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CHAPTER 469

TELECOMMUNICATIONS

23 of 1994
13 of 1994
8 of 1999

An Act to regulate the provision of telecommunication services to, from and within Zambia; and to provide for matters connected with or incidental to the foregoing.

[3rd June, 1994

PART I PRELIMINARY

1. This Act may be cited as the Telecommunications (Amendment) Act, 1999, and shall be read as one with the Telecommunications Act, in this Act referred to as the principal Act..

Short title

Cap.469

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

Interpretation

"Authority" means the Communications Authority established by section *three*;

"Board" means the Board of Regulators of the Authority established under this Act;

"Company" means Post and Telecommunications Limited, a company registered under the Companies Act;

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"Controller" means the Controller of Communications appointed under section *four*;

"Deputy Controller" means the Deputy Controller of Communications appointed under section *four*;

"licensee" means any person to whom a licence has been issued under this Act;

"message" means any communication sent, received or made by telecommunication or given to a telecommunication officer to be sent by telecommunication;

"operator's licence" means a licence under section *six*;

"supplier's licence" means a licence under section *seven*;

"telecommunication" means the transmission of-

- (a) speech, music or other sounds;
- (b) visual images;
- (c) electronic or other data;
- (d) signals capable of being interpreted as or converted to sounds, images or data; or
- (e) signals for the actuation or control of machinery or apparatus; by telephone, facsimile, telex, teleprinter or any other device or means (other than radiocommunication, as defined in the Radiocommunications Act, 1994, or telegraphy) whose principle utilises electrical, magnetic, electromagnetic or electrochemical energy or any combination of them;

"telecommunication apparatus" means apparatus or facilities constructed or adapted for use as part of, or for the purposes of, a telecommunication system;

"telecommunication officer" means an officer appointed under section *four*;

"telecommunication service" means a service, delivered by means of a telecommunication system owned or provided by the person providing the service, whereby customers using the service are able to transmit telecommunications or have telecommunications transmitted for them, and includes any service ancillary thereto, such as-

(a) the installation, maintenance, adjustment, repair, alteration, removal, relocation or replacement of telecommunication apparatus related to the relevant telecommunication system; and

(b) any directory information service;

but does not include a service prescribed by the Minister by regulation as being outside the scope of this definition;

"telecommunication system" means a network of telecommunication apparatus used or capable of being used to provide a

telecommunication service.

PART II

THE COMMUNICATIONS AUTHORITY

3. (1) There is hereby established the Communications Authority, Establishment of which shall be a body corporate with a common seal, capable of suing the Authority and and being sued and, subject to the provisions of this Act, capable of the Board performing all such acts as a body corporate may by law do or perform.

(2) The powers and functions of the Authority shall be exercised and performed by a Board of Regulators appointed by the Minister.

(3) The First Schedule applies in respect of the Authority and the Board.

4. (1) There shall be a Controller of Communications appointed by The Controller the Minister on the recommendation of the Board, who shall be a publicand other staff officer and the Chief Executive Officer of the Board, and shall be responsible for the implementation of resolutions of the Board.

(2) There shall be a Deputy Controller of Communications appointed by the Minister on the recommendation of the Board, who shall be a public officer whose functions shall be-

(a) to assist the Controller in the exercise and performance of his powers and functions;

(b) to exercise and perform the powers and functions of the Controller whenever the office of Controller is vacant or the Controller is absent or is for any other cause unable to act.

(3) The Controller shall, with the approval of the Board, appoint such other officers and staff as may be necessary for the exercise and performance of the functions of the Authority.

(4) The Second Schedule applies in respect of the Controller, the Deputy Controller and other telecommunication officers.

