



THE STATUTES OF THE REPUBLIC OF SINGAPORE

TELECOMMUNICATIONS ACT

(CHAPTER 323)

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Telecommunications Act

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation

PART II

EXCLUSIVE PRIVILEGE AND LICENSING, ETC., OF TELECOMMUNICATION SYSTEMS

3. Exclusive privilege with respect to telecommunications
4. Exceptions to section 3
5. Power to license telecommunication systems and services
- 5A. Power to grant spectrum right
- 5B. Power to license satellite orbital slots
6. Designation of public telecommunication licensees
7. Modification of licence conditions
8. Suspension or cancellation of licence, etc.
9. Approval of equipment
10. Residual power of Authority to provide telecommunication services
11. Charges and other terms for services provided by Authority

PART III

ERECTION, MAINTENANCE AND REPAIR OF TELECOMMUNICATION INSTALLATIONS

12. Power to enter on and examine land other than State land
13. Power to enter on State land for purposes of installation or plant
14. Power to enter on other land or building for purposes of installation or plant
- 14A. Transfer of installation or plant
15. Savings of wayleave agreements

Section

16. Inspection, maintenance and repair of installation or plant for telecommunications
17. Alteration or relocation of public telecommunication licensee's installation or plant
18. Removal of trees dangerous to or obstructing any installation or plant for telecommunications
19. Provision of space or facility under code of practice
20. Provision of facilities for radio-communication
21. Provision of space or facility or installation, plant or system by direction of Authority
22. [*Repealed*]
23. Disputes as to compensation
24. Precautions in execution of work
25. Exemption from distress and attachment, etc.

PART IV

CODES OF PRACTICE, STANDARDS OF PERFORMANCE, DIRECTIONS
AND ADVISORY GUIDELINES ON TELECOMMUNICATIONS

26. Codes of practice and standards of performance on telecommunications
27. Directions affecting telecommunication licensees
28. Advisory guidelines

PART V

TELECOMMUNICATION CABLE DETECTION WORK

29. Telecommunication cable detection work to be carried out before earthworks
30. Powers of Authority in relation to telecommunication cable detection work
31. Licensed telecommunication cable detection workers
32. Duty to enquire before excavation

PART VA

CONTROL OF DESIGNATED TELECOMMUNICATION
LICENSEES, DESIGNATED BUSINESS TRUSTS AND
DESIGNATED TRUSTS

- 32A. Interpretation of this Part

Section

- 32B. Control of equity interests and voting power in designated telecommunication licensee, designated business trust or designated trust
- 32C. Power to issue code of practice relating to control of designated telecommunication licensees, designated business trusts and designated trusts
- 32D. Power to issue directions relating to control of designated telecommunication licensees, designated business trusts and designated trusts
- 32E. Power of Authority to obtain information relating to control of designated telecommunication licensees, designated business trusts and designated trusts
- 32F. Appointment of chief executive officer, director, etc., of designated telecommunication licensee

PART VB

SPECIAL ADMINISTRATION ORDER

- 32G. Interpretation of this Part
- 32H. Declaration of specified telecommunication licensee
- 32I. Meaning and effect of special administration order
- 32J. Power to make special administration order, etc.
- 32K. Transfer of property, etc., under special administration order
- 32L. Restrictions on voluntary winding up, etc.

PART VI

OFFENCES AND PENALTIES

- 33. Unlawful operation of telecommunication system or service
- 34. Prohibitions in respect of telecommunication and radio-communication equipment
- 35. Penalty for unlicensed station
- 36. Exemption from sections 33, 34 and 35
- 37. Powers of search and seizure
- 38. Sealing of telecommunication system or equipment, etc.
- 39. Using unlawful telecommunication system or service
- 40. Obstruction of public telecommunication licensees
- 41. Intentional damage to installation or plant used for telecommunications
- 42. Offences by officer, employee or agent of public telecommunication licensees

Section

43. Fraudulent use of telecommunication service
44. Possession or supply of any thing for fraudulent purpose in connection with use of telecommunication service
45. Sending false message
46. Fraudulent retention of messages
47. Protection of installation or plant used for telecommunications
48. Prohibition of false notice relating to public telecommunication licensees' installation or plant
49. Damage to telecommunication system licensees' installation or plant
50. Compensation for damage caused to public telecommunication licensees' installation or plant
51. Penalty for removing any mark denoting used device for telephony purposes
52. Failure to disconnect equipment not approved under section 9

PART VII

INTERNATIONAL OBLIGATIONS AND NATIONAL INTERESTS

53. Right to conduct international business dealings
54. Government's overriding international rights
55. Liability for international financial obligations
56. Contribution by Government
57. Provision to Government of telecommunication services, etc.
58. Directions by Minister

PART VIII

ENFORCEMENT POWERS AND PROCEDURES

59. Power to require information, etc.
60. Powers of arrest and search in respect of seizable offences
61. Powers of search and arrest in respect of offences under section 33 or 44
62. Obstruction of police officer or Chief Executive or employee of Authority
63. No costs or damages or other relief arising from seizure to be recoverable unless seizure without reasonable or probable cause
64. Composition of offences
65. General penalties
66. Saving of prosecutions under other written laws
67. Jurisdiction of Courts

Section

68. Offences by bodies of persons

PART IX

GENERAL PROVISIONS

69. Reconsideration by Authority and appeal to Minister
69A. Interest on sums unpaid
69B. Power of Minister to issue written order relating to acquisition of assets, etc., of telecommunication licensee, designated business trust or designated trust
69C. Power of Minister to issue separation order
70. Exclusion of liability of public telecommunication licensees
71. Service of documents, etc.
72. Excluded matters
73. Exemption by Minister
74. Regulations
75. Savings and transitional provisions

An Act to provide for the operation and provision of telecommunication systems and services in Singapore, and for matters connected therewith.

[1st December 1999]

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Telecommunications Act.

Interpretation

2. In this Act, unless the context otherwise requires —

“Authority” means the Info-communications Development Authority of Singapore established under the Info-communications Development Authority of Singapore Act (Cap. 137A);

“broadcasting apparatus” and “broadcasting service” have the same meanings as in the Broadcasting Act (Cap. 28);

[10/2005]

“Chief Executive” means the Chief Executive of the Authority and includes any temporary Chief Executive of the Authority appointed under section 10 of the Info-communications Development Authority of Singapore Act;

“code of practice” means a code of practice issued or approved under section 19 or 26;

[Act 19 of 2011]

“earthworks” includes —

- (a) any act of excavating earth, rock or other material (by whatever means) in connection with —
 - (i) any works for or relating to the construction, reconstruction, extension, renovation, alteration, demolition or repair of any building, road, railway, bridge, viaduct, flyover, sewer or sewage works;
 - (ii) any works for or relating to the laying, inspecting, repairing or renewing of any mains, pipes, cables, fittings or other apparatuses;
 - (iii) any soil investigation works; or
 - (iv) such other works as are usually undertaken by a person carrying on business as a contractor in the construction industry or as a professional civil or structural engineer;
- (b) any act of boring, dredging, jacking, levelling, piling or tunnelling on or under any premises or street by any mechanical means; and
- (c) the driving or sinking of any earth rod, casing or tube into the ground;

“equipment” includes any appliance, apparatus or accessory used or intended to be used for telecommunications, including (for the avoidance of doubt) any such appliance, apparatus or

accessory capable of being used for the operation of any broadcasting service;

[Act 19 of 2011]

“Hertzian or radio waves” means electro-magnetic waves of frequencies not exceeding 1,000 terahertz propagated in space without any artificial guide;

“installation or plant used for telecommunications” includes all buildings, lands, structures, machinery, equipment, cables, poles and lines used or intended for use in connection with telecommunications;

“Media Development Authority of Singapore” means the Media Development Authority of Singapore established under the Media Development Authority of Singapore Act (Cap. 172);

[Act 19 of 2011]

“message” means any sign, signal, writing, image, sound, intelligence or information of any nature transmitted by telecommunications;

“public telecommunication licensee” means a person designated by the Authority under section 6;

“public telecommunication licensee’s installation or plant” means any installation or plant used for telecommunications belonging to or used by a public telecommunication licensee;

“radio-communication” means any telecommunication by means of Hertzian or radio waves;

“radio-communication service” means any service for radio-communications;

“radio-communication system” means any system used or intended to be used for radio-communications;

“repealed Act” means the Telecommunication Authority of Singapore Act (Cap. 323, 1993 Ed.) repealed by the Information Communications Development Authority of Singapore Act (Cap. 137A);

“securities”, in relation to a company, includes shares, debentures, bonds and other securities of the company, whether or not constituting a charge on the assets of the company;

“shares” includes stock;

“standard of performance” means a standard of performance issued or approved under section 26;

[Act 19 of 2011]

“street” includes any way, road, lane, path, passage or open space, whether a thoroughfare or not, over which the public have a right of way and also the roadway and footway over any public bridge and includes any road, footway or passage, used or intended to be used as a means of access to 2 or more holdings, whether the public has a right of way thereover or not;

“TAS” means the Telecommunication Authority of Singapore reconstituted by the repealed Act;

“telecommunication cable” means any cable of a telecommunication system belonging to or under the management or control of a telecommunication system licensee;

“telecommunication cable detection work” means any work of detecting or locating any underground telecommunication cable;

“telecommunication cable detection worker” means any person whose trade or occupation requires or includes the personal performance by him of telecommunication cable detection work;

“telecommunication cable detection work licence” means a licence granted under section 30;

“telecommunication licensee” means a person to whom a licence has been granted under section 5 or 5B;

[Act 19 of 2011]

“telecommunication line” means a wire or cable used for telecommunications with any casing, coating, tube or pipe enclosing the same and any appliance and apparatus connected therewith for the purpose of fixing or insulating the same;

“telecommunication service” means any service for telecommunications but excludes any broadcasting service;

“telecommunication system” means any system used or intended to be used for telecommunications, including (for the avoidance of doubt) any such system capable of being used for the operation of any broadcasting service;

[Act 19 of 2011]

“telecommunication system licensee” means a person licensed under section 5 to operate a telecommunication system;

“telecommunications” means a transmission, emission or reception of signs, signals, writing, images, sounds or intelligence of any nature by wire, radio, optical or other electro-magnetic systems whether or not such signs, signals, writing, images, sounds or intelligence have been subjected to rearrangement, computation or other processes by any means in the course of their transmission, emission or reception;

“vessel” includes any ship, boat, air-cushioned vehicle or floating rig or platform used in any form of operations at sea or any other description of vessel.

PART II

EXCLUSIVE PRIVILEGE AND LICENSING, ETC., OF TELECOMMUNICATION SYSTEMS

Exclusive privilege with respect to telecommunications

3.—(1) As from 1st December 1999 and subject to this Act, the Authority shall have the exclusive privilege for the operation and provision of telecommunication systems and services in Singapore.

(2) The privilege conferred on the Authority by subsection (1) shall —

- (a) include the rights of establishing, installing, using, working, maintaining, developing, constructing, promoting, hiring and selling telecommunication systems and services; and
- (b) extend to every vessel or aircraft registered in Singapore and every other vessel, aircraft and any vehicle, whether mechanically propelled or not, in Singapore.

Exceptions to section 3

4. The privilege conferred by section 3 shall not be infringed by —
- (a) the running by a person solely for his own use or solely for the purposes of his business (but not for providing any telecommunication service to another person) of a telecommunication line system in which all the equipment comprised therein is situated —
 - (i) on a single set of premises in single occupation; or
 - (ii) in a vessel, aircraft or vehicle or in 2 or more vessels, aircraft or vehicles mechanically coupled together; or
 - (b) the operation of any telecommunication system in the course of their duties by the officers and men of the Singapore Armed Forces, the Singapore Police Force, the Singapore Civil Defence Force or of any visiting force lawfully present in Singapore.

Power to license telecommunication systems and services

5.—(1) A licence may, with the consent of, or in accordance with the terms of a general authority given by the Minister, be granted by the Authority either unconditionally or subject to such conditions as the Authority may impose and specify in the licence and either irrevocably or subject to revocation as therein specified for the running of such telecommunication systems and services falling within section 3 as are specified in the licence.

(2) A licence granted under subsection (1) may be granted either to any person, class of persons or a particular person, and may include (without prejudice to the power to impose conditions conferred by that subsection) conditions requiring —

(a) the licensee to enter into agreements or arrangements with any person, class of persons or another telecommunications licensee for —

(i) the interconnection of, and access to, telecommunication systems;

(ii) the sharing of installation or plant used for telecommunications belonging to any telecommunication licensee; and

(iii) such other purpose as may be specified in the licence,

and on such terms and conditions as may be agreed to by the licensee and such other persons or licensees or, in default of agreement, as may be determined by the Authority;

(b) the payment to the Authority of a fee on the grant of the licence or the payment to it of periodic fees during the currency of the licence or both, of such amount as may be determined by or under the licence;

(c) the licensee to comply with any direction given by the Authority as to such matters as are specified in the licence or are of a description so specified;

(d) the licensee to comply with codes of practice and standards of performance that are applicable to the licensee; and

(e) the licensee to do, or not to do, such things as are specified in the licence or are of a description so specified.

(3) Any payment required by subsection (2) to be rendered to the Authority may be recovered by it in any court of competent jurisdiction as if it were a simple contract debt.

(4) No person shall question whether the grant of a licence under subsection (1) was, or was not, effected with the consent of or in accordance with the terms of a general authority given by the Minister, and the validity of a licence granted under that subsection shall not be impugned on the ground that it was granted neither with the consent of nor in accordance with the terms of a general authority given by the Minister.

(5) The grant of licences under this section shall be at the discretion of the Authority.

(6) Nothing in this section shall prevent the Minister from directing the Authority to grant a licence in any specific case.

(7) Anything done under and in accordance with a licence granted under subsection (1) shall not constitute an infringement of the privilege conferred by section 3.

Power to grant spectrum right

5A.—(1) The Authority may, with the consent of or in accordance with the terms of a general authority given by the Minister, grant any spectrum right —

- (a) unconditionally or subject to such conditions as the Authority may impose and specify in the grant of the spectrum right, including conditions on the sharing and trading of radio frequency spectrum; and
- (b) irrevocably or subject to revocation as specified in the grant of the spectrum right for the allocation and use of the radio frequency spectrum specified in the grant.

[10/2005 wef 16/02/2005]

(2) A spectrum right may be granted under subsection (1) to any person or class of persons, or to a particular person.

[10/2005 wef 16/02/2005]

(3) Any condition imposed under subsection (1)(a) requiring payment to be rendered to the Authority may be recovered by it in any court of competent jurisdiction as if it were a simple contract debt.

[10/2005 wef 16/02/2005]

(4) No person shall question whether the grant of a spectrum right under subsection (1) was, or was not, effected with the consent of or in accordance with the terms of a general authority given by the Minister, and the validity of a spectrum right granted under that subsection shall not be impugned on the ground that it was granted neither with the consent of nor in accordance with the terms of a general authority given by the Minister.

[10/2005 wef 16/02/2005]

(5) The grant of spectrum rights under subsection (1) shall be at the discretion of the Authority.

[10/2005 wef 16/02/2005]

(6) Nothing in this section shall prevent the Minister from directing the Authority to grant a spectrum right in any specific case.

[10/2005 wef 16/02/2005]

(7) Anything done under and in accordance with a spectrum right granted under subsection (1) shall not constitute an infringement of the privilege conferred by section 3.

[10/2005 wef 16/02/2005]

(8) For the purposes of giving effect to this section or any of the regulations referred to in subsection (9), the Authority may give directions to any person who has been granted a spectrum right under subsection (1) concerning the use of the spectrum right.

[10/2005 wef 16/02/2005]

(9) For the purposes of giving effect to this section, the Authority may by regulations made under section 74 —

- (a) provide for the variation of the conditions of the grant of any spectrum right;
- (b) provide for the resumption, by agreement or compulsorily, of any spectrum right or part of any spectrum right;
- (c) provide for the suspension or cancellation of the grant of any spectrum right or part of any spectrum right and the grounds therefor; and
- (d) impose on a person who is granted any spectrum right, for the breach of any of the conditions of that grant or of any direction issued under this section, a financial penalty of an amount not exceeding the higher of the following amounts:
 - (i) 10% of the annual turnover of that part of the person's business in respect of which the person is granted the spectrum right, as ascertained from the person's latest audited accounts; or
 - (ii) \$1 million.

[Act 19 of 2011]

Power to license satellite orbital slots

5B.—(1) The Authority may, with the consent of or in accordance with the terms of a general authority given by the Minister, grant a licence for the use of any satellite orbital slot —

- (a) unconditionally or subject to such conditions as the Authority may impose and specify in the licence; and
 - (b) irrevocably or subject to revocation as specified in the licence.
- (2) A licence under subsection (1) —
- (a) may be granted to any person or class of persons, or to a particular person; and
 - (b) may include (without prejudice to the power to impose conditions conferred by that subsection) conditions requiring —
 - (i) the licensee to enter into agreements or arrangements with any person or class of persons, or with another telecommunication licensee, for coordination of radio frequencies;
 - (ii) the payment to the Authority of a fee on the grant of the licence, of periodic fees during the currency of the licence, or of both, each fee being of such amount as may be determined by or under the licence;
 - (iii) the licensee to comply with any direction given by the Authority as to such matters as are specified in the licence, or as are of a description specified in the licence;
 - (iv) the licensee to comply with codes of practice and standards of performance that are applicable to the licensee; and
 - (v) the licensee to do, or to refrain from doing, such things as are specified in the licence, or as are of a description specified in the licence.

(3) Any payment required by subsection (2)(b)(ii) to be rendered to the Authority may be recovered by the Authority in any court of competent jurisdiction as if the payment were a simple contract debt.

(4) No person shall question whether the grant of a licence under subsection (1) was, or was not, effected with the consent of or in accordance with the terms of a general authority given by the Minister, and the validity of a licence granted under that subsection shall not be impugned on the ground that it was granted neither with the consent of nor in accordance with the terms of a general authority given by the Minister.

(5) The grant of licences under this section shall be at the discretion of the Authority.

(6) Nothing in this section shall prevent the Minister from directing the Authority to grant a licence in any specific case.

[Act 19 of 2011]

Designation of public telecommunication licensees

6. The Authority may, with the approval of the Minister, designate any person who has been granted a licence under section 5 as a public telecommunication licensee to perform all or any of the functions relating to the operation and provision of telecommunication systems and services in Singapore within the exclusive privilege of the Authority under this Act.

