



BELIZE

**BELIZE TELECOMMUNICATIONS ACT
CHAPTER 229**

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CHAPTER 229

BELIZE TELECOMMUNICATIONS

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[13th August, 2002]

PART I

Preliminary

Short title.

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

Interpretation.

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

“authorized officer” means a qualified person designated by the PUC for the purposes of this Act;

“broadcasting” means any form of unidirectional telecommunications, whether encrypted or not, for reception by the general public or a part of it, and includes,

- (a) any program capable of being received, or received and displayed, as visual images, whether moving or still;
- (b) any sound program for reception;
- (c) any program being a combination of both visual image (whether moving or still) and sound for reception or reception and display;

and “broadcast” shall be construed accordingly;

“charging principles” means the principles that may be prescribed for use in determining the prices to be charged from or by a licensee under an interconnection agreement;

“dominant operator” has the meaning assigned to it by section 42(3) of this Act;

“facility” means,

- (a) any part of the infrastructure of a telecommunication network; or
- (b) any line, cable, radio, equipment, antenna, tower, mast, tunnel, pit, pole or other structure or thing used, or intended for use in connection with a telecommunication network;

“frequency spectrum” means the continuous range of electromagnetic wave frequencies used for telecommunications;

“intercept” means intercept by listening to or recording, by any means, a message passing over a telecommunication network without the knowledge of the person originating, sending or transmitting the message;

“interconnection” means the linking up of two or more telecommunication networks so that users of either network may communicate with users of, or utilise services provided by means of, the other network or any other telecommunication network;

“interconnection agreement” means an agreement made in accordance with section 22 of this Act, between two or more licensees which sets out the terms and conditions,

- (a) for interconnection between the facilities in the telecommunication networks of two or more licensees; or
- (b) upon which a licensee obtains interconnection to telecommunication services supplied by another licensee;

“licence” means a licence issued or held pursuant to this Act;

“licensee” means the holder of a licence;

“member” means a member of the PUC and includes the Chairperson;

“message” includes any communication whether in the form of speech, or other sound, data, text, visual image, signal or code, or in any other form or combination of forms;

“Minister” means the Minister to whom responsibility for the subject of telecommunications is assigned;

“network licensee” means a person who holds a licence to operate a telecommunication network;

“numbering plan” means a written instrument that specifies the numbers that are for use in connection with the supply of telecommunications services in Belize;

“number portability” means a feature that will permit customers to retain their telephone address and the address of any other telecommunication devices, regardless of which service provider they subscribe to or where they might relocate within fixed line exchanges;

“officer” means a person appointed as such by the PUC pursuant to this Act;

“private operator” means a person who is the holder of a licence to operate telecommunication services, without interconnecting with a public telecommunications service provider, for the purposes of satisfying his own internal telecommunications needs;

“public operator” means a licensee who operates a public telecommunication network, including a public mobile telecommunication network;

“public telecommunication network” means a network over or through which a telecommunication service is offered to the public;

“public mobile telecommunication network” means a public telecommunication network,

- (a) in which the service can be used by a person while moving continuously between places; and

- (b) in which the customer equipment used for the service is not in physical contact with any part of the telecommunication network through which the service is supplied;

“PUC” means the Public Utilities Commission established by the Public Utilities Commission Act, Cap. 223;

“radio apparatus” means any apparatus or installation intended for the purpose of effecting radio communication, whether by transmission or reception, or both, but excludes any ordinary broadcast television and radio receiver;

“radio communication” means any transmission, emission, or reception of signs, signals, writings, sounds or intelligence of any nature, of a frequency less than 3000 gigahertz, propagated in space without artificial guide;

“rate” has the meaning given to it in section 2 of the Public Utilities Commission Act, Cap. 223;

“resale” means an activity whereby a person obtains a service at a discount or wholesale price and then resells that service to his own customers at a profit;

“tariff” means a document indicating the rate of any fee or charge which a public operator intends to claim for a telecommunication service which it supplies;

“telecommunication” means the transmission, emission or reception of signs, signals, writings, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems;

“telecommunication installation” or “installation” means a line or any equipment, apparatus, structure, tower, antenna, tunnel, manhole, pit or hole used, or intended to be used, in connection with a telecommunication service;

“telecommunication message” means,

- (a) a material record of a communication or information sent or delivered to a licensee for transmission or transmitted through telecommunication installations established by the licensee to provide telecommunication services; or
- (b) a material record issued by a licensee as a record of a communication or information transmitted over such telecommunication installations;

“telecommunication network” means a system, or a series of systems, operating within such boundaries as may be prescribed, for the transmission or reception of messages by means of guided or unguided electromagnetic energy or both, to supply telecommunication services between places within Belize or between places within Belize and places outside Belize;

“telecommunication service”,

- (a) means a service for carrying a message by means of guided or unguided electromagnetic energy or both or a value-added service using similar means;
- (b) subject to paragraph (c), includes radio communication;
- (c) does not include broadcasting;

“universal service” means a telecommunication service determined by the PUC as being a service to be provided by the licensee to an area, to areas, or sector not served or adequately served by the telecommunication service;

“universal service obligation” means any contribution payable by a licensee in respect of a universal service;

“value-added services” means,

- (a) the manipulation of the format, content, code, protocol, or other aspect of information transmitted via telecommunications by a subscriber;
- (b) the provision of information to a subscriber, including the restructuring of information transmitted by a subscriber; or
- (c) the offering of stored information for interaction by a subscriber.

