

Telecommunications (Amendment) Bill

Bill No. /2016

Read the first time on .

A BILL

i n t i t u l e d

An Act to amend the Telecommunications Act (Chapter 323 of the 2000 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the **Telecommunications (Amendment) Act 2016** and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 **Amendment of section 2**

2. **Section 2 of the Telecommunications Act** is amended —

(a) by inserting, immediately after the definition of “code of practice”, the following definition:

10 “ “common property” has the same meaning as in section 2(1) of the Building Maintenance and Strata Management Act (Cap. 30C);”;

(b) by inserting, immediately after the definition of “Hertzian or radio waves”, the following definition:

15 “ “Housing and Development Board” means the Housing and Development Board established under section 3 of the Housing and Development Act (Cap. 129);”;

(c) by inserting, immediately after **the definition of “message”**, the following definition:

20 “ “owner” —

(a) in relation to any premises comprised in a strata title plan under the Land Titles (Strata) Act (Cap. 158), means —

25 (i) in the case of a lot, the person who is registered as the subsidiary proprietor of the lot under that Act;

30 (ii) in the case of a common property, the management corporation having control of that common property, or the person receiving any rent or charge for the maintenance and

management of that common property; and

5 (iii) in the case of a limited common property, the subsidiary management corporation established under the Building Maintenance and Strata Management Act having control of that limited common property, or the person receiving any rent or charge for the maintenance and management of that limited common property;

10 (b) in relation to a building in a housing estate of the Housing and Development Board (called a HDB housing estate) or a subdivided building in a housing estate as defined in section 2(1) of the HUDC Housing Estates Act (Cap. 131) (called a HUDC housing estate), means —

15 (i) in the case of a flat, any owner of the flat as defined in section 2(1) of the Housing and Development Act or section 2(1) of the HUDC Housing Estates Act, as the case may be;

20 (ii) in the case of the building's common property in a HDB housing estate that is controlled, managed and maintained by a Town Council, that Town Council;

25 (iii) in the case of the building's common property in a HDB housing estate that is not controlled, managed and maintained by a Town Council, the Housing and Development Board; and

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- 5 (iv) in the case of the subdivided building's common property in a HUDC housing estate, any body corporate constituted under section 3 of the HUDC Housing Estates Act;
- (c) in relation to a subdivided building other than a subdivided building referred to in paragraph (a) or (b), means —
- 10 (i) in the case of a lot, the person who is registered under the Land Titles Act (Cap. 157) as the proprietor of the fee simple, estate in perpetuity or leasehold estate of that lot; and
- 15 (ii) in the case of the subdivided building's common property, every person who is registered under the Land Titles Act as the proprietor of the fee simple, estate in perpetuity or leasehold estate of a lot in that building, or the person receiving any rent or charge for the maintenance and management of the common property;
- 20 (d) in relation to any premises which are not subdivided, means any person who is registered under the Land Titles Act as the proprietor of the fee simple, estate in perpetuity or leasehold estate of those premises; and
- 25 (e) in relation to any other premises or building, means the person for the time being receiving the rent of the premises or building, whether on the person's own account or as agent, trustee or receiver, or who would receive the same were the premises or building let to a tenant, and
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includes the person whose name is entered in the Valuation List prepared under section 10 of the Property Tax Act (Cap. 254) as the owner of the premises or building, or a mortgagee in possession;”;

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(d) by inserting, immediately after the words “any service for telecommunications” in the definition of “telecommunication service”, the words “, and includes any lease of telecommunication cable”; and

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(e) by inserting, immediately after the definition of “telecommunications”, the following definition:

“ “Town Council” means a Town Council established under section 4 of the Town Councils Act (Cap. 329A);”.

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Amendment of section 5

3. Section 5 of the Telecommunications Act is amended by inserting, immediately after subsection (7), the following subsection:

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“(8) A licensee whose licence is terminated at the licensee’s request is not entitled to any compensation or the refund of the licence fees in respect of the unexpired period of the licence.”.

Amendment of section 5B

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4. Section 5B of the Telecommunications Act is amended by inserting, immediately after subsection (6), the following subsection:

“(7) A licensee whose licence is terminated at the licensee’s request is not entitled to any compensation or the refund of the licence fees in respect of the unexpired period of the licence.”.

Amendment of section 8

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5. Section 8 of the Telecommunications Act is amended —

(a) by deleting the words “27, 32D or 32F(2)” in subsection (1)(c) and substituting the words “21, 21A(2), 27, 32D, 32F(2) or 32M(4)”; and

5 (b) by inserting immediately after the words “any compensation” in subsections (2) and (6A), the words “or refund of any licence fee”.