Modification of licence conditions

7.—(1) Subject to this section, the Authority may modify the conditions of a licence granted under section 5 or 5B.

[Act 19 of 2011]

(2) Before making modifications to the conditions of a licence of a public telecommunication licensee under this section, the Authority shall give notice to the licensee —

- (a) stating that it proposes to make the modifications in the manner as specified in the notice and the compensation payable for any damage caused thereby; and

(b) specifying the time (not being less than 28 days from the date of service of notice on such licensee) within which written representations with respect to the proposed modifications may be made.

(3) Upon receipt of any written representation referred to in subsection (2), the Authority shall consider such representation and may —

(a) reject the representation; or

(b) amend the proposed modifications or compensation payable in accordance with the representation, or otherwise,

and, in either event, it shall thereupon issue a direction in writing to such licensee requiring that effect be given to the proposed modifications specified in the notice or to such modifications as subsequently amended by the Authority within a reasonable time.

(4) [*Deleted by Act 10/2005 wef 16/02/2005*]

(5) The Authority shall not enforce its direction —

(a) during the period referred to in section 69(1) or (7);

(b) whilst a reconsideration request of the public telecommunication licensee under section 69 in respect of a decision of the Authority under this section is under consideration by the Authority; or

(c) whilst an appeal of the public telecommunication licensee under section 69 in respect of a decision of the Authority under this section is under consideration by the Minister.

[10/2005]

(6) If no written representation is received by the Authority within the time specified in subsection (2) or if any written representation made under subsection (2) is subsequently withdrawn, the Authority may forthwith carry out the modifications as specified in the notice given under subsection (2).

Suspension or cancellation of licence, etc.

8.—(1) If the Authority is satisfied that a person who is granted a licence under section 5 or 5B or any regulations made under this Act is contravening, or has contravened, whether by act or omission —

- (a) any of the conditions of the licence or part thereof;
- (b) any provision of any code of practice or standard of performance;
- (c) any direction of the Authority given under section 27, 32D or 32F(2); or
- (d) section 32B,

[10/2005]

the Authority may, by notice in writing, do either or both of the following:

- (i) issue such written order to the person as it considers requisite for the purpose of securing compliance thereof;
- (ii) require the person to pay, within a specified period, a financial penalty of an amount not exceeding the higher of the following amounts:
 - (A) 10% of the annual turnover of that part of the person's business in respect of which the person is granted the licence, as ascertained from the person's latest audited accounts; or
 - (B) \$1 million.

[Act 19 of 2011]

[Act 19 of 2011]

(2) If the Authority is satisfied that —

- (a) the person mentioned in subsection (1) is again likely to contravene, whether by act or omission, any condition, provision, direction or section referred to in that subsection;
- (b) the person mentioned in subsection (1) has gone into liquidation other than for the purpose of amalgamation or reconstruction;

(c) the person mentioned in subsection (1) is no longer in a position to comply with this Act or the terms or conditions of his licence; or

(d) the public interest so requires,

the Authority may (in lieu of an order or a financial penalty under subsection (1)(i) or (ii)) by notice in writing and without payment of any compensation, do all or any of the following:

(i) cancel the licence or part thereof;

(ii) suspend the licence or part thereof for such period as it thinks fit;

(iii) reduce the period for which the licence is to be in force.

[10/2005]

(3) *[Deleted by Act 10/2005 wef 16/02/2005]*

(4) An order under subsection (1)(i) —

(a) shall require the person concerned (according to the circumstances of the case) to do, or to refrain from doing, such things as are specified in the order, or as are of a description specified in the order; and

(b) shall take effect at such time (being the earliest practicable time) as is determined by or under that order.

[Act 19 of 2011]

(4A) The Authority may at any time vary, suspend or revoke the whole or any part of an order under subsection (1)(i).

[Act 19 of 2011]

(5) Any person who fails to comply with any order under subsection (1)(i) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 3 years or to both.

[10/2005 wef 16/02/2005]

(6) In any proceedings brought against any person for an offence under subsection (5), 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.

(6A) If the Authority, by notice in writing under subsection (1), requires a person who is granted a licence to pay, within a specified period, a financial penalty under subsection (1)(ii), and the person fails or refuses to pay the financial penalty within the specified period, the Authority may, by notice in writing and without payment of any compensation, do all or any of the following:

- (a) cancel the licence or part thereof;
- (b) suspend the licence or part thereof for such period as it thinks fit;
- (c) reduce the period for which the licence is to be in force.

[Act 19 of 2011]

(7) Any financial penalty payable by any person under subsection (1)(ii) shall be recoverable by the Authority as a debt due to the Authority from that person; and the person's liability to pay shall not be affected by his licence ceasing (for any reason) to be in force.

Approval of equipment

9.—(1) The following equipment shall be approved by the Authority before use:

- (a) any equipment to be used for connection (whether directly or indirectly) to any telecommunication system;
- (b) any equipment to be used as an adjunct to or in conjunction with any telecommunication system; and
- (c) any equipment belonging to a telecommunication system licensee.

[Act 19 of 2011]

(2) A person applying for an approval under this section may be required by the Authority to comply with such requirements as the Authority 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 equipment or to any equipment 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 telecommunication system or equipment which is so specified or is of a description so specified.

(5) Any such condition referred to in subsection (4) may impose on the person to whom the approval is given a requirement from time to time to satisfy some other person with respect to any matter.

(6) The Authority or any other person by whom any matter falls to be determined for the purposes of any requirement imposed in pursuance of subsection (2) or (4) may charge a fee in respect of the carrying out of any test or other assessment made by the Authority or other person.

(7) A public telecommunication licensee may, with the approval of the Authority (except in cases of emergency), cease or refuse to supply a telecommunication service to any person by means of a telecommunication system operated by the licensee if, through the use of such telecommunication service, there is or is intended to be connected to the telecommunication system, equipment or cabling that is a threat to —

- (a) the safety or proper functioning of the telecommunication system; or
- (b) the safety of any person.

[Act 19 of 2011]

Residual power of Authority to provide telecommunication services

10.—(1) The Authority may provide any telecommunication service notwithstanding that it has granted a licence to any person under section 5, in any of the following circumstances:

- (a) if the Authority is of the opinion that a person licensed under section 5 has failed to discharge or is not discharging to the Authority's satisfaction the obligations imposed by the

Authority on the person in the licence granted to the person;
or

(b) to give effect to any direction of the Minister under section 58.

(2) Where the Authority undertakes the provision of telecommunication services under subsection (1), sections 2, 9, 12 to 24, 25(1), 32, 39 to 43, 46 to 57 and 70 shall apply, with the necessary modifications, to the Authority in respect of the provision of such services and the references to public telecommunication licensee in those sections shall be read as references to the Authority.

Charges and other terms for services provided by Authority

11.—(1) The Authority may make, in relation to any service provided by the Authority under this Act, a scheme or schemes for determining either or both of the following:

- (a) the charges which, except in so far as they are the subject of an agreement between the Authority and a person availing himself of the service, are to be made by the Authority;
- (b) the other terms and conditions which, except as provided, are to be applicable to the service.

(2) A scheme made under this section may make different provision for different cases or classes of cases determined by, or in accordance with, the provisions of the scheme.

(3) A charge exigible by virtue of this section may be recovered by the Authority in any court of competent jurisdiction as if it were a simple contract debt.

(4) A scheme or any amendment thereof made under this section shall come into operation on such date as may be determined by the Authority.

(5) Nothing in this section shall be construed as prohibiting the Authority from levying any charge or collecting any dues for anything done or any service rendered by reason only of not being incorporated in a scheme and the rates, charges and fees payable to the Authority for any service rendered shall be in accordance with such rates, charges and fees as may, from time to time, be determined by the Authority.

(6) The rates, charges and fees applied by the TAS immediately before 1st December 1999 shall continue to be valid as though determined by the Authority under this section until rescinded, varied or otherwise determined by the Authority.

PART III

ERECTION, MAINTENANCE AND REPAIR OF TELECOMMUNICATION INSTALLATIONS

Power to enter on and examine land other than State land

12.—(1) Whenever it appears to a public telecommunication licensee that it shall or probably shall be necessary to exercise the powers conferred by this Act upon a public telecommunication licensee in respect of any land other than State land for the provision of any telecommunication service or installation of any telecommunication system, that licensee or any person authorised by that licensee in that behalf may, after giving not less than 3 hours' previous notice to the occupier thereof, if any, enter upon the land and may survey and take levels and do all other necessary acts preparatory to the provision of the service or installation of the system, as the case may be, so far as the same may be possible without causing any damage or disturbance.

[Act 19 of 2011]

(2) In the event of any damage or disturbance being caused by reason of the entry, the public telecommunication licensee shall pay compensation to the owner or occupier thereof.

(3) Nothing in this section shall be deemed to authorise any employee or agent of a public telecommunication licensee to cut down or clear away any vegetation or any fence or other erection or to enter any building or upon any enclosure attached to any building.

Power to enter on State land for purposes of installation or plant

13.—(1) For the purpose of providing any telecommunication service or installing any telecommunication system, a public telecommunication licensee or any person authorised by the Authority in that behalf may at any reasonable time —

- (a) enter upon any State land;
- (b) subject to the approval of the Authority and the Singapore Land Authority, erect in or upon the State land such installation or plant used for telecommunications or excavate such trenches as may be necessary or proper for the purpose of providing the service or installing the system, as the case may be; and

[Act 19 of 2011]

- (c) carry out all necessary works in connection therewith, and may, in the course thereof, fell or lop trees, remove vegetation and do all other things necessary for that purpose.

[10/2005 wef 16/02/2005]

[Act 19 of 2011]

(2) Where any such work interferes with improvements, buildings, growing trees or crops, the licensee shall pay compensation for any damage or disturbance.

[10/2005 wef 16/02/2005]

(3) Where the land is occupied under a licence for temporary occupation, the compensation shall be paid to the occupant under the licence.

[10/2005 wef 16/02/2005]

Power to enter on other land or building for purposes of installation or plant

14.—(1) Subject to this section, whenever it is necessary to do so for the purposes of providing any telecommunication service or installing any telecommunication system under this Act, a public telecommunication licensee may under, upon or over any land (other than State land) or in any building on any land —

- (a) lay, place or carry on and erect such installation or plant used for telecommunications as may be necessary or proper for such purposes; and
- (b) take such other action as may be necessary to render such installation or plant safe and efficient,

and pay compensation to any person interested for any damage, disturbance or disability that may be caused thereby.

[10/2005 wef 16/02/2005; Act 19 of 2011]

(2) Any compensation payable under subsection (1) may include an annual payment for land, building or other immovable property used for the purpose of the public telecommunication licensee's installation or plant.

[10/2005 wef 16/02/2005]

(3) A public telecommunication licensee shall not acquire any right other than that of user only in respect of any land, building or other property under, over, along, across, in or upon which the licensee places any installation or plant used for telecommunications under this section.

[10/2005 wef 16/02/2005]

(4) Before entering on any land or building for the purpose specified in subsection (1), a public telecommunication licensee shall give 14 days' notice stating as fully and accurately as possible the nature and extent of the acts intended to be done.

[10/2005 wef 16/02/2005]

(5) The notice shall be given to the owner or occupier of the land or building in the manner provided under this Act.

[10/2005 wef 16/02/2005]

(6) The owner or occupier of the land or building may, within 14 days of the receipt of the notice referred to in subsection (4), lodge a written objection with the Authority and the Authority shall specify a date to inquire into any such objection.

[10/2005 wef 16/02/2005]

(7) If no objection is lodged within the time specified in subsection (6), the public telecommunication licensee may forthwith enter on the land or enter the building and do all or any of the acts specified in the notice given under subsection (4).

[10/2005 wef 16/02/2005]

(8) If an objection is lodged and is not withdrawn before the date fixed for the hearing thereof, the Authority shall hold an enquiry, giving each party an opportunity to be heard.

[10/2005 wef 16/02/2005]

(9) Upon the conclusion of the enquiry, the Authority may authorise, either unconditionally or subject to such terms, conditions and stipulations as it thinks fit, any of the acts mentioned in the notice given under subsection (4) to be carried out.

[10/2005 wef 16/02/2005]

(10) [*Deleted by Act 10/2005 wef 16/02/2005*]

Transfer of installation or plant

14A.—(1) Where a public telecommunication licensee (referred to in this section as the transferor licensee), after having laid, placed, carried on or erected any installation or plant used for telecommunications under section 13 or 14, transfers the installation or plant, or any part thereof, to another public telecommunication licensee (referred to in this section as the transferee licensee), all rights conferred and obligations imposed on the transferor licensee under this Act in respect of any land, building or other property under, over, along, across, in or upon which the transferred installation or plant or part thereof has been laid, placed, carried on or erected shall be deemed, on the transfer date, by virtue of this subsection and without further assurance, to have been transferred to the transferee licensee.

(2) Subsection (1) shall apply to every transfer of installation or plant or part thereof referred to in that subsection which takes place on or after 1st July 2011.

[Act 19 of 2011]

Savings of wayleave agreements

15. Nothing in section 14(1) and (6) shall —

- (a) affect the right of a public telecommunication licensee to enter into an agreement, commonly known as a wayleave agreement, with the owner or occupier of any land for the purpose of laying, placing, carrying or erecting any installation or plant used for telecommunications on the land;
- (b) affect any such wayleave agreement subsisting immediately before 1st December 1999; or
- (c) affect the right of a public telecommunication licensee to negotiate the use of land or facilities belonging to the State or any other person.

Inspection, maintenance and repair of installation or plant for telecommunications

16.—(1) Whenever it is necessary to do so for the purposes of carrying out any functions and duties of the Authority under this Act or any regulations made thereunder, the Authority may enter upon any land or building, or stop or board any vessel, aircraft or vehicle and may carry out all necessary inspections or investigations and do all things necessary for such purpose.

(2) Whenever it is necessary to do so for the purpose of inspecting, maintaining or repairing a public telecommunication licensee's installation or plant or for the purpose of carrying out any functions conferred on a public telecommunication licensee under this Act or under any licence granted under section 5, that licensee or any person authorised by that licensee in that behalf may at any reasonable time —

- (a) enter upon any land or building, whether or not such installation or plant has been laid, placed, carried or erected on, under, upon or over the land or building;
- (b) carry out all necessary inspection, maintenance or repair, and may in the course thereof, fell or lop trees, remove vegetation and do all other things necessary for the purpose, causing as little damage as possible,

and pay compensation to any person adversely affected for any damage that may be caused thereby for which compensation has not already been assessed under section 14.

Alteration or relocation of public telecommunication licensee's installation or plant

17.—(1) Where a public telecommunication licensee's installation or plant has been laid, placed, carried or erected in, on, over, under, upon, along or across any land or building under section 13 or 14, as the case may be, and the owner or occupier of the land or building desires to use the land or building in a manner which renders it necessary or convenient for such installation or plant to be altered, removed, relocated or diverted, the owner or occupier may request the

public telecommunication licensee to alter, remove, relocate or divert such installation or plant accordingly.

[10/2005 wef 16/02/2005]

(2) The public telecommunication licensee shall, at the request of the owner or occupier of the land or building under subsection (1), alter, remove, relocate or divert the installation or plant if it is satisfied that such alteration, removal, relocation or diversion is reasonable and the owner or occupier complies with such reasonable terms and conditions as the licensee may impose.

[10/2005 wef 16/02/2005]

(3) The terms and conditions a public telecommunication licensee may impose under subsection (2) may include terms and conditions relating to the payment by the owner or occupier of the land or building of all costs and expenses necessary for such alteration, removal, relocation or diversion.

[10/2005]

Removal of trees dangerous to or obstructing any installation or plant for telecommunications

18.—(1) Where, in the opinion of a public telecommunication licensee, there is at any time danger or suspected danger that any tree (which term in this section includes undergrowth) near the licensee's installation or plant may interrupt or interfere with any telecommunication service provided by the licensee or cause damage to such installation or plant, the licensee may cause the tree to be felled or dealt with in such other manner as will, in its opinion, avert the danger.

[Act 19 of 2011]

(2) A public telecommunication licensee shall, in the exercise of its powers under subsection (1), be subject to the provisions of the Parks and Trees Act (Cap. 216).

(3) Where a tree, which has been felled or otherwise dealt with under subsection (1), was in existence before the public telecommunication licensee's installation or plant was placed, erected or installed, the licensee may subject to subsections (4) and (5) pay to any person adversely affected such sum as may be agreed by way of compensation.

(4) No further compensation shall be paid for the felling or lopping of any tree or the clearing of any vegetation where the action is necessary for the maintenance of a public telecommunication licensee's installation or plant and the tree and vegetation have grown or been allowed to grow since the payment of compensation under subsection (3).

(5) No compensation shall be payable by a public telecommunication licensee under subsection (3) in respect of any tree within 20 metres of the centre line of any road constructed or maintained by the Government or by any public authority unless it is proved that the tree was in existence prior to the construction of the road.

(6) In the event of the owner or occupier of any land felling, lopping or clearing any tree or vegetation adjacent to a public telecommunication licensee's installation or plant, the owner or occupier shall give the licensee 14 days' notice in writing of his intention to do so and shall take all such reasonable precautions as the licensee may require for the protection of such installation or plant.

(7) If any such owner or occupier fails to give notice as provided under subsection (6) or having given notice fails to take any such reasonable precautions as the public telecommunication licensee may have required, he shall be liable to pay the licensee any cost and expense incurred by the licensee for any damage caused to any such installation or plant.

(8) A certificate purporting to be under the hand of the chief executive of the licensee stating the amount of the cost and expense incurred by the licensee under subsection (7) shall be prima facie evidence of the amount due from the owner or occupier.

(9) If the amount due for the cost and expense is not paid within 7 days after demand, the amount may be recovered in the same manner as if it were a simple contract debt.

(10) If any tree is felled or vegetation is cleared upon land adjacent to a public telecommunication licensee's installation or plant, it shall be presumed until the contrary is proved that the tree was felled or the vegetation was cleared by the owner or occupier of the land or by his employees or agents acting as such.

Provision of space or facility under code of practice

19.—(1) The Authority may, from time to time —

- (a) issue one or more codes of practice for or in connection with the provision, maintenance and use of, and access to, space and facilities within or on any land or building for the operation of any installation, plant or system used for telecommunications, and the allocation of costs and expenses incurred for such provision, maintenance, use and access; and
- (b) amend or revoke any code of practice issued under paragraph (a).

