



GUYANA

ACT NO. 27 of 1990

TELECOMMUNICATIONS ACT 1990

I assent,

H. D. HOYTE
President
1990-12-07

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AN ACT to make provision for the regulation of the providing of certain telecommunication services and for matters connected therewith.

Enacted by the Parliament of Guyana:-

A.D. 1990

PART I

PRELIMINARY

1.(1) This Act may be cited as the Telecommunications Act 1990 and shall be deemed to have come into operation on the 1st October 1990.

Short title, commencement and application.

(2) This Act shall not apply in relation to radio or television broadcasting services, not being cable programme services, provided by any broadcasting agency.

2.(1) In this Act —

Interpretation.

(a) “act”, in relation to any person, includes any omission to do an act which he is under a duty to do and “done” shall be construed accordingly;

(b) “appointed day” means the date on which this Act comes into operation;

(c) “broadcasting agency” means a person licensed under the Post and Telegraph Act or any other written law to broadcast programmes for general reception;

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(d) “business” includes a trade, profession or employment and includes any such activity carried on by a body of persons, whether corporate or unincorporate;

(e) “Code” means the Telecommunications Code established under section 10;

(f) “commercial activities connected with telecommunications” means any of the following, that is to say, the provision of telecommunication services, the supply or export of telecommunication apparatus and the production or acquisition of such apparatus for supply or export;

(g) “contravention” —

(i) in relation to a final or provisional order, includes any failure to comply with it;

- (ii) in relation to any condition of a licence, includes any failure to comply with that condition;
- (h) "Court" means the High Court;
- (i) "Director" means the Director of Telecommunications referred to in section 3;
- (j) "directory information service" means a service consisting in the provision, by means of a telecommunication system, of directory information for the purpose of facilitating the use of a service falling within paragraph (v) and provided by means of that system;
- (k) "disabled person" means any person who is blind, deaf or dumb or who is substantially and permanently handicapped by illness, injury, congenital deformity or any other disability;
- (l) "final order" means an order, under section 13, other than a provisional order;
- (m) "international transit service" means a telecommunication service consisting in the conveyance of sounds, visual images or signals which have been conveyed from, and are to be conveyed to, places outside Guyana;
- (n) "licensee" means a person to whom a licence has been granted under this Act and such licence has not expired or has not been suspended or revoked;
- (o) "modification" includes addition, alteration and omission;
- (p) "provisional order" means an order under section 13 which, if not previously confirmed under that section shall cease to have effect at the end of such period (not exceeding three months) as is determined by or under the order;
- (q) "public telecommunications operator" means a person authorised by a licence to which section 8 applies to run a public telecommunication system;
- (r) "public telecommunication system" means a telecommunication system the running of which is authorised by a licence to which section 8 applies and designated as such by the Minister under section 9;

- (s) “station for wireless telegraphy” includes the wireless telegraphy apparatus of a vessel or aircraft;
- (t) “telecommunication apparatus” means apparatus constructed or adapted for use —
 - (i) in transmitting or receiving anything falling within paragraph (v)(i) to (iv), which is to be or has been conveyed by means of a telecommunication system; or
 - (ii) in conveying, for the purposes of such a system, anything falling within paragraph (v)(i) to (iv);
- (u) “telecommunication service” means any of the following, that is to say —
 - (i) a service consisting in the conveyance by means of a telecommunication system of anything falling within paragraph (v)(i) to (iv);
 - (ii) a directory information service;
 - (iii) a service consisting in the installation, maintenance, adjustment, repair, alteration, moving, removal or replacement of apparatus which is or is to be connected to a telecommunication system;
- (v) “telecommunication system” means a system for the conveyance, through the agency of electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy, of —
 - (i) speech, music and other sounds;
 - (ii) visual images;
 - (iii) signals serving for the impartation (whether as between persons and persons, things and things or persons and things) of any matter otherwise than in the form of sounds or visual images; or
 - (iv) signals serving for the actuation or control of machinery or apparatus;
- (w) “vessel” means a vessel of any description used in navigation;
- (x) “wireless telegraphy” means the emitting or receiving, over paths which are not provided by any material

substance constructed or arranged for that purpose, of electro-magnetic energy, being energy which either

- (i) serves for the conveying of messages, sound or visual images (whether the messages, sound or images are actually received by any person or not), or for the actuation or control of machinery or apparatus; or
- (ii) is used in connection with the determination of position, bearing, or distance, or for the gaining of information as to the presence, absence, position or motion of any object or of any objects of any class,

and references to stations for wireless telegraphy and apparatus for wireless telegraphy or wireless telegraphy apparatus shall be construed as references to stations and apparatus for the emitting or receiving as aforesaid of such electro-magnetic energy as aforesaid:

Provided that where —

- (i) a station or apparatus for wireless telegraphy cannot lawfully be used without a wireless telegraphy licence or could not lawfully be used without such a licence but for the provisions of any written law;
- (ii) any such electro-magnetic energy as aforesaid, which is received by that station or apparatus, serves for the conveying of messages, sound or visual images; and
- (iii) any apparatus is electrically coupled with that station or apparatus for the purpose of enabling any person to receive any of the said messages, sound or visual images,

the apparatus so coupled shall itself be deemed for the purposes of this Act to be apparatus for wireless telegraphy.

(2) For the purposes of this Act any telecommunication apparatus which is situated in Guyana and —

- (a) is connected to but not comprised in a telecommunication system; or
- (b) is connected to and comprised in a telecommunication system which extends beyond Guyana, shall be regarded as a telecommunication system and any

person who controls the apparatus shall be regarded as running the system.

(3) Subject to subsection (5), a telecommunication system shall be deemed to be connected to any other telecommunication system for the purposes of this Act if it is being used, or is installed or connected for use, in conveying anything falling within subsection (i)(v)(i) to (iv) which is to be or has been conveyed by means of that other system.

(4) Subject to subsection (5), any apparatus shall be deemed to be connected to a telecommunication system for the purposes of this Act if it is being used, or is installed or connected for use—

- (a) in transmitting or receiving anything falling within subsection (1)(v)(i) to (iv) which is to be or has been conveyed by means of that system; or
- (b) in conveying, for the purposes of that system, anything falling within subsection (1)(v)(i) to (iv),

and references in this subsection to anything falling within subsection (1)(v)(i) to (iv) shall include references to energy of any kind mentioned in that subsection.

(5) The connection to a telecommunication system of any other telecommunication system or any apparatus shall not be regarded as a connection for the purposes of this Act if that other telecommunication system or that apparatus would not be so connected but for its connection to another telecommunication system.

(6) In this section, except in subsection (1)(v), “convey” includes transmit, switch and receive.

3.(1) There shall be a Director of Telecommunications, whose office shall be a public office.

Director of Telecommunications.

(2) The Director shall be provided with such staff as may be required for the performance of his functions under this Act.

(3) The Director shall have and exercise the functions conferred on him by this Act.

4.(1) The Minister and the Director shall each exercise the functions conferred on him by this Act in the manner best calculated

Exercise of functions by the Minister and Director.

- (a) to secure that there are provided throughout Guyana, save in so far as the provision thereof is impracticable or not reasonably practicable, such telephone and telegraph services as satisfy all reason-

able demands for them including, in particular, emergency services, public call box services, directory information services, maritime services and services in rural areas; and

- (b) without prejudice to the generality of paragraph (a), to secure that any person by whom any such services fall to be provided is able to finance the provision of all those services.

(2) Subject to subsection (1), the Minister and the Director shall each have a duty to exercise the functions conferred on him in the manner which he considers is best calculated —

- (a) to promote the interests of consumers, purchasers and other users in Guyana (including, in particular, those who are disabled or of pensionable age) in respect of the prices charged for, and the quality and variety of, telecommunication services provided and telecommunication apparatus supplied;
- (b) subject to any monopoly or exclusive rights or licences granted by the Minister to any person under this Act, to maintain and promote effective competition between persons engaged in commercial activities connected with telecommunications in Guyana;
- (c) to promote efficiency and economy on the part of persons engaged in commercial activities connected with telecommunications in Guyana;
- (d) to promote research into and the development and use of new techniques by persons referred to in paragraph (c);
- (e) to encourage major users of telecommunication services whose places of business are outside Guyana to establish places of business in Guyana;
- (f) to promote the provision of competitive international transit services by persons providing telecommunication services in Guyana;
- (g) to enable persons providing telecommunications services in Guyana to compete effectively in the provision of such services outside Guyana; and
- (h) to enable persons producing telecommunication apparatus in Guyana to compete effectively in the supply of such apparatus both in and outside Guyana.

(3) Subsections (1) and (2) shall not apply in relation to anything done by the Minister in the interests of national security or relations with the government of a country or territory outside

Guyana, and subsection (2) shall not apply in relation to anything done in the exercise of functions assigned by section 10(8) or (11) or 41.

(4) Nothing in this Act shall be deemed to confer on the Minister or the Director any functions relating to the licensing of any person to broadcast programmes for general reception.

PART II

PROVISION OF TELECOMMUNICATION SERVICES

Licensing, etc. of Telecommunication Systems

5.(1) Subject to the provisions of this section and section 6, a person who runs a telecommunication system within Guyana shall be guilty of an offence unless he is authorised to run the system by a licence granted under section 7.

Prohibition on running unlicensed system.

(2) Subject to the provisions of this section, a person who runs within Guyana a telecommunication system which he is authorised to run by a licence granted under section 7 shall be guilty of an offence if —

- (a) there is connected to the system —
 - (i) any other telecommunication system; or
 - (ii) any apparatus,
 - which is not authorised by the licence to be so connected; or
- (b) there are provided by means of the system any telecommunication services which are not authorised by the licence to be so provided.

(3) A person guilty of an offence under this section shall be liable —

- (a) on summary conviction, to a fine of five thousand dollars;
- (b) on conviction on indictment, to a fine of ten thousand dollars and imprisonment for one year.

(4) Where the commission by any person of an offence under this section is due to the act or default of some other person, that other person shall also be guilty of the same offence and punishable accordingly; and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.

