



HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 10 March 1998

POSTAL SERVICES BILL

Proposed Amendments

Hon MAURICE WILLIAMSON, in Committee, to move the following amendments:

Clause 11A: To omit subclause (4) (all the words in lines 8 to 23 on page 15), and substitute the following subclauses:

- (4) A postal operator must,—
 - (a) At all reasonable times, allow the Secretary or any person acting under the authority of the Secretary to enter that postal operator's premises (other than a dwellinghouse) for the purpose of inspecting the records kept by that postal operator under this section:
 - (b) On the request of a person carrying out an inspection under **paragraph (a)**,—
 - (i) Provide that person with access to those records; and
 - (ii) Permit that person to examine those records; and
 - (iii) Permit that person to produce or make a print-out or copy of the records or any part of the records:
 - (c) If requested in writing by the Secretary, produce to the Secretary all or part of the records kept by the postal operator under this section; and the Secretary may produce or make a print-out or copy of the records or any part of the records.
- (4A) Where a request is made to a postal operator under **subsection (4) (c)**, the postal operator must comply with that request within 20 working days after receiving the request or within such further period as the Secretary in any particular case allows.

Clause 11B: To insert in line 36 on page 15, after the expression "**section 11A (4)**", the expression "or **section 11A (4A)**".

Clause 12A: To insert on page 16, after subclause (2), the following subclause:

(2A) A postal article may be opened under this section only at a postal outlet by—

- (a) Two or more persons specially authorised for the purpose by a postal operator; or
- (b) One such authorised person in the presence of—
 - (i) Another employee of that postal operator; or
 - (ii) A Customs officer.

To omit from lines 20 and 21 on page 16 the words “postal operator opens a postal article”, and substitute the words “postal article is opened”.

To omit subclause (4) (all the words in lines 24 to 28 on page 16), and substitute the following subclause:

(4) If any postal article, on being opened under this section,—

- (a) Is found to have been posted in contravention of **section 15** or **section 16** or **section 18**; or
- (b) Is believed, on reasonable grounds, to be in contravention, or to have been posted in contravention, of any enactment referred to in **section 5 (1) (b)**, or of any other enactment (other than this Act),—

the provisions of this Act apply as if the postal article had been detained under **section 5 (1)**.

Clause 19E (1): To insert on page 21, after paragraph (a), the following paragraph:

(aa) That,—

- (i) Since that postal operator’s registration under this Act, a person with a conviction for a specified offence has become a person concerned in the management of that postal operator; and
- (ii) That person was convicted of that offence (whether by a court in New Zealand or elsewhere) before or after that postal operator’s registration under this Act, but within the period of 10 years immediately before the date on which the Secretary cancels that registration; or

Clause 27 (1): To omit from line 16 on page 28 the word “Asia”, and substitute the word “Asian”.

Clause 28 (1): To omit from lines 29, 31, 33, 37, and 40 on page 28 the word “Asia”, and substitute in each case the word “Asian”.

Clause 29 (1) (a): To omit from line 18 on page 29 the word “Asia”, and substitute the word “Asian”.

Clause 32 (1) (d): To omit from line 29 on page 30 the word “Asia”, and substitute the word “Asian”.

Clause 38: To omit paragraph (a) (all the words in lines 8 to 22 on page 33), and substitute the following paragraph:

(a) Requiring the Corporation to disclose, in the prescribed manner,—

- (i) Information in relation to the services provided by the Corporation; and prescribing the information that the Corporation must disclose, including (without limitation) information relating to prices, frequency, quantity, and quality of services; and
- (ii) Prescribed financial statements that follow generally accepted accounting principles, including

(without limitation) profit and loss statements and balance sheets and statements of accounting principles:

To omit from line 30 on page 33 the word "Asia", and substitute the word "Asian".

To insert in line 14 on page 34, after the word "bearing", the words "no address or".

Clause 40 (3): To omit from line 35 on page 37 the word "operator", and substitute the word "administration".

EXPLANATORY NOTE

This Supplementary Order Paper proposes to make substantive amendments to *clauses 11A, 12A, 19E, and 38 (a)* of the Postal Services Bill. *Clauses 27 (1), 28 (1), 29 (1) (a), 32 (1) (d), and 38 (b) (ii)* are amended to correct a wrong reference, and minor drafting changes are made to *clauses 38 (e) (ii) and 40 (3)*.

Clause 11A requires postal operators to maintain records of each occasion on which mail is detained under *clause 5* and opened or examined. *Subclause (4)* authorises the Secretary of Commerce or a person authorised by the Secretary to enter the postal operator's premises (other than a dwellinghouse) in order to inspect those records.

This SOP amends *clause 11A (4)* to make it clear that if a postal operator keeps the records in a dwellinghouse, the Secretary can still access the records by requiring the postal operator to produce them. A *new subclause (4A)* is also inserted, requiring production of the records within 20 working days or any longer period allowed by the Secretary.

Clause 11B, which creates offences for non-compliance with the requirements of *clause 11A*, is consequentially amended to refer to the *new subclause (4A)* of *clause 11A*.

Clause 12A empowers postal operators to open mail in order to identify the addressee or sender. This SOP proposes to amend this clause as follows:

- (a) A *new subclause (2A)* is inserted to restrict the places at which mail can be opened under this clause, and the persons who may exercise the power. Mail will be able to be opened only at postal outlets (as defined in *clause 2*), and only by persons specially authorised for the purpose by a postal operator. The amendment aligns *clause 12A* with *clause 5* (which contains a similar restriction on the power to open mail conferred by that clause). A consequential amendment is made to *subclause (3)*:
- (b) *Subclause (4)* is aligned with *clause 10 (1) (b)*. This will ensure that where a postal article is opened under *clause 12A*, and is believed, on reasonable grounds, to be in contravention, or to have been posted in contravention, of any enactment, the postal operator will be required to send the postal article to, or to notify, the appropriate authority in accordance with *clause 10 (2)*.

Clause 19E authorises the Secretary of Commerce to cancel the registration of a postal operator on specified grounds. One of those grounds is where the postal operator or a person concerned in the management of the postal operator is convicted of a specified offence (as defined in *clause 2*) after the date of registration.

The cancellation power as currently drafted is not wide enough to permit the Secretary to cancel a postal operator's registration if a person with a specified conviction becomes a person concerned in the management of the postal operator, where the conviction was entered before the date of registration. There is also possible doubt as to whether the power can be exercised in relation to a conviction entered after registration but before the person became concerned in the management of the postal operator.

This SOP amends *clause 19E* so that it clearly confers power to cancel a postal operator's registration in both of these situations. As with *clause 19D*, the power may not be exercised in relation to convictions that are more than 10 years old.

Clause 38 (a), as currently drafted, empowers the making of regulations requiring NZ Post to include, in its annual report to shareholding Ministers under the State-Owned Enterprises Act 1986, certain information in relation to the services provided by the Corporation.

This SOP amends *clause 38 (a)* so that disclosure is not restricted to NZ Post's annual report, and to enable the disclosure of certain information (such as information relating to pricing) to be required at more frequent intervals than annually.

Clauses 27 (1), 28 (1), 29 (1) (a), 32 (1) (d), and 38 (b) (ii) are amended to correct incorrect references to the "Asia Pacific Postal Union". These references are amended to read "Asian Pacific Postal Union".

Minor drafting changes are made to *clauses 38 (e) (ii) and 40 (3)*. The change to *clause 38 (e) (ii)* aligns the provision with the wording of *clause 12A (1) (a) (i)*, and the change to *clause 40 (3)* amends an incorrect reference to "postal operator" to "postal administration".