



Statutory Rules 1982 No. 147¹

Postal Services Regulations² (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *Postal Services Act 1975*.

Dated 25 June 1982.

ZELMAN COWEN
Governor-General

By His Excellency's Command,

N. A. BROWN
Minister of State for Communications

Commencement

1. These Regulations shall come into operation on 1 July 1982.

Repeal of Part VI

2. Part VI of the Postal Services Regulations is repealed and the following Part substituted:

**“PART VI—OPENING, EXAMINATION, REPAIR AND DISPOSAL
OF POSTAL ARTICLES**

Interpretation

“36. (1) In this Part, unless the contrary intention appears—

‘article’ means a postal article that has been received for, or is in the course of, transmission by post within Australia;

‘concessional article’ means an article the transmission of which is governed by special conditions including a condition that it shall not be sealed against postal inspection;

'undeliverable article' means an article that, unless it is opened, cannot be delivered to the addressee or the person for whom it is intended or, where so required under the Act, returned to the sender.

“(2) In this Part a reference to opening or examining is a reference to opening or examining by or in the presence of an officer.

Restrictions on opening

“37. (1) An article shall not be opened nor its contents examined otherwise than in accordance with this Part.

“(2) Subject to sub-regulation (3), where the contents of an article are examined in pursuance of a provision of this Part, they shall be examined only to the extent necessary for the purposes of that provision.

“(3) Where, during the examination of the contents of an article in pursuance of a provision of this Part, any contents of that article are found to be contents that, if the article had been opened for examination under another provision of this Part, could have been dealt with under that other provision, the article shall be deemed, for the purposes of applying that other provision to those contents, to have been opened, and its contents examined, under that other provision.

Places at which articles may be examined

“38. (1) Subject to sub-regulation (2), an article shall not be opened under this Part except at a place appointed by the Commission for that purpose.

“(2) An article may be opened or dealt with under regulation 39 or 41, sub-regulation 43 (1), (2) or (5), or regulation 48A or 48B, at any place at which the article is held.

Examination without opening

“39. Any officer or employee may examine the contents of an article by any means, including x-ray, metal detector or odour detector, that does not entail unfastening, or physically interfering with, the cover of the article where that examination is made for the purposes of his duties as an officer or employee.

Undeliverable articles

“40. (1) An undeliverable article may be opened, and its contents examined, by an authorized person in the presence of another authorized person with a view to obtaining sufficient information to effect its delivery.

“(2) Subject to this Part, where the contents of an article have been examined under sub-regulation (1), the authorized person who examined the article shall—

- (a) if information sufficient for its delivery is found—close up the article and return it to the normal course of transmission; or
- (b) if information sufficient for its delivery is not found—deal with it in accordance with paragraph 46 (1) (a) or (b), as the case requires.

“(3) For the purpose of obtaining sufficient information to effect the delivery of an undeliverable article, a person authorized for the purposes of this regulation may make inquiries of any party to a negotiable instrument found in that article.

Concessional articles

“41. (1) Any officer, or employee, whose duties include supervision of compliance by articles with the terms and conditions governing their transmission, may open a concessional article, in the presence of another officer or employee or the person who lodged the article for transmission, and examine its contents to ascertain whether it complies with those conditions.

“(2) Subject to this Part, where the contents of an article have been examined under sub-regulation (1), the officer or employee examining the article shall—

- (a) if it is found to comply with the terms and conditions of transmission—close up the article and return it to the normal course of transmission; or
- (b) if it is found not to comply with those terms and conditions—deal with it in accordance with the provisions of the By-laws relating to articles so found.

Overseas mail from Australian resident

“42. (1) Where there are reasonable grounds for believing that an article received from a country or place outside Australia was posted by or on behalf of a person who is a resident of Australia—

- (a) as part of a large quantity of similar postal articles that were posted by or on behalf of that person and were received in Australia; or
- (b) with a view to benefiting from rates of postage applicable to that country or place, being rates that are lower than the rates of postage determined by the Commission under section 18 of the Act,

the postal article may be opened and examined by an authorized person in the presence of another authorized person to ascertain whether the article was so posted.

