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This issue of the Government Gazette has been reprinted due to a mistake.

LAW NO. 3185

Amendment to Law 2668/ 1998 (Government Gazette Issue No. 282A), harmonization with Directive 2002/39/EC, regulation of issues pertaining to the HELLENIC POST (ELTA) and other provisions.

THE PRESIDENT OF THE HELLENIC REPUBLIC

We publish the following law passed by the Parliament:

CHAPTER A

Article 1

1. Article 5 (1) of Law 2668/1998 (Government Gazette Issue No. 282A) is replaced as follows:

“1.a. To ensure the financial viability of the universal service provider the exclusive right is retained to the clearance, sorting, transport and delivery of items of domestic correspondence, whether by faster delivery or not, both incoming and outgoing mail (cross-border mail) and direct mail. As from the time of entry into force of this law, the weight limit of postal items for which the exclusivity of the universal service provider is retained, shall be fixed to 100 grams.

The above weight limit shall not apply where the price is equal to or greater than three times the public fees for a postal item in the first weight range of the faster delivery category.

b. By decision of the Minister of Transport and Communications, weight and price limits different from the above-mentioned may be fixed in the event of postal services provided free of charge to the blind or people with serious sight impairments. The same decision lays down the services as well as the terms of provision thereof free of charge.”

2. Article 5 (2) of Law 2688/ 1998 shall be replaced as follows:

“2. By decision of the Minister of Transport and Communications, the exclusive rights under this paragraph on maximum weight and price limits, are harmonized with Community legislation.”

Article 2

At the end of Article 6 (1) of Law 2668/ 1998, indents q, r, s, and t are added as follows:

“q. to issue a Regulation, following the issue of opinion by EETT, to be published in the Government Gazette on the procedures to be used for settlement by EETT of disputes between the State and postal undertakings, among postal undertakings, and between the latter and users, as well as on procedures for the examination of complaints lodged by users.”

“r. to issue a Regulation, following the issue of opinion by EETT, to be published in the Government Gazette on the control, and the relevant control procedure, applied to the safeguarding of the exclusive rights of the universal service provider.”

“s. to issue a Regulation, following the issue of opinion by EETT, to be published in the Government Gazette, regarding the implementation of article 17 (2).”

“t. to establish changes to the price and weight limits of the reserved services rendered by the universal service provider”.

Article 3

1. Article 7 (1) and (2) of Law 2668/ 1998 shall be replaced as follows:

“1. EETT shall be the National Regulatory Authority in the postal services sector.”

2. Article 7 (4) (f) of Law 2668/ 1998 shall be replaced as follows:

“f. to issue its opinion on the issue of or amendment to all regulations that govern:

- the setup, operation, and running of the postal network, the development of postal services, and the quality of the postal services provided;
- the procedures followed in examining complaints lodged by users, settling differences arising between the State and the postal undertakings, among the latter, and between the latter and users.”

3. Article 7 (4) (h) (i) of Law 2668/ 1998, respectively shall be replaced as follows:

“h. to grant, renew, amend, suspend, extend, and revoke individual licenses, approve the lease, concession of use, transfer, or joint use thereof.”

“i. to approve the accounting system and control the keeping of a separate account by each undertaking providing services under an individual license for the services provided under such license, in accordance with Article 7 (4), (6), and (7).

- to issue a regulation published in the Government Gazette, with regard to the establishment of objective cost accounting methods, implemented within the internal accounting system of the universal service provider;
- to publish, at regular intervals, a statement on compliance of the universal service provider's accounting system with Community legislation;
- to keep detailed information on such system, and dispatch such information to the European Commission upon request of the latter."

4. Article 7 (4) (o) of Law 2668/ 1998, shall be replaced as follows:

"o. to exercise the following audit competencies:

- to check the compliance of postal undertakings with competition rules in the postal services sector in carrying out their activities. In that case, EETT may request the assistance of the Competition Commission or refer the relevant issue to the latter;
- to check for the infringement by other postal undertakings of the exclusive rights of the universal service provider. In that case, EETT shall call upon the infringing postal undertaking to perform its obligations within seven (7) days from the date of the relevant complaint;
- to check compliance with the provisions establishing the pricing rules for the universal services provided and protection of user rights;
- to check whether postal undertakings comply with the terms of the authorizations granted to them and continue to meet the conditions for their registration with the register.