(5) In any proceedings for an offence under this section it shall, subject to subsection (6), be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(6) Where the defence provided by subsection (5) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

(7) No proceedings shall be instituted in respect of an offence under this section except by or on behalf of the Director.

Exceptions to section 5.

6.(1) Section 5(1) is not contravened by the running by a broadcasting agency of a telecommunication system in the case of which every conveyance made by it is either —

- (a) a transmission, by wireless telegraphy, from a transmitting station for general reception of sounds, visual images or such signals as are mentioned in section 2(1)(v)(iii); or
- (b) conveyance within a single set of premises of sounds, visual images or such signals which are to be or have been so transmitted.

(2) Section 5(1) is not contravened by —

- (a) the running of a telecommunication system in the case of which the only agency involved in the conveyance of things thereby conveyed is light and the things thereby conveyed are so conveyed as to be capable of being received or perceived by the eye and without more;
- (b) the running by a person of a telecommunication system which is not connected to another telecommunication system and in the case of which all the apparatus comprised therein is situated either —
 - (i) on a single set of premises in single occupation; or
 - (ii) in a vehicle, vessel, aircraft or hovercraft or in two or more vehicles, vessels, aircraft or hovercraft mechanically coupled together; or
- (c) the running by a single individual of a telecommunication system which is not connected to another telecommunication system and in the case of which —

- (i) all the apparatus comprised therein is under his control; and
- (ii) everything conveyed by it that falls within section 2(1)(v)(i) to (iv) is conveyed solely for domestic purposes of his, and references in paragraphs (b) and (c) to another telecommunication system do not include references to such a system as is mentioned in subsection (1) (whether run by a broadcasting agency or by any other person).

(3) In the case of a business carried on by a person, section 5(1) is not contravened by the running, for the purposes of that business, of a telecommunication system which is not connected to another telecommunication system and with respect to which the conditions specified in subsection (4) are satisfied.

(4) The conditions referred to in subsection (3) are —

- (a) that no person except the person carrying on the business is concerned in the control of the apparatus comprised in the system;
- (b) that nothing falling within section 2(1)(v)(i) to (iv) is conveyed by the system by way of rendering a service to another;
- (c) that, in so far as sounds or visual images are conveyed by the system, they are not conveyed for the purpose of their being heard or seen by persons other than the person carrying on the business or any employees of his engaged in the conduct thereof;
- (d) that in so far as such signals as are mentioned in section 2(1)(v)(iii) are conveyed by the system, they are not conveyed for the purpose of imparting matter otherwise than to the person carrying on the business, any employee of his engaged in the conduct thereof or things used in the course of the business and controlled by him; and
- (e) that, in so far as such signals as are mentioned in section 2(1)(v)(iv) are conveyed by the system, they are not conveyed for the purpose of actuating or controlling machinery or apparatus used otherwise than in the course of the business.

7.(1) A licence may be granted —

- (a) by the Minister after consultation with the Director; or

- (b) with the consent of, or in accordance with a general authorisation given by the Minister, by the Director for the running of any such telecommunication system as is specified in the licence or is of a description so specified.

(2) A licence granted under this section shall be in writing and, unless previously revoked in accordance with any term in that behalf contained in the licence, shall continue in force for such period as may be specified in or determined by or under the licence.

(3) A licence granted under this section may be granted either to all persons, to persons of a class or to a particular person.

(4) A licence granted under this section may be an exclusive licence in respect of the telecommunication system specified or described therein and may allow the licensee to operate throughout Guyana or such part of Guyana as may be specified therein.

(5) A licence granted under this section may authorise —

- (a) the connection to any telecommunication system to which the licence relates of —
 - (i) any other telecommunication system specified in the licence or of a description so specified; and
 - (ii) any apparatus so specified or of a description so specified; and
- (b) the provision by means of any telecommunication system to which the licence relates of any telecommunication services specified in the licence or of a description so specified.

(6) A licence granted under this section may include —

- (a) such conditions (whether relating to the running of a telecommunication system to which the licence relates or otherwise) as appear to the Minister or the Director to be requisite or expedient having regard to the functions imposed on him by section 4;
- (b) conditions requiring the rendering to the Minister of a payment on the grant of the licence or payments during the currency of the licence or both of such amount or amounts as may be determined by or under the licence; and
- (c) conditions requiring any person who is authorised by the licence to run a telecommunication system to furnish to the Director, in such manner and at such

times as he may reasonably require, such documents, accounts, estimates, returns or other information as he may require for the purpose of exercising the functions assigned or transferred to him by or under this Act.

(7) Without prejudice to the generality of subsection (6)(a), conditions included by virtue of that provision in a licence granted under this section to a particular person may require that person —

- (a) to comply with any direction given by the Director as to such matters as are specified in the licence or are of a description so specified;
- (b) except in so far as the Director consents to his doing or not doing them, not to do or to do such things as are specified in the licence or are of a description so specified; and
- (c) to refer for determination by the Director such questions arising under the licence as are specified in the licence or are of a description so specified.

(8) A licence granted under this section otherwise than to a particular person shall be published in such manner as the Minister or the Director considers appropriate for bringing it to the attention of the persons for whose benefit it will ensure.

(9) A copy of every licence granted under this section by the Minister shall be sent to the Director.

(10) Neither the requirement to consult with the Director imposed by subsection (1)(a) nor section 8(5) shall apply to the granting by the Minister of a licence or licences which require to be granted in pursuance of any agreement entered into between the Government and any person.

(11) Where a licence granted under this section to a particular person includes a provision requiring that person to run any telecommunication system to which the licence relates through the agency of some other person, that other person, as well as the first-mentioned person, shall be taken for the purposes of this section and the following provisions of this Act to be authorised by that licence to run that system.

8.(1) This section applies to any licence granted under section 7 to a particular person which includes conditions requiring that person —

- (a) to provide such telecommunication services as are specified in the licence or are of a description so specified;

Special provisions
applicable to cer-
tain licences.

- (b) to connect to any telecommunication system to which the licence relates, or permit the connection to any such system of, such other telecommunication systems and such apparatus as are specified in the licence or are of description so specified;
- (c) to permit the provision by means of any telecommunication system to which the licence relates of such services as are specified in the licence or are of a description so specified;
- (d) not to show undue preference to, or to exercise undue discrimination against, particular person or persons of any class or description (including, in particular, persons in rural areas) as respects any service provided, connection made or permission given in pursuance of such conditions as are mentioned in the foregoing paragraphs (whether in respect of the charges or other terms or conditions applied or otherwise); and
- (e) to publish, in such manner and at such times as are specified in the licence, a notice specifying, or specifying the method that is to be adopted for determining, the charges and other terms and conditions that are to be applicable to such services so provided, such connections so made and such permissions so given as are specified in the licence or are of a description so specified.

(2) Where a licence granted under section 7 to a particular person includes a condition requiring that person to provide such directory information services to which this subsection applies as are specified in the licence or are of a description so specified, subsection (1) shall have effect as if the conditions there mentioned included a condition requiring that person to provide without charge for subscribers who are blind or otherwise disabled such directory information services to which this subsection applies as are appropriate to meet the needs of those subscribers and are specified in the licence or are of a description so specified

(3) Subsection (2) applies to any directory information service which is provided for the purpose of facilitating the use of a voice telephony service and in that subsection "blind or otherwise disabled" means so blind or otherwise disabled as to be unable to use a telephone directory.

(4) It is immaterial for the purpose of subsections (1) and (2) whether the person to whom the licence is granted is required to refer for determination by the Director such questions arising under the conditions mentioned in those subsections as are specified in the licence or are of a description so specified.

(5) Before granting a licence to which this section applies, the Minister or the Director shall give notice —

- (a) stating that he proposes to grant the licence and setting out its effect;
- (b) stating the reasons why he proposes to grant the licence; and
- (c) specifying the time (not being less than twenty-eight days from the date of publication of the notice) within which representations or objections with respect to the proposed licence may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(6) A notice under subsection (5) shall be given by publication in such manner as the Minister or the Director considers appropriate for bringing the matters to which the notice relates to the attention of persons likely to be affected by them.

(7) Subsections (5) and (6) shall not apply to the grant of a licence to the Guyana Telecommunication Corporation or to any corporate body to which the business and undertaking of the Guyana Telecommunication Corporation is transferred.

9. The Minister may by order, which shall be subject to negative resolution of the National Assembly, designate as a public telecommunication system any telecommunication system the running of which is authorised by a licence, granted under section 7, to which section 8 applies.

Public Telecommunication system.

Telecommunications Code

10.(1) The Minister may by order establish a code to be known as the Telecommunications Code dealing with the rights and obligations of a licensee and the rights and disabilities of other persons who may be affected by the exercise of any rights in respect of any works of the licensee.

Establishment of Telecommunications Code.

(2) Without prejudice to the generality of the provisions of subsection (1), the Code may, in particular, make provision for all or any of the following matters —

- (a) the rights of a licensee to execute works on land owned, possessed or occupied by another person, or to keep telecommunication apparatus installed on, under or over such land, or to enter such land to inspect any apparatus kept so installed;
- (b) the rights of the owner, lessee or occupier of any land referred to in paragraph (a);

- (c) the terms and conditions (including payment of compensation) relating to the exercise of the rights referred to in paragraphs (a) and (b) and the authority and the procedure to decide the same where the persons concerned fail to arrive at an agreement relating to the exercise of any of such rights;
- (d) the rights of a subscriber or potential subscriber in relation to the exercise by a licensee, or any person who is the owner, lessee or occupier of any land, of any rights referred to in the preceding paragraphs;
- (e) the rights of a licensee to install or keep, or inspect, maintain, adjust or repair, telecommunication apparatus over, along, across or under streets, or execute requisite or incidental works in respect thereof, including for those purposes —
 - (i) breaking up or opening a street;
 - (ii) tunnelling or boring under a street; and
 - (iii) breaking up or opening a sewer, drain or tunnel;
- (f) the rights of the licensee over tidal waters;
- (g) the rights of a licensee in respect of the use of a conduit in the possession or control of any other person or authority;
- (h) the rights of a licensee in respect of the lopping of trees overhanging any street;
- (i) the rights of any person proposing to execute or executing any works which involve a temporary or permanent alteration of any telecommunication apparatus kept installed on, over or under any land for the purpose of the licensee's system;
- (j) the application of the Code to any existing telecommunication system or telecommunication services;
- (k) all other matters incidental to, or connected with, any matter referred to in this section.

