

ARRANGEMENT OF SECTIONS

PART I  
PRELIMINARY

Section

1. Short title.
2. Commencement.
3. Interpretation.
4. Non-application of Act.

PART II

LICENSING OF TELECOMMUNICATIONS PROVIDERS ETC.

5. Engaging in telecommunications services.
6. Licences.
7. Procedure for grant of an individual licence.
8. Grant of an individual licence.
9. Procedure for grant of a class licence.
10. Procedure for grant of a radio licence.
11. Licence fees.
12. Modification of licence.
13. Suspension of licence.
14. Revocation of licence.

PART III

THE NATIONAL TELECOMMUNICATIONS REGULATORY COMMISSION,  
ITS FUNCTIONS AND POWERS

15. Establishment of the Commission.
16. Qualifications and tenure of Commissioners.
17. Functions of the Commission.
18. Powers of the Commission.
19. Resignation of Commissioners.
20. Termination of office.

21. Directions by the Minister.
22. Meetings of the Commission.
23. Remuneration of Commissioners.
24. Staff of the Commission.

PART IV

UNIVERSAL SERVICE, INTERCONNECTIONS, INFRASTRUCTURE  
SHARING AND NUMBERING

*Universal Service*

25. Provision of universal service.
26. Universal Service Fund.
27. Purpose of the Fund.

*Interconnection and infrastructure sharing*

28. Interconnection.
29. Interconnection agreements.
30. Cost of interconnection.
31. Infrastructure sharing.

*Numbering*

32. Numbering.

PART V

MISCELLANEOUS PROVISIONS

*Right of entry and search*

33. Right of entry.
34. Search warrant.

*Inspection*

35. Inspection of licences.

*Terminal Equipment.*

36. Connection of terminal equipment.

*Electrical interference*

37. Reduction of electrical interference.

*Emergency situation*

38. Control of telecommunications in emergency.

*Confidentiality of communications etc.*

39. Secrecy of communications.  
40. Secrecy of personal information.

*Right to obtain information, Inspections and Tests*

41. Right to obtain information.  
42. Inspections.  
43. Tests.

*Offences*

44. Engaging in telecommunications activities without a licence.  
45. Malicious damage to apparatus.  
46. Unlawful connections.  
47. Unlawful interception and disclosure of personal information.  
48. Obstruction of investigation.  
49. Refusal to produce documents, etc.  
50. Giving false information.  
51. Failure to attend and give evidence.  
52. Appeals.  
53. Inspection of records.  
54. Regulations.  
55. Repeal and savings.

**SCHEDULES**

First Schedule

Second Schedule

Third Schedule



I assent,

CUTHBERT M. SEBASTIAN

*Governor-General.*

24<sup>th</sup> January, 2000.

## SAINT CHRISTOPHER AND NEVIS

### No. 2 of 2000

AN ACT to provide for regulation of telecommunications; to establish the National Telecommunications Regulatory Commission; and to provide for related or incidental matters.

(as the Minister may, by Order, appoint.)

Commencement.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the National Assembly of Saint Christopher and Nevis, and by the authority of the same as follows:-

#### PART I

#### PRELIMINARY

1. This Act may be cited as the Telecommunications Act, 2000. Short title.
2. This Act shall come into force on such date as the Minister may, by Order, appoint. Commencement.
3. In this Act, unless the context otherwise requires, Interpretation.
  - "Agreement" means the Agreement establishing the Eastern Caribbean Telecommunications Authority;
  - "Authority" means the Authority established by article 2 of the Agreement;
  - "authorised officer" means a person authorised by the Commission;
  - "Board" means the Board of Directors established by article 7 of the Agreement;
  - "broadcasting" means the transmission of radio or video programming to the public on a free, pay, subscription, or other basis, whether by cable television, terrestrial, or satellite means, or by other electronic delivery of such programming;

*The Telecommunications Act, 2000 – 2.*

- "Commission" means the National Telecommunications Regulatory Commission established by section 15 of this Act;
- "class licence" means a licence issued pursuant to section 9 of this Act to a specified class of persons in relation to the operation of specified types of telecommunications networks and services;
- "document" includes an electronic document;
- "individual licence" means a licence issued to a particular person pursuant to section 8 of this Act;
- "licence" means a licence granted under the provisions of this Act;
- "licence fees" means the initial, annual and renewal fees payable by an applicant for an individual licence, class licence or radio licence to the Authority;
- "Minister" means the Minister responsible for communications;
- "person" includes any corporation, either aggregate or sole, any partnership or association, any undertaking, club, society, or other body of one or more persons;
- "public telecommunications network" means a telecommunications network used for the provision of telecommunications services to the public;
- "public voice telephony services" means the commercial provision to the public of the direct transport and switching of voice telephony in real time from and to network termination points;
- "radiocommunications" means the transmission, emission or reception of signs, signals, text, images and sounds or other intelligence of any nature by radio;
- "radio equipment" means any equipment or apparatus designed or used for radiocommunications;
- "radio licence" means a licence issued pursuant to section 10 of this Act;
- "records" include existing licences, telecommunications equipment approvals, policy documents, orders and memoranda of decisions;

*The Telecommunications Act, 2000 – 2.*

“telecommunications” means any form of transmission, emission, or reception of signs, text, images and sounds or other intelligence of any nature by wire, radio, optical or other electromagnetic means;

