



Royal Mail Internal Information  
Criminal Intelligence Team

## 7.3 Criminal Offences Points to Prove

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## Key Accountabilities

Who is accountable?	What do I have to do?	When do I have to do this?	How do I do this?
All members of Royal Mail Security	Ensure you comply with these procedures	Ongoing	As detailed within these procedures

## Criminal Investigation Points to Prove

### 1. Introduction

1.1 It is important that Investigators, when conducting both witness and suspect interviews, in the course of criminal investigations know the necessary points to prove, for offence(s) they are investigating and that they factor these into the planning and preparation stage of the interview process. **Section 2** of these Procedures and Standards (P&S) detail the "points to prove" for the most of the offences that Royal Mail Investigators are likely to encounter. **Section 3** looks in more detail at the Postal Services Act 2000. Finally **Section 4** details the points to prove for Post Office Act 1953 offences. These are included in the event that postal packets recovered by Investigators predate the enactment of the Postal Services Act 2000 on 26 March 2001.

1.2 Advice should be sought from the Criminal Law Team in the event that an offence not readily identifiable is to be considered.

### 2. Points to Prove.

2.1 The following Acts are covered within this section.

2.1.1	Theft Act 1968	2.1.7	Criminal Damage Act 1971
2.1.2	Theft Act 1978	2.1.8	Computer Misuse Act 1990
2.1.3	Fraud Act 2006	2.1.9	Forgery and Counterfeiting Act 1081
2.1.4	Postal Services Act 2000	2.1.10	Offences Against The Person Act 1861
2.1.5	Criminal Attempts Act 1981	2.1.11	Bribery Act 2010
2.1.6	Proceeds of Crime Act 2002		

Section	Theft Act 1968	Points to Prove	Indictable	Max Sentence
1	<u>Theft Act 1968</u>	1. Dishonestly, 2. Appropriates, 3. Property, 4. Belonging to another,	Yes.	7 Years Imprisonment.

		5. With the intention to permanently deprive.		
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8	Robbery <u>Theft Act 1968</u>	1. Steals, (Section 1 Theft 1968), 2. And immediately before or at the time of doing so, 3. And in order to do so, 4. Uses force on any person, 5. Or puts or seeks to put a person in fear of being then and there subjected to force.	Yes.	Life Imprisonment .
9 (1a)	Burglary <u>Theft Act 1968</u>	1. Enters any building, or part of a building, 2. As a trespasser, 3. With the intention of committing one of the following; a. Stealing Criminal damage b. Inflicting Grievous Bodily Harm (GBH). c.	Yes	14 Years Imprisonment for a dwelling, 10 years otherwise
9(1b)	Burglary <u>Theft Act 1968</u>	1. Having entered a building (or part of a building), 2. As a trespasser, 3. Did steal or attempt to steal, 4. Or did inflict or attempt to inflict GBH.	Yes	14 Years Imprisonment for a dwelling, 10 years otherwise.
10	Aggravated Burglary <u>Theft Act 1968</u>	1. Commits Burglary and has with him either; a. Firearm Weapon of Offence b. Imitation Firearm d. Explosive c.	Yes.	Life Imprisonment .