(2) A code of practice issued under subsection (1) may, in particular —

- (a) require the developer or owner of any land or building to provide and maintain, at his expense, such space or facility within or on the land or building, and access to that space or facility, for the operation of any installation, plant or system used for telecommunications; and
- (b) provide for such fees and charges as may be payable to the Authority in relation to any application or request made to the Authority under the code of practice.

(3) If any provision in any code of practice issued under subsection (1) is inconsistent with any provision of this Act, that provision in that code of practice, to the extent of the inconsistency —

- (a) shall have effect subject to the provisions of this Act; or
- (b) having regard to the provisions of this Act, shall not have effect.

(4) A code of practice issued under subsection (1) shall not have legislative effect.

(5) Subject to subsection (6), every developer or owner of any land or building, and every telecommunication licensee, to whom any code of practice issued under subsection (1) applies shall comply, at his expense, with that code of practice.

(6) The Authority may, either generally or for such time as the Authority may specify, waive the application, to any developer or owner of any land or building or to any telecommunication licensee, of any code of practice issued under subsection (1) or of any part thereof.

(7) Where any code of practice issued under subsection (1) applies to a person who is a developer or an owner of any land or building, if the Authority is satisfied that the person is contravening, or has contravened, whether by act or omission, any provision of that code of practice, the Authority may, by notice in writing, issue such written order to the person as the Authority considers necessary for the purpose of securing compliance with that provision.

(8) An order under subsection (7) —

(a) shall require the person concerned (according to the circumstances of the case) to do, or to refrain from doing, such things as are specified in the order, or as are of a description specified in the order; and

(b) shall take effect at such time (being the earliest practicable time) as is determined by or under that order.

(9) The Authority may at any time vary, suspend or revoke the whole or any part of an order under subsection (7).

(10) Any person referred to in subsection (7) who fails to comply with an order under that subsection shall be guilty of an offence.

(11) Any relevant specifications in force immediately before the appointed day —

(a) shall be deemed to be a code of practice issued under subsection (1); and

(b) shall remain in force until revoked or replaced by a code of practice issued under subsection (1).

(12) In subsection (11) —

“appointed day” means the date of commencement of section 12 of the Telecommunications (Amendment) Act 2011;

“relevant specifications” means any specifications published by the Authority under section 19 in force immediately before the appointed day.

[Act 19 of 2011]

Provision of facilities for radio-communication

20.—(1) Any person who intends to install, erect or construct, within a radius of 200 metres from the site of a telecommunication licensee’s installation or plant used in connection with its radio-communication service, any building more than 30 metres above ground level shall notify the licensee in writing before carrying out any such installation, erection or construction.

(2) The telecommunication licensee may, after receiving such notification from the person, make arrangements with the person for the licensee to enter upon the building at any reasonable time to provide such accommodation or other facilities in or around the building as may be necessary or proper for any installation or plant used in connection with radio-communication service to be laid, placed, constructed, erected or installed in, on or around the building.

(3) Where, in the opinion of a telecommunication licensee, a building which is installed, erected or constructed after the licensee’s installation or plant used in connection with its radio-communication service was laid, placed, constructed, erected or installed in or around the building, interrupts or interferes with the licensee’s radio-communication service or system, the licensee may, with the approval of the Authority, at any reasonable time, enter upon the building to provide such accommodation or other facilities in or around the building as may be necessary or proper for such installation or plant to be laid, placed, constructed, erected or installed in, on or around the building for the purposes of eliminating such interruption or interference.

(4) The telecommunication licensee shall pay compensation to the owner or occupier of any building for any disturbance, disability or damage caused as a result of any act of the licensee under subsection (2) or (3).

(5) For the purposes of this section and section 19, “a building” means any permanent or temporary building and includes any structure or erection of any kind (whether permanent or temporary) and any extension, modification or alteration made thereto.

Provision of space or facility or installation, plant or system by direction of Authority

21.—(1) Where the Authority considers it necessary that any telecommunication service should be provided to any land or building, whether completed or not, or that the quality of a telecommunication service provided to any land or building should be enhanced, the Authority may by direction —

- (a) require the developer or owner of the land or building to provide at his expense, within such period as may be specified in the direction, such space or facility within or on the land or building, and access thereto, as the Authority may specify in its direction; and
- (b) require any telecommunication licensee to install, within such period as may be specified in the direction, such installation, plant or system as the Authority considers necessary for the provision, or the enhancement of quality, of the telecommunication service to the land or building.

[10/2005 wef 16/02/2005]

(1A) Where the Authority, after consultation with the Media Development Authority of Singapore, considers it necessary that any broadcasting service, the operation of which requires a telecommunication system, should be provided to any land or building, whether completed or not, or that the quality of any such broadcasting service provided to any land or building should be enhanced, the Authority may by direction —

- (a) require the developer or owner of the land or building to provide at his expense, within such period as may be specified in the direction, such space or facility within or on the land or building, and access thereto, as the Authority may specify in its direction; and

- (b) require any telecommunication licensee to install, within such period as may be specified in the direction, such installation, plant or system as the Authority considers necessary for the provision, or the enhancement of quality, of the broadcasting service to the land or building.

[Act 19 of 2011]

(2) Where a telecommunication licensee is using any space or facility provided by the developer or owner of any land or building pursuant to any direction under subsection (1) or (1A) or any code of practice issued by the Authority, and the licensee intends to use that space or facility to provide any telecommunication service or broadcasting service or to enhance the quality of any telecommunication service or broadcasting service provided to any other land or building, the licensee shall notify the developer or owner of the licensee's intention.

[10/2005 wef 16/02/2005; Act 19 of 2011]

(3) Where the developer or owner objects to the use of the space or facility for a purpose referred to in subsection (2), the telecommunication licensee shall refer the matter to the Authority for determination.

[10/2005 wef 16/02/2005]

(4) The Authority may, upon being satisfied by the telecommunication licensee that the use of the space or facility for a purpose referred to in subsection (2) would be reasonable, by direction —

- (a) require the developer or owner of the land or building to allow the licensee to use the space or facility; and
- (b) require the licensee to install and operate any installation, plant or system within the space or facility,

in such manner and on such terms as the Authority may specify in the direction.

[10/2005 wef 16/02/2005]

(5) Any direction under subsection (1), (1A) or (4) may include —

- (a) a requirement that the telecommunication licensee shall contribute, wholly or partly, to such costs and expenses incurred for the provision and use of any space or facility or

installation, plant or system under subsection (1), (1A) or (4) as the Authority may determine;

- (b) terms and conditions relating to the payment of costs and expenses necessary for any alteration, removal, relocation or diversion of the installation, plant or system that may subsequently be required; and
- (c) such other requirements as the Authority may specify.

[10/2005 wef 16/02/2005]

[Act 19 of 2011]

(6) The Authority may at any time vary, suspend or revoke the whole or any part of a direction under subsection (1), (1A) or (4).

[Act 19 of 2011]

(7) Any person who fails to comply with any requirement in a direction under this section shall be guilty of an offence.

[10/2005]

22. *[Deleted by Act 10/2005]*

Disputes as to compensation

23. If any dispute arises under sections 12(2), 13(2), 14(1), 16(2), 18(3) and 20(4), it shall, on application for that purpose by any aggrieved person to the Authority, be determined by the Authority.

[10/2005]

Precautions in execution of work

24. The execution of any work by a public telecommunication licensee under this Act which may affect any street, railway, river, canal, or other waterway or any system of irrigation, drainage or water supply or any telecommunications, harbour works or any other public or private works, and the erection of any installation or plant used for telecommunications whether over, on or under the ground shall be carried out in a lawful manner having regard to the safety of any person or property.

Exemption from distress and attachment, etc.

25.—(1) The installation or plant used for telecommunications of a public telecommunication licensee shall not be subject to distress or be liable to be taken in execution under any process of a court in any

bankruptcy or insolvency proceedings against any person without the prior approval of the Minister in writing.

(2) Every installation or plant used for telecommunications placed under, over, along, across, in or upon any property by a public telecommunication licensee shall remain the property of the licensee concerned whether or not it has become in whole or in part a fixture.

PART IV

CODES OF PRACTICE, STANDARDS OF PERFORMANCE, DIRECTIONS AND ADVISORY GUIDELINES ON TELECOMMUNICATIONS

[Act 19 of 2011]

Codes of practice and standards of performance on telecommunications

26.—(1) The Authority may, from time to time —

- (a) issue one or more codes of practice or standards of performance;
- (b) approve as a code of practice or standard of performance any document prepared by a person other than the Authority, if the Authority considers the document to be suitable for this purpose; or
- (c) review, amend or revoke any code of practice or standard of performance issued under paragraph (a) or approved under paragraph (b),

with respect to all or any of the following:

- (i) the operation of telecommunication systems and equipment;
- (ii) the provision of telecommunication services;
- (iii) the activities and conduct of telecommunication licensees in the provision of telecommunication services;
- (iv) the provision of services relating to the use of, or access to, telecommunication systems;

- (v) the activities and conduct of telecommunication licensees in the provision of services relating to the use of, or access to, telecommunication systems;
 - (vi) competition, abuse of a dominant position in the market and fair market conduct in the telecommunication industry in Singapore;
 - (vii) the acquisitions or consolidations involving a telecommunication licensee and any other person (whether a telecommunication licensee or otherwise);
 - (viii) the carrying out of the purposes and provisions of this Act and the due administration thereof.
- (2) A code of practice issued or approved under subsection (1) may, in particular —
- (a) specify the duties and obligations of any person in relation to his business operation in the telecommunication industry; and
 - (b) provide for such fees and charges as may be payable to the Authority in relation to any application or request made to the Authority under the code of practice.
- (3) If any provision in any code of practice or standard of performance issued or approved under subsection (1) is inconsistent with any provision of this Act, that provision in that code of practice or standard of performance, to the extent of the inconsistency —
- (a) shall have effect subject to the provisions of this Act; or
 - (b) having regard to the provisions of this Act, shall not have effect.
- (4) A code of practice or standard of performance issued or approved under subsection (1) shall not have legislative effect.
- (5) Subject to subsection (6), every telecommunication licensee to whom any code of practice or standard of performance issued or approved under subsection (1) applies shall comply with that code of practice or standard of performance.
- (6) The Authority may, either generally or for such time as the Authority may specify, waive the application, to any

telecommunication licensee, of any code of practice or standard of performance issued or approved under subsection (1) or of any part of any such code of practice or standard of performance.

[Act 19 of 2011]

Directions affecting telecommunication licensees

27.—(1) The Authority may give directions to be observed by telecommunication licensees —

- (a) to ensure the reliability of the provision of any telecommunication service to the public;
- (b) to ensure the technical compatibility and safety of operation of any equipment or telecommunication system;
- (c) to ensure fair and efficient market conduct by telecommunication licensees;
- (ca) to ensure the co-ordination and co-operation, on such terms as the Authority may specify, with any other person in the use or sharing of any installation, plant or system, or part thereof owned or used by the telecommunication licensee for the provision of any telecommunication; or
- (d) in the public interest.

(1A) The Authority, after consultation with the Media Development Authority of Singapore, may give directions to be observed by telecommunication licensees —

- (a) to ensure the reliability of the provision of any broadcasting service, the operation of which requires a telecommunication system, to the public;
- (b) to ensure the technical compatibility and safety of operation of any equipment or telecommunication system used for the provision of any broadcasting service;
- (c) to ensure fair and efficient market conduct by telecommunication licensees in relation to the use of telecommunication systems for the provision of broadcasting services;

- (d) to ensure the co-ordination and co-operation, on such terms as the Authority may specify, with any other person in the use or sharing of any installation, plant or system, or part thereof owned or used by the telecommunication licensee for the provision of any broadcasting service; or
- (e) in relation to the provision of any broadcasting service, the operation of which requires a telecommunication system, in the public interest.

(2) A direction under subsection (1) or (1A) —

- (a) shall require the telecommunication licensee concerned (according to the circumstances of the case) to do, or to refrain from doing, such things as are specified in the direction, or as are of a description specified in the direction; and
- (b) shall take effect at such time (being the earliest practicable time) as is determined by or under that direction.

(2A) The Authority may at any time vary, suspend or revoke the whole or any part of a direction under subsection (1) or (1A).

(3) Before giving a direction to any telecommunication licensee under subsection (1) or (1A) or varying a direction under subsection (2A), the Authority shall, unless the Authority in respect of any particular direction considers that it is not practicable or desirable, give notice —

- (a) stating that the Authority proposes to make or vary the direction and setting out its effect; and
- (b) specifying the time within which representations or objections to the proposed direction or variation may be made,

and shall consider any representations or objections which are duly made.

(4) [*Deleted by Act 10/2005 wef 16/02/2005*]

(5) Every telecommunication licensee shall comply with every direction of the Authority given to the licensee under this section.

[Act 19 of 2011]

Advisory guidelines

28.—(1) The Authority may make written advisory guidelines about any aspect of telecommunications.

(2) Advisory guidelines, for example, may be made about —

- (a) any matter in respect of which codes of practice and standards of performance may be made under section 26;
- (b) the use, construction, design or performance of anything;
- (c) interference with radio-communications; or
- (d) frequency allocation and co-ordination.

(3) The Authority must —

- (a) give a copy of each advisory guideline it makes to the Minister; and
- (b) publish each advisory guideline in the way it thinks fit.

[Act 19 of 2011]

PART V

TELECOMMUNICATION CABLE DETECTION WORK

Telecommunication cable detection work to be carried out before earthworks

29.—(1) Subject to subsection (2), no person shall commence or carry out, or cause or permit the commencement or carrying out of, any earthworks which are within the vicinity of any telecommunication cable belonging to or under the management or control of a telecommunication system licensee unless —

- (a) he has given to the telecommunication system licensee not less than 7 days' (or such other period as the Authority may allow in any particular case) notice in writing of the date on which it is proposed to commence the earthworks;

- (b) he has obtained from the telecommunication system licensee the necessary information on the location of such telecommunication cable and has consulted the licensee on the steps to be taken to prevent the telecommunication cable from damage while the earthworks are being carried out; and
- (c) he has caused telecommunication cable detection work to be performed or carried out by a licensed telecommunication cable detection worker in order to confirm the location of the telecommunication cable.

(2) Nothing in subsection (1) shall prohibit a person from commencing or carrying out any earthworks where he has reasonable cause to believe that it is necessary to do so in the interest of public or private safety except that the person shall, not more than 7 days after the earthworks have been commenced or carried out, give to the telecommunication system licensee notice in writing stating the nature and extent of those earthworks.

(3) It shall be the duty of the person who carries out any earthworks referred to in subsection (1) —

- (a) to comply with all reasonable requirements of the telecommunication system licensee for the prevention of damage to the telecommunication cable;
- (b) to ensure that reasonable precautions are taken when carrying out such earthworks to prevent any damage to the telecommunication cable, including but not limited to site supervision of the earthworks; and
- (c) to allow the telecommunication system licensee reasonable access to the work site for the purpose of inspecting or taking any necessary measures to protect the telecommunication cable.

(4) It shall be the duty of a telecommunication system licensee to whom a notice under subsection (1)(a) has been given —

- (a) to promptly inform the person who has given him the notice of the location of the telecommunication cable and to provide such person with any other information as may be necessary

to enable him to ascertain the exact location of the telecommunication cable;

- (b) to advise the person who has given him the notice on the precautions to be taken to prevent damage to the telecommunication cable; and
- (c) to take all such measures at the work site as may be reasonable and necessary for the protection of the telecommunication cable from damage and, in so doing, the telecommunication system licensee shall have regard to the potential risks and dangers that can arise from any damage to the telecommunication cable.

(5) No person other than a licensed telecommunication cable detection worker shall commence or carry out any telecommunication cable detection work within the vicinity of any telecommunication cable belonging to or under the management or control of a telecommunication system licensee where such telecommunication cable detection work is commenced or carried out in connection or combination with or in relation to any earthworks carried out or to be carried out.

(6) Any person who contravenes or fails to comply with subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 3 years or to both.

(7) Subject to subsection (8), in any proceedings for an offence under subsection (6), it shall be a defence for the person charged to prove —

- (a) that he took all reasonable steps to discharge his duty under subsection (1) or (3), as the case may be; or
- (b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(8) If in any proceedings for an offence under subsection (6) the defence involves acting on information supplied by a telecommunication system licensee or a licensed telecommunication cable detection worker, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period of

14 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information as was then in his possession identifying or assisting in the identification of the person who supplied him with the information.

(9) Any person who contravenes or fails to comply with subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

Powers of Authority in relation to telecommunication cable detection work

30. The Authority may —

- (a) grant a telecommunication cable detection work licence permitting a person to perform such telecommunication cable detection work as is specified in the licence and may suspend, cancel, alter, extend, renew or replace any such licence;
- (b) classify any telecommunication cable detection work licence in such manner as it determines;
- (c) specify the nature of the telecommunication cable detection work in respect of which a telecommunication cable detection work licence is granted and restrict such work to any type or class of telecommunication cable detection work;
- (d) specify the circumstances or manner in which licensed cable detection workers may perform or carry out telecommunication cable detection work;
- (e) impose any terms, conditions or restrictions on any telecommunication cable detection work licence;
- (f) require any public telecommunication licensee to conduct approved courses of training, including refresher courses, and provide for examinations for telecommunication cable detection workers;
- (g) keep a register of licensed telecommunication cable detection workers; and

- (h) do any act or thing which is necessary or convenient to carrying out the objects of this Part or is incidental thereto.

Licensed telecommunication cable detection workers

31.—(1) Any person who, not being a licensed telecommunication cable detection worker, advertises or holds himself out or conducts himself in any way or by any means as a person who is a licensed telecommunication cable detection worker shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

[10/2005 wef 16/02/2005]

(2) No person other than a licensed telecommunication cable detection worker shall be entitled to recover in any court any charge, fee or remuneration for any telecommunication cable detection work performed or carried out by the person.

Duty to enquire before excavation

32. Any person who digs, bores, trenches, grades, excavates or breaks any ground with any mechanical equipment or explosive or allows his employee or agent to do so without first ascertaining the location of any telecommunication cable belonging to or under the management or control of any telecommunication system licensee that may be interfered with shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 3 years or to both.