“telecommunications network” means any wire, radio, optical, or other electromagnetic system used to route, switch, or transmit telecommunications;

“telecommunications provider” means any person who is licensed under this Act to operate a telecommunications network or to provide telecommunications services;

“telecommunications services” means services provided by a telecommunications provider;

“tender fees” means the fees payable by an applicant for an individual licence to the Authority in order to participate in an open tender procedure run by the Authority;

“terminal equipment” means equipment intended to be connected directly or indirectly to the network termination point of a telecommunications network in order to emit, transmit, or receive telecommunications services;

“universal service” includes the provision of:—

- (a) public voice telephony to such of the population as the Minister may, on the recommendation of the Authority, in licences specify;
- (b) internet access to such of the population as the Minister may, on the recommendation of the Authority, in licences specify; and
- (c) such telecommunications services to schools, hospitals and similar institutions as the Minister may, in licences specify.

4. (1) This Act shall apply to the Crown.

(2) This Act shall not apply to:

- (a) the programming, as opposed to the transmission aspects of broadcasting networks and services;
- (b) telecommunications networks and services operated or provided exclusively by the armed forces, police force, public security, and civil aviation authorities;
- (c) any terminal equipment used for the purposes of paragraphs (a), and (b) of this section.

Application  
of Act.

*The Telecommunications Act, 2000 – 2.*

(3) The Minister may, on the recommendation of the Authority, by Order, exempt any category of ship or aircraft, or person or type of network or service from the provisions of this Act.

## PART II

## LICENSING OF TELECOMMUNICATIONS PROVIDERS

Engaging in  
telecommunications  
services.

5. (1) No person shall

- (a) establish or operate a telecommunications network; or
- (b) provide any telecommunications services; without a licence issued under the provisions of this Act.

(2) The provisions of subsection (1) of this section shall not apply to the establishment or operation of a broadcasting station, or provision of any broadcasting service.

(3) No person shall use or cause to be used any radiocommunication station or apparatus in or from any place in Saint Christopher and Nevis or in any part of the territorial waters or in the airspace of Saint Christopher and Nevis except in accordance with a licence issued by the Minister in that respect.

(4) No person shall establish, maintain, operate, or use

- (a) a radio transmitting station or apparatus;
- (b) a station or apparatus for radiocommunication service aboard any ship, aircraft, satellite or vessel registered in Saint Christopher and Nevis,
- (c) a station or apparatus for radiocommunication service installed aboard
  - (i) any ship while the ship is in the territorial waters of Saint Christopher and Nevis;
  - (ii) an aircraft while the aircraft is in or over Saint Christopher and Nevis or the territorial waters thereof;

except in accordance with a licence issued by the Minister in that respect or unless exempted under the provisions of subsection (3) of section 4 of this Act.

(5) No person shall operate any telecommunications network or provide a telecommunications service, other than a broadcasting service, if the operation of the network or service requires the use of frequency spectrum, unless that person is granted a frequency authorisation by the Authority.

*The Telecommunications Act, 2000 – 2.*

(6) No person shall operate any telecommunications network or provide a telecommunications service without a frequency authorisation in any case where such a frequency authorisation is necessary for the operation of the telecommunications network or provision of the telecommunications service.

(7) A person who contravenes the provisions of subsection (1), (2), (3), (4), (5), or (6) of this section commits an offence and shall be liable, on conviction on indictment, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding four years or both.

6. (1) Without prejudice to the provisions of paragraph (a) of section 54 of this Act, licences to be granted under this Act shall be of three categories, namely, individual licences, class licences and radio licences.

Licences

(2) The Minister may, on the recommendation of the Authority, by notice published in the *Gazette*, specify the telecommunications networks and services that are subject to an individual licence, a class licence and a radio licence, respectively.

7. (1) A person who wishes to apply for an individual licence under this Act shall, in accordance with an open tender procedure determined by the Authority, submit his application to the Commission for consideration by the Authority, and the application shall be in the prescribed form and accompanied by such tender fees as may be determined by the Authority.

Procedure for grant of an individual licence

(2) The Authority shall, upon receipt of the applications, review the applications, and prepare a short list of applicants who meet the technical and financial requirements for individual licences for recommendation to the Minister.

(3) Where only one application is received, the Authority shall consider the application on its merits, and if the applicant meets the technical and financial requirements for an individual licence, the Authority may recommend the applicant to the Minister for the grant of the licence.

8. (1) The Minister may, upon receipt of a recommendation from the Authority as to a qualified applicant, or short list of qualified applicants, grant to one or more of such applicants the relevant licence or licences.

Grant of an individual licence.

(2) The Minister shall, before granting a licence under this section, take into account the following matters, that is to say,

- (a) whether the provision of public telephony services will meet reasonable demand at affordable prices;



*The Telecommunications Act, 2000 – 2.*

- (b) whether the interests of subscribers, purchasers and other users of telecommunications services will be protected;
- (c) whether competition among providers of telecommunications services will be promoted;
- (d) whether research, development and introduction of new telecommunications services will be promoted;
- (e) whether foreign and domestic investors will be encouraged to invest in the telecommunications sector;
- (f) whether the public interest and national security interests will be safeguarded.