14	Extension to thefts from mails outside England and Wales, and robbery etc. on such a theft <u>Theft Act 1968</u>	<ol style="list-style-type: none"> <li>1. Steals or attempts to steal any mail bag or postal packet,</li> <li>2. In the course of transmission between places in different jurisdictions in the British Postal Area,</li> <li>3. Or any contents of such a mail bag or postal packet,</li> <li>4. Or in stealing or with the intent to steal any such mail bag or postal packet or contents, commits any robbery, attempted robbery or assault with intent to rob,</li> <li>5. Then notwithstanding that he does so outside England and Wales, he shall be guilty of committing the offence against this Act as if he had done so in England and Wales.</li> </ol>	Yes	<p>Liabile to be tried and punished for the actual offence i.e.</p> <p>Section 1 Theft - 7 years or</p> <p>Section 8 Robbery - life.</p>
15	Obtaining property by Deception <u>Theft Act 1968</u> Offence repealed on 15 January 2007 by the Fraud Act 2006. Only to be used for offences committed before that date.	<ol style="list-style-type: none"> <li>1. By any deception,</li> <li>2. Dishonestly,</li> <li>3. Obtains,</li> <li>4. Property,</li> <li>5. Belonging to another,</li> <li>6. With the intention of permanently depriving the other of it.</li> </ol>	Yes.	<p>10 Years Imprisonment</p> <p>.</p>
16	Obtaining a pecuniary advantage <u>Theft Act 1968</u> Offence repealed on 15 January 2007 by the Fraud Act 2006. Only to be used for offences committed	<ol style="list-style-type: none"> <li>1. By any deception,</li> <li>2. Dishonestly,</li> <li>3. Obtains for himself or another,</li> <li>4. Any pecuniary advantage.</li> </ol>	Yes.	<p>10 Years Imprisonment</p> <p>.</p>

	before that date.			
17(1a) )	<b>False accounting</b> <b><u>Theft Act 1968</u></b>	1. Dishonestly, 2. With a view to gain for himself or another, 3. Or intent to cause loss to another, 4. Destroy, deface, conceals or falsifies, 5. Any account or any record or document, 6. Made or required for accounting purposes.	Yes.	7 Years Imprisonment .
17(1b) )	<b>False accounting</b> <b><u>Theft Act 1968</u></b>	1. In furnishing information for any purpose, 2. Produces or makes use of any account, 3. Or any such record or document, 4. Which to his knowledge is, or may be misleading, false or deceptive in a material particular.	Yes.	7 Years Imprisonment .

22	Handling stolen goods <u>Theft Act 1968</u>	1. Otherwise than in the course of stealing, 2. Knowing or believing goods to be stolen, 3. Dishonestly receives the goods, 4. Or dishonestly undertakes or assists in their retention, removal, disposal or realisation, 5. By or for the benefit of another person, 6. Or if he arranges to do so.	Yes.	14 Years Imprisonment .
25	Going equipped to steal <u>Theft Act 1968</u>	1. When not at place of abode, 2. Has with him, 3. Any article, 4. For use in the course of or in connection with any burglary or theft.	Yes.	3 Years Imprisonment .
Section	Theft Act 1978	Points to Prove	Indictable	Max Sentence
1	Obtaining services by Deception <u>Theft Act 1978</u> Offence repealed on 15 January 2007 by the Fraud Act 2006. Only to be used for offences committed before that date.	1. By deception, 2. Dishonestly, 3. Obtains services, 4. From another.	Yes.	5 Years Imprisonment .
Section	Fraud Act 2006	Points to Prove	Indictable	Max Sentence
1	Fraud <u>Fraud Act 2006</u> Enacted on the 15 January 2007	1. Is in breach of any of the sections listed below which provide for different ways of committing the offence, a. Section 2 Fraud by false representation, b. Section 3 Fraud by failing to disclose information, and,	Yes.	10 Years Imprisonment and a fine.

		c. Section 4 Fraud by abuse of position.		
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2	Fraud by False Representation <u>Fraud Act 2006</u> Enacted on the 15 January 2007	1. Dishonestly, 2. Makes a false representation, 3. And intends, by making the representation, 4. To make a gain for himself or another, or 5. To cause loss to another, or 6. To expose another to a risk of loss (for gain and loss see Sec 5), 7. A representation is false if, 8. It is untrue or misleading, 9. And the person making it knows that it is, or 10. Might be, untrue or misleading.	Yes.	10 Years Imprisonment and a fine.
3	Fraud by failing to disclose information. <u>Fraud Act 2006</u> Enacted on the 15 January 2007	1. Dishonestly, 2. Fails to disclose to another person information, 3. Which he is under a legal duty to disclose, 4. And intends, by failing to disclose the information, 5. To make a gain for himself or another, or 6. To cause loss to another, or 7. To expose another to a risk of loss (for gain and loss see Sec 5).	Yes.	10 Years Imprisonment and a fine.
4	Fraud by abuse of position. <u>Fraud Act 2006</u> Enacted on the 15 January 2007	1. Occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another, 2. Dishonestly abuses that position, 3. And intends, by means of the abuse of that position, 4. To make a gain for himself or another or, 5. To cause loss to another or, 6. To expose another to a risk of loss (for gain and loss see Sec 5), 7. A person may be regarded as having abused his	Yes.	10 Years Imprisonment and a fine.

