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Price $25.50

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Continuing Instruments

An Act to repeal and replace the Telecommunications Act 1989 and to provide for the regulation of competition in markets for telecommunications in the Cook Islands.

(12 December 2019

The Parliament of the Cook Islands enacts as follows—

1 Title

This Act is the Telecommunications Act 2019.

2 Commencement

This Act comes into force on the day after the date on which it receives the assent of the Queen's representative or on the day that the Competition and Regulatory Authority Act 2019 commences, whichever is the later.

3 Repeal

The Telecommunications Act 1989 is repealed.

Part 1
Preliminary matters

4 Purpose

The purpose of this Act is to provide for the regulation of competitive markets for telecommunications services in the Cook Islands, the licensing of telecommunications and radiocommunications operators, and for related purposes.

5 Interpretation

(1) In this Act, unless the context otherwise requires—

Access Provider means a service provider or network operator licensee (as the context requires) who provides, or is requested to provide, a Regulated Access Service to an Access Seeker

Access Seeker means a service provider or network operator licensee (as the context requires) who obtains, or seeks to obtain, a Regulated Access Service from an Access Provider

adjudicator has the meaning given in section 50

Annual Report means the annual report of the Authority prepared in accordance with the Competition and Regulatory Authority Act 2019

apparatus licence means a licence issued or deemed to have been issued under section 71(1)(b) and **apparatus licensee** has a corresponding meaning

associated person has the meaning given in section 34(4)(a)

Authority means the authority established under the Competition and Regulatory Authority Act 2019

broadcasting has the meaning given in section 2 of the Broadcasting Act 1989

Broadcasting Support Services has the meaning given in section 110(4)(b)

.ck domains means all domains under the .ck top level domain (including without limitation "co.ck", "net.ck", "edu.ck", "org.ck", and "gov.ck")

chair means the person appointed under the Competition and Regulatory Authority Act 2019 as chair of the Authority

class licence means a licence issued or deemed to have been issued under section 71(1)(c)

Consumer Protection Code means the code made under section 21

customer equipment means any equipment that is intended to be connected to a telecommunications network but does not include equipment that is intended to be used within the boundaries of a telecommunications network

community services has the meaning given in subsection 110(3)

Court means the High Court of the Cook Islands

Declared Access Service means a service declared under section 41(1)

defence organisation means any armed service of the Cook Islands or any country allied with the Cook Islands, and includes the New Zealand Defence Force

Disaster Plan means a plan made under section 106(1)

Domestic Internet Interconnection Service has the meaning given in Schedule 4

Domestic MMS Termination Service has the meaning given in Schedule 4

Domestic Mobile Call Terminating Access has the meaning given in Schedule 4

Domestic Mobile Video Call Termination Service has the meaning given in Schedule 4

Domestic PSTN Terminating Access has the meaning given in Schedule 4

Domestic SMS Termination Service has the meaning given in Schedule 4

emergency call means a call placed using, or prefixed by, an emergency call number specified in the Numbering Plan

emergency call centre operator means the person designated by the Authority under subsection 18(3)

end user means a person who is the ultimate recipient of a telecommunications service or of another service the provision of which is dependent on that service

exempt apparatus has the meaning given in Schedule 3

exempt network has the meaning given in Schedule 3

exempt service has the meaning given in Schedule 3

far-end handover has the meaning given in subsection 43(1)

Frequency Band Plan means a plan made under section 65

harmful interference has the meaning given in section 86(1)

Interconnection Colocation Service has the meaning given in Schedule 4

interference has the meaning given in section 85

interfering equipment has the meaning given in section 87

International Radio Regulations has the meaning given in section 66(2)

Mandated Access Service has the meaning given in section 40

Marine Radio Services has the meaning given in section 110(4)(c)

market means a market in or including the Cook Islands for goods or services as well as other goods or services that, as a matter of fact and commercial common sense, are substitutable for them

mediator has the meaning given in section 49

Minister means the Minister of the Crown who, with the authority of the Prime Minister, is responsible for the administration of this Act

Numbering Plan means a plan made under section 51

network equipment means equipment used in the telecommunications network of a service provider and excludes customer equipment

network operator licence means a licence issued or deemed to have been issued under section 28(1)(a) and **network operator licensee** has a corresponding meaning

nominated person has the meaning given in section 58

Number Portability Rules means the rules made under section 54

Numbering Register has the meaning given in section 55

Pa Enua Services has the meaning given in section 110(4)(a)

Postal Services has the meaning given in section 110(4)(d)

price control regulations means regulations made under section 12(1)

prohibited device means any device prohibited under section 95

radiocommunications means any transmission or reception of signs, signals, writing, images, sounds, or intelligence of any nature by radio waves

radiocommunications device means any device capable of transmitting or receiving radiocommunications

radiocommunications exemption has the meaning given in section 74(1)(j)

Radiocommunications Facility Sharing Service has the meaning given in Schedule 4

radiocommunications licence means a spectrum licence, or an apparatus licence, or a class licence issued or deemed to have been issued under Part 8 and **radiocommunications licensee** has a corresponding meaning

Radiocommunications Licensing Rules means any rules made under section 74

radio receiver means apparatus designed to receive radio waves for the purpose of radiocommunications

radio transmitter means apparatus designed to produce radio waves for the purpose of radiocommunications

radio waves means electromagnetic waves of frequencies lower than 3,000 gigahertz, propagated in space without artificial guide

Regulated Access Service means either a Mandated Access Service or a Declared Access Service

Sender Keeps All means, in relation to a Regulated Access Service, that neither Licensed Service Provider pays the other for the exchange of calls, messages or data and instead, each Licensed Service Provider keeps the full revenue received by it for calls, messages or data made by its own customers

service provider means any person that provides or offers to provide a telecommunications service in the Cook Islands

service provider licence means a licence issued under section 28(1)(b) and **service provider licensee** has a corresponding meaning

service quality indicator means an indicator under section 15

SKA Charging Threshold has the meaning given in section 44(4)

SKA service has the meaning given in subsection 44(1)

spectrum licence means a licence issued or deemed to have been issued under section 71(1)(a) and **spectrum licensee** has a corresponding meaning

Spectrum Plan means a plan made under section 64

Standard Access Terms means terms determined under section 46(1)

standard telephone service means a voice telephony service which enables an end user to communicate, by means of the service, with each other end user who is supplied with the same type of service, whether or not the end users are connected to the same telecommunications network

telecommunications licence means a network operator licence or a service provider licence issued or deemed to have been issued under section 28 and **telecommunications licensee** has a corresponding meaning

Telecommunications Licensing Rules means rules made under section 29

telecommunications network or **network**—

(a) means a system, or series of systems, that carries or is capable of carrying, communications by means of guided or unguided electromagnetic energy; and

(b) includes in relation to a system or systems to which paragraph (a) applies, the network (within the meaning of section 6 of the *Infrastructure Act 2019*).

telecommunications market means a market in or including the Cook Islands for networks, telecommunications systems, telecommunications installations, customer equipment, or services

telecommunications service means a service enabling communications by means of a telecommunications network

transitional period has the meaning given in section 110(1)

Underground Facilities Sharing Service has the meaning given in Schedule 4

Universal Access Fund means the fund established under section 98(1)

Universal Access Fund Rules means the rules made under section 100(1)

Universal Access Plan means a plan made under section 96

universal access services has the meaning given in section 96(3)(a)

voting control has the meaning given in section 34(4)(b)

Wholesale Pricing Principles mean principles made under section 45.

(2) If a provision of this Act and a provision of the Competition and Regulatory Authority Act 2019 are inconsistent, the provision of this Act prevails to the extent of the inconsistency.

6 Act binds the Crown

This Act binds the Crown.

Part 2
Authority

7 Competition and Regulatory Authority

(1) The Authority has the functions and powers conferred by or under this Act.

(2) In exercising any power or performing any function under this Act, the Authority must have regard to the long term benefit of end users in accordance with subsection (3).

(3) The long term benefit of end users will be promoted by:

(a) efficient pricing and use of, and sustainable investment in, telecommunications networks:

(b) innovation in, and in the use of, radiocommunications and telecommunications services:

(c) internationally competitive outcomes for end users:

(d) effective and fair competition in the supply of radiocommunications, telecommunications services and customer equipment:

(e) efficient use of scarce resources required for radiocommunications, telecommunications services, and telecommunications networks:

(f) equitable access to telecommunications services and telecommunications networks for end users no matter where they live or work in the Cook Islands:

(g) fair and transparent dealing between service providers and end users.

Part 3
Competition and consumer protection

Subpart 1– Competition

8 Anti-competitive conduct

(1) A person must not engage in a practice or enter into a contract, arrangement, or understanding that has the effect or is likely to have the effect of substantially lessening competition in any telecommunications market, unless an authorisation under section 10 applies.

(2) A practice or a contract, arrangement, or understanding is presumed, unless the contrary is proved, to have the effect of substantially lessening competition in a telecommunications market if it directly or indirectly–

(a) fixes or controls the price or other terms on which a telecommunications service is offered, where any 2 or more of the parties to that contract, arrangement, or understanding are in competition with each other; or

(b) shares, apportions or divides up the market in a way that prevents or restricts any of the parties from competing with any 1 or more of the other parties to the practice or contract, arrangement, or understanding; or

(c) prevents or restricts the supply or acquisition of a telecommunications service to or from a person or class of persons; or

(d) requires or induces a service provider to refrain from supplying a telecommunications service to another service provider; or

(e) imposes unreasonable restrictions on whom another person may deal with in a telecommunications market; or

(f) involves supply of a telecommunications service at a price that is below a relevant measure of its cost for a substantial period of time such that a reasonably efficient competitor would be reasonably likely to be driven from a telecommunications market, except where the person engaging in that conduct shows that it was commercially reasonable to do so in order to respond to price competition from rival suppliers; or

(g) involves the adoption of technical specifications or standards with the purpose of preventing or hindering interoperability with another service provider's network or services.

9 Non-discrimination

(1) A service provider must not discriminate between persons to whom it offers a telecommunications service or customer equipment in the terms and conditions on which it offers that telecommunications service or equipment, except—

(a) on commercially reasonable grounds which it can substantiate; or

(b) in accordance with an authorisation under section 10.

(2) If a service provider is not able to substantiate its grounds for discrimination to the reasonable satisfaction of the Authority, the Authority may require it to desist from that discrimination by notice in writing.

10 Authorisation

(1) The Authority may, by written determination, authorise a practice, contract, arrangement, or understanding under this Part 3, if the Authority is satisfied that it–

(a) will in all the circumstances result, or be likely to result, in a benefit to the public; and

(b) the benefit would outweigh the lessening in competition that would result, or would be likely to result.

(2) A practice, contract, arrangement, or understanding does not contravene section 8 if—

(a) the practice, contract, arrangement, or understanding is engaged in or entered into or given effect to within the terms and conditions of an authorisation that is in effect at the relevant time; and

(b) the person engaging in or entering into or giving effect to that practice, contract, arrangement or understanding complies with applicable terms and conditions of the authorisation.

11 Safe harbour for facilities sharing

(1) A contract, arrangement, or understanding between service providers to use, own, or hold an interest together in any network equipment, or to lease or otherwise share any network equipment, does not contravene section 8.

(2) The terms and conditions of the contract, arrangement, or understanding referred to in subsection (1) must not unreasonably preclude sharing the network equipment with other service providers on non-discriminatory terms and conditions.

Subpart 2–Service pricing

12 Regulations controlling prices

(1) The Queen's Representative may, by Order in Executive Council, on the recommendation of the Minister, make regulations specifying—

(a) the maximum price that a person may charge for supply of a specified telecommunications service; or

(b) the method for determining the maximum price that a person may charge for a specified telecommunications service, such as a price cap formula.

(2) The Minister must not recommend that regulations be made unless the Authority has reported in writing to the Minister that—

(a) the market for the telecommunications service in question is not workably competitive; and

(b) the making of the regulations is justified having regard to the long term benefit of end users.

(3) Regulations made under this section—

(a) may apply to the supply of a telecommunications service in a particular area or in any area; and

(b) may apply to the supply of a telecommunications service by a particular person or by any person; and

(c) come into force on the date specified in the regulations; and

(d) expire on the second anniversary of the date the regulations come into force, unless—

(i) the regulations are sooner repealed; or

(ii) subsection (4) applies.

(4) Before the second anniversary of regulations made under this section, the Queen's Representative may, by Order in Executive Council, extend the expiry date of the regulations for two years after the second anniversary.

(5) A power to extend the expiry date of regulations—

(a) may be exercised only on the recommendation of the Minister after having received advice from the Authority that the grounds set out in subsection (2) still apply; and

(b) may be exercised only once.

13 Charging excessive price

(1) If regulations made under section 12 apply to a service supplied or offered by a service provider, the service provider must not supply or offer to supply the service for a price that exceeds the price specified in or calculated in accordance with those regulations.

(2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to—

(a) in the case of an individual, a fine not exceeding $20,000, or imprisonment for a term not exceeding 24 months, or both; or

(b) in any other case, a fine not exceeding $150,000.

Subpart 3–Consumer protection

14 Misleading or deceptive conduct

A service provider must not make or cause to be made any claim or representation concerning its services, facilities, or equipment, or those of a competing service provider, that is misleading or deceptive or likely to mislead or deceive.

15 Service quality indicators

(1) The Authority may, by written determination, require a service provider to—

(a) establish performance indicators for assessing the quality of any particular telecommunications service offered to retail customers, including a specified method by which those indicators will be assessed; and

(b) submit proposed indicators, or proposed changes to indicators, to the Authority for its approval; and

(c) make any changes to indicators that are required by the Authority; and

(d) report to the Authority annually (or at any intervals that the Authority may reasonably require) on its performance against the applicable indicators.

(2) If a service provider fails to establish, submit or make changes to indicators in accordance with paragraphs (1)(a), (b) and (c), the Authority may determine the applicable indicators and the service provider must comply with those indicators.

(3) If a service provider fails to meet an applicable indicator it must—

(a) within 30 days of providing the relevant performance report, provide the Authority for its approval a draft remediation plan to address the performance failure; and

(b) if the Authority directs the service provider to revise the draft remediation plan, revise it as directed by the Authority and resubmit it for the Authority's approval.

(4) If a service provider fails to provide the Authority with a draft remediation plan or a revised draft remediation plan, the Authority may, by written determination, make a remediation plan to address the performance failure.

(5) A service provider must comply with any remediation plan approved by the Authority under subsection (3) or made by the Authority under subsection (4).

16 Customer Service Guarantee

(1) The Authority may, by notice published in the *Gazette*, specify minimum customer service guarantees which service providers must comply with in relation to any or all of:

(a) making arrangements with customers about the period required to connect them to specified kinds of telecommunications services:

(b) the periods that service providers may offer to customers when making those arrangements:

(c) compliance by service providers with the terms of those arrangements:

(d) the period taken to comply with requests to rectify faults or service difficulties relating to specified kinds of telecommunications services:

(e) keeping appointments to meet customers, or representatives of customers, where the appointment relates to a new service connection or rectification of a fault or service difficulty:

(f) any other matter concerning the supply, or proposed supply, of a telecommunications service to a customer.

(2) A customer service guarantee must specify a scale of compensation for contraventions, including—

(a) categories of contraventions; and

(b) the amount of compensation payable for a contravention in each of those categories, which must not exceed $5,000.

(3) If a service provider has contravened an applicable service guarantee, it must pay compensation to the customer in the amount specified in the scale under subsection (2) for a contravention of the relevant category.

(4) A claim for compensation under this section must be instituted within 6 months after the customer became aware or ought reasonably to have become aware of the circumstances giving rise to the claim.

(5) A customer may recover any compensation to which the customer is entitled under this section by action against the service provider, within 6 months after the customer became aware or ought reasonably to have become aware of the circumstances giving rise to the claim, in the Court.

17 Directory assistance

(1) The Authority may, by notice in writing, require a service provider who provides a standard telephone service to provide directory assistance to end users of that service.

(2) A notice under this section may set out the terms and conditions on which a service provider must provide directory assistance to end users.

(3) A service provider must comply with a notice under this section.

(4) A service provider may—

(a) provide directory assistance itself; or

(b) arrange for another person to provide directory assistance on its behalf.

(5) To avoid doubt, a directory assistance service may be declared to be a Declared Access Service.

18 Emergency call service

(1) A service provider who supplies a standard telephone service must ensure that each end user of that service has access, free of charge, to emergency call service.

(2) The Authority may, by written determination, impose specified requirements on service providers in relation to emergency call service.

(3) The Authority may, by written determination:

(a) designate a person as the emergency call centre operator:

(b) specify the functions and responsibilities of the emergency call centre operator:

(c) specify requirements for connection of emergency calls received by service providers to the emergency call centre operator:

(d) specify requirements for handling emergency calls received by the emergency call centre operator, including connecting those calls to the relevant emergency services organisation:

(e) specify service levels for handling of emergency calls by the emergency call centre operator.