(3) References in subsection (2) to the rights of any person shall be construed as including references to obligations related to, or arising from or in respect of, the exercise of those rights.

(4) An order under subsection (1) shall be subject to negative resolution of the National Assembly.

(5) Subject to the following subsection of this section, the Code shall have effect —

- (a) where it is applied to a particular person by a licence granted by the Minister under section 7 authorising that person to run a telecommunication system; and
- (b) where a Minister is running or is proposing to run a telecommunication system,

in the same manner as if the Code were a part of this Act.

(6) The Code shall not be applied to a person authorised by a licence under section 7 to run a telecommunication system unless

- (a) that licence is a licence to which section 8 applies; or
- (b) it appears to the Minister —
 - (i) that the running of the system will benefit the public; and
 - (ii) that it is not practicable for the system to be run without the application of the Code to that person.

(7) 'The Minister may apply the Code to any person by a licence in relation to the whole of Guyana or in relation to any part or locality of Guyana.

(8) Where the Code is applied to any person by a licence under section 7 it shall have effect subject to such exceptions and conditions as may be included in the licence for the purpose of qualifying the rights exercisable by that person by virtue of the Code.

(9) Without prejudice to the generality of subsection (8), the exceptions and conditions therein mentioned shall include such exceptions and conditions as appear to the Minister to be requisite or expedient for the purpose of securing —

- (a) that the physical environment is protected and, in particular, that the natural beauty and amenity of the countryside is conserved;
- (b) that there is no greater damage to streets or interference with traffic than is reasonably necessary; or
- (c) that funds are available for meeting any liabilities which may arise from the exercise of rights conferred by or in accordance with the Code.

and any condition falling within this subsection may impose on the person to whom the Code is applied a requirement to comply with directions given in a manner specified in the condition and by a person so specified or of a description so specified.

(10) A licence under section 7 which applies the Code to any person in relation to any part or locality of Guyana shall include a condition requiring that person to cause copies of —

- (a) the exceptions and conditions subject to which the Code has effect as so applied; and
- (b) every direction given in a manner specified in any such condition by a person so specified or of a description so specified,

to be open for inspection by members of the public free of charge at such premises in that part or locality as are specified in the licence or are of a description so specified.

(11) Where the Minister has granted a licence under section 7 which applies the Code to a particular person in relation to any part or locality of Guyana, he may —

- (a) with the consent of that person; or
- (b) if it appears to him requisite or expedient to do so for the purpose mentioned in subsection (9),

modify the exceptions and conditions subject to which the Code has effect as so applied.

Provisions supplementary to section 10.

11.(1) In any case where it appears to the Minister that it is expedient for transitional provisions to be made, in connection with the Code ceasing to apply to any person by reason of the expiry, suspension or revocation of a person's licence granted under section 7, the Minister may, by order, make such transitional provisions as he thinks fit.

(2) Without prejudice to the generality of subsection (1), the transitional provisions made under that subsection may —

- (a) impose obligations, on a person to whom the Code has ceased to apply as mentioned in subsection (1), to remove anything installed in pursuance of any right conferred by or in accordance with the Code, to restore land to its condition before anything was done in pursuance of any such right or to pay the expenses of any such removal or restoration;
- (b) provide for those obligations to be enforceable in such manner (otherwise than by criminal penalties) and by such persons as may be specified in the order;

- (c) authorise the retention of apparatus on any land pending the grant of a licence under section 7 authorising the running by any person of a telecommunication system for the purposes of which that apparatus may be used; and
- (d) provide for the purposes of any provision contained in the aforesaid order by virtue of paragraph (a), (b) or (c) for such questions arising under the order as are specified in the order, or are of a description so specified, to be referred to, and determined by, the Director.

Modification of Licences

12.(1) Subject to the following provisions of this section, the Director may modify the conditions of a licence granted under section 7.

Modification of
licence conditions.

(2) Before making any modifications in the conditions of a licence under this section, the Director shall give notice —

- (a) stating that he proposes to make the modifications and setting out their effect;
- (b) stating the reasons why he proposes to make the modifications; and
- (c) specifying the time (not being less than twenty-eight days from the date of the publication of the notice) within which representations or objections with respect to the proposed modifications may be made,

and shall consider any representations or objections, which are duly made and not withdrawn, by or on behalf of the licensee or any other person likely to be affected by the modifications.

(3) A notice under subsection (2) shall be given by publication in such manner as the Director considers appropriate for the purposes of bringing the matters to which the notice relates to the attention of persons likely to be affected by them and, in the case of a licence granted to a particular person, by sending a copy of the notice to that person.

(4) The Director shall also send a copy of any notice under subsection (2) to the Minister; and if, within the time specified in the notice, the Minister directs the Director not to make any modification, the Director shall comply with the direction.

(5) The Minister shall not give a direction under subsection (4) unless it appears to him to be requisite or expedient to do so in the interests of national security or relations with the government of a country or territory outside Guyana.

(6) References in this section to modifications of the conditions of a licence do not include references to modifications of conditions relating to the application of the Code.

Enforcement of Licences

Securing compliance with licence conditions.

13.(1) Subject to subsections (2) and (5) and section 14, where the Director is satisfied that a person who is authorised by a licence granted under section 7 to run a telecommunication system (in this Act referred to as a "telecommunications operator") is contravening, or has contravened and is likely again to contravene, any of the provisions of this Act or the conditions of his licence, the Director shall by a final order make such provision as is requisite for the purpose of securing compliance with that provision or condition.

- (2) Subject to subsection (5), where it appears to the Director —
- (a) that a telecommunications operator is contravening, or has contravened and is likely again to contravene, any of the provisions of this Act or the conditions of his licence; and
 - (b) that it is requisite that a provisional order be made,

the Director shall (instead of taking steps towards the making of a final order) by a provisional order make such provision as appears to him requisite for the purpose of securing compliance with that provision or condition.

(3) In determining for the purposes of subsection (2)(b) whether it is requisite that a provisional order be made, the Director shall have regard, in particular, to the extent to which any person is likely to sustain loss or damage in consequence of anything which, in contravention of the relevant provision or condition, is likely to be done, or omitted to be done, before a final order may be made.

- (4) Subject to subsection (5) and section 14, the Director shall confirm a provisional order with or without modifications if —
- (a) he is satisfied that the telecommunications operator is contravening, or has contravened and is likely to contravene, any of the provisions of this Act or the conditions of his licence; and
 - (b) the provision made by the order (with any modifications) is requisite for the purpose of securing compliance with the provision or condition.

(5) The duties imposed by subsections (1) to (4) shall not apply where the Director gives notice that he is satisfied —

- (a) that the duties imposed on him by section 4 preclude the making of a final or provisional order or, as the case may be, the confirmation of the provisional order; or
- (b) that the contraventions or apprehended contraventions are of a trivial nature,

and a notice under this subsection shall be given by publication in such manner as the Director considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them and by sending a copy of the notice to the telecommunications operator.

(6) Subject to subsection (7)(c), a provisional order shall, unless previously confirmed under this section, cease to have effect at the end of such period (not exceeding three months) as is determined by or under the order.

(7) A final or provisional order —

- (a) shall require the telecommunications operator (according to the circumstances of the case) to do, or not to do, such things as are specified in the order or are of a description so specified;
- (b) shall take effect at such time, being the earliest practicable time, as is determined by or under the order; and
- (c) may be revoked at any time by the Director.

(8) References in this section to conditions of a licence do not include references to conditions relating to the application of the Code.

14.(1) Before making a final order or confirming a provisional order, the Director shall give notice as provided in subsection (5) —

Procedural requirements.

- (a) stating that he proposes to make or confirm the order and setting out its effect;
- (b) stating the relevant provision of this Act or the condition of the licence and the acts or omissions which, in his opinion, constitute or would constitute contravention of it; and
- (c) specifying the time (not being less than twenty-eight days from the date of publication of the notice) within which representations or objections to the proposed order or confirmation of the order may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(2) The Director shall not make a final order, or confirm a provisional order, with modifications except with the consent of the telecommunications operator or after complying with the requirements of subsection (3).

(3) The requirements referred to in subsection (2) are that the Director shall —

- (a) give to the telecommunications operator such notice, as appears to him requisite, of his proposal to make or confirm the order with modifications;
- (b) specify the time (not being less than twenty-eight days from the date of the service of the notice) within which representations or objections to the proposed modifications may be made; and
- (c) consider any representations or objections which are duly made and not withdrawn.

(4) Before revoking a final order or a provisional order which has been confirmed, the Director shall give notice as provided in subsection (5) —

- (a) stating that he proposes to revoke the order and setting out its effect; and
- (b) specifying the time (not being less than twenty-eight days from the date of publication of the notice) within which representations or objections to the proposed revocation may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(5) A notice under subsection (1) or (4) shall be given by publication in such manner as the Director considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them and by sending a copy of the notice to the telecommunications operator.

(6) As soon as practicable after a final order is made or a provisional order is made or confirmed, the Director shall —

- (a) publish the order in such manner as he considers appropriate for the purpose of bringing the order to the attention of persons likely to be affected by it; and
- (b) serve a copy of the order on the telecommunications operator.

7 may be revoked by the Director by order served on the telecommunications operator:

Provided that no licence may be revoked under this section unless the Director has given the telecommunications operator a reasonable opportunity of being heard.

16.(1) If a telecommunications operator is aggrieved by a final or provisional order under section 13 or an order revoking a licence under section 15 and desires to question its validity on the ground that the making or confirmation of it was not within the powers of section 13 or 15 or that any of the requirements of section 14 or 15 have not been complied with in relation to it, he may within forty-two days from the date of service on him of a copy of the order make an application to the Court under this section.