New section 11A

6. The Telecommunications Act is amended by inserting, immediately after section 11, the following section:

10 “Sharing of radio frequencies

11A.—(1) Where a person is required by the Authority under this Act or any regulation made hereunder to share with any other person the radio frequencies allocated to the first-mentioned person —

15 (a) all persons operating on the shared radio frequencies must accept that interference may result from the legitimate operation of a station; and

(b) the Authority is not responsible or liable for any interference that may arise from the other person’s use of the radio frequencies.

20 (2) In subsection (1)(a), “station” means —

(a) a transmitter;

(b) a receiver;

(c) a combination of transmitters and receivers; or

25 (d) an accessory to any thing specified in paragraph (a) to (c).”

Amendment of section 14

7. Section 14 of the Telecommunications Act is amended —

30 (a) by deleting subsections (6), (7) and (8) and substituting the following subsections:

“(6) The owner or occupier of the land or building may, within 14 days after the receipt of the notice referred to in subsection (4), lodge a written objection with the Authority.

5 (7) Where the written objection is lodged by the owner or occupier of the land or building under subsection (6) (called in this section the objector), the Authority must notify the public telecommunication licensee to resolve the objection with the objector.

10 (8) On receipt of the Authority’s notice under subsection (7), the public telecommunication licensee must use all reasonable efforts to resolve the objection with the objector.

15 (8A) If the public telecommunication licensee fails to resolve the objection, the licensee must inform the Authority in writing and also furnish all relevant information relating to the efforts employed by the licensee.

20 (8B) After receipt of the information referred to in subsection (8A), the Authority must notify the public telecommunication licensee and the objector as to whether the Authority is satisfied that the licensee has used all reasonable efforts to resolve the objection.

25 (8C) The Authority must hold an inquiry (in such manner as the Authority thinks fit) on the objection, giving each party an opportunity to be heard if —

30 (a) the Authority notifies under subsection (8B) that the Authority is satisfied that the licensee has used all reasonable efforts to resolve the objection; and

(b) the objection is not withdrawn.”;

(b) by deleting the words “the enquiry” in subsection (9) and substituting words “the inquiry”; and

(c) by inserting, immediately after **subsection (9)**, the following subsection:

“(10) The public telecommunication licensee may enter the land or building —

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- (a) where no objection is lodged within the period specified in subsection (6), after the expiry of that period;
 - (b) where an objection is lodged under subsection (6) —
 - 10 (i) after the objection is withdrawn;
 - (ii) after the public telecommunication licensee resolves the objection with the objector; or
 - 15 (iii) on the Authority’s authorisation under subsection (9) subject to the terms, conditions and stipulations imposed by the Authority under that subsection.”.

Amendment of **section 19**

8. Section 19 of the Telecommunications Act is amended —

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- (a) by deleting the words “or revoke” in **subsection (1)(b)** and substituting the words “, suspend or revoke the whole or any part of”;
 - (b) by deleting **paragraph (a) of subsection (2)** and substituting the following paragraph:
 - 25 “(a) require the developer or owner of any land or building to provide, maintain or give access, at the developer’s or owner’s expense, such space or facility within or on the land or building, for the installation, operation or maintenance of
 - 30 any installation, plant or system used for any of the following purposes:

- (i) the provision of any telecommunication service or radio-communication service to that land or building;
- (ii) the provision of any telecommunication service or radio-communication service to any other land or building; and”;
- (c) by inserting, immediately after subsection (5), the following subsection:

“(5A) If there is any inconsistency between —

- (a) a code of practice issued under subsection (1); and
- (b) any provision in an agreement or arrangement entered into between a telecommunication licensee and the developer or owner of any land or building, or between the developer or owner and the occupant of that land or building,

the code prevails and the provision is void to the extent of its inconsistency with the code.”

Amendment of section 21

9. Section 21 of the Telecommunications Act is amended —

- (a) by deleting **subsection (1)** and substituting the following subsection:

“(1) Where the Authority considers it necessary that any telecommunication service should be provided to any land or building, whether completed or not, or to any occupant of that land or building, or that the quality of a telecommunication service provided to any land or building or to any occupant of that 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 the developer’s or owner’s expense, within such period as may be

specified in the direction, such space or facility within or on that land or building, and access to that land or building, as the Authority may specify in its direction; and

5 (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
10 the telecommunication service to that land or building or to the occupant of that land or building.”;

(b) by inserting, immediately after subsection (1A), the following subsections:

15 “(1B) Where —

(a) the Authority considers it necessary that in relation to any land or building, whether completed or not (called in this section the particular property), a radio-communication service should be provided to the particular property or the quality of a radio-communication service provided to the particular property should be enhanced; and
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(b) the Authority is satisfied that it would be in the public interest for a telecommunication licensee providing radio-communication service to install any installation, plant or system within or on any other land or building in order to serve the particular property or enhance the quality of a radio-communication service provided to the particular property,
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the Authority may by direction —

(i) require the developer or owner of the other land or building referred to in paragraph (b) to provide, at the developer’s or owner’s expense,
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within such period as may be specified in the direction, such space or facility within or on the other land or building, and access to the other land or building, as the Authority may specify in its direction; and

- (ii) require the telecommunication licensee to install within or on the other land or building, within such period as may be specified in the direction, such installation, plant or system as the Authority considers necessary for the provision or enhancement of the quality of the radio-communication service to the particular property.

(1C) If there is any inconsistency between —

(a) a direction issued under subsection (1), (1A), (1B) or (4); and

(b) any provision in an agreement or arrangement entered into between a telecommunication licensee and the developer or owner of any land or building, or between the developer or owner and the occupant of that land or building,

the direction prevails and the provision is void to the extent of its inconsistency with the direction.”;

(c) deleting the words “under subsection (1) or (1A)” in subsection (2) and substituting the words “under subsection (1), (1A) or (1B)”;

(d) deleting the words “notify the developer or owner of the licensee’s intention” in subsection (2) and substituting the words “give 14 days’ notice to the developer or owner, stating as fully and accurately as possible the nature and extent of the acts intended to be done”;

(e) by deleting subsection (3) and substituting the following subsections:

“(3) The developer or owner of the land or building may, within 14 days after the receipt of the notice under subsection (2), lodge a written objection with the Authority.

5 (3A) Where a written objection is lodged by the developer or owner of the land or building under subsection (3) (called in this section the objector) the Authority must notify the telecommunication licensee to resolve the objection with the objector.

10 (3B) On receipt of the Authority’s notice under subsection (3A), the telecommunication licensee must use all reasonable efforts to resolve the objection with the objector.

15 (3C) If the telecommunication licensee fails to resolve the objection, the licensee must inform the Authority in writing and also furnish all relevant information relating to the efforts employed by the licensee.

20 (3D) After receipt of the information referred to in subsection (3C), the Authority must notify the telecommunication licensee and the objector as to whether the Authority is satisfied that the licensee has used all reasonable efforts to resolve the objection

25 (3E) The Authority must hold an inquiry (in such manner as the Authority thinks fit) on the objection, giving each party an opportunity to be heard if —

(a) the objection is not withdrawn; and

(b) the Authority notifies under subsection (3D) that the Authority is satisfied that the licensee has used all reasonable efforts to resolve the objection.

30 (3F) Upon the conclusion of the inquiry, the Authority may authorise, either unconditionally or subject to such terms, conditions and stipulations as the Authority thinks fit, any of the acts mentioned in the notice given under subsection (2) to be carried out.

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(3G) The telecommunication licensee may enter on the land or building and do all or any of the acts mentioned in the notice given under subsection (2), subject to the Authority's terms, conditions and stipulations if any imposed under subsection (3F) —

(a) where no objection is lodged within the period specified in subsection (3), after the expiry of that period;

(b) where an objection is lodged under subsection (3) —

(i) after the objection is withdrawn;

(ii) after the telecommunication licensee resolves the objection with the objector; or

(iii) on the Authority's authorisation under subsection (3F), subject to the terms, conditions and stipulations imposed by the Authority under that subsection.”;

(f) by inserting, immediately after the word “(1A)” in subsection (5), the word “, (1B)”;

(g) by inserting, immediately after the word “(1A)” in subsection (5)(a), the word “, (1B)”;

(h) by inserting, immediately after the word “(1A)” in subsection (6), the word “, (1B)”.

New section 21A

10. The Telecommunications Act is amended by inserting, immediately after **section 21**, the following section:

“Prohibition against exclusive agreements or arrangements

21A.—(1) The developer or owner of any land or building —

(a) must not enter into or enforce any agreement or arrangement with any occupant of the land or building that restricts or prevents the occupant from selecting

any supplier of telecommunication systems and services to provide telecommunication services to the occupant;

5 (b) must not enter into or enforce any agreement or arrangement with any telecommunication licensee that restricts or prevents other telecommunication licensees from installing their installation, plant or system in the land or building or supplying telecommunication systems and services to the land or building or
10 supplying telecommunication services to any occupant of the land or building.