19 Standard terms

(1) A service provider must ensure that the standard terms and conditions on which it offers services to end users are—

(a) fair and reasonable; and

(b) expressed in plain language; and

(2) A service provider must, at the time that it offers a telecommunications service or customer equipment to end users—

(a) publish on its website, and make available for inspection at its offices, the standard terms and conditions (including the price) for that service; and

(b) provide a copy to the Authority.

(3) A service provider must, at the time that it changes any of the standard terms and conditions (including the price) on which it offers a telecommunications service or customer equipment to end users—

(a) publish on its website, and make available for inspection at its offices, the new standard terms and conditions (including the price) for that service; and

(b) provide a copy to the Authority.

(4) The terms and conditions on which a telecommunications service or customer equipment are supplied to end users are—

(a) so far as the service provider and the end user agree on those terms and conditions, the agreed terms and conditions; and

(b) if the service provider and the end user do not agree on terms and conditions but standard terms and conditions are published on the service provider's website in accordance with subsection (3), those standard terms and conditions, so far as they are applicable to the relevant supply.

20 Complaints and disputes

(1) A service provider must establish a procedure for dealing with complaints from and disputes with customers that—

(a) is expeditious, fair and reasonable; and

(b) is expressed in plain language; and

(c) provides for remedies, including refunds and compensation where circumstances warrant; and

(d) is available on its public website.

(2) An end user who considers that a complaint or dispute has not been handled by a service provider in accordance with its complaints and disputes procedure may apply to the Authority for an order—

(a) requiring the service provider to consider or reconsider the complaint or dispute in accordance with its complaints and disputes policy; or

(b) requiring the service provider to provide the end user with any form of remedy permitted by its complaints and disputes policy.

(3) A service provider must, within 3 months following each anniversary of the grant of its licence, report to the Authority—

(a) the types and number of complaints and disputes received by the service provider; and

(b) the manner in which they were resolved.

(4) A service provider may decline to deal with any complaint or dispute that it considers on reasonable grounds to be frivolous or vexatious.

21 Consumer Protection Code

(1) The Authority may by written determination, in consultation with the public and service providers, make a code for the protection of end users' rights as consumers of telecommunications services or customer equipment.

(2) A "**Consumer Protection Code**" may deal with any of the following activities of a service provider, so far as those relate to providing or offering telecommunications services or customer equipment to end users—

(a) advertising and promotion, including the offering of discounts, rebates, gifts, or incentives:

(b) the supply, connection and use of customer equipment, including the right of customers to use customer equipment supplied by a third party:

(c) the nature, extent and availability of information about the pricing, quality, features, functions, or use of (including any restrictions on use of) a telecommunications service or item of customer equipment:

(d) terms which must be included in a contract for supply of a telecommunications service, including any circumstances in which a term may be waived or modified:

(e) limits on the waiver of a customer service guarantee:

(f) the nature, extent and availability to end users of information, by means of SMS, email alerts or online metering, regarding their usage of a telecommunication service (including an international roaming service) and the credit consumed or charges incurred in use of a service:

(g) outbound telemarketing or email marketing:

(h) point of sale activities:

(i) billing, including requirements for itemised billing, and retention of documents, instruments and papers concerning telecommunications services and customer equipment provided to end users:

(j) the circumstances in which a telecommunications service can suspended or disconnected by a service provider, and procedures for suspension and disconnection:

(k) transfer of end users between service providers:

(l) services for end users with disabilities or serious medical conditions:

(m) services to low income customers or customers with poor credit worthiness:

(n) credit policy, including checking of credit worthiness with, or reporting credit problems to, third parties:

(o) complaint processes.

(3) A service provider must comply with a Consumer Protection Code.

Subpart 4–Confidentiality and privacy

22 Unsolicited communications

The Authority may, by notice published in the *Gazette*, make rules regulating or prohibiting the use of a telecommunications network or telecommunications service to provide unsolicited communications.

23 Privacy of communications

(1) A service provider must take all reasonable steps to ensure the privacy of its customers' communications.

(2) A service provider must not intercept, monitor, alter, or modify the content of any of its customers' communications, except—

(a) in the course of, and only to the extent reasonably necessary for, the operation and maintenance of its telecommunications network; or

(b) in accordance with a lawful warrant or applicable laws of the Cook Islands.

(3) A person who receives a communication that is not intended for that person must not, without reasonable excuse, and except to the extent authorised by this Act or regulations made under this Act or a licence issued under this Act—

(a) use or disclose the communication or any information derived from it; or

(b) reproduce or cause or permit to be reproduced the communication or any information derived from it; or

(c) disclose the fact of the existence of the communication.

(4) A person who contravenes subsection (3) commits an offence and is liable on conviction to—

(a) in the case of an individual, a fine not exceeding $20,000, or imprisonment for a term not exceeding 24 months, or both; or

(b) in any other case, a fine not exceeding $150,000.

(5) In this section, communication means a communication made or received through a telecommunications service.

24 Confidentiality of customers' information

(1) A service provider—

(a) must not collect, use, maintain, or disclose information about a customer for any purpose, except with the customer's consent; and

(b) must apply appropriate security safeguards to prevent the collection, use, maintenance, or disclosure of information about a customer without the customer's consent.

(2) A service provider must ensure that information it collects, uses, maintains, or discloses about a customer in accordance with subsection (1)(a) is accurate and complete for the purposes for which it is to be used.

(3) A service provider must allow a customer, for no charge, to inspect relevant records regarding that customer and must, for no charge, correct or remove any information about the customer that the customer shows to be incorrect.

(4) A service provider must disclose to all customers–

(a) the purposes for which information about customers is collected, used, maintained, and disclosed; and

(b) that the customer is entitled to inspect relevant records regarding that customer; and

(c) that the service provider is required to correct or remove any information about the customer that the customer shows to be incorrect.

(5) A service provider may collect, use, maintain and disclose customers' names, addresses and listed telephone numbers in a printed or electronic telephone directory.

(6) The Authority may, by written direction, prohibit or restrict the collection, use, maintenance, or disclosure of specified information relating to customers, including information about billing.

25 Confidentiality of information

(1) A service provider must not, except as authorised under this section—

(a) use or disclose information about the affairs or particular details of a person except to the extent reasonably necessary for the purposes of conducting the service provider's business; or

(b) disclose the contents or substance of a communication carried by the service provider.

(2) A service provider must ensure that information it uses or discloses about a person is accurate and complete for the purposes for which it is to be used.

(3) A service provider must allow a person, for no charge, to inspect relevant records regarding that person and must correct or remove any information about the person that he or she shows to be incorrect.

(4) A service provider must publish on its web site a statement disclosing—

(a) the purposes for which information about persons is used or disclosed by the service provider; and

(b) that any person is entitled to inspect relevant records regarding that person, free of charge; and

(c) that the service provider is required to correct or remove any information about a person that the person shows to be incorrect.

(5) The Authority may, by written direction—

(a) prohibit or restrict the collection, use, maintenance, or disclosure of specified information relating to customers, including information about billing; and

(b) authorise or require the disclosure of specified information relating to customers in specified circumstances or to specified persons.

(6) Subject to subsection (5), this section does not prohibit use or disclosure of particular information by a service provider if—

(a) the information is information (other than information relating to an unlisted telephone number) to be contained in a printed or electronic directory and the disclosure is made to another person for purposes connected with—

(i) a directory assistance service provided by that service provider or another service provider; or

(ii) the publication of a printed or electronic directory; or

(b) the information relates to a customer's name, address and telephone number (including an unlisted number) and the use or disclosure is made in relation to an emergency call made by means of the telecommunications service provided to that customer; or

(c) the service provider believes on reasonable grounds that the use or disclosure of the information is reasonably necessary to prevent or lessen a serious and imminent threat to the life or health of a person; or

(d) the use or disclosure of the information is required by a lawful warrant or order of the Court or by or applicable law of the Cook Islands; or

(e) the person to whom the information relates has consented to the disclosure or use in the circumstances concerned.

Part 4
Telecommunications Licensing

26 Requirement for a telecommunications licence

(1) Subject to subsection (2), a person must not construct or operate a telecommunications network or provide a telecommunications service in the Cook Islands or between any place in the Cook Islands and any place outside the Cook Islands, except in accordance with a telecommunications licence issued by the Authority.

(2) No telecommunications licence is required—

(a) to construct or operate a telecommunications network that is an exempt network; or

(b) to provide a telecommunications service that is an exempt service.

(3) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to—

(a) in the case of an individual, a fine not exceeding $20,000, or imprisonment for a term not exceeding 24 months, or both; or

(b) in any other case, a fine not exceeding $150,000.

27 Application for telecommunications licence

(1) A person may apply in writing to the Authority for a telecommunications licence of the type specified in the application—

(a) in a form approved by the Authority; and

(b) providing all information the Authority may reasonably require; and

(c) on payment of the prescribed fee, if any.

(2) The Authority may, by notice published on its public website, specify—

(a) the types of telecommunications licence available; and

(b) criteria for eligibility for issuance of each type of telecommunications licence; and

(c) the process for applying for a telecommunications licence; and

(d) the information required in support of an application for each type of telecommunications licence; and

(e) the fees, if any, payable under regulations.

28 Authority may issue telecommunications licences

(1) The Authority may issue—

(a) a network operator licence authorising a person to construct or operate a telecommunications network and to provide telecommunications services; or

(b) a service provider licence authorising a person to provide telecommunications services.

(2) The Authority must comply with any applicable Telecommunications Licensing Rules when determining whether to issue a licence under subsection (1).

(3) If the Authority refuses to issue a licence to an applicant, the Authority must provide its reasons in writing to the applicant.

(4) A decision by the Authority to refuse to issue a telecommunications licence is reviewable by a Review Panel constituted under the Competition and Regulatory Authority Act 2019, on application by the licence applicant.

29 Telecommunications Licensing Rules

(1) The Minister may, acting on the advice of the Authority, make rules in relation to all or any of the following—

(a) the types of network operator licence that may be issued and eligibility criteria:

(b) the types of service provider licence that may be issued and eligibility criteria:

(c) technical requirements applying to the construction or operation of a telecommunications network or the provision of a telecommunications service:

(d) requirements for the purposes of national security, law enforcement or revenue protection relating to the design, construction, and maintenance of telecommunications networks or the provision of telecommunications services:

(e) the transfer of a telecommunications licence:

(f) conditions the Authority must include in particular kinds of telecommunications licences.

(2) Before making any rules under this section, the Minister must cause to be published a draft version of the proposed rules and consult on them by—

(a) giving notice of the proposed rules in a manner the Minister considers appropriate to bring them to the attention of persons that the Minister considers likely to be affected by them; and

(b) allowing affected parties a reasonable opportunity to make submissions on the proposed rules; and

(c) considering all relevant submissions received.

30 Telecommunications licence fees

(1) The Authority may charge fees in relation to—

(a) network operator licences; and

(b) service provider licences.

(2) The amount of any fee chargeable under this section must be prescribed in regulations made under section 109.

(3) The amount of any telecommunications licence fee that may be prescribed in a regulation under section 109 is not limited by reference to the amount of administrative or other costs incurred or likely to be incurred in relation to the application or right to which the fee relates.

(4) A regulation under section 109 may provide for—

(a) the amount of any fee to be charged by reference to a scale set out in the regulation; and

(b) the payment of different fees by different persons or different classes or descriptions of person; and

(c) fees payable in relation to an application for a licence;

(d) fees payable on the issuance of a licence; and

(e) fees that must be paid annually or at different intervals; and

(f) the reduction, waiver or refund, in whole or in part, of any fee, either upon the happening of a certain event or in the discretion of the Authority.

(5) The amount of any unpaid fee is recoverable in the Court as a debt due to the Crown.

31 Register of telecommunications licences

(1) The Authority must establish and maintain a register recording details about telecommunications licences that the Authority considers necessary or convenient for the purposes of this Act.

(2) The register must be made available on the Authority's public website.

(3) The register must include—

(a) licensees' names and contact details; and

(b) the dates of issuance and expiry of licences; and

(c) terms and conditions of licences.

(4) Despite subsections (2) and (3), the Authority may exclude from the public register any details of a telecommunications licence or licensee if the Authority is satisfied it would not be in the national interest (for example, for defence or security reasons) to make those details public.

32 Telecommunications licence conditions

(1) A licence issued under this Part is subject to conditions that the licensee must—

(a) comply with this Act; and

(b) pay any applicable licence fees; and

(c) comply with any applicable determination of the Authority.

(2) A licence issued under this Part may be subject to any conditions that the Authority considers are consistent with the long term benefit of end users.

(3) Without limiting the generality of subsection (2), to the Authority may impose conditions relating to any of the following—

(a) provision of services to rural or remote or sparsely populated areas of the Cook Islands:

(b) provision of services to disadvantaged persons in the Cook Islands:

(c) payment money in support of (a) or (b):

(d) interconnection of the licensee's telecommunications network with any other telecommunications network:

(e) connection of the licensee's network equipment with any other network equipment:

(f) establishment and maintenance of information systems that are adequate to support customer billing and directory inquiry services:

(g) publication of charges and other terms and conditions applicable to services offered by the licensee:

(h) service quality indicators:

(i) technical standards or requirements, including service performance standards.

33 Transfer of telecommunications licence

(1) A network operator licensee must not, except with the written consent of the Authority, transfer to another person—

(a) its telecommunications licence; or

(b) ownership of, or an interest in, the whole or a substantial part of its telecommunications network or network equipment; or

(c) beneficial ownership or voting control, either alone or with any associated person, of more than 30 percent of the voting shares in the network operator licensee.

(2) An application to the Authority for consent to a transfer must—

(a) be submitted in writing, in the prescribed form, if any; and

(b) set out any information that the Authority may reasonably require; and

(c) be signed by authorised representatives of the licensee and transferee.

(3) In deciding whether to consent to a transfer, the Authority must—

(a) comply with any applicable Telecommunications Licensing Rules; and

(b) have regard to all matters that it considers relevant including the long term benefit of end users.

(4) The Authority must, if it consents to the transfer—

(a) revoke the existing licence; and

(b) issue a new licence in the name of the transferee; and

(c) record the particulars of the new licence in the register.

(5) A decision by the Authority to give or deny consent under this section is reviewable, by a Review Panel constituted under the Competition and Regulatory Authority Act 2019—

(a) on application by the licensee, if the decision is to deny consent; or

(b) on application by any other person who is materially affected by the decision, if the decision is to give consent.

34 Acquisition of network or shares in network operator

(1) A person must not, except with the written consent of the Authority, acquire from another person—

(a) a network operator licence; or

(b) ownership of, or an interest in, the whole or a substantial part of a network operator licensee's telecommunications network; or

(c) beneficial ownership or voting control, either alone or with any associated person, of more than 30 percent of the voting shares in a network operator licensee.

(2) If the Authority considers that the proposed acquisition would not have, or would not be likely to have, the effect of substantially lessening competition in a market for a telecommunications service, the Authority must give consent.

(3) If the Authority considers that the proposed acquisition would have, or would be likely to have, the effect of substantially lessening competition in a market for a telecommunications service, the Authority must—

(a) deny consent; or

(b) give consent subject to any direction that the Authority considers necessary to eliminate or avoid the effect of substantially lessening competition (with which direction the person concerned must comply); or

(c) give consent without making a direction under paragraph (b), if the Authority is satisfied that the proposed acquisition would have, or be likely to have, a benefit to the public and that benefit would outweigh any detriment to the public that would result, or would be likely to result, from the effect of substantially lessening competition.

(4) For the purposes of this section—

(a) a person (A) is an **"associated person"** of another person (B) if—

(i) A is a body corporate and B has the power, directly or indirectly, to exercise, or control the exercise of, the rights to vote attached to 30 percent or more of the voting shares of the body corporate (or vice versa); or

(ii) A and B are relatives or related bodies corporate; or

(iii) A and B are partners in a partnership; or

(iv) A is a director or manager of B (or vice versa); or

(v) A and B are acting jointly or in concert; or

(vi) A acts, or is accustomed to act, in accordance with the wishes of B (or vice versa); or

(vii) A is able, directly or indirectly, to exert a substantial degree of influence over the activities of B (or vice versa); or

(viii) A and B are bodies corporate that consist substantially of the same members or shareholders or that are under the control of the same persons; or

(ix) there is another person with whom A and B are both associated persons.

(b) **"voting control"** means the control of, or the ability to control, whether directly or indirectly, the exercise of the right to vote attaching to one or more voting shares in a network operator licensee—

(i) by the exercise of a right, where such exercise confers the ability to exercise a right to vote or to control the exercise of a right to vote; or

(ii) by an entitlement to exercise such a right to vote; or

(iii) under a duty or obligation; or

(iv) through a nominee; or

(v) through or by means of a trust, agreement, arrangement, understanding, or practice, whether based on legal or equitable rights; or

(vi) as a charger of voting shares.