5. (1) The Authority shall supervise and promote the provision of telecommunication services throughout Zambia. Functions of the Authority

(2) Without limiting the generality of the forgoing, the Authority shall have the following functions:

(a) to take all reasonable steps to extend the provision, throughout all urban and rural areas of Zambia, of such telecommunication services as satisfy all reasonable demands for them including, in particular, emergency services, public call box services, directory information services and maritime services;

(b) to promote the interests of consumers, purchasers and other users of telecommunication services (including, in particular, those who are disabled or of pensionable age) in respect of the prices charged for, and the quality and variety of, such services and apparatus supplied for the purposes of such services;

(c) to promote and maintain competition among persons engaged in commercial activities for or in connection with the provision of telecommunication services, and promote efficiency and economy on the part of persons so engaged;

(d) to promote research into telecommunications and the development and use of new techniques in telecommunications;

(e) to encourage major investors in and users of telecommunication services carrying on business outside Zambia to invest in and use telecommunication services, and to carry on business, in Zambia;

(f) to promote the provision of international transit services (that is, services conveying sounds, visual images or signals that have been conveyed from, and are to be conveyed to, places outside Zambia) by persons providing telecommunication services in Zambia;

(g) to enable persons providing telecommunication services in Zambia to compete effectively in the provision of such services outside Zambia; and

(h) to enable persons producing telecommunication apparatus in

Zambia to compete effectively in the supply of such apparatus both inside and outside Zambia.

(3) The Authority shall have and may exercise and perform such other powers and functions as may be conferred or imposed on it by or under this or any other Act.

(4) In the exercise and performance of its powers and functions, the Authority shall be subject to the control and direction of the Minister.

(5) The Board may in writing delegate any of the powers and functions of the Authority to the Controller or any telecommunication officer.

PART III LICENCES

6. (1) Any person may apply to the Authority for a licence under this Service licence section.

(2) A licence under this section may authorise the licensee-

(a) to establish a telecommunication system of the kind or description specified in the licence and to provide a telecommunication service by means of that system; or

(b) to connect to a telecommunication system specified in the licence any telecommunication apparatus so specified, and to work that apparatus for the purposes of a telecommunication service provided by means of that system.

(3) The licence may in express terms grant to the licensee for a term of years the exclusive privilege of undertaking, subject to any limitations contained in the licence, the activities permitted to be carried on under the licence, and such terms shall have effect as though the Authority, being lawfully entitled so to do, had thereby granted such an exclusive privilege by agreement under seal.

(4) The licence shall be issued by the Authority on payment to the Authority by the applicant of such fees as may be prescribed by the Minister by regulation, if the Board is satisfied that the applicant meets the financial criteria and any other criteria so prescribed.

7. (1) Any person may apply to the Authority for a licence under this Supplier's licence section.

(2) A licence under this section authorises the licensee to supply telecommunication apparatus in accordance with the provisions of this Act and the conditions of the licence.

(3) The licence shall be issued by the Authority on payment to the Authority by the applicant of such fees as may be prescribed by the Minister by regulation.

8. (1) A licence is subject to such conditions as the Board thinks fit to specify in the licence when it is granted and to any variation thereof or addition thereto in accordance with subsection (3). Conditions of licences

(2) Without limiting the generality of subsection (1), the conditions of a licence may include conditions-

(a) requiring the payment to the Authority of a fee on grant of the licence and of annual or other periodic licence fees;

(b) making provision with respect to the fees and charges imposed for services provided under the licence;

(c) requiring the publication by the licensee of notices specifying the method of calculating or otherwise determining the charges and other terms and conditions applying to the service to be provided under the licence;

(d) requiring the licensee or any other person concerned in providing the service authorised by the licence to furnish to the Authority, in such manner and at such times as the Board may reasonably require, such documents, accounts, returns, estimates and other information as the Board may require for the purposes of

exercising or performing the powers and functions of the Authority under this Act;

(e) requiring the licensee not to show undue preference to, or exercise undue discrimination against, particular persons or persons of any class or description (including persons in rural areas) as regards any aspect of the service to be provided under the licence;

(f) requiring the licensee, as regards any service provided under the licence, to provide, at no additional charge, such additional or special facilities for customers who are blind or otherwise disabled as are reasonably appropriate to meet their needs;

(g) requiring the licensee to refer specified matters to the Authority for determination;

(h) requiring the licensee to comply with directions given by the Authority from time to time in relation to specified matters;

(i) providing for arbitration of disputes arising in connection with the terms and conditions of, or otherwise concerning, the licence; and

(j) requiring and regulating the payment of fines and penalties by the licensee for breaches of any or any specified terms and conditions of the licence.