(2) The Authority may give such directions as the Authority thinks fit to be observed by the telecommunication licensee, developer or owner of the land or building to ensure
15 compliance with subsection (1).

(3) If there is any inconsistency between —

(a) a direction issued under subsection (2); and

(b) any provision in an agreement or arrangement entered into between a telecommunication licensee and the
20 developer or owner of any land or building, or between the developer or owner and the occupant of that land or building,

the direction prevails and the provision is void to the extent of its inconsistency with the direction.

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

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

30 **Amendment of section 26**

11. Section 26(1) of the Telecommunications Act is amended by inserting immediately after paragraph (vii) the following paragraph:

5 “(vii*a*) the authorisation of telecommunication licensees to collect, use or disclose information about subscribers of the licensees’ telecommunication services, without the subscribers’ consents, including information about the subscribers’ personal data, telecommunication subscription and usage;”.

Amendment of section 32D

10 **12. Section 32D of the Telecommunications Act is amended —**

(*a*) by deleting subsection (7) and substituting the following subsection:

“(7) Any direction issued to a person under subsection (2) takes effect, despite —

15 (*a*) the Business Trusts Act (Cap. 31A), Companies Act (Cap. 50), Limited Liability Partnerships Act (Cap. 163A) and Trustees Act (Cap. 337);

(*b*) any listing rule as defined in section 2(1) of the Securities and Futures Act (Cap. 289); or

20 (*c*) 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.”; and]

25 (*b*) by deleting the words “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 —” in
30 subsection (8) and substituting the words “Without limiting subsection (7) —”.

New section 32DA

13. The Telecommunications Act is amended by inserting, immediately after section 32D, the following section:

5 **“Power to issue directions to enforce conditions imposed by Authority when approving application under section 32B(5), (6) or (7)**

32DA.—(1) Without limiting section 27, the Authority may issue a direction under subsection (2) if —

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

(i) is a 12% controller or 30% controller of a designated telecommunication licensee, designated business trust or designated trust;

15 (ii) owns 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

20 (iii) has effective control over a designated telecommunication licensee, designated business trust or designated trust;

(b) the Authority has, in granting its written approval to the specified person under section 32B(5), (6) or (7) in respect of any telecommunication licensee, business trust or trust, imposed a condition that the specified person must transfer or dispose of all or any part of —

25 (i) 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);

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- (ii) 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
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- (iii) 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 interest); and
- (c) the Authority is satisfied that the condition has not been complied with.
- (2) The Authority may, in the circumstances specified in subsection (1), issue any or all of the following directions:
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- (a) 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 and subject to such conditions as the Authority specifies;
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- (b) direct the specified person to transfer or dispose of all or any part of the business that is conducted under 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 and subject to such conditions as the Authority specifies;
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- (c) direct the specified person to relinquish effective control over the designated telecommunication licensee, designated business trust or designated trust, within such time and subject to such conditions as the Authority specifies;
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- (d) direct —

- 5 (i) the specified person, or any associate of the specified person, or the designated telecommunication licensee, designated business trust or designated trust, to procure the issue of such number of shares, units or equity interests in the designated telecommunication licensee, designated business trust or designated trust, as the case may be, as the Authority may determine, within such time and subject to such conditions as the Authority specifies; and
- 10 (ii) 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, in the designated telecommunication licensee, designated business trust or designated trust, as the case may be, within such time and subject to such conditions as the Authority specifies;
- 15 (3) Before issuing a direction to any person under subsection (2), the Authority must, unless the Authority decides that it is not practicable or desirable to do so, cause to be given to that person written notice 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.
- 20 (4) Upon receipt of any written representation under subsection (3), the Authority must consider the representation for the purpose of determining whether to issue the direction.
- 25 (5) Any person to whom a direction is given under subsection (2) must comply with the direction.
- (6) The Authority may at any time vary, suspend or revoke any direction issued under this section.
- 30 (7) Any direction issued to a person under subsection (2) takes effect, despite —
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(a) the Business Trusts Act (Cap. 31A), Companies Act (Cap. 50), Limited Liability Partnerships Act (Cap. 163A) and Trustees Act (Cap 337);

(b) any listing rule as defined in section 2(1) of the Securities and Futures Act (Cap. 289); or

(c) the provisions of the memorandum or articles of association, trust deed or other constitution of the specified person, the designated telecommunication licensee, designated business trust or designated trust.

(8) Any person (other than a designated telecommunication licensee) who contravenes subsection (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 of a day 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 of a day during which the offence continues after conviction.”.