35 Decisions on acquisitions

(1) The Authority must, in respect of a proposed acquisition referred to in subsection 34(1), conduct such investigation as it considers necessary to enable it to make a decision under section 34 and in doing so may use any of its powers under the Competition and Regulatory Authority Act 2019.

(2) The Authority must, before making a decision under section 34 in relation to the proposed acquisition—

(a) give notice of its investigation—

(i) to those it considers likely to be affected by the proposed acquisition; and

(ii) in a manner the Authority considers appropriate for that purpose; and

(b) allow affected parties a reasonable opportunity to make submissions on the proposed acquisition; and

(c) consider any relevant submissions received.

36 Variation of telecommunications licence

(1) The Authority may, by written notice given to the licensee, vary a telecommunications licence if the licensee has agreed in writing to the variation.

(2) The Authority may, by written notice given to the licensee, vary a telecommunications licence if—

(a) the Authority is satisfied that the licensee has—

(i) materially contravened a term or condition of the licence or in any other way contravened this Act; or

(ii) materially contravened or failed to comply with a direction, determination or order lawfully made by the Authority; or

(iii) provided a telecommunications service in material contravention of any other law of the Cook Islands; and

(b) the licensee has not remedied the contravention within a reasonable period after being notified of it by the Authority.

(3) The Authority may, by written notice given to the licensee, vary a telecommunications licence if the Authority is satisfied that—

(a) there has been a material change in circumstances since the licence was issued; or

(b) the variation would promote the long term benefit of end users.

(4) The Authority must not give a notice under subsection (3) unless the Authority has—

(a) given the licensee 90 days' notice of the proposed variation; and

(b) stated the Authority's reasons for making the proposed variation; and

(c) considered any representations made by the licensee.

(5) A decision by the Authority to give a notice under subsection (3) is reviewable by a Review Panel constituted under the Competition and Regulatory Authority Act 2019, on application by the licensee.

(6) In this section, the power to vary a telecommunications licence includes the power to change, add or remove any term or condition.

37 Suspension, cancellation and surrender of telecommunications licence

(1) The Authority may, by written notice given to the licensee, suspend or cancel a telecommunications licence if the licensee has agreed in writing to the suspension or cancellation.

(2) The Authority may, by written notice given to the licensee, suspend a telecommunications licence for a specified period if—

(a) the Authority is satisfied that the licensee has—

(i) materially contravened a term or condition of the licence or in any other way contravened this Act; or

(ii) materially contravened or failed to comply with a direction, determination or order lawfully made by the Authority; or

(iii) provided a telecommunications service in material contravention of any other law of the Cook Islands; and

(b) the licensee has not remedied the contravention within a reasonable period after being notified of it by the Authority.

(3) The Authority must not give a notice under subsection (2) unless the Authority has—

(a) given the licensee 90 days' notice of the proposed suspension; and

(b) stated the Authority's reasons for the proposed suspension; and

(c) considered any representations made by the licensee.

(4) The Authority may, by written notice given to the licensee, cancel a telecommunications licence without compensation to the licensee if—

(a) the Authority is satisfied that the licensee is not, or has ceased to be, eligible to be issued a licence of the kind that it holds; and

(b) the Authority has given the licensee a reasonable opportunity to make representations to the Authority; and

(c) the Authority has considered any representations made by or on behalf of the licensee.

(5) A notice under subsection (2) or (3) must set out the Authority's reasons for suspending or, if applicable, cancelling the licence.

(6) The Authority may, at any time, revoke a suspension of licence by written notice given to the licensee.

(7) A licensee may, at any time, surrender a telecommunications licence issued to it, by written notice given to the Authority.

38 Expiry and renewal of telecommunications licence

(1) A telecommunications licence comes into effect on the day on which it is issued or on any later day that may be specified in the licence.

(2) A telecommunications licence continues in effect until it is revoked by the Authority or until expiry of the term specified in the licence, which may not exceed 15 years.

(3) A person who held a telecommunications licence that has expired or been revoked may apply for a new telecommunications licence.

(4) The Authority may issue a new telecommunications licence to a person who held a telecommunications licence that has expired or been revoked but is not obliged to do so.

(5) If a network operator licensee applies, not less than 6 months before the expiry of its first network operator licence for a new network operator licence, the Authority must issue a new network operator licence to that person unless—

(a) the Authority is satisfied that the licensee has—

(i) materially contravened a term or condition of the licence or in any other way contravened this Act; or

(ii) materially contravened or failed to comply with a direction, determination or order lawfully made by the Authority; or

(iii) provided a telecommunications service in material contravention of any other law of the Cook Islands, and

(b) the licensee failed to remedy the contravention within a reasonable period after being notified of it by the Authority.

Part 5
Interconnection

39 Neutrality

(1) A service provider must, to the extent that the matter is within its reasonable control—

(a) not block access by end users of its Internet access services to content services offered or hosted by another network, whether inside or outside the Cook Islands; and

(b) not implement discriminatory network practices, restrictions, charges or other measures in the supply of its Internet access services which would, when end users are accessing content services offered by or hosted on another communications network inside or outside the Cook Islands, be likely to have the effect of—

(i) rendering those content services inaccessible or unusable (without necessarily blocking access to them); or

(ii) materially degrading or constraining the quality of the end user's experience when accessing those content services.

(2) Nothing in subsection (1) prevents or restricts a service provider from—

(a) blocking access to content services where that is required by or under another law of the Cook Islands or by an order of the Court; or

(b) blocking access to content services where, in the reasonable opinion of the service provider, the content concerned would offend public sensibilities within the Cook Islands; or

(c) blocking access to content services where, in the reasonable opinion of the service provider, the content concerned is provided in contravention of a third party's intellectual property rights; or

(d) implementing reasonable network management practices which have been published by the service provider; or

(e) offering an optional service to prioritise traffic classes over its Internet access service for a charge, provided that—

(i) customers have a genuine choice of a basic level service (without a paid priority or quality of source charge) which provides a reasonable end user experience; and

(ii) the end user experience when accessing content services hosted by the service provider is equivalent to that when accessing content hosted by another communications network inside or outside the Cook Islands.

(3) The Authority may, by a written instrument, exempt (including on conditions) from subsection (1)—

(a) a specified service provider or class of service providers; or

(b) a specified telecommunications service or kind of telecommunications services.

40 Mandated access services

(1) Subject to subsection (2), the following services are Mandated Access Services—

(a) Domestic Internet Interconnection Service; and
(b) Domestic MMS Termination Service; and
(c) Domestic Mobile Call Terminating Access; and
(d) Domestic Mobile Video Call Termination Service; and
(e) Domestic PSTN Terminating Access Service; and
(f) Domestic Roaming Service; and
(g) Domestic SMS Termination Service; and
(h) Interconnection Colocation Service; and
(i) Radiocommunications Facility Sharing Service and
(j) Underground Facilities Sharing Service.

(2) The Authority may, by written instrument, determine that a service ceases to be (in whole or part) a "**Mandated Access Service**" from the date specified in the instrument.

41 Declared access services

(1) The Authority may, by written instrument, declare that a specified telecommunications service, or a service that facilitates a telecommunications service, that is supplied by a service provider or a network operator licensee to itself or to third parties is a "**Declared Access Service**".

(2) A Declared Access Service declaration must specify—
(a) a functional description of the Declared Access Service; and
(b) the date on which the declaration takes effect; and
(c) the term of the determination, which must not be longer than 5 years from the date of the declaration; and
(d) the Wholesale Pricing Principles applicable to supply of the Declared Access Service.

(3) The Authority must establish and maintain on its public website a register of Declared Access Services.

42 Obligation to supply Regulated Access Services

(1) Subject to subsections (4) and (5), an "**Access Provider**" must, if requested to do so by an "**Access Seeker**"—
(a) supply a "**Regulated Access Service**" to the Access Seeker in order that the Access Seeker can provide its own telecommunications services to end users; and
(b) permit interconnection, for the purpose of enabling the Access Seeker to obtain the Regulated Access Service, of—
(i) any telecommunications network or network equipment that the Access Provider owns or controls; with
(ii) any telecommunications network or network equipment that the Access Seeker owns or controls.

(2) In meeting its obligations under paragraph (1)(a), the Access Provider must ensure that the quality of the service (including operations, ordering, provisioning and fault rectification) that it provides to the Access Seeker:
(a) is equivalent to that which the Access Provider provides itself; and

(b) is non-discriminatory as between the Access Seeker and any other Access Seekers.

(3) A Regulated Access Service is provided to an equivalent quality of service, if—

(a) the Access Provider provides itself and the Access Seeker with the same service; and

(b) the Access Provider delivers that service to itself and the Access Seeker within the same timeframe and on the same terms and conditions (including price and service levels); and

(c) the Access Provider delivers that service to itself and to the Access Seeker by means of the same systems and processes (including operational support processes); and

(d) the Access Provider provides itself and the Access Seeker with the same information about that service and any relevant systems and processes; and

(e) the Access Seeker is able to use the systems and processes (including operational support processes) to obtain the service in the same way, and with the same degree of reliability and performance, as the Access Provider enjoys when providing that service to itself.

(4) This section does not require the Access Provider to supply a Regulated Access Service to an Access Seeker if–

(a) the Access Provider has reasonable grounds to consider that the Access Seeker would be unwilling or unable to comply with the terms and conditions applicable to the Regulated Access Service; or

(b) if the Access Provider has reasonable grounds to consider that the Access Seeker would be unwilling or unable to protect—

(i) the integrity of a telecommunications network; or

(ii) the safety of individuals working on, or using the services supplied by means of, a telecommunications network; or

(c) if supplying the Regulated Access Service would—

(i) prevent the Access Provider from meeting its own reasonably forecast requirements, measured at the time when the request was made and in accordance with any principles specified by the Authority; or

(ii) impose on the Access Provider or any other person (other than an Access Seeker) an unreasonable amount of the costs of extending the coverage, or enhancing the capability, of the Access Provider's telecommunications network or services.

(5) The Authority may, by written instrument, exempt a specified service provider or class of service providers from the obligation in paragraph (1)(a) or (1)(b), or both of them, in respect of a specified Regulated Access Service and may attach conditions to that exemption.

(6) The Authority may, if it considers it necessary or desirable for the purpose of facilitating interconnection negotiations, issue any service provider a notice in writing requiring that service provider:

(a) to provide specified information, or information of a specified kind, to another service provider (or intending service provider):

(b) to carry out investigations or research to obtain specified information, or information of a specified kind:

(c) not to unreasonably restrict or limit participation by a service provider (or intending service provider) in interconnection negotiations:

(d) to respond in writing to a request or proposal by a service provider (or intending service provider) in relation to the place and time of a meeting:

(e) to attend a mediation conference:

(f) to attend a conciliation conference.

43 Handover principle

(1) For any Regulated Access Service which is or involves supply of a telecommunications service or a service that facilities supply of a telecommunications service, the Access Seeker must, unless the Authority determines otherwise, deliver the relevant communications to the point of interconnection with the Access Provider's telecommunications network which is nearest to the location of the called number or destination of the end user, as determined in accordance with agreed transmission and routing plans ("**far-end handover**").

(2) When determining a Declared Access Service, the Authority may determine that a handover principle other than far-end handover is to apply to that Declared Access Service.

44 Sender keeps all

(1) A Mandated Access Service listed in column 1 will be a "**SKA Service**" when it is supplied for the corresponding purpose set out in column 2—

Column 1 **Mandated Access Service**	**Column 2** **Purpose of supply**
Domestic PSTN Terminating Access	For the termination of calls which originate from an end user directly connected to a fixed network in the Cook Islands and which are not for transit to a third party communications network.
Domestic Mobile Terminating Access	For the termination of calls which originate from an end user directly connected to a digital mobile network in the Cook Islands and which are not for transit to a third party communications network.
Domestic SMS Termination Service	For the termination of SMS which originate from an end user directly connected to a digital mobile network in the Cook Islands and which are not for transit to a third party communications network.
Domestic Internet Interconnection Service	For IP traffic which is not transiting from or to a third party communications network.

(2) Subject to subsection (3), when a service provider supplies a SKA Service to another service provider—

(a) the sender keeps all principle will apply in respect of that service; and

(b) neither service provider will be liable to pay charges for that service to the other.

(3) Termination charges calculated in accordance with the Wholesale Pricing Principles will be payable in respect of a SKA Service, where, for a period defined by the Authority—

(a) the volume of traffic for a SKA Service that is terminated by one service provider is greater than the volume of traffic for the same SKA Service that is terminated by another service provider; and

(b) the difference between the traffic volumes of the two relevant service providers exceeds the SKA Charging Threshold.

(4) For the purposes of this section, the "**SKA Charging Threshold**" means a volume of traffic imbalance between the relevant service providers beyond which termination or origination charges calculated in accordance with the Wholesale Pricing Principles must be settled between the service providers concerned.

(5) The Authority must, by written determination, state—

(a) how the volume of traffic is measured for each SKA Service; and

(b) the SKA Charging Threshold; and

(c) requirements for the service providers to retain traffic records and exchange them with each other; and

(d) requirements for interconnected network operator licensees to keep and exchange records of the SKA traffic that each of them sends and receives; and

(e) any requirements that may reasonably be necessary to ensure that the SKA Service is not misused.

45 Wholesale pricing principles

(1) The Authority must, as soon as reasonably practicable after the commencement of this Act, by written determination, issue "**Wholesale Pricing Principles**" for calculating the charges for–

(a) each Mandated Access Service which is not a SKA Service; and

(b) SKA Service traffic in respect of which charges are payable.

(2) The Wholesale Pricing Principles may specify—

(a) a price or prices; or

(b) a method for ascertaining a price or prices, including by benchmarking wholesale prices in other places.

(3) When determining a Declared Access Service, the Authority must specify the Wholesale Pricing Principles applicable to that Declared Access Service.

(4) The Authority must take into account the following matters, to the extent they are consistent with the long term benefit of end users, when determining Wholesale Pricing Principles–

(a) the legitimate business interests of Access Providers; and

(b) the legitimate business interests of Access Seekers; and

(c) the economically efficient operation of a telecommunications service, telecommunications network, or facility.

46 Standard access terms

(1) The Authority may, by written determination, specify any or all of the price and non-price terms and conditions on which an Access Provider must supply a Regulated Access Service to Access Seekers.

(2) Before making a determination of "**Standard Access Terms**" for a term longer than 6 months or more, the Authority must publish a draft version of the proposed Standard Access Terms and consult on them by—

(a) giving notice of the proposed Standard Access Terms in a manner the Authority considers appropriate to bring them to the attention of those it considers likely to be affected by them; and

(b) allowing affected parties a reasonable opportunity to make submissions on the proposed Standard Access Terms; and

(c) considering all relevant submissions received.

(3) The Authority may, if making an interim determination of Standard Access Terms for a term not exceeding 6 months, publish a draft version and consult on them in accordance with subsection (2) but is not obliged to do so.

47 Negotiated access terms

(1) If an Access Provider and an Access Seeker have agreed on the terms and conditions of access to a Regulated Access Service (including any variation of terms and conditions), the Access Provider must file a copy of that agreement with the Authority within 10 working days.

(2) If agreed terms and conditions of access to a Regulated Access Service are inconsistent with any Standard Access Terms, the Standard Access Terms must prevail to the extent of the inconsistency.

48 Interconnection and access disputes

(1) If an Access Provider and an Access Seeker are unable to agree on the resolution of any matter under this Act, including the terms and conditions of access to a Regulated Access Service or variation of terms and conditions of access, either of them may, after making reasonable efforts to negotiate agreement, apply to the Authority for assistance in resolving that dispute.

(2) A person applying to the Authority under subsection (1) must—

(a) set out in its application—

(i) the matters in dispute; and

(ii) the parties to the dispute; and

(b) promptly deliver a copy of its application to the other parties to the dispute.

(3) The Authority must have regard to any submissions received from other parties to the dispute not more than 21 days after the application was received by the Authority.

(4) The Authority must, not more than 45 days after receipt of an application under subsection (1), determine whether it will—

(a) conduct or arrange mediation of the dispute; or

(b) conduct or arrange adjudication of the dispute; or

(c) deny the application for assistance in resolving the dispute.

(5) The Authority may deny an application for assistance in resolving a dispute where the Authority considers that—

(a) there are other means available for resolving the dispute consistent with this Act that are reasonably likely to lead to a satisfactory resolution; or

(b) the dispute is frivolous or vexatious.

49 Mediation

(1) The Authority, or a person appointed by the Authority for the purpose ("**mediator**"), may mediate resolution of a dispute submitted to the Authority under section 48.