During the performance of its audit competencies, should EETT determine actions or omissions the control of which falls in the scope of responsibility of other administrative authorities or in the jurisdiction of judicial authorities, such cases shall be referred to the competent authorities."

Article 4

Article 12 of Law 2668/ 1998 shall be replaced as follows:

"Article 12

General authorization to provide postal services

1. Notwithstanding the provisions of Article 13 hereof, undertakings are permitted to provide postal services following their registration with the Postal Undertakings Register kept by EETT.

The requirements for registration are listed next:

a. Statement by the undertaking, including:

- in case of natural persons, full identity information and, in the case of legal persons, the legalizing documents, legal representatives, as well as the particulars of the persons managing the undertaking;
- copy of the criminal record for general use demonstrating that no final conviction for criminal offence has been issued for the applicant. In case of legal persons, this condition must be met by its legal representatives, as well as the persons managing the undertaking;
- the type of the service provided and its geographical coverage;
- the postal network of the undertaking;

- the name or distinctive title or trade mark or other distinctive mark of the postal undertaking printed on or attached to postal items;
 - the period for which the general authorization is requested;
 - compliance with the main requirements governing the provision of postal services.
- b. Solemn statement that the natural person owning, or, in case of legal persons, the natural persons managing the undertaking, act in professional capacity. Professional capacity consists in the possession of knowledge necessary to ensure a sufficient quality level in the services provided. This condition is considered to be met when natural persons hold at least a Greek “Lyceum” or six-grade High School diploma or equivalent foreign school diploma.
- c. Submission of the Charter of Obligations to Consumers (C.O.C.) in accordance with Article 18.
- d. Payment of the fees provided for in Article 10.

2. EETT shall register an undertaking with the Postal Undertakings Register within fifteen (15) days from the date of submission of the Statement under para. 1 above provided that the conditions under the same paragraph are met. Such registration shall have the effect of a general authorization. In case of non compliance with any of the conditions of the above Statement, EETT shall reject the Statement and justify its decision. If the holders of authorizations cease to provide the services for which they have received the respective authorizations for a period over twelve (12) months, such authorizations shall be revoked.

3. In case of doubt as to whether the postal services requested fall within the scope of general authorizations or individual licenses, EETT shall, within six (6) months from receipt of the relevant Statement, issue a decision establishing provisional terms for the provision of such services and allow their provision or temporarily reject the Statement, while informing the applicant on the grounds of the rejection. Within one (1) month from the issue of the foregoing decision, EETT shall, by a new decision, establish the final terms for the provision of the services in question, or proceed to the final rejection of the Statement, while justifying its decision.

4. The postal undertaking shall immediately inform EETT regarding any change to the information included in their respective Statements. Stated changes shall be recorded in the Postal Undertakings Register kept by EETT.

5. EETT shall, within one (1) month from entry into force of this Law, issue a Regulation to be published in the Government Gazette, governing the classes of general authorizations, the method of payment of registration fees and all other necessary details concerning general authorizations.”

Article 5

Article 13 of Law 2668/ 1998 shall be replaced as follows:

