exempt from all duties

54. (1) Subject to subsection (2), all moneys received under this Act shall form part of the postal revenue and shall be paid to the Accountant-General.

Moneys received to form part of postal revenue

(2) All moneys (other than commission charged on such moneys) received in respect of money orders, postal orders or any other system of remitting money under section 31 shall not form part of the postal revenue unless, in the case of money orders and postal orders, the period of currency thereof has lapsed.

55. (1) Any postal article which is reasonably suspected of containing anything which will afford evidence of the commission of a criminal offence or reasonably suspected of being sent in order to further the commission of a criminal offence or to enable the detention of a criminal offence to be concealed shall, on the written request of a police officer of or above the rank of Senior Inspector, be detained by the officer in charge of any post office in which it is or through which it passes and the Director shall if authorized thereto by such police officer cause such postal article to be handed over to the said police officer.

Detention of postal articles

(2) On the occurrence of a public emergency or in the interests of public safety or tranquility the President may by order in writing addressed to the Director direct that any postal article or class or description of postal article in the course of transmission by post within Botswana be intercepted or detained or be delivered to any officer mentioned in the order or disposed of in any other manner.

(3) A certificate signed by the President shall be conclusive proof of the existence of a public emergency or that any act done under subsection (2) was in the interests of public safety or tranquility.

56. The Minister may make regulations generally for carrying into effect the provisions of this Act and in particular, and without prejudice to the generality of the foregoing, —

Regulations

- (a) prescribing anything that under this Act requires to be prescribed;
- (b) requiring that no rough or uncut precious stones, unwrought gold or ostrich leathers or any of such articles shall be exported from Botswana otherwise than through the Department or by such other means as may be specified in the regulations and prescribing the fees, rates and charges

payable for the conveyance of such articles when so exported.

(2) Regulations made under this section may provide for the punishment of any person —

- (a) who commits an offence against the regulations;
- (b) who contravenes or fails to comply with orders issued under any regulation which provides that such contravention or failure shall be an offence;
- (c) who wilfully obstructs or resists the lawful exercise of any powers conferred by or necessary for the administration of any regulation which provides that such obstruction or resistance shall be an offence; or
- (d) contravenes or fails to comply with any condition or requirement of any licence, permit or authority issued on forms prescribed under any regulation which provides that such contravention or failure shall be an offence:

Provided that the regulations —

- (i) shall provide what punishment may be imposed for each offence thereby created; and
- (ii) may provide for such punishment by means of a fine not exceeding P400 or, in default of payment, a term of imprisonment not exceeding 12 months, or imprisonment without the option of a fine, or both such fine and imprisonment, or by means of suspension or cancellation of any licence, permit or authority issued under the regulations.

Repeal and
savings
Cap. 72:01

57.(1) The Post Office Act is hereby repealed.

(2) Notwithstanding the repeal of the Post Office Act, any statutory instrument made or any licence issued and in force immediately prior to the commencement of this Act shall continue in force as if made or issued under the corresponding provisions of this Act.

PASSED by the National Assembly this 14th day of April, 1980.

I.P. GONTSE,
Clerk of the National Assembly.