Validity and effect of orders.

(2) On any such application the Court may, if satisfied that the making or confirmation of the order was not within those powers or that the interests of the telecommunications operator have been substantially prejudiced by a failure to comply with those requirements, quash the order or any provision of the order.

(3) Except as provided by this section, the validity of a final or provisional order under section 13 or an order under section 15 revoking a licence shall not be questioned by any legal proceedings whatever.

(4) No criminal proceedings shall, by virtue of the making of a final order or the making or confirmation of a provisional order, or an order revoking a licence, lie against any person on the ground that he has committed, or aided, abetted, counselled or procured the commission of, or conspired or attempted to commit, or incited others to commit, any contravention of the order.

(5) The obligation to comply with a final or provisional order is a duty owed to any person who may be affected by a contravention of it.

(6) Where a duty is owed by virtue of subsection (5) to any person —

- (a) any breach of the duty which causes that person to sustain loss or damage; and
- (b) any act which, by inducing a breach of that duty or interfering with its performance, causes that person to sustain loss or damage and which is done wholly or partly for the purpose of achieving that result,

shall be actionable at the suit or instance of that person.

(12) The Minister may by order provide for the charging of fees in respect of the exercise of any functions conferred by or under this section.

Register of approved apparatus, etc.

21.(1) The Director shall keep a register of approvals given and designations made under section 20 at such premises and in such form as he may determine.

(2) Subject to subsection (3) and to any direction given under subsection (4), the Director shall cause particulars of every such approval or designation, and of every variation or withdrawal of such an approval or designation, to be entered in the register.

(3) The Director shall not enter in the register particulars of —

- (a) any approval given or designation made by the Minister under section 20 a copy of which is not sent to the Director under subsection (11) of that section; or
- (b) any variation or withdrawal of an approval so given or a designation so made, particulars of which are not so sent.

(4) Subsections (3) to (5) of section 17 shall apply for the purposes of this section as they apply for the purposes of that section.

Approval, etc. of meters.

22.(1) Where a licence granted under section 7 includes provisions which are framed by reference to meters for the time being approved under this section for use in connection with any telecommunication system to which the licence relates, then, for the purposes of those provisions, meters may be approved for use in connection with that system —

- (a) by the Minister; or
- (b) with the consent of, or in accordance with a general authorisation given by, the Minister, by the Director.

(2) A person applying for an approval under this section may be required by the person to whom the application is made to comply with such requirements as the person to whom the application is made may think appropriate; and those requirements may include a requirement to satisfy some other person with respect to any matter.

(3) An approval under this section may apply either to a particular meter or to any meter of a description specified in the approval, and may so apply either for the purposes of a particular telecommunication system or for the purposes of any telecommunication system of a description so specified.

(4) An approval under this section may specify conditions which must be complied with if the approval is to apply, for any purpose specified in the approval, to any meter which is so specified or is of a description so specified; and any such condition may impose on the person to whom the approval is given a requirement from time to time to satisfy any person with respect to any matter.

(5) Nothing in this section shall preclude a person by whom any matter falls to be determined for the purposes of any requirement imposed in pursuance of subsection (2) or (4) above from charging any fee in respect of the carrying out of any test or other assessment made by him.

(6) Standards to which any meter of a description specified in the designation must conform if it is to be approved for use in connection with a telecommunication system so specified or of a description so specified may be designated —

- (a) by the Minister; or
- (b) with the consent of, or in accordance with a general authorisation given by, the Minister, by the Director.

and a standard so designated may apply subject to such exceptions as may be determined by or under the designation.

(7) A designation under this section may specify conditions which must be complied with if any meter of a description specified in the designation is to be regarded, for any purposes so specified, as conforming to the standard to which the designation relates.

(8) A meter shall not be approved under this section for use in connection with any telecommunication system unless either —

- (a) the meter conforms to a standard designated under this section, which applies to it for the purposes of that system; or
- (b) the Minister or the Director is satisfied that, if used in connection with that system in accordance with the approval, the meter would be sufficiently accurate and reliable.

(9) Before giving an approval under this section by virtue of subsection (8)(b) or designating a standard under this section, the Minister or the Director shall give notice —

Register of approved contractors

19.(1) The Director shall keep a register of approvals given under section 18 at such premises and in such form as he may determine.

(2) The Director shall cause particulars of every such approval, and of every variation or withdrawal of such an approval, to be entered in the register.

(3) Subsections (4) and (5) of section 17 shall apply for the purposes of this section as they apply for the purposes of that section.

Approval, etc. of apparatus.

20.(1) Where licences granted under section 7 include provisions which are framed by reference to apparatus for the time being approved under this section for connection to telecommunication systems to which the licences relate, then, for the purposes of those provisions, apparatus may be approved for connection to those systems —

- (a) by the Minister; or
- (b) with the consent of, or in accordance with a general authorisation given by, the Minister, by the Director.

(2) A person applying for an approval under this section may be required by the person to whom the application is made to comply with such requirements as the person to whom the application is made may think appropriate; and those requirements may include a requirement to satisfy some other person with respect to any matter.

(3) An approval under this section may apply either to particular apparatus or to any apparatus of a description specified in the approval, and may so apply either for the purposes of a particular telecommunication system or for the purposes of any telecommunication system of a description so specified.

(4) An approval under this section may specify conditions which must be complied with if the approval is to apply, for any purposes specified in the approval, to any apparatus which is so specified or is of a description so specified; and any such condition may impose on the person to whom the approval is given a requirement from time to time to satisfy any person with respect to any matter.

(5) Nothing in this section shall preclude a person by whom any matter falls to be determined for the purposes of any requirement imposed in pursuance of subsection (2) or (4) from charging any fee in respect of the carrying out of any test or other assessment made or to be made by him.

(6) Standards to which apparatus of a description specified in the designation must conform if it is to be approved for connection to a telecommunication system so specified or of a description so specified may be designated —

- (a) by the Minister; or
- (b) with the consent of, or in accordance with a general authorisation given by, the Minister, by the Director;

and a standard so designated may apply subject to such exceptions as may be determined by or under the designation.

(7) A designation under this section may specify conditions which must be complied with if any apparatus of a description specified in the designation is to be regarded, for any purposes so specified, as conforming to the standard to which the designation relates.

(8) Before designating a standard under this section, the Minister or the Director shall give notice —

- (a) stating that he proposes to make the designation and setting out its effect;
- (b) stating any conditions which he proposes to specify in the designation; and
- (c) specifying the time (not being less than twenty-eight days from the date of publication of the notice) within which representations or objections with respect to the proposed designation may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(9) A notice under subsection (8) shall be given by sending a copy of the notice to the person running the telecommunication system and such other persons (if any) as the Minister or the Director considers appropriate.

(10) Any power conferred by this section to give an approval or designate a standard includes power to vary or withdraw an approval given or designation made in the exercise of that power.

(11) The Minister shall send to the Director —

- (a) a copy of every approval given or designation made by him under this section; and
- (b) particulars of every variation or withdrawal of an approval so given or a designation so made,

except where it appears to the Minister requisite or expedient not to do so in the interests of national security.

(7) In any proceedings brought against any person in pursuance of subsection (6)(a), it shall be a defence for him to prove that he took all reasonable steps and exercised all due diligence to avoid contravening the order.

(8) Without prejudice to any right which any person may have by virtue of subsection (6)(a) to bring civil proceedings in respect of any contravention of a final or provisional order, compliance with any such order shall be enforceable by civil proceedings by the Director for an injunction or for any other appropriate relief.

Register of approved contractors.

17.(1) The Director shall keep a register of licences granted under section 7, and final provisional orders and orders revoking licences, at such premises and in such form as he may determine.

(2) Subject to any direction given under subsection (3), the Director shall cause to be entered in the register the provisions of—

- (a) every licence granted under section 7 and every modification or revocation of, and every direction or consent given or determination made under, such a licence; and
- (b) every final or provisional order, every revocation of such an order, every notice under section 13(5) and the revocation under section 15 of every licence.

(3) If it appears to the Minister that the entry of any provision in the register would be against the public interest or the commercial interests of any person, he may direct the Director not to enter that provision in the register.

(4) The register shall be open to public inspection during such hours, and subject to payment of such fee, as may be prescribed by the Minister by regulations.

(5) Any person may, on payment of such fee as may be prescribed by the Minister by regulations, require the Director to supply to him a copy of or extract from any part of the register, certified by the Director to be a true copy or extract.

Approvals, etc. for the Purposes of Licences

Approval, etc. of apparatus.

18.(1) Where a licence granted under section 7 includes provisions which are framed by reference to the carrying out of relevant operations by persons for the time being approved under this section, then, for the purposes of those provisions, persons may be approved under this section in relation to such operations —

- (a) by the Minister; or
- (b) with the consent of, or in accordance with a general authorisation given by, the Minister, by the Director.

(2) A person applying for an approval under this section may be required by the person to whom the application is made to comply with such requirements as the person to whom the application is made may think appropriate; and those requirements may include a requirement to satisfy some other person with respect to any matter.

(3) An approval under this section may apply either to a particular person or to persons of a description specified in the approval, and may so apply either in relation to particular relevant operations or in relation to relevant operations of a description so specified.

(4) An approval under this section may specify conditions which must be complied with if the approval is to apply, for any purpose specified in the approval, to any person who is so specified or is of a description so specified; and any such condition may impose on the person to whom the approval is given a requirement from time to time to satisfy any person with respect to any matter.

(5) Nothing in this section shall preclude a person by whom any matter falls to be determined for the purposes of any requirement imposed in pursuance of subsection (2) or (4) from charging any fee in respect of the carrying out of any test or other assessment made or to be made by him.

(6) Any power conferred by this section to give an approval includes power to vary or withdraw an approval given in exercise of that power.

(7) The Minister shall send to the Director —

- (a) a copy of every approval given by him under this section; and
- (b) particulars of every variation or withdrawal of an approval so given.

