

No. 26 of 2002.

Telecommunications Industry Act 2002.

Certified on: 10/5/2002.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. 26 of 2002.

Telecommunications Industry Act 2002.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Telecommunications Industry Act 2002,

Being an Act to modify the existing regulatory regime for the telecommunications industry by amending the *Telecommunications Act 1996* and other related legislation, and for related purposes.

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

PART 1. – PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

(1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (qualified rights) of the *Constitution*, namely –

- (a) the right to liberty of the person conferred by Section 42 of the *Constitution*; and
- (b) the right to freedom from arbitrary search of person or property and entry of premises, conferred by Section 44 of the *Constitution*; and
- (c) the right to freedom of expression and publication conferred by Section 46 of the *Constitution*; and
- (d) the right to peacefully assemble and associate and to form or belong to, or not belong to, political parties, industrial organization and other associations conferred by Section 47 of the *Constitution*; and
- (e) the right to freedom of choice of employment in any calling for which a person has the qualifications (if any) lawfully required conferred by Section 48 of the *Constitution*; and

- (f) the right to reasonable privacy in respect of his private and family life, his communications with other persons and his personal papers and effects conferred by Section 49 of the *Constitution*; and
- (g) the right of reasonable access of official documents conferred by Section 51 of the *Constitution*,

is a law that is made (pursuant to Section 38 of the *Constitution* –

- (h) taking account of the National Goals and Directive Principles (including, in particular, the goal that Papua New Guinea should, among other things, be economically independent and its economy basically self reliant and to achieve development primarily through the use of Papua New Guinea forms of economic organization) and the Basic Social Obligations (including, in particular, the obligation to protect Papua New Guinea and to safeguard the national wealth, resources and environment in the interests not only of the present generation but also of future generations), for the purpose of giving effect to the public interest in public safety, public order, public welfare, and the development of underprivileged or less advanced groups or areas; and
- (i) in order to protect the exercise of the rights and freedom of others; and
- (j) to make provision for cases where the exercise of one such right may conflict with the exercise of another.

(2) This Act, to the extent that it creates or otherwise gives rise to rights, privileges, obligations and duties that are not the same as between citizens, is intended to be a law for the special benefit, welfare, protection and advancement of members of underprivileged and less advanced groups and residents of less advanced areas for the purposes of Section 55 of the *Constitution*.

(3) For the purposes of Section 41 of the *Organic Law on Provincial Governments and Local-level Governments*, it is declared that this Act relates to a matter of national interest and it is further declared that this Act deals with a matter of urgent national importance and it is in the national interest that this Act be made without delay.

(4) Insofar as this Act involves a compulsory taking of possession of property or a compulsory acquisition of an interest in or right over property with the meaning of Section 53 of the *Constitution* –

- (a) the purposes and reasons for each such taking and acquisition are declared and described to be –
 - (i) to facilitate and maintain the efficient and economical provision of telecommunications services; and
 - (ii) to maintain the peace and good order in Papua New Guinea,
and each of those purposes and reasons is hereby also declared and described as –
 - (iii) a public purpose; and

- (iv) a reason that is reasonably justified in a democratic society that has a proper regard for the rights and dignity of mankind,

for the purposes of Section 53 of the *Constitution*, just compensation will be made on just terms for the compulsory taking of possession of property or the compulsory acquisition of an interest in or right of property in accordance with the terms set out in Section 31 below and such terms will constitute compensation procured (and accordingly made) by, and made on a behalf of, the State in connection with each such taking and acquisition.

PART 2. – AMENDMENT OF THE *TELECOMMUNICATIONS ACT 1996*.

**2. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS
(AMENDMENT OF SECTION 1).**

Section 1 of the *Telecommunications Act 1996* is repealed and is replaced with the following: –

PART 3. – LAND ACT 1996 AMENDED.

The amendments effected by this Part have been incorporated into the Telecommunications Act 1996.

PART 4. – RADIO SPECTRUM ACT 1996 AMENDED.

The amendments effected by this Part have been incorporated into the Telecommunications Act 1996.

- 6. The amendments effected by this Part have been incorporated into the Telecommunications Act 1996.

PART 5. – TELECOMMUNICATIONS ACT 1996 AMENDED.

The amendments effected by this Part have been incorporated into the Telecommunications Act 1996.

- 100. *The amendments effected by this Part have been incorporated into the Telecommunications Act 1996.*

PART 6. – LEGISLATION REPEALED.

The amendments effected by this Part have been incorporated into the Telekom PNG Limited Act 1996.

SCHEDULE 1

The amendments effected by Section 101 and this Schedule have been incorporated into the Telikom PNG Limited Act 1996.

Office of Legislative Counsel, PNG