“(2) Subject to this Part, where the contents of an article have been examined under sub-regulation (1), the authorized person who examined the article shall—

- (a) if it is found not to be an article posted as described in sub-regulation (1) nor an article that does not comply with the terms and conditions of transmission—close it up and return it to the normal course of transmission; or
- (b) if it is found to be an article posted as described in sub-regulation (1) or an article that does not comply with the terms and conditions of transmission—deal with it in accordance with the provisions of the Act and the By-laws made under the Act relating to such articles.

Articles requiring repair, &c.

“43. (1) Any officer or employee may repair the cover of an article, if the cover is in need of repair and the repair can be effected without opening the article.

“(2) Where the cover of an article is in need of repair and the repair cannot be effected without opening the article, or if the contents of an article are leaking or escaping through the cover—

- (a) the article may be opened by an authorized person in the presence of another authorized person;
- (b) the contents of the article may be examined by those persons for the purpose of repacking the contents and repairing the cover; and
- (c) the contents may be repacked, and the cover repaired, by those persons.

“(3) Where an open or broken cover of an item of mail is found in a mail in which an item of mail is believed to have become separated from its cover, and the open or broken cover is identified, in the presence of an authorized person, by an officer who is an authorized person, as the cover from which the item has become separated, the officer shall repair the article and return it to the normal course of transmission.

“(4) Where an item of mail believed to have become separated from its cover is found in a mail by an officer and no open or broken cover found in the same mail can be identified under sub-regulation (3) as the cover from which the item has become separated, the officer shall, where there are reasonable grounds for believing that delivery can be effected, pack the item in a new cover and return it to the normal course of transmission.

“(5) Subject to sub-regulation 40 (3), where an item of mail believed to have become separated from its cover is found in a mail by an officer and sub-regulations (3) and (4) do not apply, the officer shall deal with the item in accordance with paragraph 46 (1) (b).

“(6) Where the contents of an article the cover of which is not in need of repair appear to have come loose, an authorized person may, if there are reasonable grounds for believing that further transmission may damage the contents, suspend transmission of the article and any authorized person may, after the transmission has been suspended and instructions have been sought from the sender or addressee, open the article and examine its contents to the extent authorized by the sender or addressee.

Dutiable and contraband articles

“44. (1) Where an article is in the course of transmission by post between Australia and a place outside Australia and an officer of Customs has made a request for the opening of that article or—

- (a) there are reasonable grounds for believing; or
- (b) the cover of the article bears a statement indicating,

that the article consists of, or contains, anything—

- (c) on which duties of customs are payable; or
- (d) that is being transmitted in contravention of a law of the Commonwealth relating to the prohibition of importation into, or exportation from, Australia of that thing,

any authorized person may—

- (e) if the article is—
 - (i) a letter sent by a person in Australia whose name and address are shown on the outside of the letter; or
 - (ii) a letter addressed to a person in Australia, require that person, or his representative, to open that letter in the presence of an authorized person and an officer of Customs and to permit the officer of Customs to examine the contents of the article to ascertain whether it consists of, or contains, anything described in paragraph (c) or (d); or
- (f) if the article is—
 - (i) an article other than a letter;
 - (ii) a letter sent by a person in Australia whose name or address is not shown on the outside of the letter; or
 - (iii) a letter in respect of which a requirement made under paragraph (e) has not been complied with within a reasonable time,

open the article in the presence of an officer of Customs and permit the officer of Customs to examine the contents of the article to ascertain whether it consists of, or contains, anything described in paragraph (c) or (d).

“(2) Subject to this Part, where the contents of an article have been examined under sub-regulation (1), an authorized person shall—

- (a) where the duties of customs (if any) assessed on the contents have been paid within the time in which their payment was required and the article is found not to consist of, or contain, anything described in paragraph (1) (d)—close up the article and return it to the normal course of transmission;
- (b) where the article was received from outside Australia, duties of customs assessed on its contents have not been paid within the time in which their payment was required and the article is found not to consist of, or contain, anything described in paragraph (1) (d)—
 - (i) if the article is a postal parcel endorsed with sender’s instructions for abandonment in the event of non-delivery—deliver any contents of the article, being contents described in paragraph (1) (c), to the Commonwealth to be dealt with under the laws of the Commonwealth relating to the disposition of goods on which duties have not been paid and deal with the remainder of the article in accordance with regulation 46; and

- (ii) in any other case—close up the article and return it to its sender; or
- (c) where the article—
 - (i) was sent by a person in Australia, has had duties of customs assessed on it or any of its contents and those duties have not been paid within the time in which their payment was required; or
 - (ii) is found to consist of, or contain, anything described in paragraph (1) (d),

deliver the article or those contents, as the case may be, to the Commonwealth to be dealt with under the laws of the Commonwealth relating to the disposition of goods on which duties have not been paid or which have been found to contravene a law referred to in paragraph (1) (d) and deal with the remainder of the contents, if any, in accordance with regulation 46.