(2) The Authority must have regard to, but is not bound by, any agreement between the parties regarding—

(a) the selection of a mediator or mediators; and

(b) the terms of engagement of a mediator or mediators; and

(c) the time and place of any mediation meetings; and

(d) any procedural matters for the mediation.

(3) The mediator may assist resolution of the dispute submitted under section 48 by any or all of:

(a) consulting with the parties separately or together to facilitate communication between them:

(b) assisting the parties to understand their respective objectives and constraints:

(c) facilitating negotiation toward agreement on a mutually acceptable resolution.

(4) The mediator may refer the dispute to adjudication if at any time the mediator considers that it is unlikely the dispute can be resolved by agreement between the parties.

50 Adjudication

(1) The Authority, or a person appointed by the Authority for the purpose ("**adjudicator**"), may determine by adjudication a dispute submitted to the Authority under section 48.

(2) Without limiting subsection (1), the adjudicator may, by written determination, require one or more of the parties to the dispute to:

(a) connect any telecommunications network or network equipment that the party owns or controls with any telecommunications network or network equipment that another party owns or controls:

(b) supply a Regulated Access Service to one or more of the other parties:

(c) pay a portion of the costs incurred by the Authority in relation to the adjudication.

(3) A determination under subsection (2)—

(a) may be on such terms and conditions as the adjudicator determines; and

(b) must be consistent with any applicable Wholesale Pricing Principles or Standard Access Terms made under this Act.

(4) The adjudicator may determine the procedure for adjudication of any dispute referred to it provided that all parties to the dispute are given a reasonable opportunity to be heard.

(5) The parties must comply with the terms and conditions of any adjudication decision under this section.

(6) A party to an adjudication may appeal to the Court on a question of law only.

Part 6
Numbering

51 Numbering Plan

(1) The Authority must, by written determination, issue and from time to time update a plan for the use of numbers in relation to provision of telecommunications services in the Cook Islands.

(2) A plan under subsection (1) ("**Numbering Plan**") may include rules for, without limitation—

(a) the allocation of numbers and number ranges to service providers:

(b) the use of allocated numbers by service providers and end users:

(c) the transfer of allocated numbers between service providers:

(d) the surrender or withdrawal of allocated numbers:

(e) the generation and provision of calling line identification information:

(f) the offering and management of calling number display services:

(g) the availability and management of silent or unlisted numbers:

(h) the use of numbers for emergency calls and emergency services.

(3) The Authority, in preparing and revising the Numbering Plan, must have regard to—

(a) the existing allocation and assignment of numbers; and

(b) any numbering plan proposed by a service provider or association of services providers; and

(c) the requirements of any relevant international treaty, commitment, or standard to which the Cook Islands is a party.

52 Allocation of numbers

(1) The Authority must ensure that numbers are allocated to eligible service providers in an open, objective, transparent and non-discriminatory manner.

(2) A service provider must—

(a) use the numbers assigned to it by the Authority efficiently and in accordance with the Numbering Plan; and

(b) not adopt any numbering arrangement inconsistent with the Numbering Plan; and

(c) not use any numbers that the Authority has not assigned to it.

(3) An allocation of numbers to a service provider includes a grant to the service provider of a right to use those numbers but neither service providers nor users have any property rights in any numbers.

(4) Until a Numbering Plan is issued–

(a) Telecom Cook Islands Limited is entitled to continue to use blocks of fixed line numbers, mobile numbers, and special service numbers allocated to it at the commencement of this Act to provide telecommunications services to end users.

(b) numbers may be allocated to service providers in blocks of 1,000 geographic numbers and 10,000 mobile numbers (or any other size that the Authority may consider appropriate).

53 Vacation of numbers

(1) The Authority may, after the second anniversary of the commencement of this Act, review the allocation of numbers and by written determination require any service provider to vacate specified number blocks to facilitate the introduction of other telecommunications services.

(2) A service provider must comply with a determination under subsection (1) within 6 months of its date of issuance.

(3) A service provider is not entitled to any compensation for any vacation of numbers required by a determination made under subsection (1).

(4) A determination by the Authority under subsection (1) is reviewable by a Review Panel constituted under the Competition and Regulatory Authority Act 2019, on application by the service provider concerned.

54 Number portability

(1) The Authority may, by written determination, make rules providing for portability of particular allocated numbers (**"Number Portability Rules"**), if the Authority—

(a) considers that there is a likely to be a reasonable level of demand for number portability; and

(b) considers that the likely benefits of number portability outweigh the likely costs of number portability.

(2) Before making Number Portability Rules, the Authority must publish a draft version of the proposed rules and consult on them by—

(a) giving notice of the proposed rules in a manner the Authority considers appropriate to bring them to the attention of those it considers likely to be affected by them; and

(b) allowing affected parties a reasonable opportunity to make submissions on the proposed rules; and

(c) considering all relevant submissions received.

(3) Number Portability Rules may require service providers to implement number portability within a specified period.

(4) The Number Portability Rules may include rules for, without limitation—

(a) the period within which number portability is to be implemented:

(b) the technological solution or architecture for number portability:

(c) the maintenance of, and access to, databases that facilitate number portability:

(d) the handling of customer requests for porting of numbers:

(e) responsibility for, and allocation between service providers of, the costs of number portability.

(5) If a service provider is required by the Number Portability Rules to establish number portability with another service provider, the first mentioned service provider must comply with that requirement on terms and conditions that are—

(a) agreed between the relevant service providers; or

(b) failing agreement, determined in writing by the Authority.

55 Numbering Register

(1) The Authority must maintain a register ("**Numbering Register**") which sets out:

(a) particulars of number blocks that have been allocated to service providers; and

(b) the name of the service provider to which a number block has been allocated; and

(c) the sum of money (if any) paid in relation to the allocation of that number block.

(2) The Authority must make the register available on its public web site.

56 Integrated number database

(1) If more than one service provider uses numbers allocated from the Numbering Plan, the Authority may by written determination require that a specified person is to establish and maintain a database which integrates numbers allocated to all service providers and used by them in providing telecommunications services to end users.

(2) If the Authority has required a database to be established, the Authority may make rules for—

(a) the responsibilities of the person who is to establish and maintain the database:

(b) the information which is to be maintained in the database:

(c) the responsibilities of service providers to provide information for inclusion in the database:

(d) the management of silent and unlisted numbers:

(e) use of and access to the database:

(f) confidentiality, disclosure and use of information contained in the database:

(g) allocation between service providers of the costs of establishing and maintaining the database.

57 Numbering charges

(1) A charge for allocation of numbers may be specified by regulation made under section 109.

(2) A charge for an allocation of numbers is due and payable when the numbers are allocated.

(3) The amount of any unpaid allocation charge is recoverable in the Court as a debt due to the Crown.

Part 7
Domain administration

58 Domain name registration

(1) Subject to subsection (2), the Authority or one or more persons nominated by it ("**nominated person**") must assume responsibility and thereafter be responsible for the allocation and registration of .ck domains.

(2) Any assumption of responsibility for the allocation and registration of domains by the Authority or any nominated person is subject to any necessary approvals and consents being given by the Internet Assigned Numbers Authority.

(3) The Authority or any nominated person must comply with any prescribed procedures, conditions of consent, and terms agreed with the Internet Assigned Numbers Authority.

(4) The Authority must monitor compliance by any nominated person with the requirements of this section.

59 Transfer of responsibility for domains

(1) Telecom Cook Islands Limited must, on written request by the Authority, cooperate with the Authority to transfer to the Authority or to any nominated person, within 12 months–

(a) the register of .ck domains; and

(b) the systems and processes for allocation and registration of .ck domains.

(2) Telecom Cook Islands Limited will continue to be responsible for the allocation and registration of .ck domains until the transfer of the register and systems and processes for allocation and registration of .ck domains to the Authority or a nominated person has been completed.

(3) For the purposes of subsection (1), Telecom Cook Islands Limited must take all reasonable steps to procure any necessary approval or consent of any relevant parties, including without limitation the Internet Assigned Numbers Authority.

60 Domain registration rules, etc.

(1) The Authority may make written determinations or issue directions relating to the registration and allocation of domains by Telecom Cook Islands Limited or any nominated person.

(2) The Authority or any nominated person—

(a) may make rules, guidelines and procedures for the registration and allocation of domains under its responsibility, including without limitation in relation to applications, transfers, complaints and dispute resolution; and

(b) must ensure that its rules, guidelines and procedures are transparent and non-discriminatory; and

(c) may charge reasonable fees to cover its costs for the provision of its services; and

(d) must take all reasonable steps to avoid and manage any actual or perceived conflict of interest.

Part 8
Radio spectrum

Subpart 1 – Spectrum Management

61 Advisory role

The Authority must provide advice to the Minister, on request by the Minister, on matters relating to the use and management of the radio frequency spectrum.

62 Management of radiofrequency spectrum

(1) The Authority has the exclusive power to allocate and assign all frequencies in the radio frequency spectrum in the Cook Islands.

(2) No person may use any radio frequencies, including for transmitting or receiving radio communications, in a manner that is inconsistent with or that contravenes any plan, rule, licence or direction made by the Authority.

(3) The Authority must allocate and assign radio frequency spectrum and must determine matters relating to the transmission and reception of radio communications (whether by satellite, terrestrial, or other means) in accordance with plans issued under this Part.

(4) The Authority may, on request by the Minister or on its own initiative, investigate or audit any allocation or assignment of radio frequency spectrum in the Cook Islands and the use of that spectrum.

(5) The Authority must establish and maintain on its public website a register recording allocations and assignments of radio frequency spectrum in the Cook Islands.

63 Management principles

In performing its functions and duties and exercising its powers under this Part, the Authority must endeavour to ensure that radio frequency spectrum is managed and used in a manner that–

(a) is open, non-discriminatory, competitively neutral, and transparent; and

(b) relies, to the extent it is reasonable to do so, on voluntary industry standards and self-regulation instead of regulations; and

(c) is consistent with the Cook Islands' international obligations, including without limitation applicable rules or standards of the International Telecommunications Union; and

(d) is economically efficient and permits transition to new technologies and services, taking into account investment in existing equipment configured for specific radio frequencies and the cost of migration to other radio frequencies; and

(e) meets the reasonable needs of government departments and agencies, businesses and individuals in the Cook Islands.

64 Spectrum planning, allocation, and assignment

(1) The Authority must prepare, issue, and maintain a national radio frequency Spectrum Plan.

(2) A Spectrum Plan must—

(a) divide into such number of frequency bands as the Authority thinks appropriate so much of the spectrum as the Authority thinks necessary for the purpose of regulating radiocommunications under this Act; and

(b) comply with a direction made by the Minister under subsection (3); and

(c) state the general purpose or purposes for which each band may be used (which may be or include a future use).

(3) The Minister may, by notice in writing, after consulting with the Authority, designate part of the radio frequency spectrum to be used primarily for the general purposes of defence, law enforcement and emergency services.

(4) Before issuing a Spectrum Plan, the Authority must publish a draft version of the proposed plan and consult on it by—

(a) giving notice of the proposed plan in a manner the Authority considers appropriate to bring it to the attention of those it considers likely to be affected by it; and

(b) allowing affected parties a reasonable opportunity to make submissions on the proposed plan; and

(c) considering all relevant submissions received.

65 Frequency band plans

(1) The Authority may, if it considers it to be necessary, prepare, issue, and maintain Frequency Band Plans.

(2) A Frequency Band Plan—

(a) must make provision in relation to the purpose or purposes for which the band or bands to which it relates may be used;

(b) may be of general application or may be limited as provided in the plan; and

(c) must not be inconsistent with the Spectrum Plan.

(3) Before issuing a Frequency Band Plan, the Authority must publish a draft version of the proposed plan and consult on it by—

(a) giving notice of the proposed plan in a manner the Authority considers appropriate to bring it to the attention of those it considers likely to be affected by it; and

(b) allowing affected parties a reasonable opportunity to make submissions on the proposed plan; and

(c) considering all relevant submissions received.

66 Compliance with International Radio Regulations

(1) Every person who transmits radio waves in the Cook Islands must comply with the International Radio Regulations.

(2) In this section, "**International Radio Regulations**" means the Radio Regulations annexed to the International Telecommunications Convention, made at Geneva in 1992; and any revisions of, or any regulations made in amendment to, or substitution for, those regulations.

67 Vacation of spectrum with compensation

(1) The Authority may, by written notice, require a person to vacate any radio frequency spectrum or may assign that spectrum to a different person, if the Authority considers that—

(a) vacation or reassignment is necessary or expedient—

(i) to further the long term benefit of end users; or

(ii) to comply with the laws of the Cook Islands or any international treaties, commitments or standards legally binding on the Cook Islands; and

(b) any hardship that is likely to result to a licensee is reasonably justified.

(2) At least 90 days before requiring a person to vacate spectrum under subsection (1), the Authority must give the person notice in writing of the Authority intention to require the person to vacate that spectrum.

(3) A person who has received notice under subsection (2) may apply to the Court for determination of—

(a) the legality of the notice to vacate; and

(b) the reasonableness of the compensation proposed; and

(c) the reasonableness of the time period within which compensation must be paid.

(4) The Authority must within a reasonable period after requiring a person to vacate spectrum—

(a) to the extent it is practicable to do so, assign to the person any other available spectrum that is appropriate to enable that person to continue its business without unreasonable cost or disruption; and

(b) pay, or procure that persons to whom the relevant spectrum is re-assigned pay, reasonable compensation to the person required to vacate the spectrum.

(5) The Authority must allow any person required under this section to vacate any spectrum a period of time to do so that is reasonable having regard to that person's existing usage and technical requirements.

68 Vacation of spectrum without compensation

(1) The Authority may, by written notice, require a person to vacate radio frequency spectrum without compensation or may assign that spectrum to a different person without compensation, if the person first mentioned–

(a) agrees to vacate it without compensation; or

(b) has failed to comply with this Act, conditions of its spectrum licence, or a determination of the Authority in a material respect and has failed to remedy that failure within a reasonable time following service of written notice specifying the failure and requiring it to be remedied; or

(c) in connection with the assignment of the spectrum to it, made a false statement of material fact or omitted to state a material fact; or

(d) has entered into liquidation or taken any action for its voluntary winding-up or dissolution, or is the subject of any order for its compulsory winding-up or dissolution; or

(e) has entered into receivership (except if the Authority is satisfied that the person is likely to remain in full compliance with the terms and conditions of the assignment despite entering into receivership).

(2) The Authority may, by written notice, require a person to vacate radio frequency spectrum without compensation or may assign that spectrum to a different person without compensation, if the Authority has determined, following public consultation for not less than 90 days, that—

(a) the spectrum is not being used to an appreciable extent, either nationally or in a particular geographic area; and

(b) the person to whom the notice applies has not committed to use the spectrum to an appreciable extent; and

(c) other persons propose to make appreciable use of the spectrum.

(3) The Authority must allow any person required under this section to vacate any spectrum a period of time to do so that is reasonable having regard to the person's existing usage and technical requirements.

(4) A person who has received notice under subsection (1) or (2) may apply to the Court for determination of—

(a) the legality of the notice to vacate; and

(b) the reasonableness of the compensation proposed; and

(c) the reasonableness of the time period within which compensation must be paid.

Subpart 2 – Radiocommunications Licensing

69 Requirement for a radiocommunications licence

(1) A person must not operate a radiocommunications device, other than exempt apparatus, in the Cook Islands except in accordance with—

(a) a spectrum licence; or

(b) an apparatus licence; or

(c) a class licence; or

(d) an applicable radiocommunications exemption.

(2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to—

(a) in the case of an individual, a fine not exceeding $20,000, or imprisonment for a term not exceeding 24 months, or both; or

(b) in any other case, a fine not exceeding $150,000.

(3) A person must not have a radiocommunications device, other than exempt apparatus, in his or her possession for the purpose of operating the device otherwise than in accordance with—

(a) a spectrum licence; or

(b) an apparatus licence; or

(c) a class licence; or

(d) an applicable radiocommunications exemption.

(4) A person is presumed, in the absence of evidence to the contrary, to have a radiocommunications device in his or her possession for the purpose of operating the device if—

(a) the device is not in the person's possession for the purpose of supply to another person; and

(b) the device can be operated merely by doing one or more of the following:

(i) connecting the device to an electric power supply:

(ii) connecting the device to an antenna:

(iii) switching on the device:

(iv) switching on any other device relevant to the device's operation:

(v) adjusting any of the device's external controls.

(5) A person who, without reasonable excuse, contravenes subsection (3) commits an offence and is liable on conviction to—

(a) in the case of an individual, a fine not exceeding $20,000, or imprisonment for a term not exceeding 24 months, or both; or

(b) in any other case, a fine not exceeding $150,000.