[10/2005 wef 16/02/2005]

PART VA

CONTROL OF DESIGNATED TELECOMMUNICATION LICENSEES, DESIGNATED BUSINESS TRUSTS AND DESIGNATED TRUSTS

[Act 19 of 2011]

Interpretation of this Part

32A.—(1) In this Part, unless the context otherwise requires —

“12% controller” means —

- (a) in relation to a designated telecommunication licensee, a person who, alone or together with his associates —
 - (i) holds 12% or more but less than 30% of the total number of voting shares in the designated telecommunication licensee; or
 - (ii) is in a position to control 12% or more but less than 30% of the voting power in the designated telecommunication licensee;
- (b) in relation to a designated business trust, a person who, alone or together with his associates —
 - (i) holds 12% or more but less than 30% of the total number of units in the designated business trust; or
 - (ii) is in a position to control 12% or more but less than 30% of the voting power in the designated business trust; or
- (c) in relation to a designated trust, a person who, alone or together with his associates —
 - (i) holds 12% or more but less than 30% of the equity interests in the designated trust; or
 - (ii) is in a position to control 12% or more but less than 30% of the voting power in the designated trust;

“30% controller” means —

- (a) in relation to a designated telecommunication licensee, a person who, alone or together with his associates —
 - (i) holds 30% or more of the total number of voting shares in the designated telecommunication licensee; or
 - (ii) is in a position to control 30% or more of the voting power in the designated telecommunication licensee;

- (b) in relation to a designated business trust, a person who, alone or together with his associates —
 - (i) holds 30% or more of the total number of units in the designated business trust; or
 - (ii) is in a position to control 30% or more of the voting power in the designated business trust; or
- (c) in relation to a designated trust, a person who, alone or together with his associates —
 - (i) holds 30% or more of the equity interests in the designated trust; or
 - (ii) is in a position to control 30% or more of the voting power in the designated trust;

“business” means —

- (a) in relation to a designated business trust, the business relating to the trust property of the designated business trust and managed and operated by the trustee-manager of the designated business trust in its capacity as trustee-manager of the designated business trust; or
- (b) in relation to a designated trust, such business relating to the trust property of the designated trust as is prescribed by any regulations made under section 74;

“business trust” has the same meaning as in section 2 of the Business Trusts Act (Cap. 31A);

“corporation” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

“designated business trust” means a business trust that —

- (a) is established wholly or partly in respect of a telecommunication system (or any part thereof) operated by a telecommunication system licensee; and
- (b) has been declared by the Authority under subsection (2) to be a designated business trust for the purposes of this Part;

“designated telecommunication licensee” means a telecommunication licensee that is a corporation and that —

- (a) has been declared by the Authority under subsection (2) to be a designated telecommunication licensee for the purposes of this Part; or
- (b) belongs to a class of telecommunication licensees which has been declared by the Authority under subsection (2) to be a class of designated telecommunication licensees for the purposes of this Part;

“designated trust” means a trust that —

- (a) is prescribed, or belongs to a class of trusts prescribed, by any regulations made under section 74;
- (b) is established wholly or partly in respect of a telecommunication system (or any part thereof) operated by a telecommunication system licensee; and
- (c) has been declared by the Authority under subsection (2) to be a designated trust for the purposes of this Part;

“effective control” means —

- (a) in relation to a designated telecommunication licensee, the ability to cause the designated telecommunication licensee to take, or to refrain from taking, a major decision regarding the management or operations of the designated telecommunication licensee;
- (b) in relation to a designated business trust, the ability to cause the trustee-manager of the designated business trust to take, or to refrain from taking, a major decision regarding the management or operations of the designated business trust; or
- (c) in relation to a designated trust, the ability to cause the trustee of the designated trust to take, or to refrain from taking, a major decision regarding the management or operations of the designated trust;

“equity interest” means —

- (a) in relation to a corporation, a voting share in that corporation;
- (b) in relation to a designated business trust, a unit in that designated business trust; or
- (c) in relation to a designated trust, any right or interest, whether legal or equitable, in that designated trust which gives the holder of that right or interest voting power in that designated trust;

“related corporation” has the same meaning as in section 4(1) of the Companies Act;

“relative”, in relation to a person, means —

- (a) the person’s spouse;
- (b) a parent or remoter lineal ancestor, or a step parent, of the person;
- (c) a child or remoter issue, or a step-child, of the person; or
- (d) a sibling or step-sibling of the person;

“share” has the same meaning as in section 4(1) of the Companies Act;

“treasury share” has the same meaning as in section 4(1) of the Companies Act;

“trustee-manager” has the same meaning as in section 2 of the Business Trusts Act;

“unit” has the same meaning as in section 2 of the Business Trusts Act;

“unitholder” has the same meaning as in section 2 of the Business Trusts Act;

“voting share” has the same meaning as in section 4(1) of the Companies Act.

(2) The Authority may, by notification in the *Gazette*, do one or more of the following:

- (a) declare any telecommunication licensee to be a designated telecommunication licensee for the purposes of this Part;
- (b) declare any class of telecommunication licensees to be a class of designated telecommunication licensees for the purposes of this Part;
- (c) declare any business trust to be a designated business trust for the purposes of this Part, if the business trust is established wholly or partly in respect of a telecommunication system (or any part thereof) operated by a telecommunication system licensee;
- (d) declare any trust to be a designated trust for the purposes of this Part, if the trust —
 - (i) is prescribed, or belongs to a class of trusts prescribed, by any regulations made under section 74; and
 - (ii) is established wholly or partly in respect of a telecommunication system (or any part thereof) operated by a telecommunication system licensee;
- (e) vary or revoke any declaration of a designated telecommunication licensee, a designated business trust or a designated trust;
- (f) vary or revoke any declaration of a class of designated telecommunication licensees.

(3) For the purposes of this Part, in relation to a designated telecommunication licensee the whole or any portion of the share capital of which consists of stock, an interest of a person in any such stock shall be deemed to be an interest in an issued share in the designated telecommunication licensee having the same nominal amount as the amount of that stock and having attached to it the same rights as are attached to that stock.

(4) For the purposes of this Part, a person, *A*, is an associate of another person, *B*, if —

- (a) *A* is a relative of *B*;
- (b) *A* is a related corporation of *B*;

- (c) *A* is a corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B* or, where *B* is a corporation, of the directors of *B*;
- (d) *B* is a corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A* or, where *A* is a corporation, of the directors of *A*;
- (e) *A* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B* or, where *B* is a corporation, of the directors of *B*;
- (f) *B* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A* or, where *A* is a corporation, of the directors of *A*;
- (g) *A* is a corporation in which *B*, alone or together with other associates of *B* as described in paragraphs (b) to (f), is in a position to control not less than 12% of the voting power in *A*;
- (h) *B* is a corporation in which *A*, alone or together with other associates of *A* as described in paragraphs (b) to (f), is in a position to control not less than 12% of the voting power in *B*;
- (i) *A* is a person with whom *B* has an agreement or arrangement, whether oral or in writing and whether express or implied, to act together with respect to the acquisition, holding or disposal of shares, units or other equity interests in, or with respect to the exercise of their voting power in relation to, a designated telecommunication licensee, a designated business trust or a designated trust; or
- (j) *A* is related to *B* in such other manner as may be prescribed by any regulations made under section 74.

(5) For the purposes of this Part —

- (a) a person holds a voting share in a corporation if he has any legal or equitable interest in that share, other than an interest that is to be disregarded under subsection (7);
- (b) a person holds a unit in a business trust if he has any legal or equitable interest in that unit, other than an interest that is to be disregarded under subsection (10); and
- (c) a person holds an equity interest in a trust if he has any legal or equitable interest in that equity interest, other than an interest that is to be disregarded under subsection (12).

(6) Except as otherwise provided in subsection (7), for the purposes of this Part, a person shall be deemed to have an interest in a share, if —

- (a) the person has entered into a contract to purchase that share; or
- (b) the person, not being the registered holder of that share, is entitled (otherwise than by reason of his having been appointed a proxy or representative to vote at a meeting of members of a corporation or of a class of its members) to exercise or control the exercise of a right attached to that share.

(7) For the purposes of subsections (5)(a) and (6), there shall be disregarded —

- (a) an interest in a share of a person who holds the share as bare trustee;
- (b) an interest in a share of a person whose ordinary business includes the lending of money, if he holds the interest only by way of security for the purposes of a transaction entered into in the ordinary course of business in connection with the lending of money;
- (c) an interest in a share of a person whose ordinary business includes the underwriting of securities, if he holds the interest only as an underwriter or a sub underwriter to any offering of shares of a designated telecommunication licensee;

- (d) an interest in a share held by a person —
 - (i) in his capacity as a liquidator, the Official Receiver, the Official Assignee or the Public Trustee; or
 - (ii) by reason of his holding such other office as may be prescribed for the purposes of section 7(9)(c) of the Companies Act;
- (e) an interest of a corporation in its own shares purchased or otherwise acquired in accordance with sections 76B to 76G of the Companies Act (including treasury shares); and
- (f) such interest in a share as may be prescribed for the purposes of section 7(9)(d) of the Companies Act, being an interest of such person, or of a person belonging to such class of persons, as may be prescribed for the purposes of that provision.

(8) Section 7(7), (8) and (10) of the Companies Act shall apply in determining whether a person has an interest in a share for the purposes of subsections (5)(a) and (6).

(9) Except as otherwise provided in subsection (10), for the purposes of this Part, a person shall be deemed to have an interest in a unit, if —

- (a) the person has entered into a contract to purchase that unit; or
- (b) the person, not being the registered holder of that unit, is entitled (otherwise than by reason of his having been appointed a proxy or representative to vote at a meeting of unitholders of a business trust or of a class of its unitholders) to exercise or control the exercise of a right attached to that unit.

(10) For the purposes of subsections (5)(b) and (9), there shall be disregarded —

- (a) an interest in a unit of a person who holds the unit as bare trustee;
- (b) an interest in a unit of a person whose ordinary business includes the lending of money, if he holds the interest only by way of security for the purposes of a transaction entered into

in the ordinary course of business in connection with the lending of money;

- (c) an interest in a unit of a person whose ordinary business includes the underwriting of securities, if he holds the interest only as an underwriter or a sub underwriter to any offering of units of a designated business trust; and
- (d) an interest in a unit held by a person in his capacity as a liquidator, the Official Receiver, the Official Assignee or the Public Trustee.

(11) Except as otherwise provided in subsection (12), for the purposes of this Part, a person shall be deemed to have an equity interest in a designated trust, if —

- (a) the person has entered into a contract to purchase that equity interest; or
- (b) the person, not being the holder of that equity interest, is entitled (otherwise than by reason of his having been appointed a proxy or representative to vote at a meeting of holders of equity interests in the designated trust or of a class of its holders of equity interests) to exercise or control the exercise of a right attached to that equity interest.

(12) For the purposes of subsections (5)(c) and (11), there shall be disregarded —

- (a) an equity interest of a person who holds the interest as bare trustee;
- (b) an equity interest of a person whose ordinary business includes the lending of money, if he holds the interest only by way of security for the purposes of a transaction entered into in the ordinary course of business in connection with the lending of money;
- (c) an equity interest of a person whose ordinary business includes the underwriting of securities, if he holds the interest only as an underwriter or a sub-underwriter to any offering of equity interests in a designated trust; and

- (d) an equity interest held by a person in his capacity as a liquidator, the Official Receiver, the Official Assignee or the Public Trustee.

(13) For the purposes of this Part, a reference to control of a percentage of the voting power in a designated telecommunication licensee, designated business trust or designated trust is a reference to control that is direct or indirect, including control that is exercisable as a result of or by means of arrangements or practices, whether or not having legal or equitable force and whether or not based on legal or equitable rights, of that percentage of the total number of votes that may be cast in a general meeting of the designated telecommunication licensee, designated business trust or designated trust, as the case may be.

(14) For the purposes of subsection (13), there shall be disregarded any control of any voting power in a designated telecommunication licensee, designated business trust or designated trust that is exercisable —

- (a) by a person, by virtue of holding an interest in a share of the designated telecommunication licensee, a unit of the designated business trust or an equity interest in the designated trust, as the case may be, as a bare trustee;
- (b) by a person whose ordinary business includes the lending of money, by virtue of holding an interest in a share of the designated telecommunication licensee, a unit of the designated business trust or an equity interest in the designated trust, as the case may be, only by way of security for the purposes of a transaction entered into in the ordinary course of business in connection with the lending of money;
- (c) by a person whose ordinary business includes the underwriting of securities, by virtue of holding an interest in a share of the designated telecommunication licensee, a unit of the designated business trust or an equity interest in the designated trust, as the case may be, only as an underwriter or a sub-underwriter to any offering of shares of the designated telecommunication licensee, units of the designated business

trust or equity interests in the designated trust, as the case may be; or

- (d) by a person, by virtue of holding an interest in a share of the designated telecommunication licensee, a unit of the designated business trust or an equity interest in the designated trust, as the case may be —
- (i) in his capacity as a liquidator, the Official Receiver, the Official Assignee or the Public Trustee; or
 - (ii) by reason of his holding such other office as may be prescribed for the purposes of section 7(9)(c) of the Companies Act.

(15) Where a corporation is limited both by shares and by guarantee or does not have a share capital, this section shall have effect as if the members of the corporation were shareholders in the corporation.

[Act 19 of 2011]

Control of equity interests and voting power in designated telecommunication licensee, designated business trust or designated trust

32B.—(1) Subject to subsection (9), a designated telecommunication licensee shall give notice in writing to the Authority, within 7 days after the designated telecommunication licensee first becomes aware of the event, in the event that any person, whether by a series of transactions over a period of time or otherwise —

- (a) holds 5% or more but less than 12% of the total number of voting shares in the designated telecommunication licensee; or
- (b) is in a position to control 5% or more but less than 12% of the voting power in the designated telecommunication licensee.

(2) Subject to subsection (9), the trustee-manager of a designated business trust shall give notice in writing to the Authority, within 7 days after the trustee-manager first becomes aware of the event, in the event that any person, whether by a series of transactions over a period of time or otherwise —

- (a) holds 5% or more but less than 12% of the total number of units in the designated business trust; or
 - (b) is in a position to control 5% or more but less than 12% of the voting power in the designated business trust.
- (3) Subject to subsection (9), the trustee of a designated trust shall give notice in writing to the Authority, within 7 days after the trustee first becomes aware of the event, in the event that any person, whether by a series of transactions over a period of time or otherwise —
- (a) holds 5% or more but less than 12% of the equity interests in the designated trust; or
 - (b) is in a position to control 5% or more but less than 12% of the voting power in the designated trust.
- (4) Every person required to give a notice under subsection (1), (2) or (3) shall ensure that the notice —
- (a) is given in such form and manner as the Authority may, from time to time, determine; and
 - (b) is supported by such information as the Authority may require.
- (5) Subject to subsection (10), no person shall, without obtaining the prior written approval of the Authority to do so, become, whether through a series of transactions over a period of time or otherwise, a 12% controller or a 30% controller of a designated telecommunication licensee, designated business trust or designated trust.
- (6) Subject to subsection (10), no person shall, without obtaining the prior written approval of the Authority to do so, acquire any business (of a designated telecommunication licensee, designated business trust or designated trust) that is conducted pursuant to a telecommunication licence granted under section 5, or any part of any such business, as a going concern.
- (7) Subject to subsection (10), no person shall, without obtaining the prior written approval of the Authority to do so, obtain effective control over a designated telecommunication licensee, designated business trust or designated trust.

(8) An application for the written approval of the Authority under subsection (5), (6) or (7) —

- (a) shall be made in such form and manner as the Authority may, from time to time, determine; and
- (b) shall be supported by such information as the Authority may require.

(9) A notice in writing need not be given to the Authority under subsection (1), (2) or (3), if the event referred to in the applicable subsection occurs by virtue only of any transaction prescribed by the Minister for the purposes of this subsection by order published in the *Gazette*.

(10) Any person may, without obtaining the prior written approval of the Authority to do so, do any thing referred to in subsection (5), (6) or (7), if the doing of that thing occurs by virtue only of any transaction prescribed by the Minister for the purposes of this subsection by order published in the *Gazette*.

(11) A designated telecommunication licensee shall give notice in writing to the Authority, within 7 days after the designated telecommunication licensee first becomes aware of the event, in the event that any person, by virtue only of any transaction prescribed by the Minister for the purposes of this subsection by order published in the *Gazette* —

- (a) becomes, whether through a series of transactions over a period of time or otherwise, a 12% controller or a 30% controller of the designated telecommunication licensee;
- (b) acquires any business of the designated telecommunication licensee that is conducted pursuant to a telecommunication licence granted under section 5, or any part of any such business, as a going concern; or
- (c) obtains effective control over the designated telecommunication licensee.

(12) The trustee-manager of a designated business trust shall give notice in writing to the Authority, within 7 days after the trustee-manager first becomes aware of the event, in the event that any person,

by virtue only of any transaction prescribed by the Minister for the purposes of this subsection by order published in the *Gazette* —

- (a) becomes, whether through a series of transactions over a period of time or otherwise, a 12% controller or a 30% controller of the designated business trust;
- (b) acquires any business of the designated business trust that is conducted pursuant to a telecommunication licence granted under section 5, or any part of any such business, as a going concern; or
- (c) obtains effective control over the designated business trust.

(13) The trustee of a designated trust shall give notice in writing to the Authority, within 7 days after the trustee first becomes aware of the event, in the event that any person, by virtue only of any transaction prescribed by the Minister for the purposes of this subsection by order published in the *Gazette* —

- (a) becomes, whether through a series of transactions over a period of time or otherwise, a 12% controller or a 30% controller of the designated trust;
- (b) acquires any business of the designated trust that is conducted pursuant to a telecommunication licence granted under section 5, or any part of any such business, as a going concern; or
- (c) obtains effective control over the designated trust.

(14) Any person who contravenes subsection (2), (3), (12) or (13) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

[Act 19 of 2011]

Power to issue code of practice relating to control of designated telecommunication licensees, designated business trusts and designated trusts

32C.—(1) Without prejudice to the generality of section 26, the Authority may issue a code of practice under that section which specifies such matters as are generally necessary for carrying out the

purposes and provisions of this Part and for the due administration thereof.

(2) Without prejudice to the generality of subsection (1), the Authority may specify in the code of practice —

- (a) the rules and procedures that each of the following must comply with:
 - (i) a designated telecommunication licensee;
 - (ii) a person who holds any voting shares, or controls any voting power, in a designated telecommunication licensee;
 - (iii) a person who holds any units, or controls any voting power, in a designated business trust;
 - (iv) a person who holds any equity interest, or controls any voting power, in a designated trust;
 - (v) a person who acquires any business (of a designated telecommunication licensee, designated business trust or designated trust) that is conducted pursuant to a telecommunication licence granted under section 5, or any part of any such business, as a going concern;
 - (vi) a person who obtains effective control over a designated telecommunication licensee, designated business trust or designated trust;
- (b) the terms and conditions which the Authority may impose when granting any written approval under section 32B(5), (6) or (7); and
- (c) the fees and charges payable to the Authority in respect of any application or request made to the Authority under the code of practice.