Articles in relation to which there are other contraventions of law

“45. (1) Where regulation 44 does not apply and there are reasonable grounds for believing that an article—

- (a) was lodged for transmission by post; or
- (b) consists of, or contains, anything,

in contravention of an Act or a regulation or by-law made under an Act, that article may be opened by an authorized person in the presence of another authorized person and the contents of the article may be examined by those persons to ascertain whether the article was so lodged, or consists of, or contains, anything in contravention of an Act or a regulation or by-law made under an Act.

“(2) Where an article examined under sub-regulation (1) is found—

- (a) not to have been lodged for transmission by post in contravention of an Act or a regulation or by-law made under an Act; or
- (b) not to consist of, or contain, anything in contravention of an Act or a regulation or by-law made under an Act,

an authorized person shall close up the article and return it to the normal course of transmission.

“(3) Where, in the course of an examination under sub-regulation (1), an article is found—

- (a) to have been lodged for transmission by post; or
- (b) to consist of or contain anything,

in contravention of an Act or a regulation or by-law made under an Act an authorized person shall—

- (c) where the article or any part of its contents is not liable to forfeiture to the Commonwealth, deal with the article or that part of its contents in accordance with paragraph 46 (1) (a); or

- (d) where the article or any part of its contents is liable to forfeiture under paragraph 46 (1) (b) or (c), deal with the article or that part of its contents in accordance with sub-regulations (4) and (5) or sub-regulation (6), as the case requires.

“(4) Where sub-regulation (6) does not apply, an authorized person shall deal with an article, or any part of its contents, liable to forfeiture, by giving written notice personally or by prepaid post to the addressee or the person for whom it is intended or, if the whereabouts of either of those persons are not known, to the sender, stating—

- (a) that the article specified in the notice has been opened by an authorized person under sub-regulation (1);
- (b) that the article, or those contents specified in the notice, is or are liable to forfeiture under paragraph 46 (1) (b) or (c), as the case may be; and
- (c) that unless the person on whom the notice has been served informs the Commission in writing within 30 days after the service of the notice that he requires the article, or the contents, liable to forfeiture to be taken before a court of summary jurisdiction, that article or those contents will be forfeited to the Commonwealth.

“(5) A notice given under sub-regulation (4) shall give full details of the contravention to which the notice relates.

“(6) Where, in respect of an article, or any part of the contents of an article, liable to forfeiture in accordance with paragraph 46 (1) (b) or (c), the whereabouts of the addressee or the person for whom that article or those contents is or are intended or the sender are not known, that article or those contents shall be dealt with in accordance with paragraph 46 (1) (b).

“(7) Where a notice has been given to a person under sub-regulation (4) and that person informs the Commission in writing, personally or by prepaid post, within 30 days after the notice has been given, that he requires the article, or that part of the contents of an article, referred to in the notice to be taken before a court of summary jurisdiction, the Commission shall arrange for that to be done.

“(8) Where a notice has been given to a person under sub-regulation (4) and that person does not inform the Commission in writing in accordance with sub-regulation (7) that he requires the article, or that part of the contents of an article, referred to in the notice to be taken before a court of summary jurisdiction, that article or those contents shall be dealt with in accordance with paragraph 46 (1) (b) or (c), as the case requires.

“(9) Where an article, or a part of its contents, is taken before a court under sub-regulation (6) or (7), the court shall inquire into the matter and shall—

- (a) if satisfied that a contravention referred to in sub-regulation (1) has occurred—order that the article, or that part of the contents of an article, referred to in the notice be forfeited to the Commonwealth; or

(b) order that the article, or that part of the contents of an article, referred to in the notice be returned to the normal course of transmission, and the Commission shall cause that order to be put into effect.

