



**GOVERNMENT
OF MALTA**

Government response to the Consultation on
**Proposed Amendments to the Postal Services Act,
Cap. 254 - enhancing flexibility in defining universal
postal services**

Ministry for the Economy, European Funds & Lands / Ministeru Għall-Ekonomija, Il-Fondi Ewropej U L-Artijiet

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Executive Summary

Introduction and overview

1. A brief introduction about the subject

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

2. The public consultation date.

On the 26th of October 2023 Government published a consultation entitled 'Proposed Amendments to the Postal Service Act, Cap. 254 – enhancing flexibility in defining universal postal services'.

In this consultation Government proposed the enactment of a bill amending various provisions of the Postal Services Act related to the provision of universal services in the postal sector, in order to provide for a more flexible regime whereby the services listed as universal services are contained in a schedule to the Act which schedule can be amended by order by the Minister after consulting the Malta Communications Authority (MCA).

3. This consultation sought views on:

The consultation sought views from the general public on the proposed amendments to the Postal Services Act on the provision of universal services in the postal services sector. These amendments were included as part of the public consultation document.

The consultation principally addressed two subjects:

Change in weight of parcels within the scope of the USO: Currently all parcels which weigh less than 20kgs are part of the Universal Service Obligation (USO). The amendment in the consultation document proposed to reduce the USO parcel weight to 10kg provided that inbound parcels from EU Member States up to 20kg are still delivered.

Migration of specifications of the USO from the main body of the Act: These will be migrated to a separate Schedule that may be amended by order of the Minister after consulting the MCA. This is being done to provide the Ministry with the required flexibility and address USO related issues in a timely manner.

Responses to the consultation and process used to seek stakeholder views

This document is the Government Response to this consultation and sets out the Government's decisions on these matters.

4. The closing date of the public consultation. Which methods were used to receive the feedback. The total amount of responses. From whom you received the feedback.

The public consultation closed on the 9th of November 2023.

The consultation document was available online, and responses thereto could be made electronically or on paper. In total, there was 1 (one) response from MaltaPost plc ('MaltaPost') by electronic mail.

5. Include (if any) meetings with stakeholders and list who the stakeholders were.

The proposed legislative amendments are the result of months of discussions with MaltaPost, aimed at ensuring the sustainability of the postal sector, in particular the Services regulated by the Universal Service Obligation (USO).

Summary of responses and decisions

The following is a summary of the consultation responses received. We would like to thank all those who took the time to respond to the consultation and participate in stakeholder meetings around the consultation exercise.

6. Statistics.

- Total feedback received: 1 (one)
- Total feedback received by individuals: nil
- Total feedback received by organisations: 1 (one)
- Total feedback received through email: 1 (one)
- Total feedback received through online form: nil
- Total feedback received by post: nil

7. Summary of feedback received.

In general, MaltaPost was in agreement with the proposed amendments and made the following main suggestions:

- MaltaPost suggested that when changes are made to the universal service obligations by the Minister, agreement is sought from the universal service provider.
- MaltaPost queried how the designation of the postal services universal service provider/s will be done once the requirement to have this carried in the Gazette will no be required.
- MaltaPost also suggested amendment article 43 of the Postal Services Act in order to do away with the current requirement whereby a postal operator is required to seek prior approval from the MCA in relation to requests for the retrieval of postal articles by the sender.

8. Your assessment and the Government's decision (list the Government's decisions).

It is considered that changes to the universal service should be the responsibility of the Minister responsible for postal Services after consulting the MCA. Whilst the views of MaltaPost (as a stakeholder and as the universal provider) where applicable should be sought, it is considered that any such changes should not be conditioned by any *a priori* agreement given by the universal service provider.

Further to MaltaPost's query how the designation of a universal service provider will be done, it is explained that such designation will be done by decision of the MCA in accordance with the applicable norms regulating the issue of decisions under the Malta Communications Authority Act, Cap. 418 (see in particular art 4A thereof on consultation and transparency) and duly carried on the MCA's website.

In relation to MaltaPost's final proposal to do away with the requirement whereby a postal operator is required to seek prior approval from the MCA in relation to requests for the retrieval of postal articles by the sender, it is considered that this proposal can be accepted while requiring the postal operator to keep a register recording details of all such instances.

In all other respects it is considered to proceed with the amendments to legislation.

Implementation

9. When you intend to implement the decisions

The intention is to submit the draft Bill for the consideration of the House of Representatives with the aim of having the amendments enacted and brought into force during the first quarter of 2024.