(3) Where a licensee has on repeated occasions contravened the conditions of the licence, or has been the subject of such complaints by users of the service provided by the licensee as, in the opinion of the Board, warrant action under this section, the Authority, by notice in writing to the licensee, may vary the conditions of the licence or attach new conditions to the licence.

(4) Notwithstanding any other provision of this section, it shall be deemed to be a condition of every licence that the licensee shall abide by the provisions of this Act and any statutory instrument made under this Act.

9. A licence remains in force, subject to this Act, for the period specified in the licence and may, subject to this Act, be renewed on its expiry on payment to the Authority of such fees as the Minister may be

Duration of
licences

regulation prescribe.

10. A licence shall not be capable of being bought, sold, leased, mortgaged or charged or in any manner assigned, demised or encumbered. Licences not transferable

11. (1) A person who, not being the holder of an operator's licence authorising him to do so- Unauthorised activities

(a) establishes or provides or offers to provide a telecommunication service; or

(b) connects any telecommunication apparatus to a telecommunication system or works any such apparatus for the purposes of a telecommunication system;

shall be guilty of an offence.

(2) A person who, not being the holder of a supplier's licence, supplies or offers to supply any telecommunication apparatus, shall be guilty of an offence.

(3) Any person guilty of an offence under this section shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

(4) Nothing in this section applies to-

(a) a telecommunication service whose only electromagnetic medium is light and the communications conveyed by which are capable of perception with the naked eye; or

(b) a telecommunication service-

(i) provided, otherwise than for fee or reward from users of the service; and

(ii) used only for domestic or work purposes within a dwelling or workplace;

by means of a telecommunication system that is not connected to any other telecommunication system.

(5) A prosecution for an offence under this section shall not be instituted or continued except with the consent of the Director of Public Prosecutions.

(As amended by Act No. 13 of 1994)

12. (1) For the purposes of this section, a licensee is in default if the licensee- Revocation of licence or refusal of renewal

(a) has on repeated occasions contravened the conditions of the licence;

(b) has at any time contravened a condition of the licence that is expressed in the licence to be a condition whose contravention may result in revocation of the licence; or

(c) has been the subject of such complaints by the public as, in the opinion of the Board, to warrant action under this section.

(2) Where a licensee is in default, the Authority may-

(a) by notice in writing to the licensee, revoke the licence; or

(b) refuse to renew the licence on its expiry.

(3) The Authority shall refuse to renew a licence if the Minister, being of the opinion that the service provided under the licence is no longer necessary in the public interest, so directs.

(4) A licence shall not be revoked, nor shall its renewal be refused, without giving the licensee a reasonable opportunity to be heard.

13. (1) Any person aggrieved by the revocation of his licence, or by the Authority's refusal to renew his licence, may appeal to the High Court within the time and in the manner prescribed by the regulations. Appeal

(2) Due lodgment of an appeal stays any revocation against which the appeal is brought, pending the outcome of the appeal, and in the case of a refusal of renewal, the licence if expired shall be deemed to have been renewed on the same terms and conditions pending that outcome.

PART IV TELECOMMUNICATIONS AND TELECOMMUNICATION SERVICES

14. (1) Any person who-

Unauthorised
erection,
maintenance or
use of
telecommunication
system

(a) causes or permits the unlawful erection, maintenance, use or reconnection of any telecommunication system; or

(b) fails to comply with any notice from the Authority to dismantle or remove any such system and associated apparatus;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

(2) The court before whom any person is convicted of an offence under this section may order that the whole or part of the apparatus used for the system be forfeited to the Republic, whereupon it may be destroyed or otherwise disposed of in accordance with any directions of the court.

(As amended by Act No. 13 of 1994)

15. (1) Any person who without lawful authority-

Wilful damage to
or interference
with
telecommunications

(a) destroys, damages or removes any telecommunication apparatus;

(b) disturbs, obstructs or impedes in any way the free and proper use or working of any such apparatus or of any telecommunication system;

(c) wilfully intercepts or taps into any telecommunication not intended to be heard or received by him;

(d) affixes or attaches any line, cable, wire, conductor or other thing to any such apparatus or system; or

(e) wilfully interferes with or hinders the construction, alteration, restoration, maintenance or examination of any such system;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding six years, or to both:

Provided that a person shall not be guilty of an offence by virtue of a contravention of paragraph (c) to the extent that the person's activities are authorised by or under any Act.