“(10) For the purposes of inquiring into a matter under sub-regulation (9), a court may—

- (a) require notice of the inquiry to be given to the sender of the article, its addressee or the person for whom it is intended;
- (b) accept affidavit evidence; or
- (c) require the deponent of any affidavit submitted as evidence to attend before the court for cross-examination on that evidence.

Forfeiture and disposal of articles

“46. (1) Subject to sub-regulations (2) and (3) and regulations 48A and 48B, where an article is, or contents of an article are, to be dealt with in accordance with a provision of this sub-regulation:

- (a) that article or those contents, being an article, or the contents of an article, not liable to forfeiture to the Commonwealth under paragraph (b) or (c), shall, after having been dealt with as provided in the By-laws, be delivered to the addressee or person for whom intended, or, where it or they cannot be so delivered, returned to the sender;
- (b) where that article has, or those contents have, been dealt with as provided in the By-laws but cannot be delivered to the addressee or person for whom intended, or returned to the sender, that article or those contents shall be forfeited to the Commonwealth;
- (c) where the transmission of that article or those contents is prohibited by or under this Act or any other Act or by the By-laws, that article or those contents shall be forfeited to the Commonwealth;
- (d) any Australian coins or banknotes contained in any article or contents forfeited to the Commonwealth under paragraph (b) or (c) shall be paid into the Consolidated Revenue Fund; and
- (e) anything, other than Australian coins or banknotes, that is forfeited to the Commonwealth under paragraph (b) or (c) shall be sold, converted into money or otherwise disposed of as the Commission directs and the proceeds of any sale or conversion shall be paid into the Consolidated Revenue Fund after the expenses incurred by the Commission in the sale or conversion have been deducted by the Commission.

“(2) Where an article or any contents of an article is or are to be dealt with in accordance with this regulation and the article or contents may constitute evidence of the commission of an offence against a law of the Commonwealth, the article or contents may be retained in such custody as the Commission directs for the purpose of instituting proceedings in respect of that offence.

“(3) Where any legal proceedings have been instituted in relation to an article or contents of an article, the article or contents may be retained in such

custody as the Commission directs until those proceedings have been concluded.

Offences

“47. (1) Subject to sub-regulations (3) and (4), a person who opens an article, or examines the contents of an article, under this Part shall not disclose information relating to the contents of the article to any person.

Penalty: \$200 or imprisonment for 6 months, or both.

“(2) Subject to sub-regulations (3) and (4), a person referred to in sub-regulation 43 (3), (4) or (5) shall not disclose information relating to an item of mail with which he deals under that sub-regulation.

Penalty: \$200 or imprisonment for 6 months, or both.

“(3) Sub-regulations (1) and (2) do not apply to the disclosure of any information by a person—

- (a) in the performance of his duties as an authorized person or as an officer of Customs;
- (b) as a witness summoned to give evidence or to produce documents in a court; or
- (c) in pursuance of the requirements of a law of the Commonwealth.

“(4) For the purposes of paragraph (3) (a), the duties of an authorized person include delivering contents of articles that have been opened to other persons for the assessment, identification or analysis of those contents by those persons for the purposes of these Regulations.

Notice of opening

“48. Where—

- (a) an article has been opened under this Part otherwise than
 - (i) by a person acting in accordance with a requirement made under paragraph 44 (1) (e); or
 - (ii) as a concessional article opened under regulation 41; and
- (b) the article is to be returned to the normal course of transmission,

the Commission shall, before the article is so returned, endorse on its cover, or on a label affixed to it, a notification that the article has been opened by the Commission, together with a brief statement that indicates, by reference to a provision of this Part or otherwise, the purpose for which the article was so opened.

Disposal of dangerous, &c., things

“48A. An article that contains, or may contain, anything that is or could be explosive, dangerous or deleterious may be dealt with as the Commission directs.

Disposal of physically offensive postal article

“48B. An article that is, or has become, physically offensive may be destroyed forthwith by an authorized person.”.

Repeal of regulations 54 and 55

3. Regulations 54 and 55 of the Postal Services Regulations are repealed.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 30 June 1982.
2. Statutory Rules 1975 No. 130 as amended by 1977 No. 53; 1981 No. 151.