Contact Details

If you have any questions regarding this response, please contact: mark.e.camilleri@gov.mt

Annex A: List of respondents

Organisation
MaltaPost plc

Annex B: Final bill after considering consultation responses

Proposed changes to Bill post draft Bill as per public consultation	Explanatory Notes Changes are in red
<p style="text-align: center;">A BILL entitled</p> <p>AN ACT to amend the Postal Services Act to make provision with respect to matters ancillary thereto or connected therewith.</p> <p>BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-</p>	
<p>1. (1) The short title of this Act is the Postal Services (Amendment) Act, 2023 and shall come into force on such date or dates as the Minister may by notice in the Gazette appoint, and different dates may be so appointed for different purposes and different provisions of this Act.</p> <p>(2) This Act amends the Postal Services Act and shall be read and construed as one with the Postal Services Act hereinafter in this Act referred to as the “the principal Act”</p>	
<p>2. In Article 2 of the principal Act <i>shall be amended as follows:</i></p> <p style="padding-left: 40px;"><i>(a) The definition of “article” thereof shall be deleted;</i></p> <p style="padding-left: 40px;"><i>(b) Immediately after the definition “officer of a postal operator” thereof there shall be added the following new definition:</i></p> <p style="padding-left: 80px;"><i>“ “parcel” means a postal article which is not an item of correspondence, the weight of which does not exceed twenty kilograms (20kg) and the dimensions of which fall within the limits of size laid down in Agreements concerning Postal Parcels adopted by the Universal Postal Union as may be amended from time to time, or by any other convention as the Authority may prescribe;”</i></p> <p style="padding-left: 80px;"><i>and</i></p> <p style="padding-left: 40px;">(c) in the definition interpretation of the term “universal service provider”, the words “by notice in the Gazette” shall be deleted.</p>	<p>This amendment addresses a shortcoming identified in the English text which does not tally with the Maltese text in relation to the definition of the word ‘parcel’.</p>
<p>3. Article 17 of the principal Act shall be amended as follows:</p>	

<p>(a) Sub article (2) thereof shall be substituted with the following <i>new sub-article</i>:</p> <p>“(2) The “universal service” in the context of the provision of postal services for the purposes of this Act means the services listed in the <i>Second First Schedule to this Act</i>, which services and any such conditions applicable thereto, as may be stated in the aforsaid Schedule, may from time to time be amended by the Minister after consultation with the Authority by <i>means of an order in the Gazette</i>”; and</p> <p>(b) In subarticle (3) <i>thereof</i> the words “as defined in this article” shall be substituted with the words “as stated in the <i>Second First Schedule to this Act</i>”.</p>	
<p>4. In article 17A (1) of the principal Act the words “by notice in the Gazette” wherever they occur shall be deleted.</p>	
<p>5. In <i>sub-paragraph (i) of paragraph (b) of sub-article 17B of the principal Act</i> article 17B(1)(b)(i) the words "as required in article 17(2)(a), or" shall be substituted with the words "as required in <i>accordance with</i> paragraph (a) of the <i>Second First Schedule</i>, or"</p>	
<p><i>6. Article 43 of the principal Act shall be amended as follows:</i></p> <p><i>(a) Sub-article (2) thereof shall be substituted by the following new sub-article:</i></p> <p><i>“(2) The postal operator may also return to the sender under such conditions as he may deem fit or otherwise deal with as he may deem appropriate, any postal article which is in course of transmission by post whenever he is satisfied that such postal article has been posted by mistake or has been posted with wrong or missing contents.” and</i></p> <p><i>(b) Immediately after sub-article (2) thereof there shall be added the following new sub-article:</i></p> <p><i>“(3) The postal operator shall keep a register recording any actions he takes in pursuance of the provisions of this article and shall when requested by the Authority forward to it information on the actions taken.”.</i></p>	<p>This is being inserted following a proposal by MaltaPost in its response to the public consultation proposals. This amendment was not factored in the public consultation. This notwithstanding the MCA agrees with MaltaPost’s proposal in this regard and is therefore proposing this amendment.</p>

76. In the Schedule to the principal Act *the word "SCHEDULE" shall be substituted by the words "FIRST SCHEDULE"*

shall be renumbered as the "Second Schedule" and any references in the principal Act to the "Schedule" shall be amended accordingly.

8. 7. Before the Second Schedule as renumbered *Immediately after the First Schedule* to the principal Act there shall be added the following *new Schedule*:

"SECOND FIRST SCHEDULE
(Article 17(2))

The "universal service" in the context of the provision of postal services for the purposes of this Act means:

(a) that on not less than five *(5)* working days a week, save in circumstances deemed exceptional by the Authority, there *shall be* is at least:

- (i) One *(1)* clearance *of postal articles*, and
- (ii) one *(1)* delivery to the home or premises of every person in Malta or, as the Authority considers appropriate, under such conditions as it may determine from time to time, to appropriate *installations* installations;
Provided that the Authority may determine the working days when the universal service is to be provided;

(b) that as a minimum, the following services are provided:

- (i) the clearance, sorting, transport and distribution of postal articles up to two ~~(2)~~ kilograms *(2kg)* in weight;
- (ii) the clearance, sorting, transport and distribution of *parcels* postal parcels up to ten ~~(10)~~ kilograms *(10kg)* in weight; Provided that postal parcels received from other Member States *of the European Union* and *other countries* weighing up to twenty ~~(20)~~ kilograms *(20kg)* are delivered throughout Malta.
- (iii) services for registered articles;
- (iv) services for insured articles within Malta *and to and from all countries which, as signatories to the Universal Postal Convention of the Universal Postal Union, declare their willingness to admit such items*

<p><i>whether reciprocally or in one (1) direction only;</i></p> <p>(v) services, free of charge, for the blind or partially sighted persons as may be determined by the Authority; and</p> <p>(vi) a basic counter service throughout Malta."</p>	