

AMENDMENTS

2006—Pub. L. 109-435 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (d) relating to responsibilities of the Secretary of State and the Postal Service for international postal arrangements.

1998—Pub. L. 105-277 substituted “International Postal Arrangements” for “International postal arrangements” in section catchline and amended text generally. Prior to amendment, text read as follows:

“(a) The Postal Service, with the consent of the President, may negotiate and conclude postal treaties or conventions, and may establish the rates of postage or other charges on mail matter conveyed between the United States and other countries. The decisions of the Postal Service construing or interpreting the provisions of any treaty or convention which has been or may be negotiated and concluded shall, if approved by the President, be conclusive upon all officers of the Government of the United States.

“(b) The Postal Service shall transmit a copy of each postal convention concluded with other governments to the Secretary of State, who shall furnish a copy of the same to the Public Printer for publication.”

CHANGE OF NAME

“Commissioner of U.S. Customs and Border Protection” substituted for “Commissioner of Customs” in subsec. (e)(3) on authority of section 802(d)(2) of Pub. L. 114-125, set out as a note under section 211 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-435, title IV, § 405(b), Dec. 20, 2006, 120 Stat. 3232, provided that: “Notwithstanding any provision of the amendment made by subsection (a) [amending this section], the authority of the United States Postal Service to establish the rates of postage or other charges on mail matter conveyed between the United States and other countries shall remain available to the Postal Service until—

“(1) with respect to market-dominant products, the date as of which the regulations promulgated under section 3622 of title 39, United States Code (as amended by section 201(a)) take effect; and

“(2) with respect to competitive products, the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.”

EFFECTIVE DATE

Section effective July 1, 1971, pursuant to Resolution No. 71-9 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

TRANSFER OF FUNDS TO STATE DEPARTMENT

Pub. L. 105-277, § 101(h) [title VI, § 633(d)], Oct. 21, 1998, 112 Stat. 2681-480, 2681-524, provided that: “In fiscal year 1999 and each fiscal year hereafter, the Postal Service shall allocate to the Department of State from any funds available to the Postal Service such sums as may be reasonable, documented and auditable for the Department of State to carry out the activities of Section 407 of title 39 of the United States Code.”

§ 408. International money-order exchanges

The Postal Service may make arrangements with other governments, with which postal conventions are or may be concluded, for the exchange of sums of money by means of postal orders. It shall fix limitations on the amount which may be so exchanged and the rates of exchange.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 725.)

EFFECTIVE DATE

Section effective July 1, 1971, pursuant to Resolution No. 71-9 of the Board of Governors. See section 15(a) of

Pub. L. 91-375, set out as a note preceding section 101 of this title.

§ 409. Suits by and against the Postal Service

(a) Except as otherwise provided in this title, the United States district courts shall have original but not exclusive jurisdiction over all actions brought by or against the Postal Service. Any action brought in a State court to which the Postal Service is a party may be removed to the appropriate United States district court under the provisions of chapter 89 of title 28.

(b) Unless otherwise provided in this title, the provisions of title 28 relating to service of process, venue, and limitations of time for bringing action in suits in which the United States, its officers, or employees are parties, and the rules of procedure adopted under title 28 for suits in which the United States, its officers, or employees are parties, shall apply in like manner to suits in which the Postal Service, its officers, or employees are parties.

(c) The provisions of chapter 171 and all other provisions of title 28 relating to tort claims shall apply to tort claims arising out of activities of the Postal Service.

(d)(1) For purposes of the provisions of law cited in paragraphs (2)(A) and (2)(B), respectively, the Postal Service—

(A) shall be considered to be a “person”, as used in the provisions of law involved; and

(B) shall not be immune under any other doctrine of sovereign immunity from suit in Federal court by any person for any violation of any of those provisions of law by any officer or employee of the Postal Service.

(2) This subsection applies with respect to—

(A) the Act of July 5, 1946 (commonly referred to as the “Trademark Act of 1946” (15 U.S.C. 1051 and following)); and

(B) the provisions of section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair or deceptive acts or practices.