3. The primary object of this Act when read together with the Public Utilities Act, Cap. 223, is to provide for the regulation and control of telecommunications matters in the public interest, and for that purpose to,

Objects of the Act.

- (a) promote reliable and affordable telecommunication services of high quality accessible to Belizeans in both urban and rural areas in all regions of Belize;
- (b) foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective;
- (c) promote the provision of telecommunication services that meet all the economic and social requirements of users, including disabled persons;
- (d) encourage investment and innovation in the telecommunications sector;
- (e) ensure and promote fair pricing and the use of cost-based pricing methods by providers in Belize;
- (f) ensure compliance with accepted technical standards in the provision and development of telecommunication services;
- (g) promote stability of the telecommunications sector;

- (h) protect the interests of telecommunications users, service providers and consumers;
- (i) preserve national security interests;
- (j) ensure the efficient use of the radio frequency spectrum;
- (k) ensure the safety of the public by maintaining access to emergency numbers at all times irrespective of non-payment by the consumer.

Application to the government.

4. Save as otherwise expressly provided, this Act does not bind the Government or apply to any telecommunication service or installation established or maintained by the Government or to any apparatus possessed or used by the Government for the purpose of or in connection with any such means of telecommunication.

Saving of government rights.

5. Nothing in this Act shall prevent the Government from establishing and maintaining any means of telecommunication to the exclusion of all other persons.

PART II

Administration

Regulatory Agency of the telecommunications sector.

6.-(1) The Public Utilities Commission (herein called “the PUC”) shall regulate the telecommunications sector in accordance with this Act.

(2) The PUC may perform all such acts and do all such things as are reasonably necessary, ancillary, incidental or supplementary to the performance of any of its functions as assigned or transferred to it under this Act or in a manner which it considers is best calculated to,

- (a) implement the policy of the Government relating to the telecommunications industry and the objectives of this Act;

- (b) assist in the formulation of national policies with respect to the promotion, development and regulation of telecommunications and the telecommunications industry;
- (c) provide economic and technical monitoring of the telecommunications industry in accordance with recognized international standard practices, including the promotion of fair competition and efficient market conduct within that industry, and ensure appropriate control, inspection and regulation of the industry;
- (d) regulate and establish, for public operators, performance standards, especially with regard to quality of service and interconnection standards, in relation to the provision of international and local telephone services and to monitor compliance with both of those standards;
- (e) report, in such manner as it thinks fit, to the Government or to any other person on any matter that lies within its functions, such as the performance of public operators, the quality of consumer service and consumer satisfaction, measured against the best available international standards of practice;
- (f) oversee the fulfilment by public operators of their obligations under any enactment, or their compliance with any direction issued by the PUC pursuant to this Act;
- (g) develop and, where appropriate, revise, accounting requirements and costing methodologies for use by public operators in accordance with internationally established and accepted accounting and costing principles and standards of practice;

- (h) ensure the safety and quality of every telecommunication service and, for that purpose, determine technical standards for telecommunications network matters;
- (i) authorise any qualified person to conduct such technical tests, evaluations or inspections relating to telecommunications as it thinks fit;
- (j) manage and administer the use of the radio frequency spectrum, and telephone numbering scheme;
- (k) monitor every interconnection agreement and assist in the resolution of any dispute relating thereto;
- (l) monitor the use of telecommunication services on any ship or aircraft;
- (m) control the importation of any equipment for use and capable of being used to intercept a telecommunication message;
- (n) regulate the conduct of examinations for, and the issue of, certificates of competency to persons wishing to operate any apparatus used for purposes of telecommunication;
- (o) regulate rates and tariffs for telecommunication services;
- (p) receive and process applications for licences;
- (q) investigate and resolve complaints related to harmful interference, unfair pricing rates, abuses or violations of the rights of consumers, damage to property and concerns as to the health and safety of Belizeans arising from the use and/or operation of telecommunications equipment;

- (r) manage the Universal Service Fund set up under section 34 of this Act;
- (s) determine, whether as conditions of licences or otherwise, the universal service obligations and levy charges or other requirements in a transparent and competitive neutral manner to fund or achieve universal service;
- (t) collect all fees prescribed and any other tariffs levied under this Act or related regulations;
- (u) maintain a register of licensees and frequency holders;
- (v) regulate the use of new or convergent technologies as they arise;
- (w) perform any other functions as are prescribed or considered necessary for the fulfilment of its objectives under this Act or any other law.

7. The PUC may, without limiting its powers,

General powers
of the PUC.

- (a) make and issue administrative orders, rules, by-laws and regulations necessary for the implementation of this Act;
- (b) make and issue rules, regulations and orders for the administrative operations of the PUC in respect to its powers and functions under this Act;
- (c) grant, amend and revoke licences, in accordance with the provisions of this Act;
- (d) establish and manage technical standards and procedures to monitor adherence to such standards;
- (e) monitor compliance with the Act, or any order, regulations, rules and by-laws;

- (f) develop and enforce a penalty regime for any offences under this Act.

PUC members personally liable for acts, etc., done in an official capacity.

8. No member or officer of the PUC shall be personally liable for any damages in respect of any act or omission or thing done by the member or officer in good faith in the execution of the duties or exercise of the powers conferred on the PUC under this Act.

Obligation of secrecy.

9.—(1) Every member or officer of the PUC shall,

- (a) maintain, and aid in maintaining, the confidentiality of any matter which comes to his knowledge in the performance or as a result of his duties under this Act;
- (b) not reveal to an unauthorised person any matter referred to in paragraph (a) of this subsection.