(3) Notwithstanding the provisions of subsection (1) of this section no person shall be granted an individual licence unless he is recommended by the Authority.

(4) The Minister may, in granting a licence under subsection (1) of this section, on the recommendation of the Authority, attach to the licence any or all of the conditions set out in the First Schedule to this Act and shall use the appropriate standard form regionally harmonised licence prepared by the Authority.

(5) The Minister may, on the recommendation of the Authority, by Order, amend the First Schedule to this Act.

Procedure for grant of class licence.

9. (1) A person who wishes to apply for a class licence under this Act shall submit his application to the Minister, which application shall be in the form recommended by the Authority.

(2) The Minister shall, upon receipt of the application and in consultation with the Authority, determine whether the particular applicant falls within the definition of a class licence.

(3) The Minister may, when satisfied that the applicant falls within the definition of a class licence, grant a class licence to such applicant.

(4) The Minister may, in granting a class licence, on the recommendation of the Authority, attach to the licence any or all of the conditions set out in the First Schedule to this Act and shall use the appropriate standard form regionally harmonised licence prepared by the Authority.

Procedure for grant of radio licence etc

10. (1) A person who wishes to apply for a radio licence shall submit his application to the Commission, which application shall be in the prescribed form.

*The Telecommunications Act, 2000 – 2.*

(2) Upon receipt of the application the Commission shall process the application and if the applicant meets the financial and technical requirements recommend the applicant to the Minister for grant of the licence.

(3) The Minister shall, in granting a radio licence, take into account such matters as are prescribed by regulations made under this Act.

(4) An applicant for a frequency authorisation shall submit his application, in the prescribed form, to the Commission, and the application shall be accompanied by the prescribed fee.

(5) Upon receipt of the application the Commission shall, after consulting the Authority, process the application and recommend to the Minister whether or not the applicant shall be granted the frequency authorisation.

(6) The Minister may grant a frequency authorisation only on the recommendation of the Commission and after taking into account such matters as may be prescribed by regulations made under this Act.

(7) The Minister shall, in granting a frequency authorisation, attach to the authorisation such terms and conditions as are prescribed by regulations made under this Act.

(8) A frequency authorisation shall be subject to the payment of a frequency authorisation fee determined by the Authority.

11. (1) A licence granted under this Act shall be subject to the prescribed licence fees which shall be determined by the Minister, in accordance with the recommendations of the Authority.

Lincence fees.

(2) The licence fees referred to in subsection (1) of this section shall be payable directly by the applicant to the Authority prior to commencement of operation by the licensee of the telecommunications network, or the provision by the licensee of the telecommunications services, or the use by the licensee of the radio frequencies, authorised by the licence in question.

12. (1) A licence granted under this Act may, on the recommendation of the Authority, be modified where the Minister and the licensee, by agreement in writing, agree to modify the licence.

Modification of  
licence.

(2) Notwithstanding the provisions of subsection (1) of this section, and subject to any special conditions concerning modification in the relevant licence, the Minister may, on the recommendation of the Authority, modify any licence without the agreement of the licensee if the modification is necessary in the public interest or for reasons of national security.

*The Telecommunications Act, 2000 – 2.*

Suspension of  
licence.

13. (1) Subject to any special conditions concerning suspension in the relevant licence, the Minister may, on the recommendation of the Authority, suspend any licence granted under this Act on any of the following grounds, that is to say,

- (a) where a licensee breaches any condition attached to his licence;
- (b) where a licensee contravenes the provisions of this Act or the regulations made under this Act;
- (c) where a licensee is convicted of an offence under this Act;
- (d) where a licensee fails to discharge his financial commitments under this Act;
- (e) where a licensee is subject to liquidation or bankruptcy proceedings, or compounds with his creditors.

(2) Notwithstanding the provisions of subsection (1) of this section the Minister may suspend any licence if the suspension is necessary for reasons of national security.

(3) The Minister shall, before suspending any licence under this section, give written notice to the licensee, in which notice he shall draw to the attention of the licensee the grounds on which the Minister intends to suspend the licence.

(4) The Minister shall, in case of a breach of a condition attached to a licence, or regulations made under this Act, give an opportunity to the licensee to remedy the breach within a reasonable time.

Revocation of  
licence

14. (1) Subject to any special conditions in the relevant licence concerning revocation, the Minister may, on the recommendation of the Authority, revoke any licence granted under this Act on any of the following grounds, that is to say,

- (a) where the licensee is in material breach of any condition attached to the licence;
- (b) where the licensee persistently breaches any condition attached to the licence or regulations made under this Act;
- (c) where the licensee is dissolved;
- (d) where the licensee enters into liquidation or bankruptcy proceedings;
- (e) where a licensee obtained the licence by a materially false or misleading representation or in some other illegal manner.

*The Telecommunications Act, 2000 – 2.*

(2) Notwithstanding the provisions of subsection (1) of this section the Minister may revoke any licence if the revocation is necessary for reasons of national security.

(3) The Minister shall, before revoking any licence under this section, give written notice to the licensee, in which notice he shall draw to the attention of the licensee the grounds on which the Minister intends to revoke the licence.

(4) The Minister shall, in the case of a breach of a condition attached to a licence, or regulations made under this Act, give an opportunity to the licensee to remedy the breach within a reasonable time.