(8) The Minister may by regulations provide for the charging of fees in respect of the exercise of any functions conferred by or under this section.

(9) In this section “relevant operations” means the installation, maintenance, adjustment, repair, alteration, moving, removal or replacement of apparatus which is or is to be connected to any telecommunication system to which a licence under section 7 relates.

- (a) stating that he proposes to give the approval or make the designation and setting out its effect.
- (b) stating any conditions which he proposes to specify in the approval or designation; and
- (c) specifying the time (not being less than twenty-eight days from the date of publication of the notice) within which representations or objections with respect to the proposed approval or designation may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(10) A notice under subsection (9) shall be given by sending a copy of the notice —

- (a) in the case of an approval, to the person applying for the approval; or
- (b) in the case of a designation, to the person running the system,

and (in either case) to such other persons (if any) as the Minister or the Director considers appropriate.

(11) Any power conferred by this section to give an approval or designate a standard includes power to vary or withdraw an approval given or designation made in the exercise of that power.

(12) The Minister shall send to the Director —

- (a) a copy of every approval given or designation made by him under this section; and
- (b) particulars of every variation or withdrawal of an approval so given or a designation so made.

(13) The Minister may by order provide for the charging of fees in respect of the exercise of any functions conferred by or under this section.

(14) In this section “meter” means any system or apparatus constructed or adapted for use in ascertaining the extent of telecommunication services provided by means of a telecommunication system.

23.(1) The functions conferred on the Minister by sections 20 and 22 (other than the power to make orders) shall be exercisable by any person appointed by the Minister for the purpose, to such extent and subject to such conditions as may be specified in the

appointment; and an appointment under this section may authorise the person appointed to retain any fees received by him.

(2) Before appointing any person under this section, the Minister shall consult with the persons running the telecommunication systems concerned, or with such organisations as appear to the Minister to be representative of those persons.

24.(1) The Minister may, with the approval of the Minister assigned responsibility for finance, make grants or loans —

Grants and loans to persons exercising certain functions.

- (a) to persons by whom any matter falls to be determined for the purposes of any requirement imposed in pursuance of subsection (2) or (4) of section 18, 20 or 22; or
- (b) to persons appointed under section 23.

(2) Any loans under this section shall be repaid to the Minister at such times and by such methods and interest thereon shall be paid to him at such rates and at such times, as he may with the approval of the Minister assigned responsibility for finance from time to time direct.

(3) The loans under this section shall be made out of money provided by Parliament and any sums received by the Minister under subsection (2) shall be paid into the Consolidated Fund.

25.(1) Where a licence granted under section 7 includes provisions which are framed by reference to bodies for the time being recognised under this section to be representing the interests of consumers, purchasers and other users of telecommunication services provided by means of, or telecommunication apparatus connected to, any telecommunication system to which the licence relates, then, for the purposes of those provisions, bodies representing such interests may be recognised by the Minister.

Recognition of bodies representing consumers, etc.

(2) A recognition under this section may apply either to a particular body or to bodies of a description specified in the recognition, and may so apply either for the purposes of a particular telecommunication system or for the purposes of any telecommunication system of a description so specified.

(3) The Minister may pay such allowances as he may determine to members of a body recognised by him under this section, and may pay such expenses of a body so recognised as he may determine.

(4) Any power conferred by this section to recognise any body includes power to withdraw the recognition given in the exercise of that power.

(5) Payments under subsection (3) shall be out of money provided by Parliament.

Marking, etc. of Telecommunication Apparatus

Information, etc. to be marked on or to accompany telecommunication apparatus.

26.(1) Where it appears to the Minister expedient that any description of telecommunication apparatus should be marked with or accompanied by any information or instruction relating to the apparatus or its connection or use, the Minister may, by order, impose requirements for securing that apparatus of that description is so marked or accompanied, and regulate or prohibit the supply of any such apparatus with respect to which the requirements are not complied with; and the requirements may extend to the form and manner in which the information or instruction is to be given.

(2) Where an order under this section is in force with respect to telecommunication apparatus of any description, any person who, in the course of any trade or business, supplies or offers to supply telecommunication apparatus of that description in contravention of the order shall, subject to subsection (3), be guilty of an offence and liable —

- (a) on summary conviction, to a fine of five thousand dollars; and
- (b) on conviction on indictment, to a fine of ten thousand dollars and imprisonment for six months.

(3) Subsections (4) to (6) of section 5 shall apply for the purposes of this section as they apply for the purposes of that section.

(4) An order under this section may, in the case of telecommunication apparatus supplied in circumstances where the information or instruction required by the order would not be conveyed until after delivery, require the whole or part thereof to be also displayed near the apparatus.

(5) For the purposes of this section a person exposing telecommunication apparatus for supply or having telecommunication apparatus in his possession for supply shall be deemed to offer to supply it.

(6) In this section and section 27 a person shall be deemed to supply any telecommunication apparatus if in the course of carrying on a business (whether or not a business of dealing in the apparatus in question) and either as principal or agent —

- (a) he sells the apparatus, otherwise than under a hire purchase agreement;
- (b) he hires out or lends the apparatus;
- (c) he enters into a hire purchase agreement, or a contract for work and materials to furnish the apparatus;
- (d) he exchanges the apparatus for any consideration other than money; or
- (e) he gives the apparatus either as a prize or otherwise,

to another person, and "supply" and related expressions shall be construed accordingly:

Provided that a person shall not be deemed to have supplied any telecommunication apparatus for the purposes of this section where —

- (i) the supply was to a person with whom the apparatus in question was insured against damage;
- (ii) the supply was incidental to the letting or sale of land;
- (iii) the supply was to a person who carries on the business of buying such apparatus and repairing or reconditioning it; or
- (iv) the supply was by sale as scrap, that is to say, for the value of the materials included in the apparatus and not of the apparatus itself.

27.(1) Where it appears to the Minister expedient that any description of advertisements of telecommunication apparatus should contain or refer to any information relating to the apparatus or its connection or use, the Minister may, by order, impose requirements as to the inclusion of that information, or an indication of the means by which it may be obtained, in advertisements of that description.

Information, etc. to be given in advertisements.

(2) Where an advertisement of any telecommunication apparatus to be supplied in the course of any trade or business fails to comply with any requirement imposed under this section, any person who publishes the advertisement shall, subject to subsections (3) and (4), be guilty of an offence and liable —

- (a) on summary conviction to a fine of five thousand dollars; and
- (b) on conviction on indictment, to a fine of ten thousand dollars and imprisonment for six months.

(3) Subsections (4) to (6) of section 5 shall apply for the purposes of this section as they apply for the purposes of that section.

(4) In any proceedings for an offence under this section it shall be a defence for the person charged to prove that he is a person whose business it is to publish or arrange for the publication of advertisements and that he received the advertisement for publication in the ordinary course of business and did not know and had no reason to suspect that its publication would amount to an offence under this section.

(5) An order under this section may specify the form and manner in which any information or indication required by the order is to be included in advertisement of any description.

(6) In this section "advertisement" includes a catalogue, a circular and a price list.

Enforcement provisions.

28.(1) The Director or a relevant authority shall have power to purchase telecommunication apparatus, and to authorise any of his or its officers to purchase telecommunication apparatus on his or its behalf, for the purpose of ascertaining whether sections 26 and 27 and orders made under those sections (in this section referred to as "the relevant provisions") are being complied with.

(2) The Director shall have power to enforce the relevant provisions and every weights and measures authority in Guyana shall have power to enforce those provisions.

(3) In this section "relevant authority" means the Minister or a weights and measures authority.

Acquisition, etc. of Land by Public Telecommunications Operators

Compulsory acquisition of land.

29.(1) The Minister may acquire compulsorily any land which is required by a public telecommunications operator for, or in connection with, the establishment or running of the operator's system or as to which it can reasonably be foreseen that it will be so required; and the Acquisition of Lands for Public Purposes Act shall, subject to the provisions of this section, *mutatis mutandis* apply to any such compulsory acquisition as if the acquisition were for the purposes of any work declared to be a public work under section 3 of that Act.

Cap. 82:05

(2) The power of acquiring land compulsorily under this section includes power to acquire an easement or other right over land by the creation of a new right.

(3) For the purposes of this section references to the Commissioner of Lands in the Acquisition of Lands for Public Purposes Act shall be deemed to include references to any employee of the

public telecommunications operator authorised in writing by the Minister.

30. For the purpose of, and in relation to, the acquisition by purchase by agreement by a public telecommunications operator of property, the Vesting of Property (Acquisition by Purchase) Act shall *mutatis mutandis* apply as if it were a purchase of the property by agreement by the Government on behalf of the State.

Acquisition of land by agreement.
Cap. 62:08

31. The provisions of sections 43 to 60 (inclusive) of the Post and Telegraph Act shall *mutatis mutandis* apply to, and in relation to, a public telecommunications operator as if the references therein to the "Corporation" were references to the public telecommunications operator:

Application of certain provisions of Post and Telegraph Act.
Cap. 47:01

Provided that where there is any conflict or inconsistency between any of those provisions and this Act or the Code, such provisions shall be read and construed as having been modified in accordance with this Act or the Code, as the case may be.

Offences

32.(1) A person who dishonestly obtains a service provided by means of a licensed telecommunication system with intent to avoid payment of any charge applicable to the provision of that service shall be liable —

Fraudulent use of telecommunication system.

- (a) on summary conviction, to a fine of five thousand dollars and imprisonment for six months; and
- (b) on conviction on indictment, to a fine of twenty-five thousand dollars and imprisonment for two years.

(2) In this section "licensed telecommunication system" means a telecommunication system the running of which is authorised by a licence granted under section 7.

33.(1) A person who —

Improper use of Public telecommunication system.

- (a) sends, by means of a public telecommunication system, a message or other matter that is grossly offensive or of an indecent, obscene or menacing character; or
- (b) sends by those means, for the purpose of causing annoyance, inconvenience or needless anxiety to another, a message that he knows to be false or persistently makes use for that purpose of a public telecommunication system,

shall be liable on summary conviction to a fine of five thousand dollars and imprisonment for six months.