		position even though his conduct consisted of an omission rather than an act.		
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5	Gain and Loss <u>Fraud Act 2006</u> Enacted on the 15 January 2007	In Sections 2 to 4 Gain and Loss, 1. Extend only to gain or loss in money or other property but, 2. Include any such gain or loss whether temporary or permanent, 3. "Gain" includes a gain by keeping what one has, as well as a gain by getting what one does not have, 4. "Loss" includes a loss by not getting what one might get, as well as a loss by parting with what one has.	Not Applica ble.	Not Applicable.
6	Possession etc. of articles for use in frauds <u>Fraud Act 2006</u> Enacted on the 15 January 2007	1. Has in his possession or under his control, 2. Any article, 3. For use in the course of or in connection with any fraud.	Yes.	5 Years Imprisonment and a fine.
7	Making or supplying articles for use in frauds <u>Fraud Act 2006</u> Enacted on the 15 January 2007	1. Makes, adapts, supplies or offers to supply any article, 2. Knowing that it is designed or adapted for use in the course of, 3. Or in connection with fraud, 4. Or intending it to be used to commit, or assist in the commission of fraud.	Yes.	10 Years Imprisonment and a fine.
11	Obtaining services dishonestly <u>Fraud Act 2006</u> Enacted on the 15 January 2007	1. Obtains services for himself or another, by a dishonest act, 2. And the services are made available on the basis that payment has been, is being or will be made for or in respect of them and, 3. Obtains them without any payment having been made for or in respect of them or without payment having been made in full,	Yes.	5 Years Imprisonment and a fine.

		<p>4. And when he obtains them, he knows,</p> <p>5. That they are being made available on the basis described in 3 above, or that they might be,</p> <p>6. Intending that payment will not be made, or will not be made in full.</p>		
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Section	Postal Services Act 2000 (PSA)	Points To Prove	Indictable	Max Sentence
		<ul style="list-style-type: none"> <li>• Further details on what is required to prove the points to prove along with other less common PSA offences can be found in Section 3 below.</li> <li>• For postal offences committed before 26 March 2001 the Post Office Act 1953 should be used as detailed in Section 4 below.</li> </ul>		
83	Interfering with the mail: Postal Operators <u>Postal Services Act 2000</u>	1. A person who is engaged in the business of a postal operator, 2. Contrary to his duty and without reasonable excuse, 3. Intentionally delays or opens, 4. A postal packet, 5. In the course of its transmission by post, 6. Or intentionally opens a mail-bag.	Yes.	2 Years Imprisonment and a fine.
84(1)	Interfering with the mail: General <u>Postal Services Act 2000</u>	1. Any person without reasonable excuse, 2. Intentionally delays or opens, 3. A postal packet, 4. In the course of its transmission by post, 5. Or intentionally opens a mail-bag.	No.	6 Months Imprisonment and a fine not exceeding level 5.
84(3)	Interfering with the mail: General <u>Postal Services Act 2000</u>	1. Intending to act to a person's detriment, 2. And without reasonable excuse, 3. Opens, 4. A postal packet, 5. Which he knows or reasonably suspects has been incorrectly delivered to him.	No.	6 Months Imprisonment and a fine not exceeding level 5.
Section	Criminal Attempts Act 1981	Points to Prove	Indictable	Max Sentence
1	Attempting to commit	1. If with Intent to commit an indictable	Yes.	Sentence is