[Act 19 of 2011]

Power to issue directions relating to control of designated telecommunication licensees, designated business trusts and designated trusts

32D.—(1) Without prejudice to the generality of section 27, the Authority may issue a direction under subsection (2) if —

(a) a person (referred to in this section as the specified person) —

- (i) becomes a 12% controller or 30% controller of a designated telecommunication licensee, designated business trust or designated trust;
- (ii) acquires any business (of a designated telecommunication licensee, designated business trust or designated trust) that is conducted pursuant to a telecommunication licence granted under section 5, or any part of any such business, as a going concern; or
- (iii) obtains effective control over a designated telecommunication licensee, designated business trust or designated trust; and

(b) the Authority is satisfied that —

- (i) the specified person has thereby contravened section 32B(5), (6) or (7);
- (ii) any condition of approval imposed by the Authority on the specified person when granting its written approval under section 32B(5), (6) or (7) has not been complied with;
- (iii) the specified person has furnished false or misleading information or documents in connection with his application for written approval under section 32B(5), (6) or (7);
- (iv) the Authority would not have granted its written approval under section 32B(5), (6) or (7) had it been aware, at the time the approval was granted, of any matter relevant to the specified person's application for such approval; or

- (v) the applicable matter referred to in paragraph (a)(i), (ii) or (iii) is likely to substantially lessen competition or is against the public interest.

(2) The Authority may, in the circumstances specified in subsection (1), issue such of the following directions as may be applicable:

- (a) direct the designated telecommunication licensee to do all or any of the following:
 - (i) to restrict the exercise of all or any of the voting rights in respect of the shares which the specified person holds, or which the specified person and his associates together hold, in the designated telecommunication licensee (referred to in this section as the specified shares), or to restrict the exercise of the voting power which the specified person controls, or which the specified person and his associates together control, in the designated telecommunication licensee, unless the Authority expressly permits such rights or power to be exercised;
 - (ii) to restrict the issuance or offer of shares in the designated telecommunication licensee (whether by way of rights, bonus or otherwise) in respect of the specified shares, unless the Authority expressly permits such issue or offer;
 - (iii) except in a liquidation of the designated telecommunication licensee, to restrict the payment of any amount (whether by way of dividends or otherwise) in respect of the specified shares, unless the Authority expressly authorises such payment subject to such conditions as the Authority may specify;
- (b) direct the trustee-manager of the designated business trust to do all or any of the following:
 - (i) to restrict the exercise of all or any of the voting rights in respect of the units which the specified person holds, or which the specified person and his associates

- together hold, in the designated business trust (referred to in this section as the specified units), or to restrict the exercise of the voting power which the specified person controls, or which the specified person and his associates together control, in the designated business trust, unless the Authority expressly permits such rights or power to be exercised;
- (ii) to restrict the issuance or offer of units in the designated business trust (whether by way of rights, bonus or otherwise) in respect of the specified units, unless the Authority expressly permits such issue or offer;
 - (iii) except in a winding up of the designated business trust, to restrict the payment of any amount (whether by way of profits, income or otherwise) in respect of the specified units, unless the Authority expressly authorises such payment subject to such conditions as the Authority may specify;
- (c) direct the trustee of the designated trust to do all or any of the following:
- (i) to restrict the exercise of all or any of the voting rights in respect of the equity interests which the specified person holds, or which the specified person and his associates together hold, in the designated trust (referred to in this section as the specified equity interests), or to restrict the exercise of the voting power which the specified person controls, or which the specified person and his associates together control, in the designated trust, unless the Authority expressly permits such rights or power to be exercised;
 - (ii) to restrict the issuance or offer of equity interests in the designated trust (whether by way of rights, bonus or otherwise) in respect of the specified equity interests, unless the Authority expressly permits such issue or offer;

- (iii) except in a winding up of the designated trust, to restrict the payment of any amount (whether by way of profits, income or otherwise) in respect of the specified equity interests, unless the Authority expressly authorises such payment subject to such conditions as the Authority may specify;
- (d) direct the specified person, or any associate of the specified person, to transfer or dispose of all or any part of the specified shares, specified units or specified equity interests, as the case may be, within such time as the Authority may determine and subject to such conditions as the Authority considers appropriate;
- (e) direct the specified person to transfer or dispose of all or any part of the business or part thereof that is conducted pursuant to a telecommunication licence granted under section 5, and that is acquired from the designated telecommunication licensee, designated business trust or designated trust as a going concern, within such time as the Authority may determine and subject to such conditions as the Authority considers appropriate;
- (f) direct the specified person to relinquish effective control over the designated telecommunication licensee, designated business trust or designated trust, within such time as the Authority may determine and subject to such conditions as the Authority considers appropriate.

(3) Before issuing a direction to any person under subsection (2), the Authority shall, unless the Authority decides that it is not practicable or desirable to do so, cause to be given to that person notice in writing of the Authority's intention to issue the direction, specifying a date by which that person may make written representations with regard to the proposed direction.

(4) Upon receipt of any written representations referred to in subsection (3), the Authority shall consider them for the purpose of determining whether to issue the direction.

(5) Any person to whom a direction is given under subsection (2) shall comply with the direction.

(6) The Authority may at any time vary, suspend or revoke any direction issued under this section.

(7) Any direction issued to a person under subsection (2) shall take effect, notwithstanding —

- (a) the provisions of any other written law; and
- (b) the provisions of the memorandum or articles of association, trust deed or other constitution of the designated telecommunication licensee, designated business trust or designated trust.

(8) Notwithstanding the provisions of any other written law and the provisions of the memorandum or articles of association, trust deed or other constitution of the designated telecommunication licensee, the designated business trust or the designated trust —

- (a) where any direction is issued under subsection (2)(a), unless the direction is suspended or revoked —
 - (i) the voting rights in respect of the specified shares, and the voting power which the specified person controls, or which the specified person and his associates together control, in the designated telecommunication licensee, shall not be exercisable unless the Authority expressly permits such rights or power to be exercised;
 - (ii) no shares in the designated telecommunication licensee shall be issued or offered (whether by way of rights, bonus or otherwise) in respect of the specified shares, unless the Authority expressly permits such issue or offer; and
 - (iii) except in a liquidation of the designated telecommunication licensee, no amount shall be paid (whether by way of dividends or otherwise) in respect of the specified shares, unless the Authority expressly authorises such payment;
- (b) where any direction is issued under subsection (2)(b), unless the direction is suspended or revoked —

- (i) the voting rights in respect of the specified units, and the voting power which the specified person controls, or which the specified person and his associates together control, in the designated business trust, shall not be exercisable unless the Authority expressly permits such rights or power to be exercised;
 - (ii) no units in the designated business trust shall be issued or offered (whether by way of rights, bonus or otherwise) in respect of the specified units, unless the Authority expressly permits such issue or offer; and
 - (iii) except in a winding up of the designated business trust, no amount shall be paid (whether by way of profits, income or otherwise) in respect of the specified units, unless the Authority expressly authorises such payment; or
- (c) where any direction is issued under subsection (2)(c), unless the direction is suspended or revoked —
- (i) the voting rights in respect of the specified equity interests, and the voting power which the specified person controls, or which the specified person and his associates together control, in the designated trust, shall not be exercisable unless the Authority expressly permits such rights or power to be exercised;
 - (ii) no equity interests in the designated trust shall be issued or offered (whether by way of rights, bonus or otherwise) in respect of the specified equity interests, unless the Authority expressly permits such issue or offer; and
 - (iii) except in a winding up of the designated trust, no amount shall be paid (whether by way of profits, income or otherwise) in respect of the specified equity interests, unless the Authority expressly authorises such payment.

(9) Any person (other than a designated telecommunication licensee) who contravenes section (5) shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction; or
- (b) in any other case, to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

[Act 19 of 2011]

Power of Authority to obtain information relating to control of designated telecommunication licensees, designated business trusts and designated trusts

32E.—(1) Without prejudice to sections 27 and 59, the Authority may, by notice in writing —

- (a) direct any designated telecommunication licensee to obtain from any shareholder of the designated telecommunication licensee, and to transmit to the Authority within such time as may be specified in the notice, the following information:
 - (i) whether that shareholder holds any voting share in the designated telecommunication licensee as a trustee; and
 - (ii) if so —
 - (A) the name of the person for whom that shareholder holds the voting share as a trustee, or such other particulars as are sufficient to enable the identification of that person; and
 - (B) the nature of that person's interest;
- (b) direct the trustee-manager of any designated business trust to obtain from any unitholder of the designated business trust,

and to transmit to the Authority within such time as may be specified in the notice, the following information:

- (i) whether that unitholder holds any unit in the designated business trust as a trustee; and
 - (ii) if so —
 - (A) the name of the person for whom that unitholder holds the unit as a trustee, or such other particulars as are sufficient to enable the identification of that person; and
 - (B) the nature of that person's interest; and
- (c) direct the trustee of any designated trust to obtain from any holder of equity interests in the designated trust, and to transmit to the Authority within such time as may be specified in the notice, the following information:
- (i) whether that holder holds any equity interest in the designated trust as a trustee; and
 - (ii) if so —
 - (A) the name of the person for whom that holder holds the equity interest as a trustee, or such other particulars as are sufficient to enable the identification of that person; and
 - (B) the nature of that person's interest.
- (2) The Authority may, by notice in writing —
- (a) direct any shareholder of a designated telecommunication licensee to provide to the Authority, within such time as may be specified in the notice, the following information:
 - (i) whether that shareholder holds any voting share in the designated telecommunication licensee as a trustee; and
 - (ii) if so —
 - (A) the name of the person for whom that shareholder holds the voting share as a trustee,

or such other particulars as are sufficient to enable the identification of that person; and

(B) the nature of that person's interest;

(b) direct any unitholder of a designated business trust to provide to the Authority, within such time as may be specified in the notice, the following information:

(i) whether that unitholder holds any unit in the designated business trust as a trustee; and

(ii) if so —

(A) the name of the person for whom that unitholder holds the unit as a trustee, or such other particulars as are sufficient to enable the identification of that person; and

(B) the nature of that person's interest; and

(c) direct any holder of equity interests in a designated trust to provide to the Authority, within such time as may be specified in the notice, the following information:

(i) whether that holder holds any equity interest in the designated trust as a trustee; and

(ii) if so —

(A) the name of the person for whom that holder holds the equity interest as a trustee, or such other particulars as are sufficient to enable the identification of that person; and

(B) the nature of that person's interest.

(3) Any person who —

(a) fails to comply with a notice under subsection (1) or (2); or

(b) in purported compliance with a notice under subsection (1) or (2), knowingly or recklessly makes a statement which is false in a material particular,

shall be guilty of an offence and shall be liable on conviction —

- (i) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction; or
- (ii) in any other case, to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

[Act 19 of 2011]

Appointment of chief executive officer, director, etc., of designated telecommunication licensee

32F.—(1) No designated telecommunication licensee shall appoint a person as its chief executive officer, its director or the chairman of its board of directors, unless it has obtained the approval of the Authority to do so.

(2) Where a designated telecommunication licensee appoints a person as its chief executive officer, its director or the chairman of its board of directors without the approval of the Authority, in contravention of subsection (1), the Authority may issue a direction to the licensee to remove that person from his appointment as chief executive officer, director or chairman of the board of directors, as the case may be, of the licensee.

(3) The Authority may at any time vary, suspend or revoke any direction issued under subsection (2).

(4) This section shall have effect notwithstanding the provisions of any other written law and the provisions of the memorandum or articles of association, or other constitution, of the designated telecommunication licensee.

(5) In this section —

“chief executive officer”, in relation to a designated telecommunication licensee —

- (a) means any person, by whatever name described, who —
- (i) is in the direct employment of, or acting for or by arrangement with, the designated telecommunication licensee; and
 - (ii) is principally responsible for the management and conduct of any type of business of the designated telecommunication licensee in Singapore; and
- (b) includes any person for the time being performing all or any of the functions or duties of a chief executive officer;

“director” has the same meaning as in section 4(1) of the Companies Act (Cap. 50).

[Act 19 of 2011]

PART VB

SPECIAL ADMINISTRATION ORDER

[Act 19 of 2011]

Interpretation of this Part

32G. In this Part —

“critical support infrastructure” means any infrastructure that belongs to, or is under the control of, a telecommunication licensee, and that satisfies all of the following criteria:

- (a) the infrastructure is required by other telecommunication licensees to provide a telecommunication service;
- (b) the infrastructure cannot be replicated within the foreseeable future, or obtained from a third party, by an efficient new entrant to the market for telecommunication services in Singapore, in either case, at a cost that would reasonably allow market entry;
- (c) the failure or refusal by the first-mentioned telecommunication licensee to allow other

telecommunication licensees to use the infrastructure would unreasonably restrict competition in any market for telecommunication services in Singapore;

“prescribed transferee” means —

- (d) the Authority; or
- (e) a person nominated by the Authority;

“specified telecommunication licensee” means a telecommunication licensee which the Minister has declared under section 32H to be a specified telecommunication licensee for the purposes of this Part.

[Act 19 of 2011]

Declaration of specified telecommunication licensee

32H.—(1) The Minister may, after consulting with the Authority, by notification in the *Gazette*, declare any telecommunication licensee to be a specified telecommunication licensee for the purposes of this Part, if —

- (a) the licensee —
 - (i) is a public telecommunication licensee; or
 - (ii) owns or controls any critical support infrastructure; or
- (b) the Minister is satisfied that it is in the public interest to do so.

(2) A declaration of a specified telecommunication licensee under subsection (1)(a)(i) shall remain in force only so long as the licensee remains a public telecommunication licensee.

(3) A declaration of a specified telecommunication licensee under subsection (1)(a)(ii) shall remain in force only so long as the licensee continues to own or control any critical support infrastructure.

(4) The Minister may, after consulting with the Authority, by notification in the *Gazette*, revoke any declaration under subsection (1).

[Act 19 of 2011]

Meaning and effect of special administration order

32I.—(1) A special administration order is an order of the Minister, made in accordance with section 32J in relation to a specified telecommunication licensee, directing that during the period for which the order is in force, the affairs, business and property of that licensee shall be managed by a person appointed by the Minister (which may include the Authority) —

- (a) for securing one or more of the purposes of such an order set out in subsection (2); and
- (b) in a manner which protects the respective interests of the shareholders and the creditors of the licensee.

(2) The purposes referred to in subsection (1)(a) are —

- (a) the security and reliability of the supply of telecommunication services in Singapore;
- (b) the survival of the specified telecommunication licensee, or the whole or any part of its business or undertaking, as a going concern;
- (c) the transfer to another person, or (as respects different parts of its business or undertaking) to 2 or more different persons, as a going concern, of so much of the specified telecommunication licensee's business or undertaking as it is necessary to transfer in order to ensure that the functions and duties which have been vested in the licensee by virtue of its licence may be properly carried out; and
- (d) the carrying out of the functions and duties vested in the specified telecommunication licensee, pending the making of the transfer and the vesting of those functions and duties in any other person or persons.

(3) The Minister may make regulations for giving effect to this Part, including —

- (a) regulations governing the transfer of a specified telecommunication licensee's business or undertaking referred to in subsection (2)(c); and

- (b) where a special administration order is made, regulations for applying, omitting or modifying the provisions of Part VIIIA of the Companies Act (Cap. 50).

[Act 19 of 2011]

Power to make special administration order, etc.

32J.—(1) If, on an application made to the Minister by the Authority in relation to any specified telecommunication licensee, the Minister is satisfied that any one or more of the grounds specified in subsection (2) are satisfied in relation to that licensee, the Minister may make any one or more of the following orders:

- (a) a special administration order in relation to that licensee;
- (b) an order requiring the licensee immediately to take any action or to do or not to do any act or thing in relation to its business as the Minister may consider necessary;
- (c) an order appointing a person to advise that licensee in the proper conduct of its business.

(2) The grounds referred to in subsection (1) are that —

- (a) there has been, is or is likely to be a contravention by the specified telecommunication licensee of the conditions of its licence or of this Act which is serious enough to make it inappropriate for the licensee to continue to hold the licence;
- (b) the specified telecommunication licensee is or is likely to be unable to pay its debts;
- (c) the Minister considers it in the interest of the security and reliability of the supply of telecommunication services in Singapore; and
- (d) the Minister considers it to be in the public interest.

(3) The Minister may make a special administration order in relation to a specified telecommunication licensee notwithstanding the commencement of —

- (a) any proceedings relating to the making of an order under section 210 of the Companies Act (Cap. 50) in relation to the specified telecommunication licensee;

- (b) any proceedings relating to the making of a judicial management order under the Companies Act in relation to the specified telecommunication licensee; or
- (c) any proceedings under the Companies Act relating to the winding up of the affairs of the specified telecommunication licensee.

(4) Notice of any application under subsection (1) shall be given immediately by the Authority to such persons and in such manner as may be determined by the Authority.

(5) Any decision of the Minister under subsection (1) shall be final.

(6) For the purposes of this section, a specified telecommunication licensee, being a company, is unable to pay its debts if it is deemed to be unable to pay its debts under section 254(2) of the Companies Act.

(7) The Minister may at any time (whether or not the appointment of the person has terminated) fix the remuneration and expenses to be paid by a specified telecommunication licensee to any person appointed by the Minister under subsection (1)(c) to advise the licensee in the proper conduct of its business.

(8) Where the Minister issues an order to a specified telecommunication licensee under subsection (1) and the licensee fails to comply with that order, the licensee shall be guilty of an offence.

[Act 19 of 2011]

Transfer of property, etc., under special administration order

32K.—(1) Without prejudice to the generality of sections 32I and 32J, a special administration order may provide for the following matters:

- (a) the transfer of the property, rights and liabilities of a specified telecommunication licensee to one or more prescribed transferees; and
- (b) matters that are consequential or related to any such transfer.

(2) If the Minister makes a special administration order providing for any matter referred to in subsection (1), he shall, within 6 months

after the making of the order, by notification in the *Gazette*, establish a scheme for determining the amount of any compensation payable to the specified telecommunication licensee for the transfer of its property, rights and liabilities.

- (3) A scheme established under subsection (2) may provide for —
- (a) the manner in which any compensation or consideration is to be assessed, including methods of calculation, valuation dates and matters to be taken into account or disregarded when making valuations;
 - (b) the assessment to be made by an independent valuer appointed by the Minister; and
 - (c) the remuneration and expenses of the independent valuer.