## PART III

## THE NATIONAL TELECOMMUNICATIONS REGULATORY COMMISSION, ITS FUNCTIONS AND POWERS

15. (1) For the purposes of this Act, there is established a Commission in the Ministry responsible for communications to be known as the National Telecommunications Regulatory Commission.

Establishment of  
Commission

(2) The Commission shall consist of not less than three and not more than five Commissioners, all of whom shall be appointed by the Minister on such terms and conditions as the Minister may specify in their instruments of appointment.

16. (1) The appointed Commissioners shall be persons of recognised standing and experience in one or more of the following areas, that is to say,

Qualifications and  
tenure of  
Commissioners.

- (a) finance and accounting;
- (b) telecommunications;
- (c) economics;
- (d) law; or
- (e) other related fields;

except that at least one of the Commissioners shall be a person of recognised standing and experience in telecommunications

(2) A Commissioner shall, unless he vacates office in accordance with the provisions of section 19 or 20 of this Act, hold office for a reasonable period of three years.

17. The Commission shall perform the following functions, that is to say,

Functions of  
Commission.

- (a) advise the Minister on whether applicants for class licences fall within the definition of a class licence;

*The Telecommunications Act, 2000 – 2.*

- (b) monitor and ensure that licensees comply with the conditions attached to their licences;
- (c) approve or disapprove proposed interconnection agreements by telecommunications providers;
- (d) resolve any disputes relating to interconnection or sharing of infrastructure between telecommunications providers;
- (e) monitor anti-competitive practices in the telecommunications sector and advise the national body responsible for the regulation of anti-competitive practices accordingly;
- (f) monitor and ensure that licensees comply with the regional spectrum plan established by the Authority;
- (g) manage spectrum in relation to the telecommunications sector;
- (h) investigate complaints against licensees, either on its own initiative or upon request;
- (i) manage the Universal Service Fund;
- (j) advise the Minister on legal, technical, financial and economic aspects of the telecommunication sector;
- (k) liaise closely with the Authority and promptly provide the Authority with such information as the Authority may require in order to carry out its functions under the Agreement;
- (l) keep a register of licensees and telecommunications equipment approvals; and
- (m) provide the Minister with such information as he may require from time to time.

Powers of  
Commission.

18. The Commission shall, for the purposes of carrying out its functions under this Act or the regulations made under this Act, have power:

- (a) to summon and examine witnesses;
- (b) to call for and examine documents;
- (c) to administer oaths;
- (d) to require that any document submitted to the Commission be verified by affidavit;
- (e) to levy fines;
- (f) to do anything which is related or incidental to what is specified in paragraphs (a), (b), (c), (d) and (e) of this section; and

*The Telecommunications Act, 2000 – 2.*

- (g) to do anything it is authorised to do by any other provision of this Act or the regulations made under this Act, or any other enactment.

19. (1) A Commissioner, other than the Chairperson, may resign his office in writing, and his resignation shall be addressed to the Minister through the Chairperson.

Resignation of  
Commissioners.

(2) The Chairperson of the Commission may, at any time, in writing addressed to the Minister, resign from his office.

20. The Minister may remove any Commissioner from office only on one or more of the following grounds, that is to say,

Termination of  
office.

- (a) inability to perform the functions of his office;
- (b) being absent from three consecutive meetings of the Commission without the permission of the Chairperson; or
- (c) if he is declared bankrupt or compounds with his creditors.

21. The Minister may generally give to the Commission directives of a policy nature, and the Commission shall comply with those directions.

Directions by the  
Minister.

22. The Second Schedule to this Act shall apply to meetings of the Commission as specified in that Schedule.

Meetings of  
Commission.

23. Commissioners shall be paid such remuneration as the Minister may determine and specify in their instruments of appointment.

Remuneration of  
Commissioners.

24. The Commission shall appoint such staff and contract the services of such specialist persons as is necessary for the performance of the functions of the Commission.

Staff of the  
Commission.

#### PART IV

### UNIVERSAL SERVICE, INTERCONNECTION INFRASTRUCTURE, SHARING, NUMBERING, ETC.

#### *Universal Service*

25. (1) The Minister may, on the recommendation of the Authority include a condition in the licence of a telecommunications provider requiring such telecommunications provider to provide universal service, except that such requirement shall be carried out in a transparent, non-discriminatory and competitively neutral manner and is not more burdensome than is necessary for the kind of universal service required to be offered.

Provision of  
universal service.

*The Telecommunications Act, 2000 - 2.*

(2) Any telecommunications provider who is required by its licence to provide universal service to any person shall do so at such price, and with the quality of service specified in the licence.

Universal service  
Fund.

26. (1) There shall be established a Fund to be known as the Universal Service Fund, which Fund shall be managed by the Commission in accordance with regulations made by the Minister on the recommendation of the Authority.

(2) Every telecommunications provider shall contribute to the Universal Service Fund.

(3) The Minister shall, on the recommendation of the Authority and by Order, prescribe the percentage of the gross revenue of the telecommunications providers received by them in the course of providing telecommunications services which shall be contributed by the telecommunications providers to the Universal Service Fund, except that the percentage to be contributed shall be the same for all telecommunications providers.

Purpose of the  
Fund.

27. (1) The Fund shall be used by the Commission, on the recommendation of the Authority, to compensate any telecommunications provider who is required to provide universal service by virtue of section 25 of this Act.