“Article 13

Individual licenses for the provision of postal services

1. An individual license is required for the provision of the postal services under Article 4 (4).
2. Subject to the provisions of Article 19 (6) and (10), EETT grants individual licenses.
3. Individual licenses are granted within six (6) weeks from the submission to EETT of the relevant application along with all supporting documents required of postal undertakings. Should the holders of licenses cease to provide the services for which they have been granted respective authorizations for a period over twelve (12) months, such authorizations shall be revoked.
4. The following documents need to be submitted for an individual license to be granted:
 - a. Application by the undertaking, including:
 - in the case of natural persons, full identity information and in the case of legal persons, the legalizing documents, legal representatives, as well as the particulars of the persons managing the undertaking;
 - copy of the criminal record for general use demonstrating that no final conviction for criminal offence has been issued for the applicant, nor has the applicant been indicted by final ruling for felony. In case of personal undertakings this condition must be met by all partners, whereas in case of societies anonymes and limited liability companies, such condition must be met by all the members of the Board of Directors of societies anonymes, or by all persons assigned administrative duties and the administrator of limited liability companies;
 - solemn statement that the natural person owning, or, in case of legal persons, the natural persons managing the undertaking, act in professional capacity. Professional capacity consists in the possession of knowledge necessary to ensure a sufficient quality level in the services provided. This condition is considered to be met when natural persons hold at least a Greek “Lyceum” or six-grade High School diploma or equivalent foreign school diploma.
 - the type of the service provided and its geographical coverage;
 - the postal network of the undertaking;
 - the name or distinctive title or trade mark or other distinctive mark of the postal undertaking printed on or attached to postal items;
 - the period for which the general authorization is requested;
 - b. Submission of the Charter of Obligations to Consumers (C.O.C.) in accordance with Article 18.
 - c. Payment of the fees provided for in Article 10.
 - d. Description of the accounting system complying to the provisions under Article 20.
 - e. Appointment of proxy in Athens.
 - f. Compliance with the main requirements governing the provision of postal services.

5. Individual licenses shall not be granted:
 - a. to those having been sentenced for incarceration or imprisonment for over three (3) months in the past decade for trafficking, sale or use of drugs, trafficking in human beings, voluntary homicide, fraud, blackmailing, embezzlement, forgery, theft, and robbery;
 - b. to all parties having been sentenced for violation of provisions related to the provision of postal services, tax legislation, customs code, labor legislation, and social security legislation;
 - c. when the interested undertaking fails to provide to EETT the required information demonstrating that the terms for granting individual licenses are being met;
 - d. in cases where competition is affected.
6. The individual license is personal and may not be transferred. Any leasing, concession of use, transfer or joint use of the individual license with third parties, or any acts leading to change in the control of the administration of the postal undertaking is prohibited. Exceptionally, the individual license may be leased, have its use conceded, transferred, or used jointly following approval granted by EETT, provided the licensee undertaking has submitted a relevant application and the terms of such individual license are being met by the co – signatory or covenanter. Such transfer to third parties shall be valid following registration with the Postal Undertakings Register.
7. Any transfer of shares, by one or more acts, to or from the same legal person, greater than or equal to five per cent (5%) of the share capital of a postal undertaking holding an individual license, shall be notified to EETT within thirty (30) days from the occurrence of such transfer. By presidential decree, issued following a proposal by the Minister of Transport and Communications, ceiling participation percentages may be established for the same person in more than one postal undertakings operating in the same geographical market, as well as the relevant sanctions in case such percentages are exceeded.
8. A Regulation issued by EETT, within one (1) month from the entry into force, shall govern the conditions for renewal, modification, leasing, concession of use, transfer, joint use, suspension and revocation of individual licenses, the terms of payment of fees, as well as all other issues related to individual licenses”.

Article 6

Article 14 of Law 2668/ 1998 shall be replaced as follows:

“Article 14

Obligations of postal undertakings

1. Undertakings providing postal services must:
 - a. comply with correspondence confidentiality;

- b. comply with the regulations of the Universal Postal Union (UPU) in terms of the transport of dangerous postal items;
- c. treat equally all users;
- d. not jeopardize national defense and security;
- e. ensure the protection of the personal data of users and privacy;
- f. comply with the Charter of Obligations to Consumers (C.O.C.);
- g. comply with the provisions on the protection of the environment and urban planning.

2. Undertakings providing postal services under individual licenses, in addition to the above, must:

- a. ensure the uninterrupted provision of their postal services throughout the term of their respective licenses;
- b. have in place an accounting system with separate accounts for the services under Article 4 (4) hereof;
- c. pay their contributions to the fund in accordance with Article 20 hereof;
- d. comply with the pricing principles in accordance with Article 17 (1) hereof, and notify their tariffs to EETT.