[Act 19 of 2011]

Restrictions on voluntary winding up, etc.

32L.—(1) Notwithstanding any other written law —

- (a) a specified telecommunication licensee shall not be wound up voluntarily without the consent of the Authority;
- (b) a person shall not make any application under section 210 of the Companies Act (Cap. 50) in relation to a specified telecommunication licensee, unless that person has served 14 days' notice in writing of his intention to make that application on the Authority;
- (c) a person shall not make any application for a judicial management order under the Companies Act in relation to a specified telecommunication licensee, unless that person has served 14 days' notice in writing of his intention to make that application on the Authority;
- (d) a person shall not take any step to enforce any security over a specified telecommunication licensee's property, unless that person has served 14 days' notice in writing of his intention to take that step on the Authority; and
- (e) a person shall not take any step to execute or enforce any judgment or order of court obtained against a specified

telecommunication licensee, unless that person has served 14 days' notice in writing of his intention to take that step on the Authority.

- (2) The Authority shall be a party to —
- (a) any proceedings relating to the making of an order under section 210 of the Companies Act in relation to a specified telecommunication licensee;
 - (b) any proceedings relating to the making of a judicial management order under the Companies Act in relation to a specified telecommunication licensee; and
 - (c) any proceedings under the Companies Act relating to the winding up of the affairs of a specified telecommunication licensee.
- (3) A court shall, when deciding any proceedings referred to in subsection (2), take into consideration any representations made by the Authority in those proceedings.

[Act 19 of 2011]

PART VI

OFFENCES AND PENALTIES

Unlawful operation of telecommunication system or service

33.—(1) Subject to this section and section 4, any person who establishes, installs, maintains, provides or operates a telecommunication system or service within Singapore without a licence granted under section 5 or otherwise infringes the privilege conferred upon the Authority by section 3 shall be guilty of an offence.

(2) Any person guilty of an offence under this section shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

(3) In the case of an offence in relation to a telecommunication system or service not extending beyond Singapore, the person or every person operating the system or service (or, if different people run different parts of the system or service, each of them) shall be guilty of an offence and shall be similarly liable.

(4) In the case of an offence in relation to a telecommunication system or service extending beyond Singapore, the person or every person operating that portion of such system or service within Singapore (or, if different people operate different parts of the system or service, each of them) shall be guilty of an offence and shall be similarly liable.

(5) 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 be guilty of the offence; 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.

(6) In any proceedings for an offence under this section, it shall, subject to subsection (7), 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.

(7) Where the defence provided by subsection (6) 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 7 clear days before the hearing, he has served on the prosecutor a written notice giving such information identifying or assisting in the identification of that other person as was then in his possession.

Prohibitions in respect of telecommunication and radio-communication equipment

34.—(1) No person shall —

- (a) offer for sale, sell or possess for sale any telecommunication equipment; or
- (b) possess any radio-communication equipment,

except and in accordance with a licence granted under section 5 or any regulations made under this Act.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence.

Penalty for unlicensed station

35.—(1) Any person who establishes, installs, maintains, provides or operates a radio-communication system or service or any radio-communication equipment in any place or on board any vessel, aircraft or in any vehicle in Singapore without a licence granted under section 5 or any regulations made under this Act shall be guilty of an offence.

(2) Any person who is in possession of any radio-communication equipment shall be deemed, until the contrary is proved, to have operated the same.

(3) The occupier of any dwelling-house or premises in which is installed any radio-communication equipment in respect of which a licence is not in force shall be guilty of an offence.

(4) It shall be a defence in any proceedings for an offence under subsection (3) that the occupier was not aware and could not with reasonable diligence have become aware of the existence in the dwelling-house or premises of the radio-communication equipment.

Exemption from sections 33, 34 and 35

36. Subject to such conditions as the Authority may impose, sections 33, 34 and 35 shall not apply to any person who has been issued with a licence for the installation or working of any telecommunication equipment under the provisions of any written law in force in any country which is a party to a treaty or any other arrangement to which Singapore is a party pursuant to which licences issued under the written laws in force in each country for the installation or working of any telecommunication equipment are recognised as having force in the other country.

Powers of search and seizure

37.—(1) Any police officer not below the rank of sergeant or any employee authorised by the Authority may, if he has reasonable grounds for believing that a telecommunication system or service has been established, installed, maintained, operated or provided in contravention of this Act or any regulations made thereunder or in breach of any licence granted by the Authority or that any telecommunication equipment used is of a type that is not approved by the Authority under section 9 or that the telecommunication equipment is imported in contravention of any of the provisions of this Act or any regulations made thereunder —

- (a) in the case of any telecommunication equipment or any telecommunication system or service, other than any radio-communication system or service, enter and inspect any place in which the telecommunication equipment is located or the telecommunication system or service is established, installed, maintained, operated or provided, and may seize any telecommunication system or equipment found therein which appears to be used for or in connection with telecommunications; and
- (b) in the case of any radio-communication system or service, enter any place in Singapore or stop or board any vessel, aircraft or vehicle and inspect any place therein and may seize any radio-communication system or equipment found therein which appears to be used or is capable of being used for or in connection with radio-communications.

(2) Where any police officer not below the rank of sergeant or any employee authorised by the Authority has reasonable grounds for believing that an offence has been or is being committed under section 33, 34, 35, 39 or 44, he may seize any telecommunication system or equipment or any radio-communication system or equipment, or any other thing used in the commission of the offence.

(3) If there is no prosecution with regard to any equipment or system seized under this section, the equipment or system shall be taken and deemed to be forfeited to the Authority unless a claim is made within 2 months from the date of seizure.

(4) Any person asserting that he is the owner of the equipment or system may personally or by his authorised agent give written notice to the Authority that he claims the same.

(5) On receipt of the notice, the Authority may direct that the equipment or system be released or may refer the matter to a Magistrate's Court or a District Court.

(6) The Magistrate's Court or the District Court may proceed to the examination of the matter and upon examination shall order that the equipment or system be forfeited or released.

Sealing of telecommunication system or equipment, etc.

38.—(1) Where it appears to any police officer not below the rank of sergeant or any employee authorised by the Authority that it is not practicable to remove from where it is found any telecommunication system or equipment or any radio-communication system or equipment seized by him under section 37 by reason of its nature, size or amount, he may by any means seal the telecommunication system or equipment or the radio-communication system or equipment.

(2) Any person who, without lawful authority, breaks, tampers with or damages any seal referred to in subsection (1), or removes any telecommunication system or equipment or any radio-communication system or equipment which has been sealed under that subsection, or attempts to do so, shall be guilty of an offence.

Using unlawful telecommunication system or service

39. Any person who knowing or having reason to believe that a telecommunication system or service has been established, installed, maintained, operated or provided in contravention of this Act, whether or not such system or service is connected to or provided through a public telecommunication licensee's installation or plant, uses the system or service for communication or for performing any service incidental thereto or delivers any message for transmission by the system or service or accepts delivery of any message sent shall be guilty of an offence.

Obstruction of public telecommunication licensees

40.—(1) Any person who —

- (a) whilst in any premises used for the purposes of the business of a public telecommunication licensee, intentionally obstructs the course of business of the licensee concerned; or
- (b) assaults or intentionally obstructs or incites anyone to obstruct or impede an officer or employee of a public telecommunication licensee in the performance of his duties,

shall be guilty of an offence.

(2) A public telecommunication licensee may require any person guilty of an offence under subsection (1) to leave the premises used for the purposes of its business and, if any such offender who is so required refuses or fails to comply with the requirement, he may be removed by an employee of the licensee.

Intentional damage to installation or plant used for telecommunications

41. Any person who intending —

- (a) to prevent or obstruct the transmission or delivery of any message;
- (b) to intercept or to acquaint himself with the contents of any message; or
- (c) to commit mischief,

damages, removes, tampers with or touches any installation or plant or any part thereof used for telecommunications belonging to a public telecommunication licensee or interferes with the radio-communication service or system of a public telecommunication licensee shall be guilty of an offence.

[10/2005 wef 16/02/2005]

Offences by officer, employee or agent of public telecommunication licensees

42.—(1) Any officer, employee or agent of a public telecommunication licensee who —

- (a) wilfully divulges, makes away with or alters any message or record of any message; or
- (b) except in obedience to an order under the hand of the Minister or the direction of a court, wilfully omits to transmit or intercepts or acquaints himself with or detains any message or part thereof or deliberately causes a call or connection to be disconnected or not to be connected,

shall be guilty of an offence.

[10/2005 wef 16/02/2005]

(2) Subsection (1)(b) shall not apply to —

- (a) any act or thing done by an officer, employee or agent of a public telecommunication licensee for or in connection with the installation of a telecommunication line, equipment or the operation or maintenance of a telecommunication system; or
- (b) the tracing of the origin of any telephone call at the request of the subscriber of a telecommunication service.

Fraudulent use of telecommunication service

43. Any person who dishonestly uses or permits another person to use any telecommunication service provided by a telecommunication licensee with intent to avoid payment of any charge applicable to the provision of that service shall be guilty of an offence.

[10/2005 wef 16/02/2005]

Possession or supply of any thing for fraudulent purpose in connection with use of telecommunication service

44.—(1) Subsection (2) shall apply if a person has in his custody or under his control any thing which may be used for the purpose of obtaining, or for a purpose connected with the obtaining of, a service to which section 43 applies.

(2) If the person intends —

- (a) to use the thing referred to in subsection (1) —
 - (i) to obtain such a service dishonestly; or
 - (ii) for a purpose connected with the dishonest obtaining of such a service;

- (b) dishonestly to allow the thing to be used to obtain such a service; or
- (c) to allow the thing to be used for a purpose connected with the dishonest obtaining of such a service,

he shall be guilty of an offence.

(3) Subsection (4) shall apply if a person supplies or offers to supply any thing which may be used for the purpose of obtaining, or for a purpose connected with the obtaining of, a service to which section 43 applies.

(4) If the person supplying or offering to supply the thing referred to in subsection (3) knows or believes that the person to whom it is supplied or offered intends or intends if it is supplied to him —

- (a) to use the thing —
 - (i) to obtain such a service dishonestly; or
 - (ii) for a purpose connected with the dishonest obtaining of such a service;
- (b) dishonestly to allow the thing to be used for a purpose connected with the dishonest obtaining of such a service; or
- (c) to allow the thing to be used for a purpose connected with the dishonest obtaining of such a service,

he shall be guilty of an offence.

(5) A person guilty of an offence under this section shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 10 years or to both.

Sending false message

45. Any person who transmits or causes to be transmitted a message which he knows to be false or fabricated shall be guilty of an offence and shall be liable on conviction —

- (a) in the case where the false or fabricated message contains any reference to the presence in any place or location of a bomb or other thing liable to explode or ignite, to a fine not exceeding

\$50,000 or to imprisonment for a term not exceeding 7 years or to both; and

- (b) in any other case, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

Fraudulent retention of messages

46. Any person who —

- (a) fraudulently retains or wilfully divulges, makes away with or detains a message or record of a message which ought to have been delivered to some other person; or
- (b) being required by a public telecommunication licensee to deliver up any such message or record of such message neglects or refuses to do so,

shall be guilty of an offence.

[10/2005 wef 16/02/2005]

Protection of installation or plant used for telecommunications

47.—(1) No person shall, without the written approval of the Authority —

- (a) lay or carry any mains, pipes, conduits, circuits or wires in, along, through, across, over or under any street or place in a manner which is likely to interfere with or cause damage to any installation or plant used for telecommunications; or
- (b) affix any placard, advertisement, notice or other thing in or on, or paint, tar or in any way disfigure any installation or plant used for telecommunications.

(2) Any approval under subsection (1) may be refused by the Authority or granted by the Authority on such terms and conditions as it may determine.

(3) Where the commission by any person of an offence under subsection (1) is due to the act or default of some other person, that other person shall be guilty of the offence; 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.

(4) In any proceedings for an offence under subsection (1), it shall, subject to subsection (5), 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.

(5) Where the defence provided by subsection (4) 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 7 clear days before the hearing, he has served on the prosecutor a written notice giving such information identifying or assisting in the identification of that other person as was then in his possession.

(6) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and shall, in addition to the forfeiture of any equipment seized, be liable on conviction to a fine not exceeding \$10,000 and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part thereof during which the offence continues after conviction.

Prohibition of false notice relating to public telecommunication licensees' installation or plant

48. Any person who, without the permission of a public telecommunication licensee, places or maintains in or on any house or place, belonging to him or under his control, any word, letter or mark which signifies or implies or may reasonably lead the public to believe that the house or place is part of a public telecommunication licensee's installation or plant shall be guilty of an offence.

Damage to telecommunication system licensees' installation or plant

49.—(1) Any person who wilfully removes, destroys or damages any installation or plant used for telecommunications shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both.

(2) Notwithstanding subsection (1), any person who, in the course of carrying out any earthworks, damages or suffers to be damaged any

cable of a telecommunication system belonging to or under the management or control of a telecommunication system licensee shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1 million or to imprisonment for a term not exceeding 5 years or to both.

(3) Where an offence under subsection (2) is committed by any person acting as the agent or employee of another person, or being otherwise subject to the supervision or instructions of another person for the purposes of any employment in the course of which the offence was committed, that other person shall, without prejudice to the liability of the first-mentioned person, be liable under that subsection in the same manner and to the same extent as if he had personally committed the offence unless he proves to the satisfaction of the court that the offence was committed without his consent or connivance or that it was not attributable to any neglect on his part.

(4) In any proceedings for an offence under subsection (2), it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(5) If in any proceedings for an offence under subsection (2) the defence involves acting on information supplied by a telecommunication system licensee or a licensed telecommunication cable detection worker, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period of 14 clear days before the hearing, he has served on the prosecutor a written notice giving such information as was then in his possession identifying or assisting in the identification of the telecommunication system licensee or telecommunication cable detection worker.

Compensation for damage caused to public telecommunication licensees' installation or plant

50.—(1) Any person who removes, destroys or damages, whether wilfully, negligently, accidentally or otherwise, the installation or plant used for telecommunications shall, in addition to any penalty for which he is liable for an offence under this Act, be liable to pay compensation for the damage he has done and the compensation shall

be recoverable by civil action or suit before any court of competent jurisdiction.

(2) Subject to subsection (1), any court before which a person is charged with an offence under this Act may assess the compensation payable under this section and may make an order for the payment of the same.

(3) Any order under subsection (2) may be enforced as if it were a judgment in a civil action or suit.

Penalty for removing any mark denoting used device for telephony purposes

51.—(1) Any person who, with fraudulent intent, erases or removes from any device, any mark put or impressed upon the device denoting that the same has been used, or sells or uses any such device shall be guilty of an offence.

[10/2005 wef 16/02/2005]

(2) For the purpose of this section, “device” means any device provided for use by a public telecommunication licensee for accessing any telecommunication equipment of the licensee to enable the telecommunication service of the licensee to be used.

Failure to disconnect equipment not approved under section 9

52. Where —

- (a) any person has under his control a telecommunication system or equipment connected to the telecommunication system or equipment of a telecommunication system licensee which is of a type not approved by the Authority under section 9;
- (b) the Authority has given to the person a written notice stating that —
 - (i) the telecommunication system or equipment under his control is of a type that has not been approved by the Authority under section 9; and
 - (ii) the person must disconnect the telecommunication system or equipment from the telecommunication system or equipment of the telecommunication system

licensee within such period as specified in the notice;
and

- (c) the person has failed to comply with any written notice under paragraph (b),

then the person shall be guilty of an offence.

PART VII

INTERNATIONAL OBLIGATIONS AND NATIONAL INTERESTS

Right to conduct international business dealings

53. For the purposes of the conduct of any international telecommunication service by a public telecommunication licensee, and subject to this Act, the licensee may enter into direct communication, arrangement and agreement with the lawfully constituted telecommunication authority of any country or with any duly authorised international agency or organisation concerned with telecommunication matters —

- (a) for the purpose of providing facilities, fixing rates, arranging terms of payment or accounting;
- (b) for operational, engineering or administrative purposes; or
- (c) for any other purpose necessary for the proper fulfilment of its functions.

Government's overriding international rights

54.—(1) Nothing in section 53 shall be deemed to abrogate the right of the Government at any time to determine its relations with any country or with any international agency or organisation.

(2) A public telecommunication licensee shall so discharge its responsibilities and conduct its business as to comply with and fulfil all international agreements, conventions or undertakings relating to telecommunication to which Singapore is a party.

Liability for international financial obligations

55. A public telecommunication licensee shall be fully responsible for meeting all financial obligations arising from the operation of any international telecommunication service and shall settle accounts with other telecommunication authorities.

Contribution by Government

56. Where the Government considers it necessary that any telecommunication service of an exceptional nature should be provided, and where a public telecommunication licensee considers it uneconomic to provide the service without contribution from the Government, the Government may make such contribution towards the capital outlay necessary to provide any such service as may be estimated by the licensee and agreed to by the Government.

Provision to Government of telecommunication services, etc.

57.—(1) The Minister may direct a public telecommunication licensee to undertake and provide such telecommunication services and facilities as may be necessary for aeronautical, maritime, meteorological, governmental, defence or other purposes.

(2) Upon being so directed by the Minister, the public telecommunication licensee shall so provide the telecommunication services or facilities referred to in subsection (1), and shall be entitled to fair and proper payment therefor.

Directions by Minister

58.—(1) The Minister may, after consultation with the Authority or any telecommunication licensee, give to the Authority or licensee, as the case may be, such directions as the Minister thinks fit as to the exercise by the Authority or that licensee of its functions under this Act.

[10/2005 wef 16/02/2005]

(2) Without prejudice to subsection (1), if it appears to the Minister to be requisite or expedient to do so —

- (a) on the occurrence of any public emergency, in the public interest or in the interests of public security, national defence, or relations with the government of another country; or
- (b) in order —
 - (i) to discharge or facilitate the discharge of an obligation binding on the Government by virtue of its being a member of an international organisation or a party to an international agreement;
 - (ii) to attain or facilitate the attainment of any other object the attainment of which is in the opinion of the Minister requisite or expedient in view of the Government being a member of an international organisation or a party to an international agreement; or
 - (iii) to enable the Government to become a member of an international organisation or a party to an international agreement,

the Minister may, after consultation with the Authority or any telecommunication licensee, give such directions to the Authority or that licensee as are necessary in the circumstances of the case.