(2) Any person who witnesses any other person contravening or attempting to contravene this section may, without warrant, arrest that person.

(3) A person who arrests another person under subsection (2) shall forthwith notify that other person of the cause of the arrest.

(4) Any person arrested under subsection (2) shall as soon as possible be brought to a police station and shall there be detained until further dealt with according to law:

Provided that a person so arrested shall not be detained for a period longer than twenty-four hours unless a warrant for his further detention is obtained.

(5) Nothing in subsection (4) limits or affects the operation of any law providing for the release on bail of a person under detention.

(As amended by Act No. 13 of 1994)

16. Any person who, knowing or having reason to believe that a telecommunication service is being provided in contravention of this Act- Unlawful transmission of messages

(a) transmits or receives any message by means of that service;

(b) delivers any message for transmission by that service; or

(c) performs any service incidental thereto;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

(As amended by Act No. 13 of 1994)

17. (1) Any person operating or employed in connection with a telecommunication service who- Unauthorised disclosure of messages

(a) unlawfully discloses the contents or existence of any telecommunication message; or

(b) makes use for his own purposes of any knowledge he may acquire, in the course of his duties, of the contents of a telecommunication message;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

(2) For the purposes of subsection (1), disclosure is lawful only if it is compellable under any law or given for purposes of the administration of justice.

(As amended by Act No. 13 of 1994)

PART V MISCELLANEOUS

18. (1) A telecommunications officer authorised in writing by the Authority, or a police officer, may require a person who he has reasonable cause to suspect is a person required under this Act to be the holder of a licence to produce his licence. Powers of inspection

(2) If authorised by warrant issued under the hand of a magistrate, a telecommunication officer or a police officer may at all reasonable times enter premises-

(a) on which any authorised operator or authorised supplier carries on business; or

(b) which are owned or occupied by a person who he has reasonable cause to suspect is using the premises for the carrying on of a business or activity for which a licence is required under this Act; and shall have power to make such examination, inspection and inquiry and do such things as may appear to him necessary for ascertaining whether or not the provisions of this Act or the regulations under this Act are being complied with:

Provided that nothing in this subsection shall require a warrant to be obtained for entry to premises or any part of premises which, in the ordinary course of business, are open to the public.

(3) All books, records and documents required to be kept by a licensee shall be open to inspection at all reasonable times by a telecommunication officer or by a police officer.

(4) A telecommunication officer or police officer may seize-

(a) any telecommunication apparatus which he has reasonable cause to suspect is being used by or is in the possession or under the control of a person in contravention of this Act; and

(b) any book, record or document which he has reasonable cause to suspect will afford evidence of the commission of an offence under this Act.

(5) A telecommunication officer may order a person to cease using,

pending inquiry by the Authority, any telecommunication apparatus which, in his opinion, is being operated otherwise than in accordance with this Act, the regulations or the terms and conditions of a licence.

(6) Any person who obstructs or hinders a telecommunication officer or police officer in the exercise of his powers under this section, or who neglects or fails to comply with an order under subsection (5), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

(As amended by Act No. 13 of 1994)

19. (1) The Minister shall establish a Telecommunications Users Advisory Committee, whose principal function shall be to consider complaints and comments from users of telecommunication services. Users Advisory Committee

(2) The Committee shall be responsible to the Minister and shall have such other functions and responsibilities as the Minister may by statutory instrument prescribe.

20. (1) A licensee and any person applying for a licence shall furnish the Authority with such documents, accounts, estimates or other information as the Board may reasonably require for the purposes of exercising the powers and functions of the Authority under this Act or as may be prescribed by regulation. Information to be supplied by licensees or applicants

(2) A licensee or applicant who neglects or fails to comply with a requirement of the Authority under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

(As amended by Act No. 13 of 1994)

21. A person who- Miscellaneous offences

(a) fails or refuses to furnish a return or to supply information in the manner and in the time prescribed or furnishes a false or misleading return or supplies false or misleading information;

(b) on being required to do so, fails or refuses to produce to a

telecommunications officer or a police officer a licence or certificate issued under this Act or a book, record or document relating to any telecommunication equipment which is in his possession or under his control;