(e)(1) To the extent that the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, engages in conduct with respect to any product which is not reserved to the United States under section 1696 of title 18, the Postal Service or other Federal agency (as the case may be)—

(A) shall not be immune under any doctrine of sovereign immunity from suit in Federal court by any person for any violation of Federal law by such agency or any officer or employee thereof; and

(B) shall be considered to be a person (as defined in subsection (a) of the first section of the Clayton Act) for purposes of—

(i) the antitrust laws (as defined in such subsection); and

(ii) section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

For purposes of the preceding sentence, any private carriage of mail allowable by virtue of section 601 shall not be considered a service reserved to the United States under section 1696 of title 18.

(2) No damages, interest on damages, costs or attorney's fees may be recovered, and no criminal liability may be imposed, under the anti-trust laws (as so defined) from any officer or employee of the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, acting in an official capacity.

(3) This subsection shall not apply with respect to conduct occurring before the date of enactment of this subsection.

(f)(1) Each building constructed or altered by the Postal Service shall be constructed or altered, to the maximum extent feasible as determined by the Postal Service, in compliance with 1 of the nationally recognized model building codes and with other applicable nationally recognized codes.

(2) Each building constructed or altered by the Postal Service shall be constructed or altered only after consideration of all requirements (other than procedural requirements) of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.

(3) For purposes of meeting the requirements of paragraphs (1) and (2) with respect to a building, the Postal Service shall—

(A) in preparing plans for the building, consult with appropriate officials of the State or political subdivision, or both, in which the building will be located;

(B) upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding 30 days; and

(C) permit inspection by such officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Postal Service—

(i) a copy of such schedule before construction of the building is begun; and

(ii) reasonable notice of their intention to conduct any inspection before conducting such inspection.

Nothing in this subsection shall impose an obligation on any State or political subdivision to take any action under the preceding sentence, nor shall anything in this subsection require the Postal Service or any of its contractors to pay for any action taken by a State or political subdivision to carry out this subsection (including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations).

(4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Postal Service concerning measures necessary to meet the requirements of paragraphs (1) and (2). Such officials may also make recommendations to the Postal Service concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Postal Service shall give due consideration to any such recommendations.

(5) In addition to consulting with local and State officials under paragraph (3), the Postal Service shall establish procedures for soliciting, assessing, and incorporating local community input on real property and land use decisions.

(6) For purposes of this subsection, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

(g)(1) Notwithstanding any other provision of law, legal representation may not be furnished by the Department of Justice to the Postal Service in any action, suit, or proceeding arising, in whole or in part, under any of the following:

(A) Subsection (d) or (e) of this section.

(B) Subsection (f) or (g) of section 504 (relating to administrative subpoenas by the Postal Regulatory Commission).

(C) Section 3663 (relating to appellate review).

The Postal Service may, by contract or otherwise, employ attorneys to obtain any legal representation that it is precluded from obtaining from the Department of Justice under this paragraph.

(2) In any circumstance not covered by paragraph (1), the Department of Justice shall, under section 411, furnish the Postal Service such legal representation as it may require, except that, with the prior consent of the Attorney General, the Postal Service may, in any such circumstance, employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.

(3)(A) In any action, suit, or proceeding in a court of the United States arising in whole or in part under any of the provisions of law referred to in subparagraph (B) or (C) of paragraph (1), and to which the Commission is not otherwise a party, the Commission shall be permitted to appear as a party on its own motion and as of right.

(B) The Department of Justice shall, under such terms and conditions as the Commission and the Attorney General shall consider appropriate, furnish the Commission such legal representation as it may require in connection with any such action, suit, or proceeding, except that, with the prior consent of the Attorney General, the Commission may employ attorneys by contract or otherwise for that purpose.

(h) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service, subject to the restriction specified in section 2011(g).

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 725; Pub. L. 97-258, §2(k), Sept. 13, 1982, 96 Stat. 1062; Pub. L. 109-435, title IV, §404, Dec. 20, 2006, 120 Stat. 3227.)

HISTORICAL AND REVISION NOTES
1982 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
409(e)	31:724a (last sentence).	July 27, 1956, ch. 748, 70 Stat. 678, § 1302 (last sentence); added Aug. 12, 1970, Pub. L. 91-375, § 6(l)(3), 84 Stat. 762.

The words “Notwithstanding the other provisions of this section” are omitted as unnecessary.