70 Radiocommunication within territorial limits

(1) No person may operate any radio transmitter on any merchant ship or aircraft of any nationality or registration, or on any foreign ship of war or foreign military aircraft, within the territorial limits of the Cook Islands except in accordance with—

(a) an apparatus licence or a spectrum licence; or

(b) a licence or authority for that transmitter issued by or on behalf of a member state of the International Telecommunications Union; or

(c) an applicable radiocommunications exemption.

(2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to—

(a) in the case of an individual, a fine not exceeding $20,000, or imprisonment for a term not exceeding 24 months, or both; or

(b) in any other case, a fine not exceeding $150,000.

71 Authority may issue radiocommunications licences

(1) The Authority may issue any of the following—

(a) a spectrum licence authorising the licensee to use specified parts of the radio frequency spectrum in specified geographic areas:

(b) an apparatus licence authorising the licensee to use a specified a radiocommunications device within specified parts of the radio frequency spectrum in specified geographic areas:

(c) a class licence.

(2) The Authority must, in deciding whether to issue any apparatus licence or spectrum licence have regard to the requirements of the Spectrum Plan, any applicable Frequency Band Plan, and any Radiocommunications Licensing Rules.

(3) An apparatus licence or a spectrum licence may be issued on such terms and conditions as the Authority thinks fit.

72 Application for spectrum licence or application licence

(1) A person may apply in writing to the Authority for a spectrum licence or an apparatus licence—

(a) in a form approved by the Authority; and

(b) providing information of the kinds specified by the Authority in relation to applications for licences of the relevant type; and

(c) on payment of the prescribed fee, if any.

(2) The Authority may request that an applicant for a licence under subsection (1) provide any additional information the Authority may reasonably require to determine the application.

73 Right to operate under class licence

(1) The Authority may issue a class licence authorising any person or class of persons to engage in specified conduct in relation to radio frequency spectrum, including:

(a) to operate a radiocommunications device of a specified kind:

(b) to operate a radiocommunications device for a specified purpose:

(c) to operate a radiocommunications device of a specified kind for a specified purpose.

(2) The Authority must, in deciding whether to issue any class licence, have regard to the requirements of the Spectrum Plan, any applicable Frequency Band Plan, and any Radiocommunications Licensing Rules.

(3) A class licence may be issued on such terms and conditions as the Authority thinks fit.

(4) Operation of a radiocommunications device is authorised by a class licence only if it is done in accordance with the terms and conditions of the licence.

74 Radiocommunications Licensing Rules

(1) The Minister may, acting on the advice of the Authority, make rules specifying—

(a) the types of spectrum licences that may be issued and eligibility criteria; and

(b) the types of apparatus licences that may be issued and eligibility criteria; and

(c) the types of class licences that may be issued and eligibility criteria; and

(d) technical requirements applying to the use of particular parts of the radiofrequency spectrum, particular devices, particular apparatus licences, particular spectrum licences, or particular class licences; and

(e) the process for applying for a spectrum licence or apparatus licence; and

(f) a method for selecting applicants (which may include competitive tender or auction) in circumstances where applications for spectrum licences or apparatus licences exceed the licences available; and

(g) a notification process, if a person proposes to operate a radiocommunications device under a class licence; and

(h) conditions of spectrum licences, apparatus licences, and class licences; and

(i) limits on the aggregate of the parts of the spectrum that, as a result of the allocation or transfer of spectrum licences, may, in total, be used by members of a specified group of persons; and

(j) the circumstances in which, and limits within which, any exemption from the rules (**"radiocommunications exemption"**) may apply.

(2) Before making rules under subsection (1), the Minister must cause to be published a draft version of the proposed rules and consult on them by—

(a) giving notice of the proposed rules in a manner the Minister considers appropriate to bring them to the attention of persons that he or she considers likely to be affected by them; and

(b) allowing affected parties a reasonable opportunity to make submissions on the proposed rules; and

(c) considering all relevant submissions received.

75 Radiocommunications licence fees

(1) The Authority may charge a fee for—

(a) making an application for a spectrum licence or apparatus licence; and

(b) the right to use spectrum under a spectrum licence; and

(c) the right to use apparatus under an apparatus licence.

(2) The amount of the fees chargeable under this section, or method of determining the amount of fees, must be prescribed in regulations made under section 109.

(3) The amount of any fee that may be prescribed in a regulation under section 109 is not limited by reference to the amount of administrative or other costs incurred or likely to be incurred in relation to the application or right to which the fee relates.

(4) A regulation under section 109 may provide for any of the following:

(a) the amount of any fee:

(b) fees to be charged by reference to a scale set out in the regulation:

(c) a method of determining fees:

(d) the payment of different fees by different persons or different classes or descriptions of person:

(e) fees that must be paid annually or at different intervals:

(f) the reduction, waiver or refund, in whole or in part, of any fee, either upon the happening of a certain event or in the discretion of the Authority.

(5) The amount of any unpaid fee is recoverable in the Court as a debt due to the Crown.

76 Register of radiocommunications licences

(1) The Authority must establish and maintain a register recording details about licences issued under this Part that the Authority considers necessary or convenient for the purposes of this Act.

(2) The register must be accessible to the public during office hours and may be maintained in electronic format.

(3) The register must, subject to subsection (4), include—

(a) In relation to a spectrum licence—

(i) the licensee's name and address; and

(ii) the dates the licence comes into effect and expires, and

(b) In relation to an apparatus licence—

(i) the licensee's name and address; and

(ii) the dates the licence comes into effect and expires; and

(iii) particulars of the apparatus the licensee is permitted to operate, and

(c) In relation to a class licence, details that the Authority considers necessary or convenient for the purposes of this Act.

(4) The Authority may exclude from the register any details of any licence issued under this Part, or any licensee, if the Authority is satisfied it would not be in the national interest (for example, for defence or security reasons) to make those details public.

77 Radiocommunications licence conditions

(1) Spectrum licences, apparatus licences, and class licences may be issued subject to any conditions that the Authority thinks fit.

(2) It is a condition of any licence issued under this Part that the holder must—

(a) comply with this Act; and

(b) pay any applicable licence fees; and

(c) comply with any applicable determination of the Authority.

78 Transfer of spectrum licence or apparatus licence

(1) The licensee of a spectrum licence or an apparatus licence may transfer the licence to another person, if the Authority consents to the transfer.

(2) An application to the Authority for consent to a transfer of licence must—

(a) be submitted in writing, in the prescribed form, if any; and

(b) set out any information that the Authority may require; and

(c) be signed by authorised representatives of the licensee and transferee.

(3) In deciding whether to consent to the transfer of a licence, the Authority must have regard to all matters that it considers relevant.

(4) The Authority must, if it consents to the transfer of a licence—

(a) revoke the existing licence; and

(b) issue a new licence in the name of the transferee; and

(c) record the particulars of the new licence in the register.

(5) A decision by the Authority to give or deny consent under this section is reviewable, by a Review Panel constituted under the Competition and Regulatory Authority Act 2019—

(a) on application by the licensee, if the decision is to deny consent; or

(b) on application by any other person who is materially affected by the decision, if the decision is to give consent.

79 Authorisation of third parties

(1) A spectrum licensee may, after complying with subsection (3), authorise another person, in writing, to use spectrum under the licence.

(2) An apparatus licensee may, after complying with subsection (3), authorise another person, in writing, to use spectrum or operate a radiocommunications device under the licence.

(3) A spectrum licensee or apparatus licensee must not authorise another person to use spectrum or operate a radiocommunications device if—

(a) doing so would be inconsistent with—

(i) this Act; or

(ii) any term or condition of the relevant licence; or

(iii) any determination by the Authority; or

(b) the latter person holds a licence of the same type; or

(c) the latter person has previously been issued a spectrum licence or an apparatus licence which has in the last 2 years been suspended or cancelled.

(4) A spectrum licensee or apparatus licensee who authorises another person to use spectrum or operate a radiocommunications device must—

(a) retain a copy of the authorisation; and

(b) provide a copy of the authorisation to the Authority not less than 10 working days before it is proposed to commence.

(5) The Authority may, by written notice to a licensee, direct the licensee to revoke the authorisation of another person to use spectrum or operate a radiocommunications device if the Authority is satisfied that the person is ineligible to be authorised or has contravened—

(a) this Act; or

(b) any term or condition of the relevant licence; or

(c) any determination by the Authority.

(6) A licensee must revoke an authorisation as soon as practicable and, in any event, within 7 days after service of a notice under subsection (5).

80 Variation of spectrum licence, apparatus licence

(1) The Authority may, after complying with subsection (3), by written notice given to the licensee, vary a spectrum licence or an apparatus licence, by—

(a) including one or more further conditions; or

(b) revoking or varying any conditions of the licence,

(2) A notice under subsection (1) must give the reasons for varying the licence.

(3) The Authority must not exercise its powers under subsection (1) unless—

(a) the Authority has given the licensee 90 days' notice of the proposed variation, has provided the licensee with the Authority's reasons in writing for making the proposed variation, and has given due consideration to any representations made by or on behalf of the licensee; or

(b) the Authority is satisfied that the licensee has contravened a condition of the licence or has in any other way contravened this Act and has not remedied that contravention within a reasonable period after being notified of it by the Authority; or

(c) the licensee has agreed in writing to the variation.

(4) A decision by the Authority to give a notice under subsection (1) is reviewable by a Review Panel constituted under the Competition and Regulatory Authority Act 2019, on application by the licensee.

81 Suspension, cancellation and surrender of spectrum licence, apparatus licence

(1) The Authority may, after complying with subsection (2), by written notice given to the licensee—

(a) suspend a spectrum licence or an apparatus licence for a specified period; or

(b) cancel a spectrum licence or an apparatus licence.

(2) A notice under subsection (1) must give the Authority's reasons for suspending or cancelling the licence.

(3) The Authority must not exercise its powers under subsection (1), unless it is satisfied that the licensee has, without reasonable excuse—

(i) materially contravened a term or condition of the licence or in any other way contravened this Act; or

(ii) materially contravened or failed to comply with a lawful direction, determination, or order by the Authority; or

(iii) operated a radiocommunications device in material contravention of any other law of the Cook Islands; or

(iv) operated a radiocommunications device in the course of materially contravening any other law of the Cook Islands.

(4) The Authority may, at any time, revoke a suspension of licence by written notice given to the licensee.

(5) A licensee may, at any time, surrender a spectrum licence or an apparatus licence by written notice given to the Authority.

(6) A decision by the Authority to give a notice under subsection (1) is reviewable by a Review Panel constituted under the Competition and Regulatory Authority Act 2019, on application by the licensee.

82 Variation and cancellation of class licence

(1) The Authority may, after complying with subsection (2), by notice published in the *Gazette*—

(a) vary a class licence, by—

(i) including one or more further terms or conditions; or

(ii) revoking or varying any terms or conditions of the licence; or

(b) cancel a class licence.

(2) The Authority must not exercise its powers under subsection (1), unless the Authority has—

(a) given notice of the proposed variation or cancellation in a manner it considers appropriate to bring the proposed variation or cancellation to the attention of those it considers likely to be affected by it; and

(b) allowed an opportunity for persons it considers likely to be affected by the proposed variation or cancellation to make submissions on the proposed variation or cancellation; and

(c) considered all relevant submissions received.

83 Expiry of spectrum licence

(1) A spectrum licence comes into effect on the date it is issued or on any date specified in the licence.

(2) A spectrum licence has effect until—

(a) the expiry of the term specified in the licence, which may not exceed 15 years; or

(b) it is earlier revoked by the Authority.

(3) The Authority must, not less than 3 months before the expiry of a spectrum licence, give notice, by means of the Internet and in any other manner it considers appropriate—

(a) stating the expiry date of the spectrum licence; and

(b) describing the parts of the spectrum to which the licence relates; and

(c) inviting expressions of interest from persons who wish to apply for a spectrum licence in respect of the relevant parts of the spectrum.

(4) The Authority must have regard to any applicable Radiocommunications Licensing Rules when deciding whether to issue one or more spectrum licences in place of a spectrum licence that has expired.

(5) A person who held a spectrum licence that has expired or been revoked may apply for a new spectrum licence.

(6) The Authority may issue a new spectrum licence to a person who held a spectrum licence that has expired or been revoked but is not obliged to do so.

84 Expiry of apparatus licence

(1) An apparatus licence comes into effect on the date it is issued or on any later date specified in the licence.

(2) An apparatus licence has effect until—

(a) the expiry of the term specified in the licence, which may not exceed 5 years; or

(b) it is earlier revoked by the Authority.

(3) During the period beginning 6 months before expiry of an apparatus licence and ending 60 days after it expires, the licensee of an apparatus licence may apply to the Authority for a new apparatus licence.

(4) A person who held an apparatus licence that has expired or been revoked may apply for a new spectrum licence.

(5) The Authority may issue a new apparatus licence to a person who held an apparatus licence that has expired or been revoked but is not obliged to do so.

Subpart 3 – Interference

85 Interference generally

(1) In this subpart, "**interference**" means interference to, or with, radiocommunications (including the functions or uses of a radio transmitter or radio receiver) that is attributable (whether wholly or in part, and whether directly or indirectly) to an emission of electromagnetic energy by electrical or electronic apparatus or equipment of any kind.

(2) A person must not, without reasonable excuse, knowingly or recklessly do any act or thing that is likely to result in substantial interference to radiocommunications or likely to substantially disrupt or disturb radiocommunications.

(3) A person who contravenes subsection (2) commits an offence and is liable on conviction to—

(a) in the case of an individual, a fine not exceeding $20,000, or imprisonment for a term not exceeding 24 months, or both; or

(b) in any other case, a fine not exceeding $150,000.

86 Harmful interference

(1) In this section, "**harmful interference**" means interference that—

(a) seriously degrades, obstructs, or repeatedly interrupts radiocommunications; or

(b) endangers the functioning of a radionavigation service, or of other safety services; or

(c) is likely to endanger the safety of another person or cause another person to suffer or incur substantial loss or damage.

(2) A person must not, without reasonable excuse, do any act or thing that the person knows or ought reasonably to know is likely to cause harmful interference.

(3) A person who, without reasonable excuse, contravenes subsection (2) commits an offence and is liable on conviction to—

(a) in the case of an individual, a fine not exceeding $20,000, or imprisonment for a term not exceeding 24 months, or both; or

(b) in any other case, a fine not exceeding $150,000.

87 Notice to modify or cease operation

(1) In this section "**interfering equipment**" means any electrical conductor, or electrical or electronic apparatus or equipment of any kind, that causes interference to radiocommunications.

(2) The Authority may issue a notice requiring a person to modify or cease operating any interfering equipment.

(3) Any person who fails, without reasonable excuse, to comply with a notice given under subsection (2) within 24 hours of receipt of that notice commits an offence and is liable on conviction to—

(a) in the case of an individual, a fine not exceeding $20,000, or imprisonment for a term not exceeding 24 months, or both; or

(b) in any other case, a fine not exceeding $150,000.

(4) The Court may, upon application by or on behalf of the Authority, order the forfeiture to the Crown of any interfering equipment that has been involved in any contravention or attempted contravention of this Act, whether or not proceedings have been taken against any person in respect of the contravention or attempted contravention.

88 Interference disputes

(1) For the purpose of resolving a dispute regarding interference, the Authority may—

(a) convene a meeting with the parties to attempt to resolve the dispute; and

(b) if the parties fail to resolve the dispute by agreement between them within a reasonable time, request the parties to appoint an arbitrator to settle the dispute in accordance with the provisions of the Arbitration Act 2014; and

(c) if the parties fail to comply with a request under paragraph (b) within a reasonable time, appoint an arbitrator to settle the dispute in accordance with the provisions of that Act.

(2) If a dispute has not been settled under subsection (1) within a period determined by the Regulator or otherwise within a reasonable time–

(a) the Authority may, after allowing the parties a reasonable opportunity to make submissions on the dispute between them, and considering any relevant submissions made, issue a written determination to resolve the dispute; and

(b) the parties must comply with any determination issued under paragraph (a).

(3) A determination under subsection (2) is reviewable by a Review Panel constituted under the Competition and Regulatory Authority Act 2019, on application by a party to the dispute.

Subpart 4 — Certificates of Competency

89 Certificates of competency

(1) The Authority may issue a certificate of competency in the operation of radiocommunications to any person who in the opinion of the Authority is eligible to hold the certificate and who—

(a) has successfully completed the examinations prescribed by the Authority in relation to the certificate; or

(b) holds a certificate issued by an overseas counterpart of the Authority that is equivalent to the certificate.

(2) The Authority may issue any of the following certificates of competency:

(a) general radiotelephone operator certificate:

(b) restricted radiotelephone operator certificate:

(c) radiotelegraph operator special certificate:

(d) general amateur operator certificate:

(e) limited amateur operator certificate:

(f) novice amateur operator certificate:

(g) radiocommunications operator general certificate for the maritime mobile service:

(h) any other certificate provided for in regulations made by the Queen's Representative, by Order in Executive Council, on the advice of the Minister.