(c) fails or refuses, without reasonable cause, to give information to a telecommunications officer or a police officer when required to do so under this Act or gives false or misleading information;

(d) for the purpose of obtaining, whether for himself or any other person, the issue of a licence, makes a declaration or statement which he knows to be false in any material particular or does not believe to be true or knowingly makes use of a declaration, statement or document containing the same;

(e) wilfully interferes with, hinders or impedes in any way the carrying on of a telecommunication service;

(f) affixes or attaches a wire, conductor or other thing to any telecommunication apparatus;

(g) interferes with, hinders or impedes in any way the establishment, erection, alteration, maintenance or inspection of any telecommunication apparatus;

(h) knowingly transmits or causes to be transmitted a message of a blasphemous, indecent, obscene or offensive nature;

(i) without lawful excuse, by any means interferes with or obstructs the carrying on of a telecommunication service; or

(j) reproduces or divulges the contents or substance of a message not intended to be received by him, whether received voluntarily or involuntarily, to another person or uses it for any purpose whatsoever,

shall be guilty of an offence and shall be liable to a penalty not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(As amended by Act No. 13 of 1994)

22. (1) The Minister, on the recommendation of the Authority, may Regulations make regulations prescribing all matters that by this Act are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of subsection (1), the regulations may-

(a) prescribe procedures for licensing under this Act;

(b) prescribe the fees payable for the issue of licences and for any service provided by the Authority, the Board or any telecommunication officer under this Act;

(c) regulate and adjust the respective rights of licensees, consumers and persons having any interest in land in relation to the exercise by a licensee of its functions, the operation of its telecommunication system and matters incidental thereto; and

(d) effect such savings and make such transitional provisions as may seem appropriate in consequence of the enactment of this Act and the amendment by this Act of the Posts and Telecommunications Act, 1987. Act No. 18 of 1987

(3) The regulations may create offences punishable by fines not exceeding five thousand penalty units for any contravention of the regulations.

(As amended by Act No. 13 of 1994)

23. (1) Part IV (sections *thirty-seven* to *fifty-three* of the Posts and Telecommunications Act, 1987, and section *sixty-eight*, paragraph (c) of section *sixty-nine* and section *seventy* to *seventy-four* of that Act, are hereby repealed. Amendment of Act No. 18 of 1987 and savings

(2) The Third Schedule has effect in respect of the Company and otherwise in respect of the amendment of the Posts and Telecommunications Act, 1987 by this section.

24. On a date fixed by the Minister by statutory instrument, being a date not earlier than the commencement of this Act or the commencement of the Postal Services Act, 1994, the un-repealed portion of the Telecommunications Act, 1987, shall be repealed. Repeal of remainder of Act No. 18 of 1987

FIRST SCHEDULE

(Section 3)

THE AUTHORITY AND THE BOARD

1. (1) The Board shall consist of nine members appointed by the Minister, being-
 - (a) one person nominated by the Ministry responsible for communications;
 - (b) one person nominated by the Ministry responsible for defence;
 - (c) one person nominated by the Ministry responsible for home affairs;
 - (d) one person nominated by the National Farmers Union;
 - (e) one person nominated by the Zambia Consumers Protective Association;
 - (f) one person nominated by the Law Association of Zambia;
 - (g) one person nominated by the Engineering Institution of Zambia;
 - (h) one person nominated by a trade union representing staff employed by the Company; and
 - (i) one person having, in the opinion of the Minister, relevant qualifications or experience.
- (2) One of the members shall, in and by the terms of his appointment be appointed as the Chairman of the Board:
- (3) One of the members (other than the Chairman) shall be appointed by the members of the Board as the Vice-Chairman of the Board.
- (4) Notwithstanding sub-paragraph (1), the appointment of a member shall be subject to ratification by the National Assembly.
- (5) A person shall not be appointed as a member of the Board if he-
 - (a) is an undischarged bankrupt;
 - (b) has been convicted of an offence under this Act;
 - (c) has been convicted of an offence involving fraud or dishonesty;
 - (d) has been convicted of an offence against any other written law and sentenced to a term of imprisonment of not less than six months without the option of a fine; or
 - (e) is the holder of a licence or has any interest in a licence or in the holder of a licence.