Article 7

Article 17 (2) of Law 2688/ 1998 shall be replaced as follows:

“2. The tariffs of the universal service provider must:

- a. be harmonized with the cost for each type of services, making provision for a reasonable profit margin, which shall also include a percentage for investments;
- b. must be the same throughout the country. No cross-subsidization is allowed among services, except for subsidies for tariff equalization due to geographical conditions and subsidies from reserved to the rest of universal services, to the extent that such subsidies are necessary to meet special obligations/ needs in the universal services sector;
- c. be based on tariffs permitting access of all users to the universal services provided at reasonable prices.”

2. Paragraphs 5, 6, 7, and 8 shall be added at the end of Article 17 of Law 2668/ 1998 as follows:

“5. The special tariffs of the universal service provider, such as in the case of services provided to bulk mail senders, shall be subject to the principles of transparency and non discrimination, in terms of prices and the relevant terms. Such prices shall be fixed taking account of the reduction of costs due to the characteristics of such transaction. Such services must be provided at the same prices to all persons making use of postal services under similar conditions.

Such special tariffs and the relevant terms shall also apply among third parties, and between the latter and the universal service provider, for equivalent services.

6. Notwithstanding the provisions of para. 7, the above cost accounting system shall estimate cost elements each one of the reserved and non reserved services as follows:

- a. cost elements which can be directly assigned to a particular service shall be so assigned;
- b. common cost elements, that is costs which cannot be directly assigned to a particular service, shall be allocated as follows:
 - aa. whenever possible, common cost elements shall be allocated on the basis of direct analysis of the origin of the costs themselves;
 - bb. when direct analysis is not possible, common cost categories shall be allocated on the basis of an indirect linkage to another cost category or group of cost categories for which a direct assignment or allocation is possible; the indirect linkage shall be based on comparable cost structures;
 - cc. when neither direct nor indirect imputation of cost allocation can be found, the cost category shall be allocated on the basis of a general key allocator computed by using the ratio of all other expenses directly or indirectly assigned or allocated to each of the reserved services on the one hand and, to the other services on the other hand.

7. Other cost accounting systems may be applied only if they have been approved by EETT. EETT shall inform the Commission prior to approval of their application.

8. Compliance with one of the accounting systems described in paragraphs 6 and 7 shall be verified by a competent body which is independent of the universal service provider.”

Article 8

1. Article 19 (2) and (6) of Law 2668/ 1998 shall be replaced as follows:
 - “2. ELTA may use the services of third parties to perform its obligation regarding universal service provision.”

“6. The universal service shall be provided in accordance with the terms of the Administration Contract entered into between the Greek State and the universal service provider, which serves as an individual license”.

2. Article 19 (10) of Law 2668/ 1998 shall be replaced as follows:

“10. The individual license of the universal service provider mainly includes:

- a. the quality standard and the terms for the provision of universal services;
- b. the terms for the establishment of tariffs for reserved services;
- c. the basic obligations of the universal service provider in accordance with Article 4 hereof, especially with regard to the obligation to provide a certain quality of services throughout the country at affordable prices;
- d. the obligation to establish tariffs for the universal postal service in accordance with Article 17 hereof;

- e. the exclusive rights of the universal service provider and the way in which the latter shall perform its contractual obligations in the specific sector;
- f. the obligation to not jeopardize national defense and security;
- g. the obligation to examine user complaints.”

Article 9

Article 20 (1) to (5) of Law 2668/ 1998 shall be replaced as follows:

“1. The universal service provider may request compensation for the cost of the universal service, if and to the extent that such cost is not covered by the proceeds of the provision of the universal service, inclusive of the proceeds of exploitation of the exclusive rights. Such compensation shall be approved by EETT.

2. The compensation under para. 1 above shall be computed based on the cost of provision of the universal service and the respective total proceeds for the entire country. In that case, the cost of providing universal services shall be given by the universal service provider’s accounting system and costing system approved by EETT.