(3) A certificate issued under this section may be in any form and subject to any terms and conditions that the Authority may from time to time determine.

90 Examinations and rules for certificates

The Authority may from time to time prescribe in relation to any certificate of competency—

(a) qualifying examinations; and

(b) criteria for eligibility; and

(c) rules to be observed by the holder of a certificate.

91 Suspension and revocation of certificate

The Minister may, by notice in writing to a certificate holder, suspend or revoke a certificate of competency if—

(a) the certificate holder has breached a term or condition of the certificate and failed to remedy the breach within a reasonable time of being notified of it; or

(b) the certificate holder has contravened, or been knowingly concerned in a contravention of, this Act or a determination by the Authority; or

(c) the certificate holder has failed to pay prescribed fees; or

(d) the Authority has advised the Minister that the holder has ceased to be eligible to apply for, or qualified to hold, the certificate; or

(e) the Minister considers that it is desirable in the public interest to do so.

Part 9
Technical standards

92 Determination of technical standards

(1) The Authority may, by written determination, prescribe technical standards for—

(a) customer equipment and cabling; and

(b) network equipment; and

(c) features of customer equipment that are designed to cater for the special needs of persons with disabilities; and

(d) telecommunications networks and facilities, including to protect against unauthorised interference or unauthorised access; and

(e) interconnection of service providers' networks; and

(f) number portability; and

(g) radiocommunications devices.

(2) The Authority may, by written determination, prescribe an approval process, including conditions, for approval of telecommunications equipment for importation to the Cook Islands.

(3) Before prescribing any technical standard or approval process, the Authority must consult the public on the proposed standard or process and must have regard to the need to ensure against or minimise–

(a) damage to networks; and

(b) quality degradation to telecommunications services; and

(c) public nuisance; and

(d) risk to public health and safety.

(4) The Authority may adopt or incorporate, with or without modifications, any technical standards or approval processes of other countries.

93 Customer equipment

(1) No person may supply, install, or use any customer equipment or cabling that does not comply with an applicable technical standard or approval process.

(2) If any customer's customer equipment or cabling does not comply with an applicable technical standard or approval process a service provider may do any or all of the following:

(a) refuse to connect that customer equipment or cabling to its network:

(b) disconnect that customer equipment or cabling from its network:

(c) refuse or cease to supply a telecommunications service to that customer.

94 Network equipment

(1) A service provider must ensure that its network equipment and facilities comply with any applicable technical standard.

(2) A service provider must ensure that its facilities, services and procedures for interconnection comply with any applicable technical standard.

95 Prohibited devices

(1) The Authority may, by written determination, identify a specified device or devices of a specified kind or class, to be prohibited devices.

(2) The Authority must cause a determination under subsection (1) to be published on its public website and in newspapers, within 14 days after it has been made.

(3) A person must not, without reasonable excuse—

(a) operate or supply a device that the person knows, or ought reasonably to have known, is a prohibited device; or

(b) have possession of a device that the person knows, or ought reasonably to have known, is a prohibited device for the purpose of operating or supplying it.

(4) A person who contravenes subsection (3) commits an offence and is liable on conviction to—

(a) in the case of an individual, a fine not exceeding $20,000, or imprisonment for a term not exceeding 24 months, or both; or

(b) in any other case, a fine not exceeding $150,000.

Part 10
Universal access

96 Universal Access Plan

(1) The Authority must, within 12 months following appointment of its chair, prepare a plan for the promotion of universal access to universal access services of reasonable quality in the Cook Islands ("**Universal Access Plan**") and consult on it by—

(a) giving notice of the proposed plan in a manner the Authority considers appropriate to bring it to the attention of those it considers likely to be affected by the proposed plan; and

(b) allowing affected parties a reasonable opportunity to make submissions on the proposed plan; and

(c) considering all relevant submissions received.

(2) The Authority must review annually its Universal Access Plan and consult publicly on any significant changes to it.

(3) The Authority must, in developing and reviewing the Universal Access Plan, have regard to—

(a) the kinds of services to which universal access is or would be to the long term benefit of end users ("**universal access services**"), which may include all or any of:

(i) fixed or mobile telephone service:

(ii) emergency services:

(iii) Internet access service:

(iv) disaster warning or relief services:

(v) operator assistance service:

(vi) any other services that the Authority may reasonably determine; and

(b) technologies that may be available to support universal access; and

(c) impediments to meeting universal access objectives; and

(d) the availability or unavailability of particular services to particular groups of persons or to persons in particular areas and the extent to which competition between service providers could enhance the availability of services; and

(e) any adverse impact that mandating universal access might have on the development of competition; and

(f) the funds available to support universal access; and

(g) relevant submissions received in the course of public consultation.

97 Universal access levies

(1) The Queen's Representative may, by Order in Executive Council, on the advice of the Minister, for the purpose of supporting access to services in accordance with a Universal Access Plan, make regulations imposing levies on—

(a) any specified service provider or class of service providers; and

(b) any specified class of end users; and

(c) any specified telecommunications service or kind of telecommunications services.

(2) The Minister must, before giving advice to the Queen's Representative under subsection (1)—

(a) obtain and have regard to the written recommendations of the Authority regarding the imposition of levies to support access to services in accordance with a Universal Access Plan; and

(b) have regard to the long term benefit of end users.

(3) A regulation made under this section may do any or all of the following:

(a) specify the amounts of levies payable under this section:

(b) provide for the method by which those levies will be calculated:

(c) specify the criteria and other requirements by and against which those levies will be set or reset:

(d) specify the financial year or other period to which those levies apply:

(e) provide for the payment and collection of those levies:

(f) exempt any person or class of persons from paying levies under the regulation:

(g) provide for waivers or refunds of the whole or any part of any levy payable by any person or class of persons under the regulation.

(4) If any person liable to pay a levy fails to pay the whole amount of that levy by the date payment is due, that person must pay interest on the unpaid amount at the rate of 1.5 percent per month calculated from the date payment is due.

(5) Interest will be calculated in monthly instalments for each month, or part of each month, that the payment is due.

(6) The amount of any unpaid levy or interest is recoverable in the Court as a debt due to the Crown.

98 Universal Access Fund

(1) The Authority may establish and manage a Universal Access Fund, with a separate account.

(2) The Universal Access Fund may comprise any of the following–

(a) levies imposed by regulations:

(b) grants or donations made to or for the benefit of the fund:

(c) any moneys appropriated by Parliament for the purposes of the fund:

(d) any moneys received by way of interest or repayment of any loan granted from the fund.

99 Eligible areas, providers, and users

(1) The Authority may, by written determination, identify as eligible to receive financial support for the purpose of promoting access to services in accordance with a Universal Access Plan any of—

(a) 1 or more geographic areas:

(b) 1 or more groups of end users:

(c) 1 or more landowners or associations of residents:

(d) 1 or more service providers.

(2) The Authority must, before making a determination under subsection (1) consider—

(a) whether access to universal access services is significantly poorer for particular areas or particular groups than for other areas or groups in the Cook Islands; and

(b) whether the costs of providing access to universal access services are significantly higher for particular areas or particular groups than for other areas or groups in the Cook Islands; and

(c) whether particular landowners, or associations of residents, or service providers, or other groups, have the capability to provide access to universal access services in accordance with the Universal Access Plan.

100 Disbursements from Universal Access Fund

(1) The Authority may, by written determination, establish and amend rules for the administration of the Universal Access Fund.

(2) The Authority may, in accordance with the Universal Access Plan and any Universal Access Fund Rules, disburse funds from the Universal Access Fund for all or any of the following purposes:

(a) to support the construction, maintenance or operation of telecommunications network in particular areas:

(b) to support the provision of telecommunications services in particular areas or to particular groups of end users:

(c) to support the acquisition of basic telecommunications services by persons in particular areas or by particular groups of end users:

(d) to support community access points to basic telecommunications services, such as at community centres:

(e) to support services of benefit to community welfare (for example, tele-health and tele-education services) being made available by means of telecommunications networks.

(3) The Authority may disburse funds from the Universal Access Fund to meet the reasonable expenses of administering the Universal Access Plan, including without limitation the reasonable fees of consultants and legal advisers.

(4) The Authority must, before disbursing funds under subsection (2)—

(a) invite submissions from the public and have regard to all relevant submissions that it receives; and

(b) consider the costs associated with the proposed support; and

(c) consider the level of funding that it would be reasonable to provide; and

(d) consider the capability of the proposed recipient of support to achieve the objectives of the particular form of support that is proposed; and

(e) consider what conditions, including as to reporting and monitoring, should be attached to the proposed support.

101 Universal access tender

(1) The Authority may call for tenders, where it considers that there is a reasonable prospect of more than one service provider or other person seeking funding from the Universal Access Fund.

(2) A call for tenders must set out the rules, timing, and conditions of the tender process, and, as required:

(a) the facilities to be constructed, maintained or operated:

(b) the areas or groups of end users to be served:

(c) the services to be provided:

(d) any terms and conditions of service provision, including price.

102 Universal access direction

(1) The Authority may, by written direction, require one or more service providers to—

(a) construct, maintain or operate telecommunications facilities in particular areas; and

(b) provide telecommunications services in particular areas or to particular groups of end users, on specified terms and conditions, including as to price.

(2) The Authority must not make a direction under subsection (1) unless it has first—

(a) consulted with any service provider that would be affected by the proposed direction; and

(b) given the affected service provider a reasonable opportunity to respond to the proposal; and

(c) had due regard to any response made by or on behalf of the service provider.

103 Reporting on universal access

The Authority must include in its Annual Report information regarding—

(a) funds received to and disbursed from the Universal Access Fund; and

(b) activities undertaken to promote the objects of the Universal Access Plan; and

(c) the extent to which the objects of the Universal Access Plan have been accomplished.

Part 11
Status of Telecommunications Licensees as Infrastructure Managers under the Infrastructure Act 2019

104 Network operator licensees

(1) A network operator licensee—

(a) is an infrastructure manager for the purposes of the Infrastructure Act 2019; and

(b) has all the powers and duties of an infrastructure manager.

(2) The provisions of the Infrastructure Act 2019 apply, accordingly, to a network operator licensee.

105 Service providers who own or use network equipment

(1) A service provider who owns or uses network equipment is—

(a) an infrastructure manager for the purposes of the Infrastructure Act 2019; and

(b) has all the powers and duties of an infrastructure manager.

(2) The provisions of the Infrastructure Act 2019 apply, accordingly, to a service provider who owns or uses network equipment.

Part 12
General and miscellaneous provisions

Disasters and emergencies

106 Disaster Plans

(1) The Authority may, by written direction, require a service provider to prepare a plan setting out the actions the service provider will take to—

(a) cope with disasters and civil emergencies; and

(b) improve the resilience of its network and services to the adverse impacts of climate change.

(2) In preparing a "**Disaster Plan**" (or any variation) a service provider must—

(a) consult with police and emergency services authorities;

(b) consult with the Authority; and

(c) consult the public on the proposed plan by—

(i) publishing it on the service provider's website; and

(ii) allowing interested parties a reasonable opportunity to provide comments; and

(iii) having due regard to any comments received in the course of consultations.

(3) The service provider must publish its Disaster Plan, and any variations to it, on its website and must implement that plan.

(4) A service provider is not liable to an action or other proceeding for damages for or in relation to an act done or omitted in good faith in compliance with its Disaster Plan.

107 Powers of Government during disaster or emergency

(1) If, in the event of a public emergency, the Minister considers it necessary in the interests of public security or national defence, the Minister may, give directions in writing to any person.

(2) A direction under subsection (1) must be published in the *Gazette* as soon as reasonably practicable after it is made.

(3) A direction under subsection (1) may require a person—

(a) to enable, provide or facilitate:

(i) the temporary control or use for official purposes of telecommunications networks and radio stations:

(ii) the stoppage, delay, or interception of telecommunications or radiocommunications; or

(b) to do or omit to do any specified action that the Minister considers reasonably necessary in the interests of public security or national defence.

(4) The Government must—

(a) pay compensation for any loss or damage caused to a licensee or an owner of a radio station, as the case may be, by reason of compliance with any direction under subsection (1); or

(b) make grants to service providers, or owners of radio stations, as the case may be, for defraying or contributing towards any losses which they may sustain by reason of their compliance with any direction under subsection (1).

Offences

108 General penalty for offences

A person who commits an offence against this Act, or regulations made under this Act, for which no penalty is otherwise provided by this Act or by the regulations is liable on conviction to—

(a) in the case of an individual, a fine not exceeding $20,000, or imprisonment for a term not exceeding 24 months, or both; or

(b) in any other case, a fine not exceeding $150,000.

Regulations

109 Regulations

The Queen's Representative may, by Order in Executive Council, on the advice of the Minister given in accordance with a recommendation of the Authority, make regulations for all or any of the following purposes:

(a) prescribing forms to be used for the purposes of this Act:

(b) prescribing matters for which fees are payable under this Act and the amounts of those fees:

(c) prescribing grounds for an exemption from fees, in whole or in part:

(d) governing or prohibiting the use of radio apparatus on merchant ships, or on aircraft, of whatever nationality or registration, or on foreign ships of war or foreign military aircraft, while within the territorial limits of the Cook Islands:

(e) prescribing licence fees or the means by which fees must be calculated:

(f) providing for any other matters contemplated by this Act, necessary for its full administration, or necessary for giving it full effect.

Amendments, savings and transitional provisions

110 Transitional period and related terms

(1) For the purposes of this Part, and subject to subsection (2), "**transitional period**" means the period beginning on the commencement of this Act and ending on the fourth anniversary of that date.

(2) The Queen's Representative may, by Order in Executive Council, on the advice of the Minister, determine that the transitional period ends, in respect of any or all of the community services, on a specified date that is earlier than, or later than, the third anniversary of commencement of this Act.

(3) For the purposes of this Part, "**community services**" means any or all of the services referred to in subsection (4).

(4) For the purposes of this Part—

(a) "**Pa Enua Services**" means the telecommunications services provided by Telecom Cook Islands Limited to the islands of the Cook Islands other than Rarotonga, including but not limited to:

(i) fixed line telephony services;

(ii) fixed internet services; and

(iii) mobile telephony and internet services;

with coverage not less than that provided at 1 October 2019; and

(b) "**Broadcasting Support Services**" means the television and radio broadcasting services provided by Telecom Cook Islands Limited to broadcasters in the Cook Islands, with coverage not less than that provided at 1 October 2019; and

(c) "**Marine Radio Services**" means the marine radio services provided by Telecom Cook Islands Limited, including but not limited to:

(i) the full time High Frequency and Very High Frequency marine radio coverage and monitoring services provided to fishing boats and merchant ships maritime for the safety of life and property at sea; and

(ii) radio operator certification services,

with coverage not less than that provided at 1 October 2019; and

(d) "**Postal Services**" means the postal services provided by Telecom Cook Islands Limited under Part VIA of the Telecommunications Act 1989 to and from Rarotonga and the Pa Enua, including but not limited to the:

(i) sale of postage stamps;

(ii) provision of postal box services; and

(iii) collection and delivery of postal articles;

with coverage not less than that provided at 1 October 2019.

111 Amendments to other enactments

The Acts listed in Schedule 1 are amended as set out in that schedule.

112 Saving of postal service provisions

(1) Subject to subsection (2), Part VIA of the Telecommunications Act 1989 continues to have full force and effect according to its terms, notwithstanding anything in this Act.

(2) The Queen's Representative may, by Order in Executive Council, on the advice of the Minister, determine that Part VIA of the Telecommunications Act 1989 ceases to have effect on and from a specified date.

113 Saving of radiocommunications licences and certificates

(1) A licence authorising radiocommunications, or a certificate of competency, issued prior to the commencement of this Act is a "continuing instrument" for the purposes of subsection (2) if it—

(a) is referred to, or is an instrument of a kind referred to, in column 2 of the table set out in Schedule 5; and

(b) was in force immediately before the commencement of this Act.

(2) A continuing instrument—

(a) continues in force after commencement of this Act as if, at the time it had been made, it had been made by the Authority in the same terms as an instrument of the kind referred to in the corresponding item in column 3 of the table set out in Schedule 5; and

(b) is taken, for all purposes, to have been issued by the Authority as such an instrument.

114 Saving of Radio Regulations 1993

(1) Parts V, VI and VIII of the Radio Regulations 1993, and the Third Schedule and Part B of the Fourth Schedule of the Radio Regulations 1993 continue to have full force and effect according to their terms, notwithstanding anything in this Act.

(2) The Queen's Representative may, by Order in Executive Council, on the advice of the Minister, determine that the Radio Regulations 1993 cease to have effect on and from a specified date.

115 Saving of Radio (Shipping) Regulations 1993

(1) The Radio (Shipping) Regulations 1993 continue to have full force and effect according to their terms, notwithstanding anything in this Act.