(2) The amount of compensation payable by virtue of subsection (1) of this section shall be computed in accordance with the regulations made by the Minister on the recommendation of the Authority, and the conditions attached to the licence of the telecommunications provider and shall be paid to the relevant telecommunications providers by the Commission.

(3) In making the regulations referred to in subsection (2) of this section the Minister shall also be guided by the actual cost that is incurred in making available the required universal service.

#### **Interconnection and Infrastructure Sharing**

Interconnection and  
infrastructure  
sharing.

28. (1) Subject to the provisions of this section, any telecommunications provider who operates a telecommunications network shall not refuse, obstruct, or in any way impede another telecommunications provider to make any interconnection with his telecommunications network and shall, in accordance with the provisions of this section, ensure that the interconnection service provided is made at technically feasible physical points.

(2) Any telecommunications provider who wishes to make any interconnection to the telecommunications network of another telecommunications provider shall do so in accordance with the provisions of this section.

*The Telecommunications Act, 2000 – 2.*

(3) A request by a telecommunications provider to make any interconnection to the telecommunications network of another telecommunications provider shall be in writing.

(4) A telecommunications provider to whom a request is made in accordance with the provisions of this section shall, in writing, respond to the request within a period of one month from the date the request is made to him and, subject to the provision of subsection (5) of this section, provide the interconnection service in a reasonable time.

(5) A request by a telecommunications provider to make any interconnection to the telecommunications network of another telecommunications provider shall be refused only on reasonable grounds, which grounds shall be in writing.

(6) Any interconnection service provided by a telecommunications provider pursuant to the provisions of this section shall be provided on reasonable rates, terms, and conditions which are not less favourable than

- (a) those of the provider of the interconnection service;
- (b) the services of non-affiliated suppliers; or
- (c) the services of the subsidiaries or affiliates of the provider of the interconnection service.

(7) Without prejudice to the generality of the provisions of subsection (6) of this section, the Commission may, on the recommendation of the Authority, prescribe the cost and pricing standards and other guidelines on which the reasonableness of the rates, terms and conditions of the interconnections will be determined.

(8) No telecommunications provider shall, in respect to any rates charged by him for interconnection services provided by him to another telecommunications provider, vary the rates on the basis of the class of customers to be served, or on the type of services that the telecommunications provider requesting the interconnection services intends to provide.

29. (1) No person shall enter into any interconnection agreement without first submitting the proposed agreement to the Commission for its approval, which approval shall be in writing.

Interconnection  
agreements.

(2) Interconnection agreements between telecommunications providers shall be in writing, and copies of the agreements shall be kept in a public registry maintained by the Commission for that purpose.

(3) The agreements referred to in subsection (2) of this section shall be open to public inspection during normal working hours.



*The Telecommunications Act, 2000 - 2.*

(4) The Commission shall, after consulting the Authority, prepare, publish, and make available copies of the procedures to be followed by the telecommunications providers when negotiating interconnection agreements.

Cost of  
interconnection.

30. (1) The cost of making any interconnection to the telecommunications network of another telecommunications provider shall be borne by the telecommunications provider requesting the interconnection.

(2) The cost referred to in subsection (1) of this section shall be based on cost-oriented rates that are reasonable and arrived at in a transparent manner having regard to economic feasibility, and sufficiently unbundled such that the supplier of the interconnection service does not have to pay for network components that are not required for the interconnection service to be provided.

Infrastructure  
sharing.

31. The provisions of sections 28, 29 and 30 of this Act shall apply to infrastructure sharing, *mutatis mutandis*.

*Numbering*

Numbering.

32. (1) The Commission shall establish and manage a national plan for the allocation of numbers among telecommunications providers in accordance with the regulations made in that respect under this Act by the Minister.

(2) The Commission shall, in managing the national plan for the allocation of numbers among telecommunications providers, pay due regard to the existing allocation of numbers.

PART V

MISCELLANEOUS PROVISIONS

*Right of entry and search*

Right of entry.

33. (1) Subject to the provisions of this section, an authorised officer may, on reasonable suspicion that any licensee is engaged in conduct that is contrary to the provisions of this Act or the regulations made under this Act, or the licence, enter any vehicle, ship, vessel, aircraft, or premises and search the vehicle, ship, vessel, aircraft, or premises, as the case may be, and he may, in that process,

- (a) remove any document or extracts of the document;
- (b) seize any telecommunications apparatus;

from the person who was in charge of the document or apparatus or in whose possession the document or apparatus was.

*The Telecommunications Act, 2000 – 2.*

(2) An authorised officer shall not enter any vehicle, ship, vessel, aircraft, or premises in exercise of the powers conferred on him by subsection (1) of this section without a search warrant issued in that respect by a Court.

(3) An authorised officer shall not seize any telecommunications apparatus in exercise of the powers conferred on him by subsection (1) of this section without a court order.

(4) An authorised officer shall, on entering the vehicle, ship, vessel, aircraft, or premises, identify himself to the person in charge of the vehicle, ship, vessel, aircraft, or premises, as the case may be, by showing the person the search warrant together with his official identity card.

(5) An authorised officer shall, on completing the search, leave with the person in charge of the vehicle, ship, vessel, aircraft, or premises, as the case may be, a receipt in which it is indicated a list of documents or extracts taken by the authorised officer.