(2) Any person who contravenes subsection (1) (a), or without legal cause or reasonable excuse contravenes subsection (1) (b) of this section, commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

Financial provisions.

10.—(1) The PUC shall establish an account or accounts,

- (a) into which any money received by the PUC pursuant to this Act shall be paid;
- (b) out of which all payments required to be made by the PUC pursuant to this Act shall be effected.

(2) The PUC shall derive its income from,

- (a) any charge or fee that may be prescribed pursuant to this Act or any other law;
- (b) any sum appropriated from the Consolidated Revenue Fund.

(3) The PUC may, in the discharge of its functions under this Act or any other law, charge to the account referred to in subsection (1) of this section all remunerations, allowances, salaries, fees, and working expenses of its members and officers and any other charges properly arising.

11.-(1) The PUC shall develop a plan for the numbering of all telecommunications services and shall administer the use of such numbers.

Numbering Plan.

(2) Numbers shall be administered by the PUC to ensure non-discriminatory usage and to facilitate competition.

(3) In managing the plan for the allocation of numbers among the providers, the PUC shall have the power to reallocate and reassign numbers to the extent required for the implementation of the plan.

(4) The PUC shall preserve, to the extent feasible, the assignment of numbers made prior to the enactment of this Act.

(5) Number portability within existing fixed line exchanges shall be supported and technical considerations for number portability shall be included in the licences of all suppliers of services.

(6) The PUC shall be responsible for the administration of all telecommunication codes assigned to Belize by the International Telecommunication Union, including but not limited to numbering, call signs, maritime identification or other codes that may be assigned from time to time.

12.-(1) The PUC shall be vested with the control, planning, administration, management and licensing of the radio frequency spectrum.

Spectrum Plan.

(2) In controlling, planning, administering, managing and licensing the use of the radio frequency spectrum, the PUC shall comply with the applicable standards and the requirements of the International Telecommunication Union and its Radio Regulations, as agreed to or adopted by Belize.

- (3) The PUC may from time to time prepare a spectrum allocation plan in respect of any part of the frequency spectrum.
- (4) A frequency spectrum allocation plan shall,
- (a) define how the radio spectrum shall be used;
 - (b) aim at ensuring that the radio frequency spectrum is utilised and managed in an orderly, efficient and effective manner;
 - (c) aim at reducing congestion in the use of frequencies and at protecting frequency users from any interference or other inability to make use of the frequencies assigned to them;
 - (d) avoid obstacles to the introduction of new technologies and telecommunication services;
 - (e) aim at providing opportunities for the introduction of the widest range of telecommunication services and the maximum number of users thereof as is practically feasible.
- (5) In preparing a spectrum plan pursuant to this section, the PUC shall take into account existing uses of the radio frequency spectrum and any frequency band plans in existence or in the course of preparation.
- (6) The PUC shall give notice in the *Gazette* of its intention to prepare a plan and in such notice invite interested parties to submit their written representations to the PUC within such period as may be specified in such notice.
- (7) After due consideration of any representations received pursuant to the notice referred to in subsection (6) of this section, the PUC shall adopt the frequency band plan in question, with or without amendment, and cause such plan to be published in the *Gazette*.

(8) The frequency spectrum allocation plan shall be available to the public at a prescribed fee.

13. The PUC shall ensure that,

Transparency.

- (a) adequate publicity is given to any terms and conditions of every licence issued under this Act;
- (b) a register of all licences granted, including any modifications of licence conditions, are made available to the public, save and except where the requirements of public policy or confidentiality otherwise require non-disclosure;
- (c) there is established procedures for requesting and considering the comments of the public in the development of new policies and procedures.

14.—(1) The Minister, in exercising his power, shall, in consultation with the PUC,

Powers of the Minister.

- (a) establish overall policies for the telecommunications sector;
- (b) adopt the forms, documents, processes and subsidiary legislation to be used to achieve the objects of this Act;
- (c) implement the policies and recommendations proposed by the PUC;
- (d) represent the international interests of Belize as it relates to matters of telecommunications.

(2) The Minister may by Order published in the *Gazette*, delegate all or any of his powers and functions under this Act to the PUC, subject to any restrictions and limitations as may be specified in the Order.

PART III

Licensing of Telecommunication Services

Licensing application, process for a licence, and consequences of contravening a licence.

15.—(1) Subject to the provisions of this Act, no person shall provide any telecommunication service except under and in accordance with a telecommunication service licence issued by the PUC to that person under this Part.

(2) A licence shall be required in order to enable a person to,

- (a) operate a telecommunication network, whether aeronautical, terrestrial or maritime fixed, mobile or satellite based;
- (b) provide telecommunication services that offer real time voice or data services;
- (c) operate any system that uses scarce resources such as the radio frequency spectrum, numbering or public rights of way in order to provide telecommunication or broadcasting service to the public.

(3) A licence shall confer on the licensee the privileges and subject him to the obligations provided in this Act or specified in the licence.

(4) A person who wishes to land or operate submarine cables for the purpose of connecting to a telecommunications network within the territorial waters of Belize under Maritime Areas Act, Cap. 11, shall first obtain a licence from the Minister in accordance with any regulations made by the Minister in that behalf under this Act, and the Minister is hereby authorised to make such regulations.

(5) An application for a licence shall be made in the prescribed manner and shall be accompanied by such fee, if any, as may be prescribed; and within fourteen days after the making of such an application, the applicant shall publish a notice of the application in the prescribed manner.

(6) The PUC shall license such private and public telecommunications service providers as market conditions warrant.