(As amended by Act No.8 of 1999)
2. (1) A member of the Board shall subject to the provisions of this Schedule, hold office for a term of not more than three years. Term of
office and
vacancy
- (2) A member of the Board shall be eligible for re-appointment upon the expiry of his term of office.
- (3) Upon the expiration of the term for which a member is appointed he shall continue to hold office until his successor has been appointed, but in no case shall any such extension of the term exceed three months.
- (4) The office of a member shall be vacated-
 - (a) upon his death;
 - (b) if he is adjudged bankrupt;
 - (c) if he is absent from three consecutive meetings of the Board without the prior

approval of the Board;

(d) upon the expiry of one month's notice of his intention to resign his office given by him in writing to the Minister;

(e) upon the expiry of one month's notice of his removal given to him in writing by the Minister;

(f) if he becomes mentally or physically incapable of performing his duties as a member;

(g) if he is convicted of an offence under this Act;

(h) if he is convicted of an offence under any other written law and sentenced therefor to imprisonment for a term of six months or more without the option of a fine; or

(i) if he becomes the holder of a licence or acquires any interest in a licence or in the holder of the licence.

(5) The Board may act notwithstanding any vacancy of office among its members.

3. (1) Subject to the other provisions of this Act, the Board may regulate its own procedure.

Business
of the
Board

(2) The Board shall meet as often as necessary or expedient for the conduct of its business and such meetings shall be held at such places, times and days as the Board may determine.

(3) The Chairman may at any time call a meeting of the Board and shall call a special meeting to be held within seven days of receipt of a written request for that purpose addressed to him by at least three members of the Board.

(4) There shall preside at any meeting of the Board-

(a) the Chairman;

(b) in the absence of the Chairman, the Vice-Chairman; and

(c) in the absence of both the Chairman and Vice-Chairman, such member as the members present may elect for the purpose of the meeting.

(5) The decision of the Board shall be by a majority of votes and in addition to an original vote, the Chairman or other person presiding at the meeting shall have a casting vote in any case in which the voting is equal.

(6) Five members of the Board shall form a quorum.

(7) Minutes of each meeting of the Board shall be kept and shall be confirmed as soon as practicable thereafter at a subsequent meeting.

4. (1) The Board may for the purpose of performing the functions of the Authority establish committees and delegate to any such committee such of its functions as it considers necessary.

Committees

(2) The Board may appoint as members of a committee persons who are or are not members of the Board and such person shall hold office for such period as the Board may determine.

(3) Subject to any specific or general direction of the Board, a Committee may regulate its own procedure.

(4) Each committee shall keep minutes of its meetings and shall keep the Board informed of its activities and shall conduct its proceedings in such manner as the Board may direct.

(5) Meetings of a committee shall be held at such times and places as the committee may determine or as the Board shall direct.

5. A member of the Board or any committee thereof shall be paid such travelling and subsistence allowances, if any, as the Board with the approval of the Minister may determine. Allowances

6. If any person is present at a meeting of the Board or any committee of the Board at which any matter is the subject of consideration and in which matter that person is directly or indirectly interested, he shall as soon as is practicable after the commencement of the meeting, disclose the interest and shall not, unless the Board or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching that matter. Disclosure of interest

7. The financial year of the Authority shall be the period of twelve months ending on 31st March in each year. Financial year

8. (1) The Board shall cause proper accounts to be kept of the assets and liabilities of the Authority and of the income and expenditure of the authority for each financial year. Accounts and audit

(2) The accounts of the Authority for each financial year shall be audited by one or more persons who publicly carry on the profession of accountants in Zambia, and who shall be appointed auditors to the Authority by the Board with the approval of the Minister.

9. For the purposes of this Act, the Authority shall be funded by- Authority's funds

(a) such sums as may be appropriated from time to time by Parliament for the purposes of the Authority;

(b) such sums as may be paid to the Authority by way of licence grants or donations; and

(c) such sums of money or such other assets as may accrue to or vest in the Authority from time to time.

10. The Board shall, not later than 30th September in any year, submit to the Minister a report of the activities of the Authority and the Minister shall, not later than fourteen days after the first sitting of the National Assembly next after the receipt of the report, lay it before the National Assembly. Annual report

11. (1) The seal of the Authority shall be such device as may be determined by the Board. Seal of Authority

(2) The Board may use a wafer or rubber stamp in lieu of the seal.