(2) The Queen's Representative may, by Order in Executive Council, on the advice of the Minister, determine that the Radio (Shipping) Regulations 1993 cease to have effect on and from a specified date.

116 Revocation of regulations

The following regulations are revoked—

(a) the Postal Amending Regulations 1987; and

(b) the Postal Amending Regulations 1989; and

(c) the Telegraph Regulations 1963; and

(d) the Telegraph Regulations 1975; and

(e) the Telegraph Regulations 1982; and

(f) the Telephone Regulations 1968; and

(g) the Telex Regulations 1963.

117 TCI network operator licence

A network operator licence in the form set out in Schedule 2 is deemed to have been issued to Telecom Cook Islands Limited on commencement of this Act.

118 Transitional mobile operator licensing

(1) During the transitional period the Authority must not, unless subsection (2) or (3) applies, issue—

(a) a network operator licence authorising the establishment or operation of a mobile telecommunications network; or

(b) a service provider licence authorising the provision of mobile telecommunications services.

(2) Despite subsection (1), the Authority may during the transitional period issue a licence of a kind referred to in subsection (1) to 1 person, other than Telecom Cook Islands Limited, who meets eligibility criteria determined by the Minister by notice published in the Gazette.

(3) Despite subsection (1), the Authority may during the transitional period issue 1 or more licences of a kind referred to in subsection (1) if the Minister has notified Telecom Cook Islands Limited in writing that the Minister considers Telecom Cook Islands Limited—

(a) has failed to provide a community service or has failed to meet an applicable service standard; and

(b) has subsequently failed to remedy that failure within 3 months of receiving notice under paragraph (a).

(4) The Minister must not give notice under subsection (2) except in accordance with the advice of the Authority.

119 Transitional licence fee

(1) Telecom Cook Islands Limited is, subject to subsection (2), not required during the period beginning on the commencement of this Act and ending on the third anniversary of that date to pay a licence fee in respect of its Network Operator Licence.

(2) Telecom Cook Islands Limited must pay a licence fee determined in accordance with applicable regulations if the Minister notifies Telecom Cook Islands Limited in writing that he or she considers Telecom Cook Islands Limited—

(a) has failed to provide a community service or has failed to meet an applicable service standard; and

(b) has subsequently failed to remedy that failure within 3 months of receiving notice under paragraph (a).

(3) The Minister must not give either notice under subsection (2) except in accordance with the advice of the Authority.

120 Pa Enua services

(1) Telecom Cook Islands Limited must, subject to subsection (2), continue to provide the Pa Enua Services—

(a) for the duration of the transitional period; and

(b) at charges to customers that are not higher than those that were payable as at 1 October 2019; and

(c) at a quality of service that is not lower than that provided to the same customer group as at 1 October 2019.

(2) Telecom Cook Islands Limited is not required to comply with subsection (1) from the date that the Minister gives notice in writing that a Universal Access Plan under Part 10 is in operation.

(3) The Minister must not give notice under subsection (2) except in accordance with the advice of the Authority.

121 Broadcasting Support Services

(1) Telecom Cook Islands Limited must, subject to subsection (2), continue to provide the Broadcasting Support Services—

(a) for the duration of the transitional period; and

(b) at charges to customers that are not higher than those that were payable as at 1 October 2019; and

(c) at a quality of service that is not lower than that provided to the same customer group as at 1 October 2019.

(2) Telecom Cook Islands Limited is not required to comply with subsection (1) from the date that the Minister gives notice in writing that he or she considers that satisfactory commercial arrangements have been put in place in relation to the Broadcasting Support Services.

(3) The Minister must not give notice under subsection (2) except in accordance with the advice of the Authority.

122 Marine Radio Services

(1) Telecom Cook Islands Limited must, subject to subsection (2), continue to provide the Marine Radio Services—

(a) for the duration of the transitional period; and

(b) at charges to customers that are not higher than those that were payable as at 1 October 2019; and

(c) at a quality of service that is not lower than that provided to the same customer group as at 1 October 2019.

(2) Telecom Cook Islands Limited is not required to comply with subsection (1) from the date that the Minister gives notice in writing that he or she considers that satisfactory commercial arrangements have been put in place in relation to the Marine Radio Services.

(3) The Minister must not give notice under subsection (2) except in accordance with the advice of the Authority.

123 Postal Services

(1) Telecom Cook Islands Limited must, subject to subsection (2), continue to provide the Postal Services—

(a) for the duration of the transitional period; and

(b) at charges to customers that are not higher than those that were payable as at 1 October 2019; and

(c) at a quality of service that is not lower than that provided to the same customer group as at 1 October 2019.

(2) Telecom Cook Islands Limited is not required to comply with subsection (1) from the date that the Minister gives notice in writing that he or she considers that satisfactory commercial arrangements have been put in place in relation to the Postal Services.

(3) The Minister must not give notice under subsection (2) except in accordance with the advice of the Authority.

124 Certificate of competency examinations during transitional period

(1) Telecom Cook Islands Limited must, subject to subsection (2), continue to conduct certificate of competency examinations—

(a) for the duration of the transitional period; and

(b) at fees that are not higher than those that were payable as at 1 October 2019; and

(c) in accordance with Part V and the Third Schedule of the Radio Regulations 1993.

(2) Telecom Cook Islands Limited is not required to comply with subsection (1) from the date that the Minister gives notice in writing that the Authority (or a person or body nominated by the Authority) will conduct certificate of competency examinations.

(3) The Minister must not give notice under subsection (2) except in accordance with the advice of the Authority.

125 Transitional maritime radio station licensing

(1) Telecom Cook Islands Limited may grant licences for the installation, operation, or use of radio apparatus on—

(a) any Cook Islands ship within the meaning of the Crimes Act 1969; and

(b) any vessel for the time being registered in the Cook Islands as a ship under the Ship Registration Act 2007.

(2) Every licence under subsection (1) shall be in such form and for such period, and shall contain such terms, conditions and restrictions as the Minister may direct Telecom Cook Islands Limited, by notice in writing.

(3) The Queen's Representative may, by Order in Executive Council, on the advice of the Minister, determine that subsection (1) shall cease to have effect on and from a specified date.

Schedule 1
Amendments to Acts

1. Broadcasting Act

Section 33 of the Broadcasting Act 1989 is amended by deleting "Director-General of Posts and Telecommunications" and substituting "Competition and Regulatory Authority".

Schedule 2
Telecom Cook Islands Limited Network Operator Licence

(Section 115)

1. Licensee

1.1 This licence is issued to Telecom Cook Islands Limited ("Licensee").

2. Licence fee

2.1 The Licensee must pay licence fees calculated in accordance with applicable regulations under the Telecommunications Act 2019.

2.2 Paragraph 2.1 is subject to section 117 of the *Telecommunications Act 2019*.

3. Licence term

3.1 This licence has a fixed term of 15 years, commencing on the day on which the *Telecommunications Act 2019* commences.

3.2 This licence may be renewed, or another licence issued in its place, in accordance with the provisions of the *Telecommunications Act 2019*.

4. Scope of licence

4.1 The Licensee is authorised to construct and operate on a non-exclusive basis—

(a) Fixed line network between—

(i) distinct places within the Cook Islands; and

(ii) places within the Cook Islands and places outside the Cook Islands; and

(b) Fixed terrestrial wireless network between distinct places within the Cook Islands; and

(c) Public mobile network within the Cook Islands; and

(d) Satellite network between—

(i) distinct places within the Cook Islands; and

(ii) places within the Cook Islands and places outside the Cook Islands.

5. Technical matters

5.1 The Licensee must comply with any technical standards determined by the Authority.

5.2 If the Authority has not prescribed an applicable technical standard, the Licensee must take full account of relevant international standards or recommendations adopted by:

(a) the International Telecommunications Union:

(b) the European Conference of Postal and Telecommunications Administrations:

(c) the International Organisation for Standardisation:

(d) the International Electrotechnical Committee.

5.3 The Licensee must use its reasonable efforts to work co-operatively with other licensees to establish an industry-based process to develop common or complimentary technical and operational standards and processes, including to facilitate interconnection.

5.4 The Licensee must keep adequate records (including overall network plans and cable route maps) of the telecommunications network infrastructure (including radiocommunications infrastructure) provided under this licence and any other details concerning the network, including information from operational support systems, traffic flow information, and database information relating to the manner in which the network treats any communication ("network information").

5.5 If requested by the Authority, the licensee must make network information available to the Authority (or to a person authorized in writing by the Authority) for inspection for the Authority's purposes or for the purposes of national security or management of national emergencies.

5.6 The Licensee must give to the Authority and to all affected service providers reasonable advance notice in writing if it intends to implement any change in the specification or performance of its network or telecommunications services which—

(a) would require changes to any equipment or systems that are connected to the Licensee's network or services; or

(b) would render inoperable any equipment or systems that are connected to the Licensee's network or services.

5.7 The period of notice given shall be appropriate to the likely impact on the parties affected and on connected equipment or systems and shall be decided in consultation with the Authority.

6. Customer equipment

6.1 TCI must allow connection to each of its networks of any customer equipment that complies with—

(a) applicable technical standards determined by the Authority; or

(b) if the Authority has not prescribed applicable technical standards, a relevant technical standard of a recognised standards body or regulator.

7. Numbers

7.1 The Licensee must use numbers allocated to it in an effective and efficient manner.

7.2 The Licensee must not unduly discriminate against any service provider in relation to the service provider's access to or use of numbers.

7.3 The Licensee must take all reasonable steps to ensure that its retail and wholesale customers comply with applicable provisions of the Numbering Plan in their use of numbers.

7.4 The Licensee must, not later than 6 months after the *Telecommunications Act 2019* commences, publish on its public website its policy for management of numbers assigned to its customers, including—

(a) how numbers will be assigned to customers; and

(b) the circumstances in which numbers may be reserved by customers; and

(c) the circumstances in which numbers may be withdrawn from customers; and

(d) the circumstances in which customers may retain numbers when moving between premises connected to the Licensee's networks; and

(e) access to and use of special numbers; and

(f) charges (if any) for numbers.

8. Fair Use Policy

8.1 The Licensee must, not later than 6 months after the *Telecommunications Act 2019* commences, publish on its public website its policies regarding the use of its networks by its customers, including—

(a) policies regarding network management in respect of traffic congestion; and

(b) policies regarding posting, hosting, and accessing unacceptable content.

9. Domain Administration Policy

9.1 The Licensee must, while it remains responsible for .ck domain administration—

(a) publish on its public website, not later than 6 months after the *Telecommunications Act 2019* commences, its policies regarding the administration of the .ck domain; and

(b) comply with its published policies regarding the .ck domain; and

(c) not discriminate in favour of itself, or its affiliates, in its administration of the .ck domain.

9.2 The Licensee must, not later than 6 months after the *Telecommunications Act 2019* commences, publish on its public website its policies regarding the management of IP addresses issued by the Licensee to its customers, including—

(a) how IP addresses will be issued to customers; and

(b) rules on the use of IP addresses by customers;

(c) the circumstances in which IP addresses may be withdrawn from customers; and

(d) the circumstances in which customer information associated with IP addresses may be disclosed to law enforcement agencies; and

(e) charges (if any) for IP addresses.

10. Privacy

10.1 The Licensee must, not later than 3 months after the *Telecommunications Act 2019* commences, publish on its public website its policy regarding the collection, storage, disclosure, correction and deletion of customer information.

10.2 The Licensee's policy under paragraph 10.1 must—

(a) meet the requirements of sub-part 4 of Part 3 of the *Telecommunications Act 2019*; and

(b) provide for the right of each customer to have access, free of charge, to information about them that is held by the Licensee (other than information which would, if access were provided, infringe the privacy of another person, or prejudice law enforcement, or prejudice national security); and

(c) provide for the right of each customer to have information about them corrected, if the customer can show the information is inaccurate or incomplete.

10.3 The Licensee must, in relation to policies and procedures under paragraph 10.1—

(a) monitor and evaluate their impact and effectiveness; and

(b) report to the Authority on their impact and effectiveness at such times or intervals as the Authority may reasonably require.

11. Credit management

11.1 The Licensee must, not later than 3 months after the *Telecommunications Act 2019* commences, publish on its public website its policies regarding customer credit management.

11.2 The Licensee must ensure that any steps it takes to secure payment by a customer of an amount that is overdue—

(a) are proportionate and not discriminatory; and

(b) if those steps involve service interruption or disconnection, they are preceded by reasonable advance warning to the customer.

11.3 The Licensee must ensure that any service interruption or disconnection—

(a) is confined to the particular service or services in respect of which payment is overdue, except in cases of fraud, persistent late payment, or persistent non-payment; and

(b) does not occur in respect of an overdue payment which is disputed by the customer until the customer has had a reasonable opportunity to have the dispute determined in accordance with the Licensee's complaints and dispute process published under section 20 of the *Telecommunications Act 2019*.

12. Notification regarding VoIP limitations

12.1 If the Licensee provides a standard telephone service that is a voice over internet protocol (VoIP) services, the Licensee must inform customers, in plain language and in an accessible manner, that they may be unable to use emergency calling services using the VoIP service if there is a power cut or failure of the Internet connection on which the service relies.

12.2 The Licensee must provide the notice under paragraph 12.1—

(a) during the sales process; and

(b) in the terms and conditions of use; and

(c) in any user guide provided to the customer.

13. Provision of CLI to emergency services

13.1 The Licensee must, to the extent technically feasible, ensure that its networks have the capability to make accurate and reliable Caller Location Information (**CLI**) available for all calls to emergency service numbers, at the time the call is made, at no charge to the emergency service organisations handling those calls.

13.2 The Licensee must, where it provides a telecommunications service at a fixed location, ensure the CLI accurately reflects the fixed location of the end user's terminal equipment, including the physical address or location.

13.3 The Licensee must, where it provides a mobile telecommunications service, ensure the CLI includes the Cell Identification of the cell from which the call is made and, where available, the radius of coverage of that cell.

13.4 The Licensee must, where it provides a standard telephone service based on VoIP—

(a) recommend to its customers that they record with the Licensee the address of the place where that VoIP service is to be used and to update that address information if it changes; and

(b) provide the address given by a VoIP customer (or any update) under sub-paragraph (a) to the emergency service organisations; and

(c) identify, in a manner agreed with the emergency services (or, failing agreement, determined by the Authority), calls made to emergency services as being made by means of a VoIP service.

14. Calling Number Display

14.1 The Licensee must, if it offers, permits, or supports Calling Number Display (**CND**) on devices connected to its network—

(a) inform customers, in plain language and in an easily accessible manner, whether CND is available on an opt-in or opt-out basis; and

(b) provide customers with the ability, at no charge, to block the display of their number on a per-call basis; and

(c) provide customers with the ability to block the display of their numbers for all calls, at no charge, if CND is available on an opt-out basis; and

(d) publish on its public website its policies regarding CND.

15. Directories

15.1 The Licensee must provide each of its customers, on request, with a printed directory unless the Authority determines that a satisfactory alternative to a printed directory is reasonably accessible to end users throughout the Cook Islands.

15.2 The Licensee must make available a publicly accessible online directory.

15.3 The Licensee must allow customers, free of charge, to request that their numbers not be listed in a publicly available printed or electronic directory and not be disclosed to members of the public calling a directory assistance service or accessing an online directory.

15.4 The Licensee must publish on its public website its policies and procedures regarding unlisted numbers.

15.5 The Licensee's printed and electronic directories must—

(a) include directory information on all customers who have been assigned telephone numbers by any telecommunications licensee in the Cook Islands; but

(b) exclude directory information on all customers who have exercised their right to have an unlisted number.

15.6 The Licensee must not discriminate between its customers and customers of other licensees in the preparation, design, options, or charges for listings within directories.

15.7 The Licensee must meet all reasonable requests to make directory information available on terms which are fair, objective, cost-oriented and non-discriminatory, and in a format which is agreed between the Licensee and the person requesting the information (or, failing agreement, in a format determined by the Authority).

16. Competition safeguards

16.1 The Licensee must not include in any telecommunications service agreement with a customer a provision requiring a fixed commitment period of more than 24 months duration, except—

(a) to the extent expressly permitted by the Authority and subject to any conditions required by the Authority; or

(b) in the circumstances set out in paragraph 16.2.

16.2 Paragraph 16.1 does not apply where—

(a) the end user is not a personal, non-business, or small business customer; and

(b) the Licensee is obliged to invest in network equipment (other than customer equipment) dedicated to that customer in order to provide the service to that customer; and

(c) the fixed commitment period is no longer than is reasonably required to enable the Licensee to recover the investment referred to in subparagraph (b).

16.3 The Licensee must give customers the option of acquiring—

(a) mobile services unbundled from fixed network services; and

(b) fixed network services unbundled from mobile services; and

(c) mobile services unbundled from mobile handsets; and

(d) Internet service provider services unbundled from fixed or mobile broadband services; and

(e) Internet service provider services unbundled from content services offered by the Licensee; and

(f) satellite services unbundled from customer premises earth stations,

(g) on terms and conditions which are fair and reasonable when compared with those on which those services are offered in a bundle.