(7) The duration of the licence shall be for such period not exceeding fifteen years as may be determined by the PUC and specified in the licence.

(8) The PUC shall make or establish regulations and procedures that govern the granting of licences.

16. In granting a licence, the PUC may among other relevant factors, have regard to,

Criteria for granting a licence.

- (a) the public interest and the likelihood of unfair practices;
- (b) any element of national interest, policy or security;
- (c) the technical and electromagnetic compatibility of the application with any other licensed service;
- (d) the extent of technical feasibility and economic reasonableness, and the promotion of universal access throughout Belize; and
- (e) any agreement between Belize or the PUC with any national or international organization relating to telecommunications.

17.—(1) A service provider must not contravene any condition of the licence issued under this Act.

Licensee responsibilities and other offences.

(2) No person shall,

- (a) aid, abet, counsel or procure a contravention of subsection (1) of this section;
- (b) induce, whether by threats or promises or otherwise, a contravention of subsection (1) of this section;

- (c) be in any way, directly or indirectly, knowingly concerned in, or a party to, a contravention of subsection (1) of this section; or
- (d) conspire with others to effect a contravention of subsection (1) of this section.

Further conditions for the grant of a licence.

18. The PUC shall, in granting the licence, require that the licensee,

- (a) pays a licence fee annually to the PUC;
- (b) adhere strictly to the assigned frequency bands issued;
- (c) upon request by the Government, collaborate with the Minister in matters of national security; and
- (d) abide by regulations made pursuant to this Act.

Transfer, revocation or modification of a licensee.

19.—(1) The PUC shall make or establish regulations and procedures that govern the transfer, revocation and modification of licences.

(2) Any person who wishes to transfer, renew, modify or vary the terms of a licensee for the operation of a telecommunications network or service issued subject to section 15 of this Act shall make a written application to the PUC in the prescribed form.

(3) On receipt of an application referred to in subsection (2), the PUC,

- (a) shall give public notice of the application in two newspapers and invite any interested person who wishes to object to the application to do so in writing within fourteen days;
- (b) shall require the applicant to furnish any additional information that it considers relevant in respect of any installation, apparatus or premises relating to the application.

(4) Upon receipt of an application referred to in subsection (2) of this section, the PUC shall, and having regard to section 16 of this Act, determine whether to issue, transfer, renew or vary the terms of the licence.

(5) No licensee may transfer or assign or sell a licence granted to it under this Act or cede control in the operations of the licence or merge with another person or licensee without the prior written approval of the PUC.

(6) The PUC may refuse a cession, sale or assignment of a licence or a merger or takeover of a licensee when it determines that the objects of this Act may be frustrated.

(7) Any agreement between licence holders shall be submitted to the PUC for approval and the PUC may review any agreements entered into by licensees to ensure compliance with this Act.

(8) Any licensee who fails to disclose and submit the existence of an agreement which is likely to affect competition or frustrate the objects of this Act commits an offence and shall be liable on summary conviction to a fine of not less than twenty thousand dollars but which may extend to a hundred thousand dollars and the licence shall be forfeited by the PUC.

(9) Where the PUC agrees to issue, transfer, renew or vary the terms of a licence,

- (a) it may do so by imposing any term or condition that it thinks fit;
- (b) it shall give written notice of its decision, and the reasons therefor, to any person who has made representations.

(10) Where the PUC refuses to issue, transfer, renew or vary the terms of a licence, it shall give written notice of its decision, and the reasons therefore to the applicant and to any person who has made representations.

(11) No licence shall be issued or renewed under this section unless the prospective licensee pays such fee as may be prescribed by regulations

made under this Act, and all such regulations shall be subject to negative resolution.

(12) The PUC may suspend, vary or revoke, or deny the renewal of a licence or authorisation where,

- (a) the licensee contravenes this Act or any other law;
- (b) the licensee fails to comply with the terms and conditions specified in the licence;
- (c) the licensee fails to pay the requisite fees for the licence, its renewal or any other money owed to the PUC;
- (d) it is necessary for reasons of national security or in the public interest;
- (e) the licensee fails to comply with an order, bylaw, notice, direction or any associated regulations by the PUC;
- (f) the signals in respect of the equipment issued to the licensee interferes with the service of another telecommunications service provider;
- (g) the PUC determines the presence of anti-competitive practices.

(13) Before a licence or authorisation may be suspended, revoked or not renewed, the PUC shall give written notice of its intention to do so and lay out its purpose for such action and provide the licensee with an opportunity to,

- (a) make representation and support his view;
- (b) correct any breach of the terms and conditions of the licence or any interferences caused to other licence holders.

20.-(1) An authorized officer may,

Special powers
of authorized of-
ficers.

- (a) require a licensee to produce his licence;
- (b) at all reasonable times inspect any installation, documents, apparatus or premises relating to a licence.

(2) Where the PUC is satisfied that there are reasonable grounds to suspect that a person is contravening this Act or any subsidiary legislation made thereunder, it may authorize an authorised officer to,

- (a) enter any premises named in the authorisation and search those premises or any person found therein;
- (b) inspect, remove and take copies of any document found therein which he considers relevant;
- (c) inspect and remove any installation or apparatus found therein which he has reason to suspect is operating in contravention of this Act or any subsidiary legislation made thereunder.

PART IV

Duties of Public Telecommunication Service Providers

21.-(1) When required, all licensees shall furnish telecommunication services upon reasonable request, and all practices and charges with respect thereto shall be reasonable and non-discriminatory.

Timely provision
of service.