	an offence <u>Criminal Attempts Act 1981</u>	offence, 2. A person does an act, 3. Which is more than merely preparatory, 4. To the commissioning of an offence is guilty of attempting to commit the offence.		the same as the penalty had the offence been completed.
Section	Proceeds Of Crime Act 2002	Points to Prove	Indictable	Max Sentence
327	Money laundering by concealing etc. <u>Proceeds of Crime Act 2002</u>	1. A person commits an offence if he, 2. Conceals criminal property, 3. Disguises criminal property, 4. Converts criminal Property, 5. Transfers criminal property, 6. Removes criminal property from England and Wales or from Scotland or from Northern Ireland. Criminal Property is property, which the alleged offender knows or suspects, constitutes or represents benefit from any criminal conduct.	Yes	14 Years Imprisonment and a fine
328	Money laundering by arrangements <u>Proceeds of Crime Act 2002</u>	1. A person commits an offence if he, 2. Enters into or becomes concerned in an arrangement, 3. Which he knows or suspects, 4. Facilitates by whatever means, 5. The acquisition, retention, use or control of criminal property, 6. By or on behalf of another person.	Yes	14 Years Imprisonment and a fine.
329	Money laundering by acquisition, use and possession <u>Proceeds of Crime Act 2002</u>	1. A person commits an offence if he, 2. Acquires criminal property, 3. Uses criminal property, 4. Has possession of criminal property.	Yes	14 Years Imprisonment and a fine.
342	Offences of	1. If a person knows or suspects,	Yes	5 Years

	prejudicing an investigation <u>Proceeds of Crime Act 2002</u>	2. An appropriate officer is conducting or about to conduct, 3. A money laundering, or a confiscation Investigation, 4. And they make a disclosure which is likely to prejudice the investigation, 5. Or he falsifies, conceals, destroys or otherwise disposes of, 6. Or causes or permits the falsification, concealment, destruction or disposal of documents that are relevant to the investigation.		Imprisonment and a fine.
Section	Criminal Damage Act 1971	Points to Prove	Indictable	Max Sentence
1	Destroying or damaging property <u>Criminal Damage Act 1971</u>	1. Without lawful excuse, 2. Destroys or damages property, 3. Belonging to another, 4. Intending to destroy or damage any such property, 5. Or reckless as to whether any such property was damaged or destroyed. An offence committed under this section by destroying or damaging property by fire shall be charged as arson.	Yes	10 Years Imprisonment for Criminal Damage but if Arson, Life imprisonment.
Section	Computer Misuse Act 1990	Points to Prove	Indictable	Max Sentence
1	Unauthorised access to Computer Material <u>Computer Misuse Act 1990</u>	1. Causes a computer to perform any function, 2. With intent to secure access to any programme, 3. Or data held in any computer, 4. The access he intends to secure is unauthorised, 5. And he knows at the time when he causes the	From the 1 October 2008 the max sentence was increased from 6 Months Imprisonment and a fine not exceeding level 5, to	

		computer to perform the function that this is the case.	2 Years Imprisonment or a fine or both. Sentence increased by Section 35 of the Police and Justice Act 2006. So from that date the offence became indictable.	
2	Unauthorised access with intent to commit or facilitate commission of further offences. <u>Computer Misuse Act 1990</u>	1. Commits an offence under Section 1 above with intent, 2. To commit an offence to which this section applies, 3. Or to facilitate the commission of such an offence (whether by himself or another person), 4. This section applies to offences where; a. The sentence is fixed by law, b. Or for which an adult (not previously convicted) may be sentenced to imprisonment for term of 5 years.	Yes	5 Years Imprisonment and a fine.
3	Unauthorised acts with intent to impair, or with recklessness as to impairing, operation of a computer, etc. <u>Computer Misuse Act 1990</u> This section was amended by Section 36 of the Police & Justice Act 2006 and	1. Does any unauthorised act in relation to a computer, 2. At the time when he does the act he knows that it is unauthorised and either 3 or 4 below applies, 3. The person intends by doing the act- a. to impair the operation of any computer, b. to prevent or hinder access to any program or data held in any computer or; c. to impair the operation of any such programme or the reliability of any such data;	Yes	10 Years Imprisonment and a fine or both