16.4 The Licensee must not impose on personal, non-business, or small business customers conditions or procedures for contract termination that prevent or deter such customers from changing service provider.

16.5 The Licensee must not renew the contract of a personal, non-business, or small business customer for a further fixed commitment period unless the customer concerned has expressly consented to renewal, at or near the end of any fixed commitment period.

17. Changes to standard service terms

17.1 The Licensee's standard service terms must, if they can be varied during the term of a contract with a customer, provide for—

(a) notice to the customer not less than 1 month in advance of any change to the contract that is likely to involve a material detriment to the customer; and

(b) the customer's right to terminate the contract without penalty at any time during the month following receipt of a notice under subparagraph (a); and

(c) notice to the customer, at the same time as notice under subparagraph (a), of the customer's right under subparagraph (b).

17.2 Clauses 17.1(b) and (c) do not apply to any increase in charges payable by a customer that does not exceed the amount of any increase in a Government tax or fee on the telecommunications service supplied to the customer.

18. Accuracy in billing

18.1 The Licensee must charge a customer only for the true extent of service actually provided to the customer.

18.2 The Licensee must retain such records as may be necessary to establish compliance with paragraph 18.1, for not less than 12 months from the date the records are created.

18.3 The Licensee must provide a customer, on request and free of charge, access to billing information that is adequate to enable the customer to—

(a) verify the accuracy of the charges incurred by the customer; and

(b) understand, monitor, and control the customer's usage of services and expenditure with the Licensee.

19. Vulnerable end-users

19.1 In this paragraph 19, "vulnerable end-users" means end-users of the Licensee's services whom the Licensee knows, or ought reasonably to know, are vulnerable by reason of their age, physical or learning disability, physical or mental illness, low literacy, communications difficulties, or changes in circumstances (such as bereavement).

19.2 The Licensee must establish, publish on its public website, and comply with policies and procedures for the fair and appropriate treatment of vulnerable end-users.

19.3 Policies and procedures under paragraph 19.2 must provide protection that is no less than that provided under the Consumer Protection Code made under the *Telecommunications Act 2019*.

19.4 The Licensee must, in relation to policies and procedures under paragraph 19.1—

(a) monitor and evaluate their impact and effectiveness; and

(b) report to the Authority on their impact and effectiveness at such times or intervals as the Authority may reasonably require.

20. Verification of customer identity

20.1 The Licensee must not activate a pre-paid service for a customer unless that customer's identity has been verified in accordance with a Customer Identification Checklist that is approved by the Authority.

20.2 The Licensee must submit for approval by the Authority a Customer Identification Checklist which—

(a) must specify the means by which the Licensee will verify the identity of persons seeking to acquire pre-paid services from the Licensee; and

(b) may specify exceptional circumstances in which a pre-paid service will be provided to a person who is unable to meet fully the requirements for verification of identity, such as in an emergency.

20.3 The Licensee must make specified changes to its Customer Identification Checklist if directed by the Authority to do so, and resubmit it for approval by the Authority.

20.3 The Licensee must publish on its public website its Customer Identification Checklist.

20.4 The Licensee must, in relation to its processes for administering the Customer Identification Checklist —

(a) monitor and evaluate their impact and effectiveness; and

(b) report to the Authority on their impact and effectiveness at such times or intervals as the Authority may reasonably require.

21. Interconnection

21.1 The Licensee must, if requested to do so by any other telecommunications licensee, negotiate in good faith with that person with a view to concluding, within a reasonable period, an agreement on terms and conditions for interconnection of the Licensee's network and the other telecommunications licensee's equipment or systems, or amendment of an existing agreement for interconnection, and for supply of any requested Mandated Access Services or Declared Access Services.

21.2 The Licensee must use any information acquired in confidence from another telecommunications licensee before, during, or after an interconnection negotiation solely for the purpose for which it was supplied and must respect at all times the confidentiality of that information.

21.3 The Licensee must not (except with the other licensee's consent) pass any information acquired in confidence from another telecommunications licensee before, during, or after an interconnection negotiation to—

(a) any department or personnel of the Licensee not involved in the interconnection negotiation; or

(b) any subsidiary, affiliate or partner company; or

(c) any other person.

21.4 The Licensee must not impose any unreasonable technical or other conditions or arrangements for interconnection of another telecommunications licensee's equipment or systems to the Licensee's network.

21.5 The Licensee must not exercise or enforce any intellectual property right which it owns or is licensed to use in a manner which prevents or inhibits unreasonably the interconnection of the Licensee's network and another telecommunications licensee's equipment or systems.

21.6 The Licensee must, on request by a person seeking interconnection with the Licensee's network, promptly provide that person with the terms and conditions (including technical and operational requirements) on which the Licensee will interconnect with, and supply services to, other telecommunications licensees.

21.7 The Licensee must not, as a condition of interconnection negotiations, require that the other party must not disclose to the Authority any information, or any documents, provided in the course of negotiations.

22. Consumer Protection Code

22.1 In the event of an inconsistency between a Consumer Protection Code made under the *Telecommunications Act 2019* and this Network Operator Licence, or a policy published in accordance with this Network Operator Licence, the Consumer Protection Code shall prevail to the extent of the inconsistency.

23. General obligations

23.1 The Licensee must comply with—

(a) the terms and conditions of this Network Operator Licence; and

(b) the *Telecommunications Act 2019*; and

(c) any direction, determination or order lawfully made by the Authority; and

(d) applicable laws of the Cook Islands.

23.2 The Licensee must not exercise any of right or power or perform any duty or obligation under this Licence in a manner which is inconsistent with any of the Cook Islands' international obligations.

24. Interpretation

24. Terms in this Network Operator Licence have the meanings given in the *Telecommunications Act 2019,* unless the context otherwise requires.

Schedule 3
Exemptions

1. Exempt network defined

"**Exempt network**" means any telecommunications network that is—

(a) used solely or principally for the purpose of providing a broadcasting service to the public; or

(b) used solely by, or on behalf of, a defence organization to carry communications necessary or desirable for defence purposes; or

(c) used solely by a law enforcement or emergency services organisation to carry communications necessary or desirable for law enforcement or emergency services purposes; or

(d) used solely by persons all of whom are physically present at a particular premise; or

(e) used solely by persons all of whom are physically present within a particular area if the same person or persons is or are the principal user of all the premises that together constitute that area; or

(f) declared in writing by the Authority to be exempt from this Act or specified provisions of this Act.

2. Exempt service defined

"**Exempt service**" means any telecommunications service or radiocommunications service that is—

(a) a service that is used solely or principally by, or on behalf of, a defence organization to carry communications necessary or desirable for defence purposes; or

(b) used solely by a law enforcement or emergency services organisation to carry communications necessary or desirable for law enforcement or emergency services purposes; or

(c) declared by the Authority in writing to be exempt from this Act or specified provisions of this Act.

3. Exempt apparatus defined

"**Exempt apparatus**" means—

(a) apparatus that functions only as radio broadcast receiver or television broadcast receiver; or

(b) a closed-circuit television system operated solely for information or security purposes within premises occupied by the person operating the system; or

(c) for use by the Police, the armed forces, or any other State agency or service in the performance of their official duties; or

(d) declared by the Authority in writing to be exempt from this Act or specified provisions of this Act.

Schedule 4
Mandated Access Services

1. **Domestic Internet Interconnection Service** means an access service, that is made available by a service provider (Access Provider) to another service provider (Access Seeker) either by a direct interface or through a hub or exchange, for the exchange and transport of Internet protocol (IP) packets from a port dedicated to the Access Seeker to a port dedicated to the Access Provider, provided that the IP packets must originate from a Cook Islands IP address within the Access Seeker's network and terminate at a Cook Islands IP address within the Access Provider's network.

2. **Domestic MMS Termination Service** means an access service that is made available by network operator licensee which operates a digital mobile network (Access Provider) to another network operator licensee which operates a digital mobile network (Access Seeker), for the carriage of a multimedia message (MMS) from a point of interconnection in the Cook Islands to an end user who has been assigned a mobile number from the Numbering Plan and who is directly connected to the digital mobile network of the Access Provider.

3. **Domestic Mobile Call Terminating Access** means an access service that is made available by a network operator licensee which operates a digital mobile network (Access Provider) to another network operator licensee (Access Seeker), for the carriage of voice calls from a point of interconnection in the Cook Islands to an end user who has been assigned a mobile number from the Numbering Plan and who is directly connected to the digital mobile network of the Access Provider.

4. **Domestic Mobile Video Call Termination Service** means an access service that is made available by a network operator licensee which operates a digital mobile network (Access Provider) to another network operator licensee which operates a digital mobile network (Access Seeker), for the carriage of real-time video calls from a point of interconnection in the Cook Islands to an end user who has been assigned a mobile number from the Numbering Plan and who is directly connected to the digital mobile network of the Access Provider.

5. **Domestic PSTN Terminating Access Service** means an access service that is made available by a network operator licensee which operates a fixed network (Access Provider) to another network operator licensee (Access Seeker), for the carriage of voice calls (i.e. voice and data over the voice band) from a point of interconnection in the Cook Islands to an end user who has been assigned a fixed number from the geographic number ranges of the Numbering Plan and who is directly connected to the network of the Access Provider.

6. **Domestic Roaming Service** means an access service that is made available by a network operator licensee which operates a digital mobile network (Access Provider) to another network operator licensee which operates a digital mobile network (Access Seeker), for the carriage of mobile traffic (whether voice or data or both) by means of the network of the Access Provider, between (but not including) the mobile device of the Access Seeker's customer whilst roaming on the Access Provider's digital mobile network and the point of interconnection (or equivalent facility) in the Cook Islands, and that enables a customer who subscribes to the Access Seeker's digital mobile service (or who subscribes to the mobile services of an operator in another country, to whom the Access Seeker provides international roaming in the Cook Islands) to use services within the area where the Access Provider has a digital mobile network but which is outside the coverage area of the Access Seeker's digital mobile network.

7. **Domestic SMS Termination Service** means an access service that is made available by a network operator licensee which operates a digital mobile network (Access Provider) to another network operator licensee which operates a digital mobile network (Access Seeker), for the carriage of short message services (SMS) from a point of interconnection in the Cook Islands to an end user who has been assigned a mobile number from the Numbering Plan and who is directly connected to the digital mobile network of the Access Provider.

8. **Interconnection Colocation Service** means an access service that is made available by a service provider (Access Provider) to another service provider (Access Seeker) who is acquiring a Regulated Access Service from that Access Provider, to provide floor space and ancillary facilities and services such as physical access, security, electricity, cable trays and interconnection cables in exchange buildings owned, leased or operated by an Access Provider to enable an Access Seeker to install, maintain and operate its own equipment for interconnection with the Access Provider's network or service, and includes the rights for the Access Seeker to—
   (a) inspect an Access Provider's building or facility to determine its suitability for use by the Access Seeker; and
   (b) undertake work within the Access Provider's building or facility to make it suitable for use by the Access Seeker, including to install its own security cage and racks.

9. **Underground Facilities Sharing Service** means an access service that is made available by a network operator licensee (Access Provider) to another network operator licensee (Access Seeker), to provide space and ancillary facilities and services such as physical access, security, electricity and sub-ducting in underground fixed line facilities owned or operated by the Access Provider to enable the Access Seeker to install, maintain and operate its own cabling and equipment forming part of its communications network, and the access service includes the rights for the Access Seeker to—
   (a) inspect an Access Provider's underground facility to determine its suitability for use by the Access Seeker; and

(b) undertake work to make the Access Provider's underground facility suitable for use by the Access Seeker, including to install sub-ducting.

10. **Radiocommunications Facility Sharing Service** means an access service that is made available by a service provider (Access Provider) to another service provider (Access Seeker), to enable the Access Seeker to install, maintain and operate its own radiocommunications equipment and associated facilities, which—

(a) provides an Access Seeker with:

(i) ground space at a site used or proposed to be used by the Access Provider for radiocommunications services; and

(ii) space on a radiocommunications tower, mast, pole or similar structure installed or proposed to be installed at that site by the Access Provider, and ancillary facilities and services such as physical access, security, electricity, cable trays, cable gantries and cable feeders; and

(b) includes a right for the Access Seeker to:

(i) inspect an Access Provider's radiocommunications site and facility to determine its suitability for use by the Access Seeker; and

(ii) undertake work to make the site or facilities on the site suitable for use by the Access Seeker, including to build its own equipment hut or to modify, strengthen or replace an existing tower, mast or pole.

Schedule 5

Continuing Instruments

Column 1 Item	Column 2 Instrument made under Telecommunications Act 1989 or Radio Regulations 1993	Column 3 Instrument made under Telecommunications Act 2019
1	Licence to operate GSM Network in the Cook Islands, issued to Telecom Cook Islands Limited on 1 July 2003	A network operator licence made under section 28
2	Fixed Satellite licence, issued to Telecom Cook Islands Limited on 26 August 2003	An apparatus licence made under section 71
3	Mobile satellite (Land-Mobile) INMARSAT A licence, issued to Telecom Cook Islands Limited on 26 August 2003	An apparatus licence made under section 71
4	Ultra High Frequency (UHF) Radio Transmission licence for Maritime Channel 16, issued to Telecom Cook Islands Limited on 26 August 2003	A spectrum licence made under section 71
5	Very High Frequency (VHF) Radio Transmission licence for Maritime Channels 1-72 (other than Ch 16), issued to Telecom Cook Islands Limited on 26 August 2003	A spectrum licence made under section 71
6	Ultra High Frequency (UHF) Radio Transmission licence for cellular mobile telephone, issued to Telecom Cook Islands Limited on 26 August 2003	A spectrum licence made under section 71
7	Very High Frequency (UHF) Radio Transmission licence for paging network, issued to Telecom Cook Islands Limited on 26 August 2003	A spectrum licence made under section 71

Column 1	Column 2	Column 3
Item	**Instrument made under Telecommunications Act 1989 or Radio Regulations 1993**	**Instrument made under Telecommunications Act 2019**
8	Very High Frequency (UHF) Radio Transmission licence for mobile radio, issued to Telecom Cook Islands Limited on 26 August 2003	A spectrum licence made under section 71
9	High Frequency (HF) Single Sideband Radio Transmission licence for radio telephone service to Outer Islands, issued to Telecom Cook Islands Limited on 26 August 2003	A spectrum licence made under section 71
10	High Frequency (HF) Single Sideband Radio Transmission licence for maritime services, issued to Telecom Cook Islands Limited on 26 August 2003	A spectrum licence made under section 71
11	Mobile Station licences, under Radio Regulations 1993, Schedule 1, Part A	A spectrum licence made under section 71
12	Land Station licences, under Radio Regulations 1993, Schedule 1, Part B	A spectrum licence made under section 71
13	Fixed Station licences, under Radio Regulations 1993, Schedule 1, Part C	A spectrum licence made under section 71
14	Citizen Station licences, under Radio Regulations 1993, Schedule 1, Part D	A spectrum licence made under section 71
15	Emergency Station licences, under Radio Regulations 1993, Schedule 1, Part E	A spectrum licence made under section 71
16	Experimental Station licences, under Radio Regulations 1993, Schedule 1, Part F	A spectrum licence made under section 71
17	Amateur Station licences, under Radio Regulations 1993, Schedule 1, Part G	A spectrum licence made under section 71

Column 1 Item	Column 2 Instrument made under Telecommunications Act 1989 or Radio Regulations 1993	Column 3 Instrument made under Telecommunications Act 2019
18	Certificates of competency (General Radiotelephone Operator), under Radio Regulations 1993, paragraph 24.	A certificate of competency issued under section 89
19	Certificates of competency (Restricted Radiotelephone Operator), under Radio Regulations 1993, paragraph 24.	A certificate of competency issued under section 89
20	Certificates of competency (Radiotelegraph Operators Special), under Radio Regulations 1993, paragraph 24.	A certificate of competency issued under section 89
21	Certificates of competency (General Amateur Operator), under Radio Regulations 1993, paragraph 24.	A certificate of competency issued under section 89
22	Certificates of competency (Limited Amateur Operator), under Radio Regulations 1993, paragraph 24.	A certificate of competency issued under section 89
23	Certificates of competency (Novice Amateur Operator), under Radio Regulations 1993, paragraph 24.	A certificate of competency issued under section 89
24	Certificates of competency (Radiocommunication Operator General Certificate for the Maritime Mobile Service), under Radio Regulations 1993, paragraph 24.	A certificate of competency issued under section 89
25	Licence to Establish and/or Operate a Maritime Radio Station	An apparatus licence made under section 71

This Act is administered by the Ministry of Finance and Economic Management.
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