(2) The PUC may require any licensee, after affording the licensee an opportunity to be heard, to provide adequate telecommunication facilities to enable the efficient performance of the licensee's duties under this Act.

(3) Where required by the PUC, all public telecommunication service licensees shall,

- (a) establish physical connections with other public telecommunication services providers;
- (b) share networking signalling and database with other licensed providers for the transport and termination of telecommunication and information;
- (c) establish and provide the facilities and arrangements, including collocation, or provide access to any of the facilities in respect of paragraphs (a) and (b) of this subsection;
- (d) establish reasonable charges, as approved by the PUC, for rates of service and division of charges for the facilities and arrangements referred to in paragraphs (a) and (b) of this subsection.

Interconnection agreements.

22.—(1) Public telecommunication service providers shall enter into agreements governing the interconnection of their facilities, sharing of infrastructure, local number facilities, and other inter-networking and other facilities which the PUC may deem to be in the public interest, as well as with providers of value added services, on reasonable and non-discriminatory terms.

(2) Copies of such agreements together with a summary of their principal terms shall be submitted to the PUC for final approval and such approval shall not be unreasonably withheld. The PUC shall cause the approved agreements or a summary thereof to be published in the *Gazette*.

(3) Where public telecommunication service providers fail to agree on the terms and conditions of interconnection within a reasonable time (which may be prescribed) one or both may request that the PUC establish binding tariffs and the terms and conditions of the interconnection.

(4) Interconnection with providers shall be assured,

- (a) at any technically feasible point in the network;
- (b) in a timeframe that is reasonable and as may be prescribed by the PUC;

- (c) on non-discriminatory and transparent terms;
- (d) with fully unbundled components so as to avoid unnecessary charges;
- (e) at non-traditional interconnection points if the requestor agrees to pay the cost on interconnection;
- (f) at charges that are cost-oriented and calculated using evolving best practices or a costing methodology prescribed by the PUC.

23.-(1) Any disagreements or disputes over interconnection charges, terms and practices of public telecommunication service providers shall be submitted to the PUC for resolution.

Submission of interconnection disputes to PUC.

(2) In resolving such disputes or disagreements the PUC shall be guided by the following principles,

- (a) the terms and practices for interconnection arrangements shall not discriminate unjustifiably between users of interconnection arrangements and similarly situated users;
- (b) charges for interconnection services and facilities shall reflect the public telecommunication service licensee's costs defined as the incremental cost, and may include allowance for a reasonable return on capital investment;
- (c) differences in charges between different users may only be justified based on cost differences directly attributable to providing interconnection for those users.

24.-(1) Any agreement between a local and foreign public telecommunication service licensee shall be filed with the PUC without delay, including accounting rates and settlement arrangements, agreed upon by the parties.

Submission of agreements governing external interconnections.

(2) Public telecommunication service licensees shall comply with international and bilateral arrangements relating to or governing such arrangements as well as any rules prescribed by the PUC concerning such arrangements.

Restriction of resale.

25. It shall be an offence by a public telecommunication service licensee to restrict the resale of its services, unless the licence provides otherwise, and every person who commits this offence shall be liable on summary conviction to a fine not exceeding five thousand dollars or imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

Rate and tariffs.

26.-(1) The PUC shall make regulations for the imposition, implementation, monitoring and enforcement of rates by all such methods as it may deem appropriate in any case where,

- (a) there is only one service provider operating a telecommunications network or providing a telecommunications service, or where one service provider has a dominant position in the relevant market;
- (b) a sole or dominant service provider operating a telecommunications network or providing a telecommunications service cross-subsidises another telecommunications service provided by such service provider; or
- (c) the PUC detects anti-competitive pricing and acts of unfair competition.

(2) Rates for telecommunications service, except those regulated by the PUC in accordance with this section, shall be determined by the principles of supply and demand in the market.

(3) For any telecommunications service in which there is competition, the PUC may make regulations to introduce a method for regulating the rates of a dominant provider of such telecommunications service by establishing price caps, maximum rate-of-return or by such other methods as the PUC may deem appropriate.

(4) Prices, terms and conditions of service shall be filed with the PUC and published by the service provider at such times and in such manner as the PUC shall prescribe and shall thereafter, subject to this Act and the conditions of any licence, be the lawful prices, terms and conditions for such services.

27.—(1) A public telecommunication services licensee shall submit filing and any required documentation in respect of such filings in the manner as may be prescribed by the PUC.

Filing.

(2) Notice of any such filing shall be published by the PUC for public information and to allow consumers to comment on the reasonableness of the tariffs.

(3) A licensed public telecommunication service provider shall make its tariffs available to the public in such manner as may be prescribed by the PUC.

28. Every public telecommunication service provider shall keep an accurate record of its tariffs which shall be filed with the PUC.

Accuracy of record of tariff.

29. Tariff filings shall be accompanied by all accounting and costing information as the PUC shall require.

Costing information.

30. The PUC may prescribe reasonable accounting procedures in accordance with international accounting and costing standards to determine the cost of operations, which shall be followed and implemented by all public telecommunication service providers.

Accounting procedure.

31.—(1) Any person who provides a public telecommunication service shall file with the PUC his annual reports within three months of the close of his financial year and any occasional reports that he may issue from time.

Reporting requirements.