3. A special compensation fund which belongs to EETT is established and is in place to pay the compensation under para. 1 above. Such fund shall be managed by EETT. To this fund shall contribute the postal undertakings operating on individual license regime, with the exception of the universal service provider. Should the sum held in such fund not suffice to pay the foregoing compensation, then this shall be supplemented with or paid exclusively from EETT’s cash in hand.

4. The contribution of postal undertakings shall be computed based on the ratio of the turnover of each undertaking in the universal service sector to the turnover of all undertakings, except for the universal service provider, in the universal service sector. The turnover of each undertaking in the universal service sector, shall result from the approved by EETT accounting and costing system of each undertaking and be certified by a chartered accountant.

5. A joint decision adopted by the Minister of Economy and Finance and the Minister of Transport and Communications, shall establish the use and management of such fund, the method used in the computation and payment of the contributions of postal undertakings, in accordance with para. 4 of this Article, as well as all other matters related to the use of the fund.”

Article 10

1. At the end of Article 21 (2) of Law 2668/ 1998, an indent shall be added reading:

“The above shall also apply to the service providers of all Member States of the Universal Postal Union (UPU).”

2. Article 21 (4) of Law 2668/ 1998 shall be replaced as follows:

“4. In those cases where postal items are transported by postal undertakings lacking the capacity of universal service providers in the country of origin of such postal items or where conclusion of an agreement with one or more universal service providers is not possible, the universal service provider in Greece, following a justified decision adopted and notified by it to the Minister of Transport and Communications and EETT, and following an express warning to the respective bodies, may determine the sum corresponding to destination fees for the incoming mail coming from such bodies, in accordance with the principles included in para. 3 of this Article.”

Article 11

Article 25 (1) and (2) of Law 2668/ 1998 shall be replaced as follows:

“1. Violation of the provisions hereof or of a term of general authorization or individual license, shall lead to the imposition, following a hearing of the interested parties, of one or more of the following sanctions:

- a. Recommendation or warning.
- b. Fine from fifteen thousand euros (€ 15,000) up to three hundred thousand euros (€ 300,000) to be collected in accordance with the provisions of the Code for the Collection of Public Income.

In case of non compliance with the warning given by EETT a fine from twenty thousand euros (€ 20,000) up to forty thousand euros (€ 40,000) may be imposed.

In case of illegal provision of services in the reserved services sector, a fine ranging between three hundred euros (€ 300) and fifteen thousand euros (€ 15,000) may be imposed for each day of non compliance, without this excluding the imposition of other sanctions.

- c. Temporary revocation of the general authorization or individual license.
- d. Final revocation of the general authorization or individual license.

2. The sanctions under para. 2 above shall be imposed by EETT. Exceptionally, where sanctions are imposed to the universal service provider, such sanctions shall be imposed by the Minister of Transport and Communications, after a motion by EETT.”

Article 12

1. Article 26 (2) (a) of Law 2668/ 1998 shall be replaced as follows:

“Postal fee tariffs.”

2. At the end of Article 26 of Law 2668/ 1998, paragraphs 9 and 10 shall be added as follows:

“9. ELTA may undertake under a contract the sale to the public through its network of products and services on behalf of third parties.

10. The terms and conditions governing the cooperation between ELTA and the Citizen Service Centers (CSCs) shall be established by a joint decision adopted by the Minister of the Interior, Public Administration, and Decentralization and the Minister of Transport and Communications.”

”THE PROVISIONS OF THE LAW AFTER THIS POINT DO NOT HAVE ANY RELEVANCE WITH EETT ”

Article 13 Provisions on ELTA

1. All vehicles belonging to the Hellenic Post (ELTA) and for the time that ELTA is the universal postal service provider shall be exempt from the prohibitions and limitations expressed in Joint Ministerial Decision No. DMEO/f/oik./1894/F919 (Government Gazette Issue No. 684B), adopted by the Minister of the Environment, Urban Planning, and Public Works, the Minister of Public Order, and the Minister of Transport and Communications, as has been amended and is in force, establishing measures limiting the circulation of vehicles in the center of Athens.