Amendment of section 32F

14. Section 32F of the Telecommunications Act is amended —

(a) by inserting, immediately after **subsection (1)**, the following subsections:

“(1A) The Authority may —

(a) grant its approval, with or without conditions, including —

(i) specifying the period of appointment for which the approval is granted, including any requirement for the designated

telecommunication licensee to seek approval for re-appointment; and

- (ii) specifying the actions to be taken by the designated telecommunication licensee or the person appointed; and

(b) at any time add to, vary or revoke any condition of the approval under paragraph (a) or impose any conditions to the approval.

(1B) Where the Authority grants an approval under subsection (1A) with conditions, the designated telecommunication licensee and the person appointed must comply with the conditions.”; and

- (b) by inserting, immediately after the words “subsection (1),” in subsection (2), the words “or the designated telecommunication licensee or the person appointed is in contravention of any of the conditions imposed under subsection (1A),”.

New Part VC

15. The Telecommunications Act is amended by inserting, immediately after section 32L, the following Part:

“PART VC

ALTERNATIVE DISPUTE RESOLUTION SCHEME

Power of Authority in relation to dispute resolution scheme

32M.—(1) The Authority may establish or approve a dispute resolution scheme for the resolution of disputes between declared telecommunication licensees and subscribers, arising from or relating to the provision of telecommunication services by the declared telecommunication licensees to the subscribers.

(2) A declared telecommunication licensee must participate in the dispute resolution scheme referred to in subsection (1) and must comply with any regulation made under section 74 or

code of practice issued under section 26 on the terms of the scheme, including —

(a) the terms of participation in the dispute resolution scheme; and

5 (b) the procedure for dispute resolution.

(3) The Authority may, issue a code of practice under section 26, or make regulations under section 74, to provide for matters relating to the operations of an operator of a dispute resolution scheme referred to in subsection (1), including —

10 (a) the standards or requirements of the services provided under the dispute resolution scheme;

(b) the fees that the operator may charge for the services provided under the dispute resolution scheme;

15 (c) the records that the operator must keep and the period of retention of such records;

(d) the reports that the operator must submit to the Authority, and the manner and time for such submission;

20 (e) matters relating to the administration of the dispute resolution scheme; and

(f) generally to give effect to or for carrying out the purposes of this section.

25 (4) Without limiting section 8, for the purposes of giving effect to this Part, or any regulation or code of practice referred to in subsection (2), the Authority may give directions to be observed by declared telecommunication licensees.

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

(6) In this section, unless the context otherwise requires —

30 “declared telecommunication licensee” means a telecommunication licensee —

(a) that is declared by the Authority to be a declared telecommunication licensee for the purpose of this section; or

(b) that is within a class of declared telecommunication licensees declared by the Authority to be a declared telecommunication licensee for the purpose of this section,

and the declaration must be notified in the *Gazette*;

“subscriber” means an end consumer who enters into an agreement with a telecommunication licensee to subscribe to a telecommunication service from the telecommunication licensee.”.

Amendment of section 33

16. Section 33 of the Telecommunications Act is amended by inserting, immediately after the words “licence granted under section 5” in subsection (1), the words “, or during the suspension of the person’s licence under section 8”.

Amendment of section 64

17. Section 64(1) of the Telecommunications Act is amended by deleting “\$5,000.” and substituting the following words:

“the lower of the following:

(a) one half of the amount of the maximum fine that is prescribed for the offence;

(b) \$10,000.”.

Amendment of section 69

18. Section 69 of the Telecommunications Act is amended —

(a) by deleting the words “21, 27, 32D, 32E(1) or 32F(2)” in subsection (1)(b) and substituting the words “21, 21A(2), 27, 32D, 32DA(2), 32E(1), 32F(2) or 32M(4)”;

(b) by deleting the words “21, 32D or 32E(1) or (2)” in subsection (2)(b) and substituting the words “21, 21A(2), 32D, 32DA(2), 32E(1) or (2)”; and

(c) by inserting immediately after subsection (8) the following subsection:

“(8A) An appellant must provide to the Authority a copy of all materials submitted to the Minister under subsection (8) at the same time the materials are submitted to the Minister.”.

Amendment of section 74

19. Section 74(2) of the Telecommunications Act is amended —

(a) by deleting the words “public telecommunication licensee” in paragraph (f) and substituting the words “telecommunication system licensee”; and

(b) by deleting the full-stop at the end of paragraph (g) and substituting a semi-colon, and by inserting immediately thereafter the following paragraph:

“(h) the prescribing of anything that is required or permitted to be prescribed under this Act.”.

EXPLANATORY STATEMENT

This Bill seeks to ...

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.