REFERENCES IN TEXT

The Act of July 5, 1946, referred to in subsec. (d)(2)(A), is act July 5, 1946, ch. 540, 60 Stat. 427, as amended, popularly known as the Trademark Act of 1946 and also as the Lanham Act, which is classified generally to chapter 22 (§1051 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1051 of Title 15 and Tables.

Section 5 of the Federal Trade Commission Act, referred to in subsections. (d)(2)(B) and (e)(1)(B)(ii), is classified to section 45 of Title 15, Commerce and Trade.

The first section of the Clayton Act, referred to in subsec. (e)(1)(B), is classified to section 12 of Title 15, Commerce and Trade, and section 53 of Title 29, Labor.

The date of enactment of this subsection, referred to in subsec. (e)(3), is the date of enactment of Pub. L. 109-435, which was approved Dec. 20, 2006.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-435, § 404(b), substituted “Except as otherwise provided in this title,” for “Except as provided in section 3628 of this title.”

Subsecs. (d) to (h). Pub. L. 109-435, § 404(a), added subsections. (d) to (h) and struck out former subsections. (d) and (e), which read as follows:

“(d) The Department of Justice shall furnish, under section 411 of this title, the Postal Service such legal representation as it may require, but with the prior consent of the Attorney General the Postal Service may employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.

“(e) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service.”

1982—Subsec. (e). Pub. L. 97-258 added subsec. (e).

EFFECTIVE DATE

Section effective July 1, 1971, pursuant to Resolution No. 71-9 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

§ 410. Application of other laws

(a) Except as provided by subsection (b) of this section, and except as otherwise provided in this title or insofar as such laws remain in force as rules or regulations of the Postal Service, no Federal law dealing with public or Federal contracts, property, works, officers, employees, budgets, or funds, including the provisions of chapters 5 and 7 of title 5, shall apply to the exercise of the powers of the Postal Service.

(b) The following provisions shall apply to the Postal Service:

(1) section 552 (public information), section 552a (records about individuals), section 552b (open meetings), section 3102 (employment of personal assistants for blind, deaf, or otherwise handicapped employees), section 3110 (re-

strictions on employment of relatives), section 3333 and chapters 72 (antidiscrimination; right to petition Congress) and 73 (suitability, security, and conduct of employees), section 5520 (withholding city income or employment taxes), and section 5532¹ (dual pay) of title 5, except that no regulation issued under such chapters or section shall apply to the Postal Service unless expressly made applicable;

(2) all provisions of title 18 dealing with the Postal Service, the mails, and officers or employees of the Government of the United States;

(3) section 107 of title 20 (known as the Randolph-Sheppard Act, relating to vending machines operated by the blind);

(4) the following provisions of title 40:

(A) sections 3114-3116, 3118, 3131, 3133, and 3141-3147; and

(B) chapters 37 and 173;

(5) chapters 65 and 67 of title 41;

(6) sections 2000d, 2000d-1—2000d-4 of title 42 (title VI, the Civil Rights Act of 1964);

(7) section 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 668);

(8) the provisions of the Act of August 12, 1968 (42 U.S.C. 4151-4156);

(9) chapter 39 of title 31;

(10) the Inspector General Act of 1978; and

(11) section 5520a of title 5.

(c) Subsection (b)(1) of this section shall not require the disclosure of—

(1) the name or address, past or present, of any postal patron;

(2) information of a commercial nature, including trade secrets, whether or not obtained from a person outside the Postal Service, which under good business practice would not be publicly disclosed;

(3) information prepared for use in connection with the negotiation of collective-bargaining agreements under chapter 12 of this title or minutes of, or notes kept during, negotiating sessions conducted under such chapter;

(4) information prepared for use in connection with proceedings under chapter 36 of this title;

(5) the reports and memoranda of consultants or independent contractors except to the extent that they would be required to be disclosed if prepared within the Postal Service; and

(6) investigatory files, whether or not considered closed, compiled for law enforcement purposes except to the extent available by law to a party other than the Postal Service.

(d)(1) A lease agreement by the Postal Service for rent of net interior space in excess of 6,500 square feet in any building or facility, or part of a building or facility, to be occupied for purposes of the Postal Service shall include a provision that all laborers and mechanics employed in the construction, modification, alteration, repair, painting, decoration, or other improvement of the building or space covered by the agreement, or improvement at the site of such building or facility, shall be paid wages at not less than those prevailing for similar work in

¹ See References in Text note below.