(6) An authorised officer may copy any document removed by him in accordance with the provisions of subsection (1) of this section, and return the document to the owner or person in charge of the document.

34. (1) Where a Court is satisfied by information on oath that there are reasonable grounds to suspect or believe that any person is engaged in conduct that is in anyway contrary to the provisions of this Act, or the regulations made under this Act, or any other enactment, or the licence, issued, in relation to the vehicle, ship, vessel, aircraft, or premises, as the case may be, to the authorised officer a search warrant for the purpose of enabling him to exercise the powers conferred on him by section 33 of this Act.

Search warrant.

(2) Notwithstanding the provisions of subsection (1) of this section a Court shall not, except in accordance with the provisions of subsection (3) of this section, in the search warrant, authorise the authorised officer to detain a document or telecommunications apparatus obtained pursuant to the provisions of section 33 of this Act for more than thirty days.

(3) Any telecommunications apparatus that is seized pursuant to a search conducted in accordance with the provisions of section 33 of this Act shall,

- (a) where legal proceedings are not commenced within a period of thirty days from the date of seizure of the apparatus, be returned to the owner; and
- (b) where legal proceedings are commenced before the

*The Telecommunications Act, 2000 – 2.*

expiry of the thirty days, be kept until the conclusion of the legal proceedings.

(4) A Court may, where a licensee is convicted of an offence under this Act in respect of any telecommunications apparatus seized pursuant to a search conducted in accordance with the provisions of section 33 and this section, order that the apparatus be forfeited to the Crown.

*Inspection of licences*

Inspection of licence.

35. Any person who holds a valid licence issued under this Act shall exhibit his licence for inspection on demand by an authorised officer.

*Terminal Equipment*

Connection of terminal equipment.

36. (1) No person shall connect any terminal equipment to a public telecommunications network unless the equipment is approved by the Commission, and the Commission shall, before giving the approval, take into account the recommendations of the Authority relating to equipment approval.

(2) Notwithstanding the provisions of subsection (1) of this section the Minister may, by Order, exempt any person from the requirements of this section on the recommendation of the Authority.

*Electrical interference*

Reduction of electrical interference.

37. No person shall use or cause to be used anything that is capable of causing electrical interference with the normal operation, functioning, or use of a licensed telecommunications network, or telecommunications apparatus, unless such a thing is equipped with filters, suppressors or other devices, or is otherwise modified to minimise the interference to a level prescribed by regulations under this Act.

*Emergency situation*

Control of telecommunications in emergency.

38. (1) Where an emergency is declared in accordance with the provisions of the Constitution the Government may, in relation to the telecommunications sector, take such measures as are necessary for dealing with the situation, and such measures may include suspension of services, modification of services, and giving directions to telecommunications providers as are deemed necessary in the circumstances.

(2) Anything which is done in accordance with the provisions of this section shall not constitute a breach of any condition of a licence or provision of any agreement.

*The Telecommunications Act, 2000 – 2.**Confidentiality of communications, etc.*

39. Any transmission over a public telecommunications network, or telecommunications service shall be confidential and shall not be intercepted, monitored or interrupted without the consent of the sender, or court order made under this Act or any other enactment.

Secrecy of  
communications

40. Any personal information relating to a subscriber shall be confidential and shall not be disclosed by any telecommunications provider without the consent of the subscriber or court order under this Act or any other enactment.

Secrecy of personal  
information.

*Right to obtain information, Inspections and Tests*

41. (1) A subscriber or his duly authorised agent may, during normal working hours, obtain from a telecommunications provider such information as is relevant for the purposes of the subscriber.

Right to obtain  
information.

(2) A request for information referred to in subsection (1) of this section shall be in such form as the Commission may prescribe.

42. (1) All telecommunication installations, equipment or stations established and operated by virtue of the provisions of this Act shall be subject to inspection by a person duly authorised by the Commission.

Inspection of  
telecommunications  
equipment, etc.

(2) A person who

- (a) intentionally impedes or interferes with the inspection referred to in this section;
- (b) does not give information requested in the course of such inspection;
- (c) gives wrong information in response to an inquiry made by the authorised person;

commits an offence and shall be liable, on summary conviction to a fine not exceeding twenty thousand dollars or to imprisonment for a term not exceeding one year or both.

43. The Commission may, at the expense of the licensee, carry out tests and trials on telecommunication installations that are intended for use or are already being used for services under a licence granted under this Act in order to verify their compliance with the terms and conditions of the licence.

Tests.

*Offences*

44. (1) A person who operates a telecommunications network or provides telecommunications services or uses radio frequencies specified in section 5 of this Act contrary to the provisions of that section

Engaging in  
telecommunications  
without a licence.

*The Telecommunications Act, 2000 – 2.*

commits an offence and shall be liable, on conviction on indictment, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding four years or both.

(2) The court may also, on application,

- (a) make an order for forfeiture of any equipment used for the commission of the offence; and
- (b) grant an order restraining the accused from continuing to engage in similar activities.

Malicious damage  
to apparatus.

45. (1) No person shall remove, damage, or destroy any telecommunications network, or telecommunications apparatus, except in accordance with the provisions of this Act or the regulations made under this Act.