[10/2005 wef 16/02/2005]

- (3) Any direction given under subsection (1) or (2) may include —
 - (a) provisions for the prohibition or regulation of such use of telecommunications in all cases or of such cases as may be considered necessary;
 - (b) provisions for the taking of, the control of or the usage for official purposes of, all or any such telecommunication system and equipment; and
 - (c) provisions for the stopping, delaying and censoring of messages and the carrying out of any other purposes which the Minister thinks necessary.
- (4) Nothing in any direction given under subsection (3) shall apply to the use of any telecommunications for the purpose of making or answering signals of distress.

(5) The Authority and any telecommunication licensee shall give effect to any direction given to it under subsection (1) or (2) notwithstanding any other duty imposed on the Authority or the licensee by or under this Act.

[10/2005 wef 16/02/2005]

(5A) Any telecommunication licensee who contravenes subsection (5) shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding the higher of the following amounts:

(i) 10% of the annual turnover of that part of its business in respect of which it is granted the licence, as ascertained from its latest audited accounts; or

(ii) \$1 million; and

(b) in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction.

[Act 19 of 2011]

(6) The Authority and any telecommunication licensee shall not disclose any direction given to that person under subsection (1) or (2) if the Minister notifies that person that the Minister is of the opinion that the disclosure of the directions is against the public interest.

[10/2005 wef 16/02/2005]

(7) The Minister may —

(a) pay compensation for any damage caused to a telecommunication licensee by reason of its compliance with the directions of the Minister under subsection (3)(b); or

(b) make grants to telecommunication licensees for defraying or contributing towards any losses which they may sustain by reason of their compliance with the directions of the Minister under any other provisions of this section.

[10/2005 wef 16/02/2005]

(8) Any sums required by the Minister for paying compensation or making grants under subsection (7) shall be paid out of the Consolidated Fund.

(9) If any doubt arises as to the existence of a public emergency or as to whether any act done under this section was in the public interest or in the interests of public security, national defence or relations with the government of another country, a certificate signed by the Minister shall be conclusive evidence of the matters stated therein.

PART VIII

ENFORCEMENT POWERS AND PROCEDURES

Power to require information, etc.

59.—(1) The Authority or any officer authorised by the Authority in that behalf may, for the purposes of conducting an investigation or for discharging its functions under this Act, by order require any person to produce to the Authority any document, or to provide the Authority with any information, which the Authority considers to be related to any matter relevant to the investigation or for discharging its functions under this Act.

[10/2005]

(2) The Authority or the officer authorised by the Authority in that behalf shall be entitled without payment to keep any copy or extract of any document furnished to him under subsection (1).

[10/2005 wef 16/02/2005]

(3) The Authority or any officer authorised by the Authority in that behalf shall at all reasonable times in the day have full and free access to all buildings, places, books, documents and other papers for the purpose of conducting an investigation or discharging its functions under this Act, and may, without payment, inspect, copy or make extracts from any such books, documents or papers.

[10/2005 wef 16/02/2005]

(4) The Authority may take possession of any equipment, books, documents or papers where in its opinion —

- (a) the equipment, books, documents or papers may be interfered with or destroyed unless possession is taken; or
- (b) the equipment, books, documents or papers may be required as evidence in proceedings for an offence under this Act or any regulations made thereunder.

(5) The rights conferred by this section shall, in relation to information recorded otherwise than in legible form, include the right to require the information to be made available in legible form for inspection or for a copy or extract to be made of or from it.

(5A) The power under this section to require a person to produce a document includes the power —

- (a) if the document is produced, to require such person, or any person who is a present or past officer of his or is or was at any time employed by him, to provide an explanation of the document; or
- (b) if the document is not produced, to require such person to state, to the best of his knowledge and belief, where it is.

[10/2005]

(6) Any person who —

- (a) fails to comply with any requirement specified in any order under subsection (1);
- (b) intentionally alters, suppresses or destroys any document or information which he has been required by any order under subsection (1) to furnish or transmit to; or
- (c) in furnishing any information required of him under any order under subsection (1), 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 guilty of an offence.

[10/2005 wef 16/02/2005]

(6A) If a person is charged with an offence under subsection (6) in respect of a requirement to produce any document or information under subsection (1), it shall be a defence for him to prove that —

- (a) the document was not in his possession or under his control;
- (b) it was not reasonably practicable for him to comply with the requirement; or
- (c) he had a reasonable excuse for failing to provide the information required.

[10/2005]

(7) No person shall by virtue of this section be obliged to disclose any particulars as to which he is under any statutory obligation to observe secrecy.

(8) In this section and sections 61 and 63 —

“document” includes any electronic record;

“electronic record” has the same meaning as in the Electronic Transactions Act (Cap. 88).

[10/2005]

Powers of arrest and search in respect of seizable offences

60.—(1) The Chief Executive or any employee of the Authority deputed by him to act under this section or any police officer may arrest without warrant —

(a) any person found committing or attempting to commit or employing or aiding any person to commit a seizable offence under this Act; or

(b) any person against whom a reasonable suspicion exists that he has been guilty of a seizable offence under this Act,

and may search any person so arrested, except that no female shall be searched except by a female.

(2) Every person so arrested shall, together with any article as to which an offence may have been committed or attempted to be committed, be taken to a police station.

(3) For the purposes of this section, offences punishable under sections 33, 41, 42, 43, 44, 45, 46, 49 and 52 shall be deemed to be seizable offences within the meaning of the Criminal Procedure Code (Cap. 68).

Powers of search and arrest in respect of offences under section 33 or 44

61.—(1) Whenever it appears to any police officer or the Chief Executive or any employee of the Authority authorised to act for him under this section that an offence under section 33 or 44 is being committed or is about to be committed or attempted, or that any article

is concealed or deposited or contained in or on any vessel, aircraft, vehicle or premises in contravention of either of those sections, the police officer or the Chief Executive or the employee of the Authority may, if he has reasonable grounds for believing that by reason of the delay in obtaining a search warrant the article is likely to be removed —

- (a) stop and examine the vessel, aircraft or vehicle or enter the premises and there search for and take possession of any article and of any book or document which is reasonably believed to have a bearing on the case; and
 - (b) arrest any person being in the vessel, aircraft, vehicle or premises in whose possession the article may be found or whom the police officer or the Chief Executive or the employee of the Authority may reasonably suspect to have concealed or deposited the article and may search any person so arrested, except that no female shall be searched except by a female.
- (2) Every person so arrested shall, together with any such article, be taken to a police station.

Obstruction of police officer or Chief Executive or employee of Authority

62. Any person who intentionally obstructs a police officer or the Chief Executive or any employee of the Authority authorised to act for him in the execution of his duty under section 37 or 61 shall be guilty of an offence.

No costs or damages or other relief arising from seizure to be recoverable unless seizure without reasonable or probable cause

63. No person shall, in any proceedings before any court in respect of any equipment, article, book or document seized in the exercise or the purported exercise of any power conferred under this Act, be entitled to the costs of the proceedings or to any damages or other relief other than an order for the return of the equipment, article, book

or document or the payment of their value unless the seizure was made without reasonable or probable cause.

Composition of offences

64.—(1) Any police officer not below the rank of sergeant specially authorised by name in that behalf by the Minister, or any employee of the Authority specially authorised by name in that behalf by the Chief Executive, may in his discretion compound any such offence under this Act or any regulations made thereunder as may be prescribed as being an offence which may be compounded by collecting from the person reasonably suspected of having committed the offence a sum not exceeding \$5,000.

[10/2005 wef 16/02/2005]

(2) The Authority may, with the approval of the Minister, make regulations prescribing the offences which may be compounded.

(3) All sums collected under this section shall be paid to the Authority.

General penalties

65. Any person guilty of an offence under this Act or any regulations made thereunder for which no penalty is expressly provided shall, in addition to the forfeiture of any article seized, be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part thereof during which the offence continues after conviction.

[10/2005 wef 16/02/2005]

Saving of prosecutions under other written laws

66.—(1) Nothing in this Act shall prevent any person from being prosecuted under any other written law for any act or omission which constitutes an offence under this Act or any regulations made thereunder, or from being liable under that other written law to any punishment or penalty higher or other than that provided by this Act or the regulations.

(2) No person shall be punished twice for the same offence.

Jurisdiction of Courts

67. A Magistrate's Court or a District Court shall have jurisdiction to hear and determine all offences under this Act and, notwithstanding anything to the contrary in the Criminal Procedure Code (Cap. 68), shall have power to impose the full penalty or punishment in respect of any offence under this Act.

Offences by bodies of persons

68. Where an offence under this Act or any regulations made thereunder has been committed by a company, firm, society or other body of persons, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer or a partner of the company, firm, society or other body of persons or was purporting to act in such capacity shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly unless he proves that —

- (a) the offence was committed without his consent or connivance; and
- (b) he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

PART IX

GENERAL PROVISIONS

Reconsideration by Authority and appeal to Minister

69.—(1) Any telecommunication licensee aggrieved by —

- (a) any decision of the Authority in the exercise of any discretion vested in it by or under this Act; or
- (b) anything contained in any code of practice or standard of performance or in any direction of the Authority given under section 21, 27, 32D, 32E(1) or 32F(2),

[Act 19 of 2011]

may, within 14 days of the receipt of the decision or direction of the Authority or the issue or approval of the code of practice or standard of performance, as the case may be —

- (i) make a request to the Authority to reconsider the matter; or
- (ii) appeal to the Minister.

[10/2005 wef 16/02/2005]

(2) Any person (other than a telecommunication licensee) who is aggrieved by —

- (a) any decision of the Authority under section 5(1), 5A, 5B(1), 8(1), 14, 19(6) or (7), 23 or 32B; or
- (b) anything contained in any code of practice issued under section 19 or under section 26 read with section 32C or in any direction of the Authority given under section 21, 32D or 32E(1) or (2),

may, within 14 days after the receipt of the decision or direction of the Authority or the issue of the code of practice, as the case may be —

- (i) make a request to the Authority to reconsider the matter; or
- (ii) appeal to the Minister.

[Act 19 of 2011]

(3) A person shall not make both a reconsideration request to the Authority and an appeal to the Minister in respect of the same decision or direction of the Authority or thing contained in a code of practice or standard of performance.

[10/2005 wef 16/02/2005; Act 19 of 2011]

(4) Where a reconsideration request and an appeal have been made in contravention of subsection (3), the appeal shall be deemed to be withdrawn.

[10/2005 wef 16/02/2005]

(5) Where —

- (a) a reconsideration request has been made to the Authority by any person; and
- (b) an appeal in respect of the same decision or direction of the Authority or thing contained in a code of practice or standard

of performance is made or has been made to the Minister by any other person,

[Act 19 of 2011]

the appeal to the Minister shall be deemed to be withdrawn.

[10/2005 wef 16/02/2005]

(6) The Authority may determine any reconsideration request under this section by confirming, varying or reversing any decision or direction or by amending any code of practice or standard of performance.

[10/2005 wef 16/02/2005]

(7) Any telecommunication licensee or person referred to in subsection (2), as the case may be, who is aggrieved by any decision of the Authority under subsection (6) may appeal to the Minister within 14 days of the receipt of the decision.

[10/2005 wef 16/02/2005]

(8) Any person who makes an appeal to the Minister under subsection (1), (2) or (7) shall within the period specified therein —

- (a) state as concisely as possible the circumstances under which the appeal arises, the issues and grounds for the appeal; and
- (b) submit to the Minister all relevant facts, evidence and arguments for or against the appeal, as the case may be.

[10/2005 wef 16/02/2005]

(9) The Minister may reject any appeal of an appellant who fails to comply with subsection (8) or (10).

[10/2005 wef 16/02/2005]

(10) Where an appeal has been made to the Minister under subsection (1), (2) or (7), the Minister may require any person to whom subsection (11) applies to provide him with all such information as he may require for the purpose of considering the appeal and making a determination for resolving it.

[10/2005 wef 16/02/2005]

(11) Subsection (10) shall apply to —

- (a) any party to the appeal; and

- (b) any person who is not a party to the appeal but appears to the Minister to have information that is relevant to the matters mentioned in that subsection.

[10/2005 wef 16/02/2005]

(12) Any person required to provide information under subsection (10) must provide it in such manner and within such period as may be specified by the Minister.

[10/2005 wef 16/02/2005]

(13) The Minister may determine an appeal under this section by confirming, varying or reversing any decision or direction of the Authority or by amending any code of practice or standard of performance.

[10/2005 wef 16/02/2005]

(14) Any decision of the Minister under subsection (13) shall be final.

[10/2005 wef 16/02/2005]

(15) Unless otherwise provided, where a reconsideration request or an appeal is made under this section, the decision, direction or other matter which requires reconsideration by the Authority or which is appealed against shall be complied with until the determination of the reconsideration request or the appeal, as the case may be.

[10/2005 wef 16/02/2005]

(16) The Minister may make regulations in respect of the manner in which an appeal may be made to the Minister under subsection (1), (2) or (7) and the procedure to be adopted in hearing such appeals.

[10/2005]

Interest on sums unpaid

69A. If any sum required to be paid by a telecommunication licensee or a person granted a spectrum right under this Act or any code of practice or regulation made thereunder is not paid when it is required to be paid, that licensee or person shall be liable to pay the Authority the prescribed interest on such unpaid sums for the period such sums remain unpaid.

[10/2005]

Power of Minister to issue written order relating to acquisition of assets, etc., of telecommunication licensee, designated business trust or designated trust

69B.—(1) The Minister may issue a written order to any person that acquires the assets or business of, or equity interests in, a telecommunication licensee, designated business trust or designated trust (referred to in this section as the relevant person), that telecommunication licensee, the trustee-manager of that designated business trust or the trustee of that designated trust (as the case may be), or both the relevant person and that telecommunication licensee, trustee-manager or trustee (as the case may be), if the Minister is satisfied that —

- (a) the relevant person is not a fit and proper person; and
- (b) it is not in the national interest to allow the relevant person to continue to own the assets or business of, or to hold the equity interests in, that telecommunication licensee, designated business trust or designated trust (as the case may be).

[Act 19 of 2011]

(2) The Minister may, in any written order issued under subsection (1), direct the relevant person, that telecommunication licensee, the trustee-manager of that designated business trust or the trustee of that designated trust (as the case may be), or both the relevant person and that telecommunication licensee, trustee-manager or trustee (as the case may be), to do all or any of the following:

- (a) direct the transfer or disposal of all of the assets, business and equity interests acquired by the relevant person in that telecommunication licensee, designated business trust or designated trust (as the case may be) within such time and subject to such conditions as the Minister considers appropriate;
- (b) restrict the transfer or disposal of the assets, business and equity interests in that telecommunication licensee, designated business trust or designated trust (as the case may be) by the relevant person;

- (c) restrict the exercise of voting power in that telecommunication licensee, designated business trust or designated trust (as the case may be) by the relevant person;
- (d) require that no payment shall be made by that telecommunication licensee, the trustee-manager of that designated business trust or the trustee of that designated trust (as the case may be) of any amount (whether by way of dividends, profits, income or otherwise) in respect of the equity interests acquired by the relevant person;
- (e) restrict the issuance or offer of equity interests (whether by way of rights, bonus or otherwise) by that telecommunication licensee, the trustee manager of that designated business trust or the trustee of that designated trust (as the case may be) in respect of the equity interests acquired by the relevant person.

[Act 19 of 2011]

(3) In the case of any written order made under subsection (2)(a) or (b) relating to the equity interests, until a transfer or disposal is effected in accordance with the written order or until the restriction on the transfer or disposal is removed, as the case may be, notwithstanding the provisions of any written law or anything contained in the memorandum or articles of association, trust deed or other constitution, of that telecommunication licensee, designated business trust or designated trust (as the case may be) —

- (a) no voting rights shall be exercisable in respect of the equity interests unless the Minister expressly permits such rights to be exercised;
- (b) no equity interests of that telecommunication licensee, designated business trust or designated trust (as the case may be) shall be issued or offered (whether by way of rights, bonus or otherwise) in respect of the equity interests unless the Authority expressly permits such issue or offer; and
- (c) except in a liquidation of that telecommunication licensee, designated business trust or designated trust (as the case may be), no payment shall be made by that telecommunication licensee, the trustee-manager of that designated business trust or the trustee of that designated trust (as the case may be) of

any amount (whether by way of dividends, profits, income or otherwise) in respect of the equity interests unless the Minister expressly authorises such payment.

[Act 19 of 2011]

(4) Before issuing the written order under subsection (1), the Minister shall, unless he decides that it is not practicable or desirable to do so, cause to be given to the relevant person and the telecommunication licensee, designated business trust or designated trust, as the case may be, notice in writing of his intention to issue the written order, specifying the date by which written representations may be made to the Minister with regard to the written order.

[10/2005 wef 16/02/2005; Act 19 of 2011]

(5) Upon receipt of any written representation, the Minister shall consider it for the purpose of determining whether to issue the written order.

[10/2005 wef 16/02/2005]

(6) The Minister may vary or revoke any written order issued under this section.

[10/2005 wef 16/02/2005]

(7) Any person to whom a written order is issued under subsection (1) shall comply with the written order, and the written order shall take effect notwithstanding the provisions of any other written law and anything contained in the memorandum or articles of association, trust deed or other constitution, of the telecommunication licensee, designated business trust or designated trust (as the case may be).

[Act 19 of 2011]

(8) Any person who contravenes subsection (7) shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction; or
- (b) in any other case, to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding

\$25,000 for every day or part thereof during which the offence continues after conviction.

[10/2005]

(9) In this section —

“designated business trust” and “designated trust” have the same meanings as in section 32A(1);

“equity interest” means —

- (a) in relation to a telecommunication licensee, a voting share in that telecommunication licensee;
- (b) in relation to a designated business trust, a unit in that designated business trust; or
- (c) in relation to a designated trust, any right or interest, whether legal or equitable, in that designated trust which gives the holder of that right or interest voting power in that designated trust.