(2) Subsection (1) shall not apply to anything done in the course of providing a cable programme service within the meaning of Part IV of this Act.

Modification, etc. of messages.

34.(1) A person engaged in the running of a public telecommunication system who, otherwise than in the course of his duty, intentionally modifies or interferes with the contents of a message sent by means of that system shall be guilty of an offence.

(2) A person guilty of an offence under subsection (1) shall be liable —

- (a) on summary conviction, to a fine of five thousand dollars and to imprisonment for six months; and
- (b) on conviction on indictment, to a fine of twenty-five thousand dollars and to imprisonment for a term of two years.

Interception and disclosure of messages, etc.

35.(1) a person engaged in the running of a public telecommunication system who otherwise than in the course of his duty —

- (a) intentionally intercepts a message sent by means of that system; or
- (b) where a message so sent has been intercepted, intentionally discloses to any person the contents of that message,

shall be guilty of an offence.

(2) A person engaged in the running of a public telecommunication system, who otherwise than in the course of his duty, intentionally discloses to any person the contents of any statement of account, specifying the telecommunication services provided for any other person by means of that system, shall be guilty of an offence.

(3) Subsection (1) shall not apply to anything done in compliance with an order made by a court; and paragraph (b) of that subsection and subsection (2) shall not apply to any disclosure in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings.

(4) A person guilty of an offence under this section shall be liable —

- (a) on summary conviction, to a fine of five thousand dollars together with imprisonment for one year; and

- (b) on conviction on indictment, to a fine of twenty-five thousand dollars together with imprisonment for two years.

36.(1) a person who —

- (a) assaults or intentionally obstructs a person engaged in the business of a public telecommunications operator; or
- (b) whilst in any premises used for the purposes of the business of such an operator, intentionally obstructs the course of business of the operator,

Assaults, etc. on persons engaged in the business of public telecommunications operator.

shall be liable on summary conviction to a fine of five thousand dollars and imprisonment for one year.

(2) Any person engaged in the business of a public telecommunications operator may require any person guilty of an offence under subsection (1) to leave the premises used for the purposes of that business, and if any such offender who is so required refuses or fails to comply with the requirement, he shall be liable on summary conviction to a further fine of five thousand dollars and imprisonment for two years; and may be removed by a person engaged in that business; and any member of the Police Force shall on demand by any such person remove or assist in removing any such offender.

(3) In this section "member of the Police Force" has the meaning assigned to "member of the Force" in section 2(1) of the Police Act.

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PART III

OTHER FUNCTIONS OF DIRECTOR

37.(1) It shall be the duty of the Director, so far as it appears to him practicable from time to time, to keep under review the carrying on both with and outside Guyana of activities connected with telecommunications.

General functions.

(2) It shall also be the duty of the Director, so far as it appears to him practicable from time to time, to collect information with respect to commercial activities connected with telecommunications carried on in Guyana, and the persons by whom they are carried on, with a view to his becoming aware of, and ascertaining the circumstances relating to, matters with respect to which his functions are exercisable.

- (3) The Minister may give general directions indicating—
- (a) considerations to which the Director should have particular regard in determining the order of priority in which matters are to be brought under review in the performance of his duty under subsection (1) or (2); and
 - (b) considerations to which, in cases where it appears to the Director that any of his functions are exercisable, he should have particular regard in determining whether to exercise those functions.

(4) It shall be the duty of the Director, where either he considers it expedient or he is requested by the Minister to do so, to give information, advice and assistance to the Minister with respect to any matter in respect of which any function of the Director is exercisable.

Publication of information and advice.

38.(1) The Director may arrange for the publication, in such form and in such manner as he may consider appropriate, of such information and advice as it may appear to him to be expedient to give to consumers, purchasers and other users of telecommunication services or telecommunication apparatus in Guyana.

(2) In arranging for the publication of any such information or advice, the Director shall have regard to the need for excluding, so far as that is practicable, —

- (a) any matter which relates to the private affairs of an individual, where the publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interest of that individual; and
- (b) any matter which relates specifically to the affairs of a particular body of persons, whether incorporated or not, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that body.

(3) Without prejudice to the exercise of his powers under subsection (1), it shall be the duty of the Director to encourage relevant associations to prepare, and to disseminate to their members, codes of practice for guidance in safeguarding and promoting the interests of consumers, purchasers and other users of telecommunication services or telecommunication apparatus in Guyana.

(4) In this section “relevant association” means any association (whether incorporated or not) whose membership consists

wholly or mainly of persons engaged in the provision of telecommunication services or the supply of telecommunication apparatus or of persons employed by or representing persons so engaged and whose objects or activities include the promotion of the interests of persons so engaged.

39.(1) It shall be the duty of the Director to consider any matter which – Investigation complaints.

- (a) relates to telecommunication services provided or telecommunication apparatus supplied in Guyana; and
- (b) is the subject of a representation (other than one appearing to the Director to be frivolous) made to the Director by or on behalf of a person appearing to the Director to have an interest in that matter.

(2) Subsection (1) shall not apply to any matter which relates to the running of such a telecommunication system as is mentioned in section 6(1).

(3) Where any matter considered by the Director under subsection (1) is one in respect of which any of his functions is exercisable, the Director shall, if he is required to do so or if he thinks fit, exercise that function with respect to that matter.

(4) The provisions of this section shall be without prejudice to the provisions of the Public Utilities Commission Act 1990.

40.(1) With a view to co-ordinating the exercise of the functions under Part II of this Act and the licensing powers of any authority under any written law relating to wireless telegraphy, it shall be the duty of the Director, where either he considers it expedient or he is requested by the Minister to do so, to give to the Minister – Co-ordination of functions under Part II and wireless telegraph functions.

- (a) advice with respect to the exercise of those powers in cases where the running of a telecommunication system is involved; and
- (b) information with respect to any matters appearing to him to be relevant to the exercise of those powers in such cases.

(2) The Director shall, in exercising his functions under Part II of this Part, have regard to such of the principles applied by any authority authorised to exercise licensing powers under any written law relating to wireless telegraphy as may from time to time

be notified to the Director by the Minister for the purposes of this subsection.

(3) For the purposes of this section –

- (a) references to the licensing powers of any authority under any written law relating to wireless telegraphy, are references to the powers of that authority with respect to the grant, variation or revocation of licences authorising the establishment, installation or use of stations for wireless telegraphy or wireless telegraphy apparatus; and
- (b) the running of a telecommunication system is involved in cases where those powers are exercisable in relation to any station or apparatus which is in use or intended for use in running a telecommunication system.

Power to give assistance in relation to certain proceedings.

41.(1) Where, in relation to any proceedings or prospective proceedings to which this section applies, any actual or prospective party to the proceedings (other than a telecommunications operator) applies to the Director for assistance under this section, the Director may grant the application if he thinks fit to do so –

- (a) on the ground that the case raises a question of principle; or
- (b) on the ground that it is unreasonable, having regard to the complexity of the case or to any other matter, to expect the applicant to deal with the case without any assistance under this section; or
- (c) by reason of any other special consideration.

(2) This section applies to any proceedings in which there falls to be determined any question arising under or in connection with –

- (a) the Code as applied to a telecommunications operator in relation to any part or locality of Guyana; or
- (b) any exception or condition subject to which that Code has effect as so applied.

(3) Assistance by the Director under this section may include

- (a) giving advice;
- (b) procuring or attempting to procure the settlement of the matter in dispute;
- (c) arranging for the giving of advice or assistance by an attorney-at-law;
- (d) arranging for representation by an attorney-at-law, including such assistance as is usually given by an attorney-at-law in the steps preliminary or incidental to any proceedings, or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings; and
- (e) any other form of assistance which the Director may consider appropriate,

but paragraph (d) shall not affect the law and practice regulating the descriptions of persons who may appear in, conduct, defend, and address the court in, any proceedings.

(4) In so far as expenses are incurred by the Director in providing the applicant with assistance under this section, the recovery of those expenses (as taxed or assessed in such manner as may be prescribed by rules of court) shall constitute a first charge for the benefit of the Director –

- (a) on any costs or expenses which (whether by virtue of a judgement or order of a court or an agreement or otherwise) are payable to the applicant by any other person in respect of the matter in connection with which the assistance is given; and
- (b) so far as relates to any costs or expenses, on the rights of such applicant under any compromise or settlement arrived at in connection with that matter to avoid or bring to an end any proceedings.

(5) Any expenses incurred by the Director in providing assistance under this section shall be paid out of money provided by Parliament; and any sums received by the Director by virtue of any charge conferred by subsection (4) shall be paid into the Consolidated Fund.

42.(1) The Director may, for any relevant purpose, by notice in writing signed by him –

- (a) require any person to produce, at a time and place specified in the notice, to the Director or to any person specified by him for the purpose, any documents which are specified or described in the notice and are in that person's custody or under his control; or
- (b) require any person carrying on any business to furnish to the Director such estimates, returns or other information as may be specified or described in the notice, and specify the time, the manner and the form in which any such estimates, returns or information are to be furnished,

but no person shall be compelled for any such purpose to produce any documents which he could not be compelled to produce in civil proceedings before a court or, in complying with any requirement for the furnishing of information, to give any information which he could not be compelled to give in evidence in such proceedings.

(2) A person who refuses or, without reasonable excuse, fails to do anything duly required of him by a notice under subsection (1) shall be guilty of an offence and liable, on summary conviction, to a fine of five thousand dollars and imprisonment for six months.

(3) A person who –

- (a) intentionally alters, suppresses or destroys any document which he has been required by any such notice to produce; or
- (b) in furnishing any estimate, return or other information required of him under any such notice, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,

shall be liable, on summary conviction, to a fine of five thousand dollars and imprisonment for six months.

(4) If a person makes default in complying with a notice under subsection (1) of this section, the Court may, on the application of the Director, make such order as the Court thinks fit for requiring the default to be made good; and any such order may provide that all the costs or expenses of and incidental to the application shall be borne by the person in default or by any officers of a company or other association who are responsible for its default.

