

REPUBLIC OF SOUTH AFRICA

POST OFFICE SECOND AMENDMENT BILL

(As introduced)

(MINISTER FOR POSTS, TELECOMMUNICATIONS AND BROADCASTING)

[B 55—97]

REPUBLIEK VAN SUID-AFRIKA

TWEEDE POSWYSIGINGSWETSONTWERP

(Soos ingedien)

(MINISTER VIR POS-, TELEKOMMUNIKASIE- EN UITSAAIWESE)

[W 55—97]

ISBN 0 621272213

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Post Office Act, 1958, so as to make other provision in connection with the membership of Telkom SA Limited; to effect textual improvements; and to allow the said Telkom to issue certain financial instruments for as long as the majority of its issued equity shares are held by the State; and to provide for incidental matters.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 3 of Act 44 of 1958, as inserted by section 5 of Act 85 of 1991 and amended by section 1 of Act 11 of 1997

1. Section 3 of the Post Office Act, 1958 (hereinafter referred to as the principal Act), 5 is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) Notwithstanding the provisions of the Companies Act, the postal company shall not have more than one member, and the telecommunications company **[shall not have more than seven members]** may have fewer than seven members.”.

Amendment of section 7 of Act 44 of 1958, as substituted by section 6 of Act 85 of 1991 and amended by section 6 of Act 101 of 1992 and section 4 of Act 11 of 1997

2. Section 7 of the principal Act is hereby amended—

(a) by the substitution for subsection (3) of the following subsection:

“(3) The Minister may, notwithstanding the provisions of **[subsections (1) and (2)]** subsection (1), authorize the postal company **[or the telecommunications company]** to exercise any power referred to in subsection (1) **[or (2)]** in all cases or in cases of a particular category or in cases where particular circumstances apply, without the approval of the Minister.”; and

(b) by the substitution for subsection (4) of the following subsection:

“(4) **The postal company [or the telecommunications company]** may, **in** exercising a power referred to in subsection (1) **[or (2)]**, determine different fees, rates or charges in respect of different services,

20

or services rendered in different areas or under **different** circumstances, or may determine special fees, rates or charges which may be higher or lower than the normal tariffs, rates or charges, or may exempt particular users or prospective users of services in extraordinary or in specific circumstances from any of the prescribed fees, rates or charges.”.

5

Amendment of section 12W of Act 44 of 1958, as inserted by section 10 of Act 101 of 1992 and amended by section 3 of Act 35 of 1995

3. Section 12W of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Subject to the **[provision]** ~~previsions~~ of subsections (2) and (3) **[a** 10
successor company of which all the issued equity shares are held by the State,
may, for as long as the said shares are being so held] and notwithstanding
 anything to the contrary contained in the Companies Act, the postal company may,
for as long as all its issued equity shares are held by the State, or the 15
telecommunications company may, for as long as the majority of its issued equity
shares are held by the State, issue stock, securities, bills, promissory notes,
 debentures, debenture stock, obligations or other financial instruments as proof of
 a loan of money, and may negotiate or have them listed **in** the same manner and on
 the same financial markets or on the same stock exchange as is customary in the
 case of similar financial instruments issued by the State.”.

20

Short title and commencement

4. This Act shall be called the Post Office Second Amendment Act, 1997, and shall be deemed to have come into operation on 25 April 1997.

MEMORANDUM ON THE OBJECTS OF THE POST OFFICE SECOND AMENDMENT BILL, 1997

Section 3(5) of the Post Office Act, 1958 (Act No. 44 of 1958), as amended by the Post Office Amendment Act, 1997 (Act No. 11 of 1997), provides that Telkom shall not have more than seven members. In pursuance of the Telkom/Strategic Equity Partner Agreement provision ought to be made that Telkom may eventually have more than seven members, whilst the exemption from the requirements of the Companies Act, 1973 (Act No. 61 of 1973), that a public company should have at least seven members, must be retained. The said section 3(5) is being adjusted accordingly.

The Post Office Amendment Act, 1997, deleted section 7(2) of the Post Office Act, 1958. However, section 7(3) and (4) of the latter Act still refers to the said section 7(2). The matter is being rectified. .

Section 12W(1) of the Post Office Act, 1958, provides that Telkom may issue certain financial instruments only for as long as all its issued equity shares are held by the State. This provision is being amended in order to enable Telkom to issue the said instruments for as long as the majority of its issued equity shares are held by the State.

In the opinion of the Department and the State Law Adviser, the Bill must be dealt with in accordance with the procedure prescribed by section 75 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996).