[Act 19 of 2011]

Power of Minister to issue separation order

69C.—(1) The Minister may issue a written order (referred to in this section as the separation order) to any telecommunication licensee (referred to in this section as the relevant telecommunication licensee), if —

- (a) either of the following applies:
 - (i) the relevant telecommunication licensee is licensed to operate a telecommunication system, or any installation or plant used for telecommunications, that is so costly or difficult to replicate that a requirement to do so would create a significant barrier to rapid and successful entry into the market for telecommunication services in Singapore by an efficient competitor of the relevant telecommunication licensee;
 - (ii) the relevant telecommunication licensee has the ability to exercise significant market power in any market for

telecommunication services in Singapore, and both of the following apply:

- (A) the telecommunication services provided by the relevant telecommunication licensee in that market (referred to in this subsection as the relevant telecommunication services) are required by other telecommunication licensees for the provision of telecommunication services in Singapore on a competitive basis;
 - (B) it is so costly or difficult to provide the relevant telecommunication services that a requirement to do so would create a significant barrier to the provision of telecommunication services in Singapore on a competitive basis by an efficient competitor of the relevant telecommunication licensee;
- (b) the Minister is satisfied that the actions that the Authority has taken in the exercise of its powers under this Act have failed, and that any other actions that the Authority may take in the exercise of those powers are likely to fail, to enable an efficient competitor of the relevant telecommunication licensee to achieve —
- (i) where paragraph (a)(i) applies, rapid and successful entry into the market for telecommunication services in Singapore; or
 - (ii) where paragraph (a)(ii) applies, the provision of telecommunication services in Singapore on a competitive basis; and
- (c) the Minister is satisfied that it is in the public interest to issue the separation order.

(2) In deciding whether it is in the public interest to issue the separation order, the Minister shall have regard to whether the issue of the separation order is necessary or desirable for one or more of the following purposes:

- (a) to promote and maintain fair and efficient market conduct and effective competition between persons engaged in commercial activities connected with telecommunication technology in Singapore;
 - (b) to promote the efficiency and international competitiveness of the telecommunication industry in Singapore;
 - (c) to eliminate or reduce barriers to competition arising from the control of any telecommunication system, or the possession of significant market power, by the relevant telecommunication licensee;
 - (d) to promote transparency, non-discrimination and equivalence of supply in relation to the provision of telecommunication services in Singapore.
- (3) The separation order may —
- (a) direct the relevant telecommunication licensee to transfer to a separate entity or an independent entity either or both of the following:
 - (i) the whole or any part of any business of the relevant telecommunication licensee that is conducted pursuant to a telecommunication licence granted under section 5;
 - (ii) the whole or any part of any property of the relevant telecommunication licensee that is used by it to provide any telecommunication services, and any rights, obligations and liabilities relating to that property;
 - (b) for the purposes of paragraph (a), direct the relevant telecommunication licensee —
 - (i) to establish a separate entity; and
 - (ii) to ensure that the separate entity applies for a licence under section 5; and
 - (c) contain such other directions as the Minister considers appropriate, including (but not limited to) directions relating to all or any of the following matters:

- (i) the types of transactions, dealings, arrangements and relationships that the relevant telecommunication licensee may engage in, or is prohibited from engaging in, with the separate entity or independent entity;
- (ii) the measures to be implemented to ensure that the relevant telecommunication licensee will not obtain effective control over the independent entity;
- (iii) any future or contingent right or liability of the relevant telecommunication licensee;
- (iv) the conditions of the transfer directed under paragraph (a);
- (v) any incidental, consequential or supplementary matters which, in the Minister's opinion, are necessary to ensure that the transfer directed under paragraph (a) is effective.

(4) In determining the directions to be included in the separation order, the Minister shall have regard to whether the directions are proportionate, taking into account —

- (a) the contestability of the relevant market for telecommunication services in Singapore; and
- (b) the effectiveness of the directions in eliminating or minimising any incentive or opportunity for the relevant telecommunication licensee to act in a manner that prevents, restricts or distorts competition in the relevant market for telecommunication services in Singapore.

(5) A licence granted under section 5 to a separate entity established by a relevant telecommunication licensee may include (without prejudice to the power to impose conditions conferred by that section) conditions requiring the separate entity —

- (a) to operate on a stand-alone basis;
- (b) to deal at arm's length with the relevant telecommunication licensee or any of its associates;

- (c) to provide to other telecommunication licensees any service on the same terms and conditions (including in relation to price, service levels and time frames), and by means of the same systems and processes (including operational support processes), as it provides to the relevant telecommunication licensee or any of its associates; and
 - (d) to do, or to refrain from doing, such things as are specified in the licence, or as are of a description specified in the licence.
- (6) The separation order shall take effect, notwithstanding —
- (a) the provisions of any other written law or any rule of law; and
 - (b) the provisions of the memorandum or articles of association, or other constitution, of the relevant telecommunication licensee.
- (7) Notwithstanding any other written law or any rule of law, where the separation order contains a direction under subsection (3)(a), on the date appointed for the transfer of any business or property of the relevant telecommunication licensee to a transferee —
- (a) that business or property shall be transferred to, and shall vest in, the transferee without other or further assurance, act or deed, and the separation order shall have effect according to its tenor and be binding on any person thereby affected;
 - (b) every deed, bond, agreement or other arrangement subsisting immediately before that date which relates to that business or property, and to which the relevant telecommunication licensee is a party, shall continue in full force and effect, and shall be enforceable by or against the transferee, from that date, as if the transferee had been named therein or had been a party thereto instead of the relevant telecommunication licensee; and
 - (c) any proceedings or cause of action, by or against the relevant telecommunication licensee, pending or existing immediately before that date and relating to that business or property shall, if continued, be enforceable by or against, the transferee from that date.

(8) Subject to subsection (11), the Minister may award compensation to the relevant telecommunication licensee for any damage caused to it by reason of its compliance with the separation order.

(9) For the purposes of subsection (8), the Minister shall, within 6 months after the making of the separation order, by notification in the *Gazette*, establish a scheme for determining the amount of any compensation payable to the relevant telecommunication licensee.

(10) A scheme established under subsection (9) may provide for —

- (a) the manner in which any compensation or consideration is to be assessed, including methods of calculation, valuation dates and matters to be taken into account or disregarded when making valuations;
- (b) the assessment to be made by an independent valuer appointed by the Minister; and
- (c) the remuneration and expenses of the independent valuer.

(11) No compensation shall be awarded under subsection (8) if, when issuing the separation order, the Minister was satisfied that the relevant telecommunication licensee had engaged in conduct that prevents, restricts or distorts competition in any market for telecommunication services in Singapore, through —

- (a) its control of the telecommunication system, or the installation or plant used for telecommunications, referred to in subsection (1)(a)(i); or
- (b) the exercise of its market power referred to in subsection (1)(a)(ii).

(12) Any compensation awarded by the Minister under subsection (8) shall be paid out of the Consolidated Fund.

(13) Before issuing the separation order, the Minister shall, unless he decides that it is not practicable or desirable to do so, cause to be given to the relevant telecommunication licensee notice in writing of his intention to issue the separation order, specifying the date by which written representations may be made to the Minister with regard to the separation order.

(14) Upon receipt of any written representation, the Minister shall consider it for the purpose of determining whether to issue the separation order.

(15) The Minister may at any time vary, suspend or revoke the whole or any part of the separation order.

(16) The relevant telecommunication licensee and any person affected by the separation order shall comply with the separation order.

(17) Any person who contravenes subsection (16) shall be guilty of an offence and shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction;

(b) in the case of an entity which is granted a licence under section 5, to a fine not exceeding the higher of the following amounts:

(i) 10% of the annual turnover of that part of its business in respect of which it is granted the licence, as ascertained from its latest audited accounts; or

(ii) \$1 million,

and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction; or

(c) in any other case, to a fine not exceeding \$1 million and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction.

(18) Section 32A(4), (5)(a), (6), (7) and (8) shall apply with the necessary modifications to this section as they apply to Part VA.

(19) In this section —

“30% controller”, in relation to a telecommunication licensee, means a person who, alone or together with his associates —

- (a) holds 30% or more of the total number of voting shares in the telecommunication licensee; or
- (b) is in a position to control 30% or more of the voting power in the telecommunication licensee;

“broadcasting licensee” has the same meaning as in section 2(1) of the Broadcasting Act (Cap. 28), but does not include a class licensee as defined in section 2(1) of that Act;

“business” includes any business affairs, property, right, obligation or liability;

“effective control”, in relation to a telecommunication licensee or an independent entity, means the ability to cause the telecommunication licensee or independent entity (as the case may be) to take, or to refrain from taking, a major decision regarding the management or operations of the telecommunication licensee or independent entity (as the case may be), and includes such control as may be exercised over the telecommunication licensee or independent entity (as the case may be) by a 30% controller of the telecommunication licensee or independent entity (as the case may be);

“independent entity” means an entity that —

- (a) whether alone or together with its associates, does not have effective control over any telecommunication licensee or broadcasting licensee; and
- (b) is not under the effective control of —
 - (i) any telecommunication licensee, whether alone or with its associates; or
 - (ii) any broadcasting licensee, whether alone or with its associates; or
- (c) is not under the effective control of any other entity which, whether alone or together with its associates, has effective control over any telecommunication licensee or broadcasting licensee;

“property” means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and includes —

- (a) any property, right or power of any description; and
- (b) in relation to a telecommunication licensee, the telecommunication licensee’s telecommunication system and installation or plant used for telecommunications;

“separate entity”, in relation to a telecommunication licensee, means an entity which is a separate legal entity from the telecommunication licensee, and includes any such entity the equity interests of which are wholly owned by the telecommunication licensee;

“significant market power” means the ability to unilaterally restrict output, raise prices, reduce quality or otherwise act, to a significant extent, independently of competitive market forces;

“voting share” has the same meaning as in section 4(1) of the Companies Act (Cap. 50).

[Act 19 of 2011]

Exclusion of liability of public telecommunication licensees

70. A public telecommunication licensee shall not be liable in respect of any injury, loss or damage suffered by any person by reason of —

- (a) any failure to provide or delay in providing any telecommunication services or any equipment associated therewith or service ancillary thereto;
- (b) any failure, interruption, suspension or restriction of any telecommunication service or service ancillary thereto or delay of, or fault in, any communication by means of telecommunications;
- (c) any error in, or omission of, any information transmitted through telecommunications; or

- (d) any loss of secrecy in communication arising from the use of any telecommunication service,

which is due to the act or default of another person, or an accident or some other cause beyond the public telecommunication licensee's control.

Service of documents, etc.

71.—(1) Subject to subsection (6), any decision, notice, order or document required or authorised to be given by the Authority, or served by the Authority on any person, under this Act, or under any code of practice or standard of performance, may be served —

(a) in the case of an individual —

- (i) by delivering the decision, notice, order or document to the individual personally;
- (ii) by leaving the decision, notice, order or document with an adult person apparently resident at the usual or last known address of the place of residence of the individual;
- (iii) by leaving the decision, notice, order or document with an adult person apparently employed at the usual or last known address of the place of business of the individual;
- (iv) by affixing the decision, notice, order or document in a conspicuous place at the usual or last known address of the place of residence or business of the individual;
- (v) by sending the decision, notice, order or document by pre-paid registered post addressed to the individual at the usual or last known address of the place of residence or business of the individual;
- (vi) by sending the decision, notice, order or document by facsimile transmission to the last facsimile transmission number of the individual given to the Authority by the individual; or

- (vii) by sending an electronic communication of the decision, notice, order or document to the last electronic mail address of the individual given to the Authority by the individual;
- (b) in the case of a partnership other than a limited liability partnership —
- (i) by delivering the decision, notice, order or document to any one of the partners or the secretary or other like officer of the partnership;
 - (ii) by leaving the decision, notice, order or document at, or by sending the decision, notice, order or document by pre-paid registered post to, the principal or last known place of business of the partnership in Singapore;
 - (iii) by sending the decision, notice, order or document by facsimile transmission to the last facsimile transmission number of the partnership given to the Authority by the partnership; or
 - (iv) by sending an electronic communication of the decision, notice, order or document to the last electronic mail address of the partnership given to the Authority by the partnership; and
- (c) in the case of a limited liability partnership or any other body corporate —
- (i) by delivering the decision, notice, order or document to the manager of the limited liability partnership or the secretary or other like officer of the body corporate;
 - (ii) by leaving the decision, notice, order or document at, or by sending the decision, notice, order or document by pre-paid registered post to, the registered office or principal office of the limited liability partnership or body corporate in Singapore;
 - (iii) by sending the decision, notice, order or document by facsimile transmission to the last facsimile

transmission number of the limited liability partnership or body corporate given to the Authority by the limited liability partnership or body corporate;
or

- (iv) by sending an electronic communication of the decision, notice, order or document to the last electronic mail address of the limited liability partnership or body corporate given to the Authority by the limited liability partnership or body corporate.

(2) Where any decision, notice, order or other document required or authorised to be given by the Authority, or served by the Authority on any person, under this Act is sent by pre paid registered post, the decision, notice, order or document shall be deemed to have been duly served on the person to whom it is addressed 2 days after the day it was posted, whether or not it is returned undelivered.

(3) Where any decision, notice, order or other document required or authorised to be given by the Authority, or served by the Authority on any person, under this Act is sent by facsimile transmission to a facsimile transmission number in accordance with subsection (1), the decision, notice, order or document shall be deemed to have been duly served on the person to whom it is addressed on the day of the transmission, subject to the receipt on the sending facsimile machine of a notification (by electronic or other means) of a successful transmission to the facsimile machine for that facsimile transmission number.

(4) Where any decision, notice, order or other document required or authorised to be given by the Authority, or served by the Authority on any person, under this Act is sent by electronic communication to an electronic mail address in accordance with subsection (1), the decision, notice, order or document shall be deemed to have been duly served on the person to whom it is addressed at the time the electronic communication enters the information system for that electronic mail address.

(5) Service of any decision, notice, order or other document under this Act may be effected on a person by electronic communication

only if the person gives as part of his address for service an electronic mail address.

(6) This section shall not apply to notices and documents to be served in proceedings in court.

[Act 19 of 2011]

Excluded matters

72. This Act shall not apply to the licensing of any broadcasting service or any broadcasting apparatus under the Broadcasting Act (Cap. 28) except in respect of the regulation of any telecommunication system required for the operation of any broadcasting service or the approval of any broadcasting apparatus used in accordance with section 9.

[10/2005 wef 16/02/2005]

Exemption by Minister

73. The Minister may exempt any person or class of persons from all or any of the provisions of this Act.

Regulations

74.—(1) The Authority may, with the approval of the Minister, make regulations for any purpose for which regulations are required to be made under this Act and generally for carrying out the purposes and provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Authority may, with the approval of the Minister, make regulations for or with respect to all or any of the following matters:

- (a) the proficiency examinations, including the syllabi and the details thereof, for the certification of competency of individuals operating telecommunication services or for the grant of any licence by the Authority;
- (b) the classes and the conditions for the grant of licences and spectrum rights by the Authority;

- (c) in relation to cable detection work licences —
- (i) the class or classes of licences to be granted, the form and duration of those licences, the terms and conditions upon, and the circumstances in, which those licences may be granted, held, suspended, cancelled, altered, extended, renewed or replaced and the fees payable in respect thereof;
 - (ii) the qualifications and other requirements for applicants for such licences, the examination or testing of such applicants, the fees payable in respect of such examination or testing and the circumstances in and conditions on which an applicant may be exempted from such examination or testing; and
 - (iii) the duties and responsibilities of licensed cable detection workers;
- (d) the control and regulation of dealing in and use of telecommunication equipment;
- (e) the control and regulation of interference by radiowaves or electrical or other means to telecommunications in Singapore;
- (f) the control and regulation of installation, wiring, cabling and other types of works to be carried out on the telecommunication systems of a public telecommunication licensee;
- [10/2005 wef 16/02/2005; Act 19 of 2011]*
- (g) the control and regulation of the allocation and use of —
- (i) telephone numbers; and
 - (ii) any other numbers used for or in connection with either or both of the following:
 - (A) the operation of telecommunication systems;
 - (B) the provision of telecommunication services.

[Act 19 of 2011]

Savings and transitional provisions

75.—(1) Any scheme, contract, document, licence, permission or resolution prepared, made, granted or approved by the TAS in relation to telecommunication matters under the repealed Act shall, so far as it is not inconsistent with the provisions of this Act and except as otherwise expressly provided in this Act or in any other written law, continue and be deemed to have been prepared, made, granted or approved by the Authority under the corresponding provisions of this Act.

(2) Any subsidiary legislation made under the repealed Act or any other written law relating to telecommunication matters and in force immediately before 1st December 1999 shall, so far as it is not inconsistent with the provisions of this Act, continue in force as if made under this Act until it is revoked or repealed by subsidiary legislation made under this Act.

LEGISLATIVE HISTORY
TELECOMMUNICATIONS ACT
(CHAPTER 323)

This Legislative History is provided for the convenience of users of the Telecommunications Act. It is not part of this Act.

1. Act 12 of 1992 — Telecommunication Authority of Singapore Act 1992

Date of First Reading : 27 February 1992
(Bill No. 16/1992 published on
31 March 1992)

Date of Second and Third Readings : 19 March 1992

Date of commencement : 1 April 1992

2. 1993 Revised Edition — Telecommunication Authority of Singapore Act

Date of operation : 1 January 1993

3. 1993 Revised Edition — Telecommunication Authority of Singapore Act

Date of operation : 15 March 1993

4. Act 43 of 1999 — Telecommunications Act 1999

Date of First Reading : 11.10.99
(Bill No. 33/99) published on
12.10.99)

Date of Second and Third Readings : 23.11.99

Date of commencement : 1.12.99

5. 2000 Revised Edition — Telecommunications Act

Date of operation : 30 December 2000

6. Act 10 of 2005 — Telecommunications (Amendment) Act 2005

Date of First Reading : 24 November 2004
(Bill No. 67/2004 published on
18 February 2005)

Date of Second and Third Readings : 25 January 2005

Date of commencement : 16 February 2005

7. Act 19 of 2011 — Telecommunications (Amendment) Act 2011

Date of First Reading : 20 October 2011 (Bill No.
20/2011 published on 20 January
2012)

Date of Second and Third Readings : 21 November 2011

Date of commencement : 1 February 2012

COMPARATIVE TABLE
TELECOMMUNICATIONS ACT
(CHAPTER 323)

The following provisions in the Telecommunications Act 1999 (Act 43 of 1999) have been enumerated by the Law Revision Commissioners in this 2000 Revised Edition.

This Comparative Table is provided for the convenience of users. It is not part of the Telecommunications Act.

2000 Ed.		Act 43 of 1999
8— (2)		Set out for 8— (1)
(3) to (7)		(2) to (6)
9— (4) and (5)		9— (4)
(6) and (7)		(5) and (6)
13— (1)		13
(2)		13— (a)
(3)		13— (b)
18— (7) and (8)		18— (7)
(9) and (10)		(8) and (9)
33— (3) and (4)		33— (3)
(5), (6) and (7)		(4), (5) and (6)
54— (1) and (2)		54
57— (1) and (2)		57
66— (1) and (2)		66
<i>Omitted</i>		76