(2) The PUC may require all public telecommunication service providers, in filing annual and occasional reports, to include in such report,

(a) the amount of capital stock issued;

- (b) the amount and privileges of each class of stock;
- (c) the amounts paid for each class of stock and the manner of payment for the same;
- (d) the dividends paid;
- (e) any surplus capital;
- (f) the debts of the company and interest payable thereon;
- (g) the names and addresses of the holders of stock of one per cent or above;
- (h) the names and addresses of directors and officers;
- (i) the earnings and expenses from all sources and complete statements of the financial operations;
- (j) the true cost of offering a particular service based on accepted cost accounting methodologies as prescribed by the PUC.

(3) The PUC may require any public telecommunication service provider to file with the PUC copies of any contract or agreement entered into with other public or private telecommunication service providers or any person including resellers.

(4) Any person who fails to file any document required by the PUC under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars.

(5) For the purposes of this section, a person who submits any of the following information to the PUC may designate it as confidential,

- (a) information that is a trade secret;
- (b) financial, commercial, scientific or technical information that is confidential and that is treated consistently in a confidential manner by the person who submitted it; or

- (c) information the disclosure of which could reasonably be expected,
 - (i) to result in the material financial loss or gain to any person;
 - (ii) to prejudice the competitive position of any person; or
 - (iii) to affect contractual or other negotiations of any person.

32.-(1) The PUC may, for the purposes of preserving confidentiality, reasonably deny or restrict access to any documents or information requested by any person.

Information disclosure.

(2) Except to the extent that reports and any documents filed with the PUC under this Act contain confidential information, such reports and documents shall be open to the public and may be made available to members of the public on payment of a prescribed fee and may be inspected by interested persons during the normal business hours of the PUC.

33.-(1) The PUC shall develop annual objectives for services to be provided with the purpose of ensuring that the public telecommunication service, in particular basic telephone service, is accessible to the widest number of users.

Universal Service.

(2) The PUC shall determine the public telecommunications services in respect of which the requirement of universal service shall apply taking into account the needs of the public, affordability of the service and advances in technology.

(3) The PUC shall develop the regulations and any conditions for the provision of public telecommunications services with respect to universal service obligation.

34.-(1) The PUC may establish a fund into which providers of telecommunications services (public and private) shall pay any fees the PUC may prescribe as universal access development fees.

Universal Access Fund.

(2) The PUC may impose, as a condition of the grant of a licence, any obligations with regard to the provision of universal service to the widest users including those with disabilities or in a specified area or region, to the extent technically feasible and economically reasonable.

(3) A licensee who, under this Act, is required to provide universal service shall be entitled to compensation in relation to the actual costs incurred in meeting that obligation.

Additional duties
of service provid-
ers.

35. Every service provider shall,

- (a) maintain any installation, apparatus or premises relating to his licence in such condition as to enable him to provide a safe, adequate and efficient service;
- (b) provide access thereto to an authorised officer;
- (c) furnish to the PUC such reports, accounts and other information relating to his operations as the PUC may require;
- (d) comply with every term or condition attached to his licence;
- (e) comply with any written direction given to him by the PUC in relation to the exercise of his rights and obligations under a licence;
- (f) pay to the PUC such fee or charge as may be prescribed.

PART V

Powers and Immunities of Service Providers

Access to and use
of public prop-
erty.

36.—(1) Subject to the provisions of this section, a public telecommunication service provider may, for the purposes of providing telecommunication

services to the public, enter upon any public property, and construct and maintain thereon or alter or remove a telecommunication facility, provided in doing so it does not interfere unduly with the use and enjoyment of such public property or with the safety and health of the public.

(2) Prior to constructing or installing any telecommunication facility on public property, a public provider shall obtain approval of the relevant authority having jurisdiction for entry, construction or installation of a telecommunication facility at least seven clear days prior to such works and such approval shall not be unreasonably denied.

(3) Where approval is denied, or the terms and conditions of approval are not acceptable to the telecommunications service provider, or where no authority is charged with authorising such use, a telecommunication service provider shall appeal to the Minister whose decision shall be final.

(4) The Minister shall establish procedures and guidelines for approval to use public property and may establish guidelines for the use of public property including existing conduits, towers and other structures as may be in existence.

(5) Any authority charged with responsibility to approve the use of public property shall in considering applications to use public property take into account the following factors,

- (a) the efficient and economic use of public resources;
- (b) the security of officials and the records located on such property and operations that take place on such property;
- (c) public safety and convenience;
- (d) the economic, social and aesthetic benefits of the proposed land use; and
- (e) compliance with applicable environmental laws and policies.

(6) For the purposes of this section, public property includes a road, street, road reserve, building, footpath, water way and land reserved for public purposes.

Acquisition of private property.

37.—(1) Where the acquisition of any private property or an interest in any private property by a public telecommunications service provider is reasonably required for the purposes of providing telecommunication services to the public and no reasonable alternatives to such acquisition exist, the provider shall,

- (a) provide notice of the proposed acquisition to the owner of the property and other property owners who reasonably could be expected to be affected by the proposed acquisition, and seek their written comments on the proposed acquisition;
- (b) obtain the consent of the property owner to the acquisition or use of such property.

(2) In the absence of such consent or on failure to agree to terms of purchase, the public telecommunication service provider may apply to the relevant authority having jurisdiction over such private property to cause such authority to undertake the proposed acquisition under applicable expropriation laws.

(3) The public telecommunication service provider shall indemnify the relevant authority against all the costs of acquisition of the property under expropriation laws including amounts payable to the owner of the property to be acquired.

Duty of telecommunications provider to mitigate damage, etc.

38.—(1) In engaging in any activity under section 36 of this Act, a public telecommunications service provider must take all reasonable steps to ensure that it causes as little detriment and inconvenience and does as little damage as is practicable.