	came into law on the 1 October 2008. For offences occurring before that date see the Section immediately below.	4. The person is reckless as to whether the act will do any of the things mentioned in subsections a to c of 3 above.		
3	<p>Unauthorised modification of computer material</p> <p><u>Computer Misuse Act 1990</u></p> <p>This offence is the original Section 3 offence. However it was amended to the offence immediately above. This offence only applies to offences committed before the 1 October 2008.</p>	<p>1. Does any act which causes an unauthorised modification of the contents of any computer,</p> <p>2. And at the time when he does the act he has the requisite intent and requisite knowledge,</p> <p>3. The requisite intent is an intent to cause a modification of the contents of any computer and by doing so;</p> <p>a. Impair the operation of any computer,</p> <p>b. Prevent or hinder access to any programme or data held in the computer,</p> <p>c. Impair the operation of any such programme or the reliability of any such data.</p> <p>The requisite knowledge is knowledge that any modification he intends to cause is unauthorised.</p>	Yes	5 Years Imprisonment and a fine

Section	Forgery and Counterfeiting Act 1981	Points to Prove	Indictable	Max Sentence
1	<u>Forgery &amp; Counterfeiting Act 1981</u>	1. Makes a false instrument, 2. With the intention that he or another shall use it, 3. To induce somebody to accept it as genuine, 4. And by reason of so accepting it, 5. To do or not to do some act to his own or any others person's prejudice	Yes	10 Years Imprisonment .
2	<u>Copying a false instrument Forgery &amp; Counterfeiting Act 1981</u>	1. Makes a copy of an instrument, 2. Which is and which he knows or believes to be a false instrument, 3. With the intention that he or another shall use it, 4. To induce somebody to accept it as copy of a genuine instrument, 5. And by reason of so accepting it, 6. To do or not to do some act to his own or any others person's prejudice.	Yes.	10 Years Imprisonment .
3	<u>Using a False Instrument Forgery &amp; Counterfeiting Act 1981</u>	1. Uses an instrument, 2. Which is and which he knows or believes to be false, 3. With the intention, 4. Of inducing somebody to accept it as genuine, 5. And by reason of so accepting it, to do or not to do some act to his own or any others person's prejudice.	Yes.	10 Years Imprisonment .
4	<u>Using a copy of a False Instrument Forgery &amp; Counterfeiting Act 1981</u>	1. Uses a copy of an instrument, 2. Which is and which he knows or believes to be a false instrument, 3. With the intention, 4. Of inducing somebody to accept it as a copy of	Yes.	10 Years Imprisonment .

		a genuine instrument, 5. And by reason of so accepting it, to do or not to do some act to his own or any others person's prejudice.		
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5(1)	Offences relating to being in possession of money orders, share certificates passports, etc with intent <u>Forgery &amp; Counterfeiting Act 1981</u>	1. Have in his custody or under his control, 2. An instrument, covered by Section 5(5) below, 3. Which he knows or believes to be false, 4. With the intention that he or another shall use it, 5. To induce somebody to accept it as genuine, 6. And by reason of so accepting it, to do or not to do some act to his own or any others person's prejudice.	Yes.	10 Years Imprisonment .
5(2)	Offences relating to being in possession of money orders, share certificates passports, etc. <u>Forgery &amp; Counterfeiting Act 1981</u>	1. Have in his custody or under his control, 2. Without lawful authority or excuse, 3. An instrument, covered by Section 5(5) below, 4. Which he knows or believes to be false.	Yes.	2 Years Imprisonment .
5(3)	Offences relating to being in possession of machines or implements to make false instruments <u>Forgery &amp; Counterfeiting Act 1981</u>	1. Make or have in custody or under his control, 2. A machine, implement, or paper or any other material, 3. Which to his knowledge is or has been specially designed or adapted, 4. For the making of an instrument, covered by Section 5(5) below, 5. With the intention that he or another shall make an instrument covered by Section 5(5) below, 6. Which is false and that he or another shall use the instrument, 7. To induce somebody to accept it as genuine, and 8. By reason of so accepting it to do or not to do some act to his own or any others person's	Yes.	10 Years Imprisonment .