2. ELTA's trucks and throughout the period in which ELTA is the universal service provider, shall be exempt from the prohibitions and limitations expressed in Joint Ministerial Decision No. 24994/ 2639 (Government Gazette Issue No. 503B) adopted by the Minister of the Environment, Urban Planning, and Public Works, the Minister of Public Order, and the Minister of Transport and Communications, which sets forth measures limiting the circulation of trucks on parts of the national roads throughout the year.

3. The universal service provider may, by decision of its Board of Directors, setup a Philatelic Museum, to which it shall transfer all of its philatelic property (stamp collections, etc.). The Articles of Association of such Philatelic Museum shall be approved by the Minister of Transport and Communications. Such Philatelic Museum shall belong to the Greek State and be supervised by the Minister of Transport and Communications.

A joint decision adopted by the Minister of Economy and Finance, the Minister of the Interior, Public Administration, and Decentralization, and the Minister of Transport and Communications, shall govern the administration, funding, and staffing of such museum.

4. The universal service provider, is required to supplement the collection of the foregoing Philatelic Museum with new stamp issues, and is entitled to use the premises and exhibitions of the Philatelic Museum Institute to promote its postal work.

Article 14 Provisions governing ELTA personnel issues

1. The subsidiaries of ELTA with participations in the share capital of which held by individuals of at least 50%, shall not be included in the scope of the provisions of Law 2190/ 1994 (Government Gazette Issue No. 28A).

2. Members of the personnel of ELTA may be seconded to ELTA subsidiaries constituted or to be constituted in the future or to other companies where ELTA participates.

3. The hiring of temporary personnel by ELTA and its subsidiaries shall be decided on by the Board of Directors of ELTA or its respective subsidiary, in derogation of the provisions of Act No. 55/11.11.1998 (Government Gazette Issue No. 252A), as is in force at each time.

4. ELTA may, in derogation of the provisions of Law 2190/ 1994 and Council of Ministers Act No. 55/ 1998, as are in force at each time, hire university students during the Christmas and Easter holidays, as well as during the summer and periods when elections are held, on a definite term private law employment contracts, the term of which may not exceed three (3) months per year. Such employment of students under this paragraph shall not count towards the professional experience of such students. The marital status, financial situation, as well as the place of residence of such students and their families shall be considered in selecting them.

Article 15

Exemption of ELTA from the provisions pertaining to the public sector

The Hellenic Post (ELTA) and its subsidiaries do not fall within the scope of the following provisions:

1. Law 2346/ 1995 on the travel expenses of persons traveling by order of the Greek State in Greece and abroad for the purpose of performing their duties, and other provisions (Government Gazette Issue No. 220A), and Law 2685/ 1999 on covering the expenses of employees traveling in Greece and abroad and other provisions (Government Gazette Issue No. 35A).

2. Article 1 (1) (A) (10), (11), (12), (13), and (14) of Law 2647/ 1998 on the transfer of competencies to the regions and local government and other provisions (Government Gazette Issue No. 237A).

3. Article 9 of Legislative Decree 101/ 1973 on the setup of an IT and Computer Service at the Ministry of Planning and Government Policy (Government Gazette Issue No. 173A).

4. Article 90 of Law 2362/ 1995 on the Public Accounting System - Expenditure Audit and other provisions (Government Gazette Issue No. 247A), and Article 21 of the Legislative Decree of June 26th/ July 10th, 1944 on the Code of Laws governing trials involving the State (Government Gazette Issue No. 139A).

Article 16

1. With regard to the realties transferred to ELTA under Articles 4 and 18 of Legislative Decree 496/ 1970 (Government Gazette 73A), a list shall be prepared, to be approved by decision of the Minister of Transport and Communications and published in the Government Gazette.

2. Government Gazette Issue No. 73A/ 28.3.1970, as well as the Government Gazette Issue where the ministerial decision under para. 1 above is published shall constitute the transcribed titles in terms of the transcription books and the Land Register.

3. The date of transcription shall be that on which Legislative Decree 496/ 1970 was published, namely March 28th, 1970.

4. The transcription of realties in accordance with this article shall be exempt from all manner of contributions, rights in favor of third parties and Mortgage Registrar fees, including non stipendiary ones.