(2) A public telecommunications service provider shall, as speedily as possible, complete all works and restore, at its own cost, any property, street or grounds, including the removal of any debris, to the satisfaction

of the relevant authority or owner, such satisfaction to be expressed in writing.

39. The public telecommunications service provider shall be liable for any damage resulting from activities undertaken under sections 36 and 37 of this Act and shall provide adequate compensation to the parties affected.

Telecommunications provider to provide compensation in certain cases.

40. The amount of compensation to be determined under section 39 of this Act, shall be referred to the PUC and the decision of the PUC shall be binding on the parties involved.

Amount of compensation.

41. Where trees on private lands overhang or interfere with any facility or road works, a public service provider shall, before cutting down, pruning or trimming the trees, obtain the consent of the owner or the person in possession of the land.

Power to cut down, etc., trees.

PART VI

Market Dominance and Consumer Protection

42.-(1) A dominant operator shall not take advantage of his power in a market for the supply of a telecommunication service with a view to,

Uncompetitive practices due to market dominance.

- (a) eliminating or substantially damaging another licensee in the market in which he operates or in any other market;
- (b) preventing the entry of any other person into that market or any other market;
- (c) deterring any other licensee from engaging in competitive conduct in that or in any other market.

(2) (a) A dominant operator shall not discriminate between persons who acquire or make use of a telecommunications service in the market in which he operates in relation to,

- (i) any fee or charge for the service provided;
 - (ii) the performance characteristics of the service provided;
 - (iii) any other term or condition on which the service is provided.
- (b) Nothing in paragraph (a) shall prevent a dominant operator from making a reasonable allowance, subject to the approval by the PUC, for the cost of providing a telecommunication service where the difference results from,
 - (i) different quantities in which the service is supplied;
 - (ii) different transmission capacities needed for the supply of the service;
 - (iii) different places from or to which the service is provided;
 - (iv) different periods for which the service is provided;
 - (v) different performance characteristics of the service provided; or
 - (vi) doing an act in good faith to meet a price or benefit offered by a competitor.

(3) For the purposes of this Act, the PUC may determine that a service provider is dominant where, individually or jointly with others, it enjoys a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers and, for such determination the PUC shall take into account the following factors,

- (a) the relevant market;
- (b) technology and market trends;
- (c) the market share of the provider;
- (d) the power of the provider to influence prices;
- (e) the degree of differentiation amongst services in the market;
- (f) any other matter that the PUC deems relevant.

(4) A licensee shall not enter into or give effect to any agreement, arrangement or understanding which has the purpose or has, or is likely to have, the effect of significantly lessening competition in any market for the supply of telecommunication services or of any product used in connection with telecommunication services.

(5) A licensee shall not enter into or give effect to any agreement, arrangement or understanding with another licensee which has the purpose or has, or is likely to have, the effect of fixing, controlling or maintaining the prices for, or any discount, allowance, credit or rebate for, any telecommunication service or any product used in connection with telecommunication services.

(6) In the interest of consumers and competition, no utility service provider in the water or electricity industries shall be allowed to compete in telecommunications and *vice versa*.

(7) No utility service provider in the water or electricity industries shall be allowed to have controlling interests in telecommunications industry and *vice versa*.

(8) For the purposes of subsection (7) of this section, “controlling interest” is defined as effective ownership of 25 *per cent* of the company’s issued and outstanding voting shares or having representation of 25 *per cent* or more on the Board of Directors.

(9) Where a service provider provides telecommunications services and, in the opinion of the PUC, an activity of an affiliate is integral to the provision of the service by the service provider, the PUC may treat some or all of the earnings of the affiliate from the activity as if they were earnings of the service provider.

Duty of Licensees to protect consumers.

43.—(1) Service providers shall use reasonable endeavours to ensure that the services provided are reliable, provided with due care and rendered in accordance with the standards reasonably expected of a competent provider of those services and at a reasonable price.

(2) The PUC may make industry codes and standards prescribing quality standards for the provision of specified services in relation to all service providers.

(3) The PUC may make regulations relating to the administration and resolution of customer complaints by service providers.

Licensee's confidentiality agreement.

44.—(1) Every licensee and his employees and agents shall treat as confidential any telecommunication message or any information relating to a telecommunication message which comes to his or their knowledge in the course of his or their duties.

(2) Any person who otherwise than in the course of his duties as an employee or agent of a licensee, interferes with, makes use of, or records, the contents or substance of a telecommunication message commits an offence and shall be liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

(3) (a) Nothing in this Act shall prevent a judge in Chambers, upon an application, whether *ex parte* or otherwise, being made to him by the Director of Public Prosecutions, from making an order authorising a public operator, or any of its employees or agent, to intercept, withhold or disclose to the police, a telecommunications message.

(b) An order under paragraph (a) of this subsection shall,

- (i) not be made unless the Judge is satisfied that information relating to the telecommunication message is material to any criminal proceedings, whether pending or contemplated, in Belize;
- (ii) remain valid for such period, not exceeding sixty days, as the judge may determine;
- (iii) specify the place where the interception or withholding shall take place;
- (iv) be made upon application supported by affidavit.

(4) Any personal information of a subscriber shall be confidential and shall not be disseminated or used without the subscriber's consent or a court order under this Act or any other law.

(5) The Minister may, after consultation with the PUC, give to a public operator such directions of a general character as appear to the Minister to be requisite or expedient in the interests of national security or relations with the government of a country or territory outside Belize.