		prejudice.		
5(4)	Making or having in custody or control any such machine implements, paper or material <u>Forgery &amp; Counterfeiting Act 1981</u>	1. To make or have in custody or under his control, 2. Any such machine implement paper or material (As in Section 5(3) above), 3. Without lawful authority or excuse.	Yes.	2 Years Imprisonment
5(5)	Instruments to which section 5 applies <u>Forgery &amp; Counterfeiting Act 1981</u>	1. Money orders, 2. Postal orders, 3. UK postage stamps, 4. Inland Revenue stamps, 5. Share certificates, 6. Passports (and documents which can be used instead of passports), 7. Cheques, 8. Travellers Cheques, 9. Credit Cards, 10. Certified copies of entries of births, adoptions, deaths and marriages issue by the Registrar General, 11. Certificates relating to such entries.	Not Applicable.	Not Applicable
Section	Offences Against the Person Act 1861	Points to Prove	Indictable	Max Sentence
18	Grievous bodily harm with intent to do grievous bodily harm or to resist or prevent arrest <u>Offences Against the Person Act 1861</u>	1. Unlawfully and maliciously, 2. By any means whatsoever, 3. Wounds or causes any GBH, 4. To any person, 5. With intent to do some GBH to any person, 6. Or resist or prevent the lawful apprehension, 7. Or detention of any person.	Yes	Life Imprisonment
20	Grievous Bodily Harm	1. Unlawfully and maliciously,	Yes	5 Years

	<u>Offences Against the Person Act 1861</u>	2. Wounds or causes GBH, 3. To any person.		Imprisonment
47	Assault Occasioning actual bodily harm <u>Offences Against the Person Act 1861</u>	1. Did assault, 2. Thereby occasioning Actual Bodily Harm (ABH) .	Yes	5 Years Imprisonment

Section	Bribery Act 2010	Points to Prove	Indictable	Max Sentence
1	Bribing Another Person <u>Bribery Act 2010</u>	<p>1. A Person ("P") is guilty of an offence where,</p> <p>2. P offers, promises or gives financial or other advantage to another person, and</p> <p>3. P intends the advantage to induce a person to perform improperly a relevant function or activity, or</p> <p>4. To reward a person for improper performance of such a function or activity</p> <p>Or</p> <p>5. P offers, promises or gives financial or other advantage to another person, and</p> <p>6. P knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.</p>	Yes	10 Years Imprisonment and a fine or both
2	Offences relating to being Bribed <u>Bribery Act 2010</u>	<p>1. A Person ("R") is guilty of an offence if any of the following cases applies.</p> <p>2. Case 1 is where R requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly (whether by R or another person).</p> <p>3. Case 2 is where-</p> <p>(a) R requests, agrees to receive or accepts a financial or other advantage, and</p> <p>(b) The request, agreement or acceptance itself constitutes the improper performance by R of a relevant function or activity.</p> <p>4. Case 3 is where R requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance (whether</p>	Yes	10 Years Imprisonment and a fine or both

		by R or another person) of a relevant function or activity.		
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		Case 4 is where, in anticipation of or in consequence of R requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly - By R, or by another person at R's request or with R's assent or acquiescence.		
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### 3. Postal Services Act 2000 Offences

**3.1 Section 83 Interference with Mail - Postal Operators.** Section 83 makes it an offence for a person engaged in the business of a postal operator, contrary to their duty and without reasonable excuse, to intentionally delay or open postal packets, or a mail bag in course of transmission by post. This section of the Postal Services Act 2000 will be the one most used to prosecute wrongdoing by Royal Mail Employees or Agents. In order to prosecute offenders the following matters must be proved;

**3.1.1** The person must be **engaged in the business of a postal operator.**

**3.1.2 Contrary to their duty.** Some duties involve employees opening mail for example at the National Returns Centre (NRC) Belfast and occasionally delaying mail such as not delivering to unsafe addresses. This point therefore protects a person who is acting in accordance with his/her duty from committing a criminal offence.