(2) A person who contravenes any provisions of subsection (1) of this section commits an offence and shall, on summary conviction, be liable to a fine not exceeding fifteen thousand dollars or to imprisonment for a period not exceeding two years, and if he is convicted on indictment he shall be liable to a fine not exceeding thirty thousand dollars or to imprisonment for a period not exceeding four years.

Unlawful  
connections.

46. (1) A person who connects any terminal equipment contrary to the provisions of section 36 of this Act commits an offence and shall be liable, on conviction on indictment, to a fine not exceeding ten thousand dollars or to imprisonment for a period not exceeding two years.

Unlawful  
interception and  
disclosure of  
personal  
information.

47. (1) A person who

- (a) contravenes the provisions of section 39 of this Act;  
or
- (b) knowingly discloses any personal information  
contrary to the provisions of section 40 of this Act;

commits an offence and shall be liable, on conviction on indictment, to a fine not exceeding fifteen thousand dollars or to imprisonment for a period not exceeding one year.

(2) The provisions of subsection (1) of this section shall not apply to a disclosure made to the Customs Department, the Income Tax Department or the Police.

Obstruction of  
investigation.

48. A person who, in any manner, impedes, prevents, or obstructs any investigation being carried out by the Commission under this Act commits an offence and shall be liable, on conviction on indictment, to a fine of eight thousand dollars or to imprisonment for a period not exceeding six months.

*The Telecommunications Act, 2000 – 2.*

49. A person who

- (a) refuses to produce any document, record, thing, or any information required by the Commission under this Act; or
- (b) destroys or alters, or causes to be destroyed or altered, any document, record or thing required to be produced under this Act;

Refusal to produce documents, etc. or to give, etc.

commits an offence and shall be liable, on conviction on indictment, to a fine not exceeding five thousand dollars or to imprisonment for a period not exceeding six months.

50. A person who knowingly gives false or misleading information to the Commission commits an offence and shall be liable, on conviction on indictment, to a fine not exceeding five thousand dollars or to imprisonment for a period not exceeding six months.

Giving false information.

51. A person who

- (a) refuses or fails, without reasonable excuse, to appear before the Commission, having been required to do so; or
- (b) refuses to take an oath or make an affirmation having appeared before the Commission as a witness;

Failure to attend to give evidence.

commits an offence, and shall be liable, on summary conviction, to a fine not exceeding one thousand dollars or to imprisonment for a period not exceeding three months.

*Appeals*

52. (1) A person who is aggrieved by the decision of the Commission may, within thirty days from the date the decision is communicated to him, appeal to the Authority and the Authority shall review the decision and may reverse, modify, or sustain the decision being appealed against.

Appeals.

(2) A person who is aggrieved by the decision of the Minister may, within thirty days from the date the decision is communicated to him appeal to the High Court, and the High Court may determine the appeal and grant such relief as it deems fit.

*Inspection of records of the Commission*

53. (1) Subject to the provisions of this section, every record of the Commission shall, upon request, be made available for public inspection at the offices of the Commission.

Inspection of records.

(2) Notwithstanding the provisions of subsection (1) of this section, the following records shall not, except in accordance with the

provisions of this section, be made available to the public for inspection, that is to say,

- (a) records relating to the internal personnel rules and practices of the Commission;
- (b) personnel records, medical records, and other records whose disclosure would constitute an invasion of personal privacy;
- (c) secret records relating to national defence or security;
- (d) records of intra-governmental communications relating to governmental decision processes;
- (e) records of information obtained by the Commission in the course of its frequency monitoring activities;
- (f) records containing information relating to the valuation of the property of the telecommunications providers;
- (g) records of trade secrets or proprietary commercial, financial or technical information which is customarily guarded from competitors;
- (h) records of information which are subject to judicial privilege; and
- (i) records which are not open to public inspection by virtue of the provisions of any enactment.

(3) The records referred to in paragraphs (f) and (g) of subsection (2) of this section shall not be made available to the public for inspection if they were furnished to the Commission with a request for confidentiality, which request the Commission approved.

(4) The records referred to in paragraph (d) of subsection (2) of this section shall be made available to the public for inspection if it is shown that they would be made available to a private person through the discovery process in court proceedings.

(5) Any investigative record compiled for enforcement purposes shall not be made available for public inspection if to do so would:

- (a) interfere with enforcement proceedings;
- (b) deprive a person of the right to fair trial or impartial adjudication;
- (c) constitute an unjustified invasion of personal privacy;
- (d) disclose the identity of a confidential source;

*The Telecommunications Act, 2000 – 2.*

- (e) disclose investigative techniques or procedures; or
- (f) endanger the life or physical safety of the law enforcement personnel.

(6) Applications for authorisation of equipment and materials relating to the applications shall not be made available for public inspection until the Commission has approved the applications.

(7) Records of information submitted in connection with audits, investigations and examinations shall not be made available for public inspection until the Commission has taken action on the matter.

*Regulations*

54. The Minister may, on the recommendation of the Authority, generally make regulations to give effect to the provisions of this Act, and without prejudice to the generality of the foregoing may make regulations providing, in particular,

Regulations.