(3) The affixing of the seal shall be authenticated by the Chairman or the Vice-Chairman of the Board together with two other persons authorised in that behalf by a resolution of the Board.

(4) Any contract or instrument which is entered into or executed by a natural person would not require to be under seal may be entered into or executed without seal on behalf of the

Authority by the Controller or by any other person generally or specifically authorised by the Board in that behalf.

(5) Any document purporting to be a document executed under the seal of the Authority or issued on behalf of the Authority shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof unless the contrary is proved.

SECOND SCHEDULE

(Section 4)

TELECOMMUNICATION OFFICERS

1. (1) The controller and Deputy Controller shall, subject to this paragraph, each hold office for such period, not exceeding four years, as may be specified in the terms of their respective appointments and shall each be eligible for re-appointment:

Terms of appointment of Controller and Deputy Controller

Provided that no person shall hold office as Controller or Deputy Controller for more than two consecutive terms.

(2) The Controller or Deputy Controller may resign from office on giving at least three months' notice thereof in writing to the Minister.

(3) The Controller or Deputy Controller may be removed from office by the Minister on three months' notice thereof in writing given by the Minister or on payment of three months' salary in lieu of such notice.

(4) The Minister may remove the Controller or Deputy Controller from office at any time-

(a) for misconduct or incompetence; or

(b) for such a conflict of interest as, in the opinion of the Minister, warrants his removal from office.

2. (1) The terms and conditions of employment of telecommunication officers shall be such terms as may be specified by the Board, with the approval of the Minister, in their respective contracts of employment.

Terms of appointment of other telecommunication officers

(2) Without limiting the generality of subparagraph (1), the terms and conditions of employment of a telecommunication Officer may make provision for or with respect to the maintenance of schemes (whether contributory or not) for the payment to such officers and their dependants of such retirement benefits, gratuities or other allowances as it may determine.

THIRD SCHEDULE

(Section 23)

SAVINGS AND TRANSITIONAL PROVISIONS

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| <p>1. In this Schedule-</p> <p>"the Act of 1987" means the Posts and Telecommunications Act, 1987;</p> <p>"the repealed provisions" means the provisions of the Act of the 1987 repealed by this Act.</p> | <p>Interpretation Act No. 18 of 1987</p> |
| <p>2. On the commencement of this Act, the company shall be deemed to be the holder of an operator's licence which shall, subject to this Act, remain in force for such period as the Minister may by statutory instrument prescribe.</p> | <p>Company deemed to hold licence</p> |
| <p>3. Every telecommunication line or cable that, immediately before the commencement of this Act, was placed under, over, along, across, in or upon any land for the purposes of a telecommunication system then established shall, to the extent that its placement complied with the Act of 1987, be deemed to be placed in compliance with this Act.</p> | <p>Existing lines and cables</p> |
| <p>4. (1) The Minister may from time to time, by statutory instrument-</p> <p>(a) identify any part of the undertaking of the Company (not being any part of its postal service undertaking or its telecommunication undertaking);</p> <p>(b) identify any liabilities or obligations of the Company that, in the opinion of the Minister, subsist in relation to that part of its undertaking; and</p> <p>(c) declare that, on and from a date specified in the instrument, all property and rights of the company in connection with that part of its undertaking, and all liabilities and obligations subsisting in relation thereto, shall be transferred to, and shall vest in or subsist against, a company formed in accordance with subparagraph (2);</p> <p>and thereupon, by virtue of the statutory instrument and without further assurance, all such property, rights, liabilities and obligations shall be transferred accordingly.</p> <p>(2) The Minister responsible for Finance may form one or more companies having share capital (in this Schedule called "transferee companies") under the Companies Act, or any Act amending or replacing that Act, whose first members shall be the Minister responsible for Finance and the Republic and whose shares shall be held originally in the name of the Republic, for the purpose of holding a part of the undertaking of the Company transferred by statutory instrument under this paragraph and, if the Minister responsible for finance thinks fit, for the purpose of carrying on that part of the Company's undertaking thereby transferred.</p> <p>(3) Every deed, bond or agreement (other than an agreement for personal services) to which the Company was a party immediately before a statutory instrument takes effect under subparagraph (1), whether in writing or not, and whether or not of such a nature that rights, liabilities and obligations thereunder could be assigned, shall, if it related to any undertaking, property or right affected by the instrument, have effect as from the date of the assignment thereof, as if-</p> <p>(a) the transferee company had been a party thereto;</p> <p>(b) for any reference to the Company there were substituted, as respects anything falling to be done after the statutory instrument takes effect, a reference to the transferee</p> | <p>Vesting of assets and transfer of liabilities Cap. 388</p> |