**3.1.3 Without Reasonable Excuse.** The Investigator must prove that the suspect did **not** have a reasonable excuse to open or delay postal packets.

**3.1.4 Intentionally delays or opens.** In the case of "**delay**" it must be demonstrated that the delay was caused by a deliberate act or a deliberate omission on the part of the offender. In other words, accidental mishandling will not suffice. In cases of "**opening**" it must be shown that the offender physically opened items although a slight or partial opening will suffice. It is also worthy of note that neither opening nor delay require any dishonesty, they only require intent.

**3.1.5 Postal Packet in course of transmission by Post.** Reasonable inference that an item was in course of transmission by post can be taken if we can identify the sender who confirms the item was posted or the addressee who confirms non receipt.

**3.1.6 Intentionally Opening Mailbags.** This offence can also be committed if a person opens or delays a mail bag (rather than a postal packet) contrary to their duty or without reasonable excuse.

**3.1.7 Maximum sentence.** On indictment 2 years imprisonment or a fine or both.

### 3.2 Section 84 Interfering with the Mail - General

**3.2.1 Section 84(1)** provides for it to be an offence if a person intentionally delays or opens postal packets whilst in the course of transmission by post without a reasonable excuse.

**3.2.2 Section 84(3)** makes it an offence for a person intending to act to a person's detriment and without reasonable excuse, to open a postal packet which he/she knows or suspects has been incorrectly delivered to him/her.

**3.2.3 Maximum Sentence.** This is triable only summarily, the maximum sentence being six months imprisonment or a fine or both.

**3.3 Section 85 Prohibition on Sending Certain Articles by Post.** Section 85 sets out criminal offences of sending postal packets by post which contain any;

**3.3.1** Articles or creatures or anything likely to injure other postal packets in the course of transmission by post or any person engaged in the business of a postal operator. This does not apply where the postal operator has given general or specific permission for anything to be enclosed in a postal packet, or

**3.3.2** Indecent or Obscene material, or

**3.3.3** Packet, which has on the cover any words, marks or designs which are of an indecent or obscene character.

**3.3.4** The meaning of indecent or obscene in this section is shocking or lewd, as stated in the case law that the determination of indecency and obscenity is a matter for the judge/jury without assistance from persons who might have views on the matter. It is clear that **the views of the individual offender and addressee are not material.**

**3.3.5** It must be proved that the packet was or had been in the post

**3.3.6 Maximum Sentence.** The maximum sentence on indictment is 12 months imprisonment or a fine or both.

**3.4 Section 86 Prohibition on affixing advertisements on certain letterboxes etc.** This section contains criminal offences in relation to the fixing of advertisements, documents, boards or things on to post offices, post boxes or other property belonging to or used by a Universal Service Provider (USP) in connection with the provision of a universal postal service and other damage or disfigurement to such property.

**3.4.1 Universal Postal Service Letter Box** means any box or receptacle provided by a USP for the purpose of receiving postal packets, or any class of postal packets, for onwards transmission in connection with the provision of a universal postal service, and.

**3.4.2 Universal Postal Service Post Office** includes any house, building, room, vehicle or place used for the provision of any postal services in connection with the provision of a universal postal service or a part of such a service.

**3.4.3 Maximum Sentence** Is a level 3 fine after being tried - summarily only

**3.5 Section 87 Prohibition on misleading descriptions.** Section 87 contains criminal offences intended to prohibit a person unless he/she has the authority of USP from:

- 3.5.1 Maintaining a letterbox or post office and placing on them marks, words or letters with the purpose of deceiving members of the public into believing that a postbox or post office is operated by as USP, or.
- 3.5.2 Using words, letters or marks which signify or imply that a ship, vehicle, aircraft or premises are used by a USP to collect, receive, sort, deliver or convey postal packets in connection with the provision of a universal postal service, or
- 3.5.3 Using words, letters or marks which imply that that person is authorised by a USP to collect, receive, sort, deliver or convey postal packets in connection with the provision of a universal postal service.
- 3.5.4 **Maximum sentence.** Is a level 3 fine after being tried - summarily only.