(5) In this section "relevant purpose" means any purpose connected with –

- (i) the investigation of any offence under section 5, 26 or 27 or any proceedings for any such offence; or
- (ii) the exercise of the Director's functions under section 13 or 39.

43.(1) The Minister may, as soon as practicable after the appointed day, establish such number of advisory bodies as he thinks fit consisting of such members as he may from time to time appoint.

Power to establish advisory bodies

(2) In establishing a body under subsection (1), the Minister shall have regard to the desirability of having members who are familiar with the special requirements and circumstances of consumers, purchasers and other users of telecommunication services and telecommunication apparatus.

(3) Any advisory body appointed under subsection (1) shall be provided by the Director with such officers and employees as are required by it to perform its functions.

(4) It shall be the duty of an advisory body established under this section to advise the Director on any matter –

- (a) in respect of which any of the Director's functions is exercisable; and
- (b) which is referred to it by the Director or is a matter on which it considers it should offer its advice.

(5) Each of the advisory bodies established under subsection (1) shall, as soon as practicable after the end of each year, make to the Director a report on its activities during that year.

(6) A copy of every report, of an advisory body, referred to in subsection (5) shall be forwarded by the advisory body to the Minister.

44.(1) The Director shall, as soon as practicable after the end of each year, make to the Minister a report on his activities during that year.

Annual and other reports.

(2) Every such report shall include –

- (a) a general survey of developments, during the year to which it relates, in respect of matters falling within

the scope of the Director's functions (including, in particular, those affecting small businesses or persons who are disabled or of pensionable age); and

- (b) the reports which the advisory bodies established under section 43(1) make to him on their activities during that year.

(3) The Minister shall lay a copy of every report made by the Director under subsection (1) before the National Assembly and shall arrange for every such report to be published in such manner as he may consider appropriate.

(4) The Director may also prepare such other reports as appear to him to be expedient with respect to such matters as are mentioned in subsection (2) and may arrange for any such report to be published in such manner as he may consider appropriate.

(5) In making any report under this section the Director shall have regard to the need for excluding, so far as that is practicable, the matters specified in section 38(2) (a) and (b).

PART IV

PROVISION OF CABLE PROGRAMME SERVICES

Cable programme
Services.

45.(1) In this Part "cable programme service" means a service consisting in the sending by any person, by means of a telecommunication system (whether run by him or by any other person), of sounds or visual images or both either –

- (a) for reception, otherwise than by wireless telegraphy, simultaneously in two or more dwelling-houses in Guyana; or
- (b) for reception, by whatever means, at a place in Guyana for the purpose of their being presented there either to members of the public or to a group of persons, some or all of whom do not have a business interest in hearing or seeing them.

(2) Subsection (1) does not apply in relation to a service consisting in the sending of sounds or visual images or both by any person if, while they are being conveyed, it is possible to send from each place of reception, by means of the telecommunication system or (as the case may be) the part of it by means of which they are

conveyed, sounds or visual images or both for reception by that person.

(3) References in subsections (1) and (2) to sounds are references to speech or music or both except that they do not include, in relation to any telecommunication system, speech providing information for the purposes of facilitating the use of a telecommunication service provided by means of that system.

(4) References in subsections (1) and (2) to visual images are references to visual images which are such that sequences of them may be seen as moving pictures.

(5) References in this section to a telecommunication system do not include references to a telecommunication system the running of which does not require to be licensed under Part II of this Act.

(6) For the purposes of this section a person has a business interest in hearing or seeing sounds or visual images if he has an interest in hearing or seeing them for the purposes of his business, trade, profession or employment.

46.(1) Subject to any exceptions for which provision is made by order of the Minister, a person who provides a cable programme service shall be guilty of an offence unless he is authorised to provide the service by a licence granted under section 47.

Prohibition of unlicensed cable programme services.

(2) A person guilty of an offence under this section shall be liable on summary conviction, to a fine of ten thousand dollars and imprisonment for six months.

(3) No proceedings in respect of an offence under this section shall be instituted except by or with the consent of the Director of Public Prosecutions.

(4) Without prejudice to subsection (2), compliance with this section shall be enforceable by civil proceedings by the Attorney General for an injunction or for any other appropriate relief.

47.(1) A licence may be granted by the Minister subject to such terms, provisions and limitations as he may think fit, for the provision of such cable programme services as are specified in the licence or are of a description so specified.

Power to license cable programme services.

(2) A licence granted under this section shall be in writing and, unless previously revoked by the Minister, shall continue in force for such period as may be specified in the licence.

(3) A licence granted under this section may be revoked, or the terms, provisions or limitations thereof varied, by a notice in writing of the Minister served on the holder of the licence or by a general notice applicable to licences of the class to which the licence in question belongs published in such manner as may be specified in the licence.

(4) At such times and in such circumstances as may be prescribed by regulations made by the Minister, such fee as may be so prescribed shall be paid by the person to whom a licence under this section is granted.

(5) Different provisions may be made by regulations under subsection (4) in relation to different licences, according to the nature, terms, provisions, limitations and duration thereof.

(6) The Minister shall have power to make, in any case or classes of cases, refunds of sums received by him under subsection (4).

Entry and search of premises.

48.(1) If a magistrate is satisfied by information on oath –

- (a) that there is reasonable ground for suspecting that an offence under section 46 has been, or is being, committed; and
- (b) that evidence of the commission of the offence is to be found on any premises specified in the information,

he may grant a search warrant conferring power on any person or persons authorised in that behalf by the Minister and named in the warrant to enter and search the premises specified in the information at any time within one month from the date of the warrant.

(2) A person who intentionally obstructs a person in the exercise of powers conferred on him under this section shall be liable on summary conviction to a fine of five thousand dollars and imprisonment for six months.

(3) A person who discloses, otherwise than for the purposes of this part or of a report of proceedings under it, any information obtained by means of an exercise of powers conferred by this section, being information relating to a manufacturing process or trade secret, shall be liable on summary conviction to a fine of ten thousand dollars and imprisonment for one year.

PART V

MISCELLANEOUS AND SUPPLEMENTAL

Miscellaneous

49.(1) The Minister may, out of sums appropriated for that purpose by Parliament, make grants for the purpose of defraying or contributing towards –

Grants to promote interests of disabled persons.

- (a) any expenses which may be incurred by any person in supporting research into or the development of apparatus to which this section applies; or
- (b) any fees incurred by any person in respect of the exercise in relation to apparatus to which this section applies of any function conferred by or under section 20.

(2) This section applies to –

- (a) telecommunication apparatus which is constructed for use by disabled persons;
- (b) telecommunication apparatus which is so constructed as to be capable of being adapted for such use; and
- (c) apparatus by means of which telecommunication apparatus falling within paragraph (b) may be so adapted.

(3) In making a grant under this section, the Minister may impose such conditions as he thinks fit and may, in particular, impose a condition requiring the repayment of all or any part of the grant. –

- (a) if any other condition is not complied with; or
- (b) in such other circumstances as he may specify.

50.(1) The Minister may, after consultation with a person to whom this section applies, give to that person such directions of a general character as appear to the Minister to be requisite or expedient in the interests of national security or relations with the government of a country or territory outside Guyana.

Directions in the interests of national security, etc.

(2) If it appears to the Minister to be requisite or expedient to do so in the interests of national security or relations with the government of a country or territory outside Guyana, he may, after consultation with a person to whom this section applies, give to that person a direction requiring him (according to the circumstances of the case) to do, or not to do, a particular thing specified in the direction.

(3) A person to whom this section applies shall give effect to any direction given to him by the Minister under this section notwithstanding any other duty imposed on him by or under this Act.

(4) The Minister shall lay before the National Assembly a copy of every direction given under this section unless he is of the opinion that disclosure of the direction is against the interests of national security or relations with the government of a country or territory outside Guyana, or the commercial interests of any person.

(5) A person shall not disclose, or be required by virtue of any enactment or otherwise to disclose, anything done by virtue of this section if the Minister has notified him that the Minister is of the opinion that disclosure of that thing is against the interests of national security or relations with the government of a country or territory outside Guyana, or the commercial interests of some other person.

(6) The Minister may, out of funds appropriated for that purpose by Parliament, make grants to public telecommunications operators for the purpose of defraying or contributing towards any losses they may sustain by reason of compliance with the directions given under this section.

(7) This section applies to the Director and to any person who is a public telecommunications operator or approved contractor (whether in his capacity as such or otherwise); and in this subsection "approved contractor" means a person approved under section 18.

Prohibitions and restrictions applying to lessees with respect to telecommunications.

51.(1) Subject to subsection (4), where any provision contained in a lease to which this section applies, or in any agreement made with respect to premises to which such a lease relates, has the effect of imposing on the lessee any prohibition or restriction with respect to any of the matters falling within subsection (3), that provision shall have effect in relation to things which are done –

- (a) inside a building, or part of a building occupied by the lessee under the lease; or

- (b) for purposes connected with the provision to the lessee, by any telecommunications operator, of any telecommunication services,

as if the prohibition or restriction applied only where the lessor has not given his consent in relation to the matter in question and as if the lessor were required not to withhold that consent unreasonably.

(2) Where a provision of a lease or agreement imposes (whether by virtue of this section or otherwise) a requirement on the lessor under a lease not to withhold his consent unreasonably in relation to any matter falling within subsection (3), the question whether that consent is unreasonably withheld shall be determined having regard to all the circumstances and to the principle that no person should unreasonably be denied access to a telecommunication system.

(3) The matters falling within this subsection are –

- (a) the running of relevant telecommunication systems;
- (b) the connection of any telecommunication apparatus to a relevant telecommunication system or of relevant telecommunication systems to each other; and
- (c) the installation, maintenance, adjustment, repair, alteration or use, for purposes connected with the running of a relevant telecommunication system, of any telecommunication apparatus.

(4) The Minister may by order provide, in relation to such cases of prohibition or restrictions as are specified in the order, or are of a description so specified, that subsection (1) shall not apply.