- (a) for the types and forms of licences and the manner in which applications for licences are to be made;
- (b) for the type of terminal equipment to be connected to a public telecommunications network;
- (c) for matters relating to the provision of universal service;
- (d) for matters relating to interconnection between telecommunications providers, and the sharing of infrastructure by telecommunications providers;
- (e) for the procedure to be followed by the Commission in resolving disputes between telecommunications providers;
- (f) for matters relating to the allocation of numbers among the telecommunications providers;
- (g) for the procedure and standards relating to the submission, review and approval by the Commission of telecommunications tariffs;
- (h) for the securing of the safety of the public from personal injury;
- (i) for the control, measurement and suppression of electrical interference in relation to the working of telecommunications apparatus and systems;
- (j) for obtaining secrecy on the part of all persons employed in or in anyway connected with the maintenance and working of any



telecommunications network or telecommunications apparatus and systems;

- (k) for public inspection of records of the Commission;
- (l) for the telecommunications networks and systems, and services that are subject to an individual and class licence;
- (m) for matters relating to radio spectrum, ducts and radio transmitter towers, transmission lines and pole routes; and
- (n) for matters relating to the quality of telecommunications services.

Repeal and Savings.

55. (1) The enactments specified in the Third Schedule to this Act are hereby repealed.

(2) Notwithstanding the repeal of the enactments specified in the Third Schedule to this Act, and until new regulations are made under this Act any regulations made under the repealed enactments shall continue into force with such modifications as are necessary to bring them in conformity with the provisions of this Act.

(3) Notwithstanding section 5 of this Act, any person authorised to operate a telecommunications network or provide a telecommunications service or use radio frequencies as at the date of the entry into force of this Act shall be deemed to be operating such network or providing such service or using such radio frequencies pursuant to a licence issued under this Act for six months from the entry into force of this Act, and thereafter, any such telecommunications provider shall require a licence under this Act.

(4) Notwithstanding section 7 of this Act, the open tender procedure shall not apply to individual licences obtained within six months of the entry into force of this Act by telecommunications providers who are authorised to operate a telecommunications network or provide telecommunications service as at the date of entry into force of this Act.

## SCHEDULES

### *FIRST SCHEDULE*

(Section 8 (5))

#### CONDITIONS ATTACHABLE TO LICENCES

- 1 Licences granted under this Act may contain any or all of the following conditions:
  - (a) the networks and services which the licensee is and is not entitled to operate and provide, and the networks to which the licensee's network can be connected;
  - (b) the duration of the licence;

*FIRST SCHEDULE – CONT'D*

- (c) the build-out of the licensee's network and geographical and subscriber targets for the provision of the licensee's services;
- (d) the use of radio spectrum;
- (e) the provision of services to rural or sparsely populated areas or other specified areas in which it would otherwise be uneconomical to provide services;
- (f) the provision of services to the blind, deaf, physically and medically handicapped and other disadvantaged persons;
- (g) contribution towards the provision of universal service or universal access;
- (h) the interconnection of the licensee's network with those of other operators;
- (i) the sharing of telecommunications infrastructure;
- (j) requirement of anti-competitive conduct; and the allocation and use by the licensee of numbers.

*SECOND SCHEDULE*

(Section 22)

## MEETINGS OF THE COMMISSION, ETC.

1. The Commission shall meet at such times and at such places as the Commission considers necessary or expedient for the transaction of the business of the Commission.
2. The Chairperson may at any time call a special meeting of the Commission, and shall call a special meeting of the Commission within fourteen days of receipt of a request for that purpose addressed to him in writing and signed by any two Commissioners.
3. The quorum of the Commission at any meeting shall be three where the number of Commissioners appointed is five and two where three Commissioners are appointed.
4. In the absence of the Chairperson, the Commissioners present shall elect from their number a Commissioner to preside at the meeting of the Commission.
5. Decisions of the Commission shall be by majority of votes of members present and voting.
6. (1) Minutes of each meeting of the Commission shall be recorded and kept by the Secretary to the Commission.  
(2) A certified copy of the minutes of each meeting confirmed by the Commission shall be forwarded to the Minister within fourteen days after the meeting at which they were confirmed.
7. The Commission may invite any person to attend any meeting of the Commission

*SECOND SCHEDULE - CONT'D*

where the Commission considers it necessary to do so, but that person shall not vote on any matter before the Commission.

8. Subject to this Schedule, the Commission may regulate its own procedure, and may delegate to any Commissioner power and authority to carry out on behalf of the Commission such duties as the Commission may determine.
9. Where a Commissioner has an interest, directly or indirectly, in any matter before the Commission in which his private capacity conflicts with his duties as a Commissioner and which matter is a subject of consideration by the Commission, the Commissioner shall, as soon as practicable after becoming aware of the interest in the matter, disclose his interest to the Chairperson.
10. The Commissioner referred to in paragraph 9 of this Schedule shall not, unless otherwise decided by the Commission, take part in the consideration of the matter, and if allowed to take part in the consideration of the matter he shall not vote on the matter.

*THIRD SCHEDULE*

(Section 55)

## LIST OF ENACTMENTS THAT ARE REPEALED

1. The Telecommunications Act, Chapter 203.
2. The Telephone Act, Chapter 204.
3. The Production of Telegrams Act, Chapter 202.

WALFORD V GUMBS  
*Speaker*

Passed by the National Assembly this 11<sup>th</sup> day of January 2000.

F ALPHONSO LEWIS  
*Clerk of the National Assembly*