**3.6 Section 88 - Obstruction of business of Universal Service Providers.** This Section sets out criminal offences in relation to;

- 3.6.1 The obstruction, without reasonable excuse, of persons engaged in the business of USP in the execution of their duty in connection with the provision of a universal postal service.
- 3.6.2 The obstruction, without reasonable excuse, of the business of a USP while in any USP post office or related premises, and
- 3.6.3 Failing, without reasonable excuse, to leave a USP post office or related premises when asked to do so by a person engaged in the business of a USP on the basis that they suspect the person is obstructing their business.
- 3.6.4 A Constable on demand shall remove from the premises a person who is reasonably suspected of committing an offence under this section.
- 3.6.5 **Maximum Sentence.** Is a level 2 fine after being tried - summarily only.

**3.7 Postal Services Act 2000 Definitions (Section 125)**

- 3.7.1 **Course of Transmission by Post.** A postal packet shall be taken to be in the course of transmission by post from the time of its being delivered to any post office or post office letter box to the time of its being delivered to the addressee.
- 3.7.2 **Delivery to a Post Office.** Delivery of a postal packet of any description to a letter carrier or other person authorised to receive postal packets of that description for the post or to a person engaged in the business of a postal operator to be dealt with in the course of that business shall be a delivery to a post office.
- 3.7.3 **Delivery to the Address.** The delivery of a postal packet is completed when it is delivered to;
  - a. The premises to which it was addressed or redirected, unless the address is a post office from which they are to be collected, or

- b. Any box or receptacle to which the occupier of those premises has agreed that postal packets addressed to persons at those premises may be delivered, or
- c. It to the addressee's agent or to any other person considered to be authorised to receive the packet.

- 3.7.4 **Post Office** includes any house, building, room, vehicle or place used for the provision of any postal services.
- 3.7.5 **Post Office Letter Box** includes any pillar box, wall box, or other box or receptacle provided by a postal operator for the purpose of receiving postal packets, or any class of postal packets, for onwards transmission by post.
- 3.7.6 **Postal Operator** means a person who provides the service of conveying postal packets from one place to another by post or any of the incidental services of receiving, collecting, sorting and delivering such packets.
- 3.7.7 **Postal Packet** means a letter, parcel, packet or other article transmissible by post.
- 3.7.8 **Postal Services** means the service of conveying postal packets from one place to another by post, the incidental services of receiving, collecting, sorting and delivering such packets and any other service which relates to any of those services and is provided in conjunction with any of them.

#### 4. Post Office Act 1953 Points to Prove.

4.1 The Postal Services Act 2000 came in to effect on the 26 March 2001 and replaced the Post Office Act 1953. As such any cases of delaying or opening the mail since that date should be investigated under that Act. However should Investigators recover mail which is postmarked or identified as being opened or delayed before enactment of the Postal Service Act 2000 they should ensure that they cover the points to prove for Post Office Act 1953 offences, which are detailed below.

Section	Post Office Act 1953	Points to Prove	Indictable	Max Sentence
57	Secreting Postal Packets <u>Post Office Act 1953</u>	1. Being a person engaged in the business of the Post Office, 2. Secretes, 3. Postal packet(s) , 4. In course of transmission by post.	Yes.	7 Years Imprisonment.
58(1)	Wilful Delay <u>Post Office Act 1953</u>	1. Being a person engaged in the business of the Post Office, 2. Contrary to your duty wilfully detained/delayed, 3. Postal packet(s) , 4. In course of transmission by post.	Yes.	2 Years Imprisonment.
58(1)	Opening Postal Packets <u>Post Office Act 1953</u>	1. Being a person engaged in the business of the Post Office, 2. Contrary to your duty opened, 3. Postal packet(s) , 4. In course of transmission by post.	58(1)	2 Years Imprisonment.

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## Glossary

Abbreviation or Term	Meaning
<b>P&amp;S</b>	Procedures and Standards
<b>GBH</b>	Grievous Bodily Harm
<b>ABH</b>	Actual Bodily Harm
<b>USP</b>	Universal Service Provider

## Document Summary

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