(5) This section applies to any lease for a term of a year or more granted on or after the day on which this section comes into force; but the Minister may by order provide that this section shall apply, subject to such transitional provisions as may be contained in the order, to leases granted before that day.

(6) This section shall be without prejudice to any provision made in the Code.

(7) In this section –

- (a) “alteration”, in relation to any telecommunication apparatus, includes moving, removal or replacement of the apparatus;

(b) "lease" includes any leasehold tenancy (whether in the nature of a head lease, sub-lease or under lease) and any agreement to grant such a tenancy, and references to the grant of a lease, shall be construed accordingly;

(c) "relevant telecommunication system" means a public telecommunication system or a telecommunication system specified for the purposes of this section in an order made by the Minister, or a telecommunication system which is, or is to be connected to a public telecommunication system or to a system so specified.

Use of certain conduits for telecommunication purposes.

52.(1) The functions of an authority with control of a relevant conduit shall include the power –

- (a) to carry out, or to authorise another person to carry out, any works in relation to that conduit for or in connection with the installation, maintenance, adjustment, repair or alteration of telecommunication apparatus;
- (b) to keep telecommunication apparatus installed in that conduit or to authorise any other person to keep telecommunication apparatus so installed;
- (c) to authorise any person to enter that conduit to inspect telecommunication apparatus kept installed there;
- (d) to enter into agreements, on such terms (including terms as to the payments to be made to the authority) as it thinks fit, in connection with the doing of anything authorised by or under this section; and
- (e) to carry on an ancillary business consisting in the making and carrying out of such agreements.

(2) Where any written law expressly or impliedly imposes any limitation on the use to which a relevant conduit may be put, that limitation shall not have effect so as to prohibit the doing of anything authorised by or under this section.

(3) Where the doing by an authority with control of a public sewer of anything authorised by this section would, apart from this subsection, constitute a contravention of any obligation imposed (whether by virtue of any conveyance or agreement or otherwise) on the authority, the doing of that thing shall not constitute such

a contravention to the extent that it consists in, or in authorising, the carrying out of works or inspections, or keeping of apparatus, wholly inside a public sewer.

(4) Subject to subsections (2) and (3), subsection (1) is without prejudice to the rights of any person with an interest in land on, under or over which a relevant conduit is situated.

(5) Without prejudice to subsections (1) to (4), the Minister may by order, which shall be subject to negative resolution of the National Assembly, provides for any written law, under or in accordance with which any conduits (whether or not relevant conduits) are kept installed in roads, to be amended in such manner as appears to him requisite or expedient for securing –

- (a) that there is power for those conduits to be used for telecommunication purposes;
- (b) that the terms (including terms as to payment) on which those conduits are used for those purposes are reasonable; and
- (c) that the use of those conduits for those purposes is not unreasonably inhibited (whether directly or indirectly) by reason of the terms of any consent, licence or agreement which has been given, granted or made in relation to any of those conduits for the purposes of that Act.

(6) In this section “relevant conduit” means –

- (a) any conduit which, whether or not it is itself an electric line, is maintained by an electricity authority for the purpose of enclosing, surrounding or supporting such a line, including where such a conduit is connected to any box, chamber or other structure (including a building) maintained by an electricity authority for purposes connected with the conveyance, transmission or distribution of electricity, that box, chamber or structure;
- (b) a water main or any other conduit maintained by a water authority for the purpose of conveying water from one place to another; or
- (c) a public sewer.

(7) In this section a reference to the authority with control of a relevant conduit –

- (a) in relation to a conduit or structure falling within subsection (6)(a) or (b) shall be construed as a reference to the authority by whom the conduit or structure is maintained; and
- (b) in relation to a public sewer, shall be construed, subject to subsection (8), as a reference to the authority in whom the sewer is vested.

(8) Where –

- (a) the functions of an authority with control of public sewer are, in pursuance of any written law, discharged on its behalf by another authority; and
- (b) the other authority is authorised by the authority with control of the sewer to act on its behalf for the purposes of the matters referred to in subsection (1),

this section shall have effect in relation to that sewer as if any reference to the authority with control of the sewer included, to such extent as may be necessary for the other authority so to act a reference to the other authority.

(9) In this section –

- (a) “alteration”, has the same meaning as in section 51;
- (b) “conduit” includes a tunnel or subway;
- (c) “electric line” has the same meaning as in section 2 of the Electric Lighting Act;
- (d) “electricity authority” means any person, authority or body established by or under, or licensed under, any written law for the generation, transmission or distribution of electricity;
- (e) “public sewer” means any sewer which is vested in any person, authority or body established by or under any written law;
- (f) “road” has the same meaning as in section 2 of the Roads Act;

- (g) “water authority” means any authority established by or under any written law for the management, conservation or supply of water;
- (h) “water main” means a main for the transmission, supply or distribution of water.

SUPPLEMENT

53.(1) Subject to the following provisions of this section, no information with respect to any particular business which –

General restrictions on disclosure of information.

- (a) has been obtained under or by virtue of the provisions of this Act; and
- (b) relates to the private affairs of any individual or to any particular business,

shall during the lifetime of that individual or so long as that business continues to be carried on, be disclosed without the consent of that individual or the person for the time being carrying on that business.

(2) Subsection (1) does not apply to any disclosure of information which is made –

- (a) for the purpose of facilitating the performance of any functions assigned or transferred to the Minister or the Director by or under this Act;
- (b) for the purpose of complying with the requirement of any written law;
- (c) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings; or
- (d) for the purpose of any civil proceedings brought under or by virtue of this Act.

(3) Nothing in subsection (1) shall be construed –

- (a) as limiting the matters which may be published under section 38 or may be included in, or made public as part of, a report of the Director under this Act; or

- (b) as applying to any information which has been so published or has been made public as part of such a report.

(4) Any person who discloses any information in contravention of this section shall be liable on summary conviction, to a fine of ten thousand dollars and imprisonment for two years.

Orders and schemes.

54. Any order or scheme under this Act may make different provision with respect to different cases or descriptions of cases.

Interpretation in respect of certain matters.

55.(1) Any power conferred on the Minister by this Act to give a direction if it appears to him to be requisite or expedient to do so in the interest of national security or relations with the government of a country or territory outside Guyana includes power to give the direction if it appears to him to be requisite or expedient to do so in order –

- (a) to discharge, or facilitate the discharge of, an obligation binding on the Government by virtue of it being a member of an international organisation or a party to an international agreement;
- (b) to attain, or facilitate the attainment of, any other objects the attainment of which is, in the Minister's opinion, requisite or expedient in view of the Government being a member of such an organisation or a party to such an agreement; or
- (c) to enable the Government to become a member of such an organisation or a party to such an agreement.

(2) For the purposes of any licence granted, approval given or order made under this Act, any description or class may be framed by reference to any circumstances whatsoever.

Application to territorial waters, continental shelf, etc.

56.(1) The Minister may by order, which shall be subject to negative resolution of the National Assembly, make provision for treating for the purposes of this Act any installation in waters to which the Petroleum (Exploration and Production) Act 1986 applies as if it were situated in Guyana.

No. 3 of 1986

(2) In this section "installation" includes any floating structure or device maintained on a station by whatever means.

A.D.1990]

TELECOMMUNICATION

[NO. 27

57.(1) If it appears to the Minister requisite or expedient to do so in order to secure that telecommunication services provided before the appointed day by means of any existing apparatus continue to be available after the appointed day, he may by order make provision with respect to the terms on which existing apparatus is kept installed on any premises; and such an order may, in particular –

Continuation of Installation of existing apparatus.

- (a) provide for the terms of agreements in pursuance of which existing apparatus is kept installed on any premises to have effect with such modifications as may be specified in the order;
- (b) impose obligations in relation to existing apparatus on persons who own or use such apparatus or who own interests in, or occupy, premises where such apparatus is kept installed; and
- (c) provide, for the purposes of any provision contained in such an order by virtue of paragraph (a) or (b), for such questions arising under the order as are specified in the order, or are of a description so specified, to be referred to, and determined by, the Director.

(2) In this section “existing apparatus” means any telecommunication apparatus which –

- (a) was installed on any premises before the appointed day; and
- (b) cannot, after the appointed day, be kept installed there by virtue of any right which is or may be conferred by or in accordance with the Code.

58. Any licence granted before the appointed day for any purpose, or in respect of any matter, for which a licence may be granted under any provision of this Act, and in operation immediately before the appointed day, shall on and after the appointed day be deemed to be a licence granted under this Act and shall have effect accordingly;

Continuation of Licences.

Provided that the Minister may by order amend the licence so as to make it conform to the provisions of this Act.

59. Except as otherwise provided in section 31, the provisions of the Post and Telegraph Act shall not apply to any matter for, or in respect of, which provision has been made in this Act.

Exclusion of application of Post and Telegraph Act. Cap 47:01

Removal of difficulties

60.(1) If at any time any difficulty arises in connection with the application of this Act or in bringing into operation any of its provisions, the Minister may by order make any provision that appears to him necessary or expedient for removing the difficulty:

Provided that an order under this section shall not be made after the expiry of two years from the commencement of this Act.

(2) An order under subsection (1) shall be subject to negative resolution of the National Assembly.

Power to make regulations

61.(1) The Minister may make regulations for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing, the regulations may, in particular, make provisions for all or any of the following matters –

- (a) the hours during which the registers kept under section 17, 19 or 21, shall be open to public inspection and the fee payable for such inspection;
- (b) the fee payable for a copy or an extract from any part of the register kept under section 17, 19 or 21 certified by the Director to be a true copy or extract;
- (c) the fees payable in respect of the exercise of any functions conferred by or under section 18, 20 or 22;
- (d) the form, and manner of service, of any notice under this Act;
- (e) the manner of publication of any notice under this Act, where the publication of such notice is required by any provision thereof;
- (f) the fee payable by a licensee under section 47(4) and the times at which and the circumstances in which it shall be payable;
- (g) any other matter that is required to be, or may be, prescribed under any provision of this Act.

Passed by the National Assembly on 1990-10-29.

M.B. Henry
Clerk of the National Assembly (ag.)