company; and

(c) for any reference to any other officer or employee of the Company not being a party thereto and beneficially interested therein there were substituted, as respects anything falling to be done after the statutory instrument takes effect, a reference to such officer of the transferee company as that Minister shall designate.

5. (1) Where-

(a) under this Schedule any part of the undertaking of the Company, and any associated property, rights, liabilities or obligations of the Company are transferred; and

(b) in respect of the transfer, any written law provides for registration;

the Company shall make application in writing to the appropriate registration authority for the registration of the transfer.

(2) The relevant registration authority shall make such amendments to the appropriate register, cancel such documents and do and attend to such other matters and things as seem to him necessary to give effect to or record the transfer and, where appropriate, shall-

(a) issue to the transferee company a certificate of title in respect of any property or rights affected by the transfer; and

(b) on presentation thereof, make such endorsements as seem to him proper to be made on any deeds, documents or records relating to the title, right, liability or obligation concerned.

(3) In default of compliance by the Company with subparagraph (1), or in default of such compliance within a reasonable time, the powers conferred by subparagraph (2) on a registration authority may be exercised by that registration authority of his own motion.

(4) No registration fee, stamp duty or other duties shall be payable in respect of any transfer effected pursuant to this Schedule or any thing done, made or issued in pursuance of this paragraph.

6. (1) The Minister responsible for finance may approve of arrangements under which all or some of the persons who, before a statutory instrument under paragraph *four* took effect, were in the service of the Company in connection with a part of its undertaking that was transferred by the instrument to a transferee company are transferred to the service of the transferee company.

(2) Where a person is transferred in accordance with arrangements made under this paragraph to the service of a transferee company, his terms and conditions of service with that company shall be no less favourable than those he enjoyed while in the service of the Company, and for the purpose of determining his rights to or eligibility for any pension, gratuity, leave or other benefits, his previous service with the Company shall be treated as service with the transferee company.

7. Without prejudice to the other provisions of this Schedule, where any right, liability or obligation vests in or subsists against a transferee company by virtue of this Schedule, that company and all other persons affected thereby shall, as from the date of transfer, have the

Registration
of property
to be
transferred
by Company

Terms of
service of
employee
s of
Company
upon
transfer

Legal
proceedin
gs

same rights, powers and remedies (and in particular the same rights as to the institution or defence of any legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing that right, liability or obligation of the transferee company.

SUBSIDIARY LEGISLATION

SECTION 22-THE TELECOMMUNICATIONS (RESALE OF SERVICE) REGULATIONS Regulations by the Minister

*Statutory Instrument
129 of 1994*

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|--|----------------|
| 1. These Regulations may be cited as the Telecommunications (Resale of Service) Regulations. | Title |
| 2. In these Regulations, unless the context otherwise requires-

"customer" means the proprietor of an institution referred to under Regulation <i>three</i> . | Interpretation |
| 3. These Regulations shall apply to hotels, lodges, guest houses, hostels or any public house where there is no provision of a public payphone, but shall not apply to a person licensed to provide a public payphone of any kind. | Application |
| 4. A customer may charge a fee for the use of a telephone service calculated according to the formular described in the Schedule. | Fee |
| 5. A customer who charges a fee above the value chargeable in the Schedule shall be committing an offence under section <i>twenty-one</i> of the Act. | Offence |

SCHEDULE

(Regulations 4 and 5)

The chargeable value shall be calculated in accordance with the following formula:

$$\text{Charge} = \text{Rate} + (\text{Rate} \times 0.25)$$

Where rate is the operator rate obtaining at the time for the call to that destination.