(6) If it appears to the Minister to be requisite or expedient to do so in the interest of national security or relations with the government of a country or territory outside Belize, he may, after consultation with the PUC, give to a public operator a direction requiring him (according to the circumstances of the case) to do, or not to do, a particular thing specified in the direction.

(7) A public operator shall give effect to any direction given to him by the Minister under this section notwithstanding any other duty imposed on him by or under this Act.

(8) A person shall not disclose or be required by virtue of any enactment or otherwise to disclose anything done by virtue of this section if the Minister, after consultation with the PUC, has notified him that the Minister is of the opinion that disclosure of that thing is against the interests of national security or relations with the government of a

country or territory outside Belize, or the commercial interests of some other persons.

Provision of emergency telecommunication services.

45.—(1) Every service provider shall ensure that in relation to its service, each customer of that service can reasonably and reliably reach emergency services and directory assistance, and a service provider cannot impose a charge for accessing emergency numbers.

(2) A service provider may charge a fee for access to directory assistance.

Equipment standards.

46.—(1) The PUC may establish or adopt standards in respect of the technical aspects of telecommunications relating to the provision of telecommunication services, equipment, or connectivity to any telecommunication system or network.

(2) No person who provides a telecommunication service or supplies telecommunication equipment shall use or supply, as the case may be, any telecommunication equipment which does not comply with technical standards prescribed by the PUC.

(3) The PUC shall approve any telecommunication equipment by reference to a type approval standard of the country of manufacture.

(4) The PUC shall appoint and authorise in writing any staff member or agent to enter and carry out any inspection or investigation permitted under this Act.

(5) The inspector or agent of the PUC appointed to carry out any inspection or investigation permitted under this Act may without notice, subject to subsection (6), enter the premises and carry out his inspection or investigation and may seize, remove and detain,

- (a) anything in respect of which the inspector or agent reasonably suspects that an offence has been committed under this Act; or
- (b) anything that appears to the inspector or agent to be or to be likely to be, or to contain evidence of an offence under this Act.

(6) Where a justice of the peace is satisfied by information on oath that there are reasonable grounds for suspecting that there is on any premises used for dwelling purposes anything that is liable to seizure under subsection (6) of this section, he may issue a warrant to authorise such premises to be entered and searched, and no premises used for dwelling purposes shall be entered and searched under this Act except pursuant to a warrant issued under this subsection.

(7) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars.

(8) Any amendments made by the PUC to technical standards shall be immediately binding on all affected parties and shall be incorporated by inference in any previous licences or authorisations issued by the PUC.

PART VII

Offences and Penalties, etc.

47.—(1) If a person has engaged, is engaging or is proposing to engage, in any conduct in contravention of this Act, the Supreme Court may, on the application of the PUC, or a member of the public, grant an injunction,

Injunctions.

- (a) restraining the person from engaging in the conduct; and
- (b) if, in the Court's opinion it is desirable to do so, requiring the person to do an act or thing.

(2) If,

- (a) a person has refused or failed, or is refusing or failing, or is proposing to refuse or fail, to do an act or thing; and

- (b) the refusal or failure was, is or would be, a contravention of this Act,

the Supreme Court may grant an injunction requiring the person to do that act or thing.

(3) If an application is made to the Court for an injunction under this section, the Court may, before considering the application, grant an interim injunction restraining a person from engaging in conduct of a kind referred to in this section.

Offences.

48. Any person who,

- (a) fails to comply with or acts in contravention of sections 15(1), 15(2), 15(4), 15(5), 17(1), or 17(2) of this Act;
- (b) commits a material breach of any condition contained in a licence issued under this Act;
- (c) operates a station or uses any equipment in such a manner as to cause harmful interference to any telecommunications network or telecommunications or radio communication service;
- (d) obstructs or interferes with the sending, transmission, delivery or reception of any communication;
- (e) manufactures or sells any system, equipment, card, plate or other device whatsoever, or produces, sells, offers for sale or otherwise provides any account number, mobile identification number or personal identification number, for the purpose of fraudulent use of or access to any telecommunications service; or
- (f) aids or abets any telecommunications network or telecommunications, broadcasting or radio communication service to operate contrary to its licence,

commits an offence and shall be liable on summary conviction to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding five years, or to both such fine and imprisonment, and in the case of a continuing offence, to a further fine of ten thousand dollars for each day that the offence continues after conviction.

49. Any person who wilfully obstructs, hinders, molests or assaults an authorised officer duly engaged in the performance of any duty or the exercise of any power conferred on him under this Act commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year.

Obstructing an authorized officer.

50. Any person who knowingly transmits or circulates false or deceptive distress, safety or identification signals commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years.

False signals.

51.-(1) Any person who by means of any telecommunications or radio communication service sends any communication that to his knowledge is false or misleading and likely to prejudice the efficiency of any life-safety service or endanger the safety of any person, ship, aircraft, vessel or vehicle commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding three years, or to both.

False communications.

(2) For the purposes of subsection (1) of this section, a person is taken to know that a communication is false or misleading if he did not take reasonable steps to ensure that it was not false or misleading.

52.-(1) Any person who maliciously damages, removes or destroys any facility, works or other installation of a public telecommunications network or a public telecommunications service or of any telecommunications service operated by the Police Service, the Fire Service, the Prison Service or the Belize Defence Force commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding three years, or to both.

Damage to equipment.

(2) A person who negligently damages, removes or destroys any facility, works or other installation described in subsection (1) of this section, commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

Recovery of civil debt.

53. Any person convicted under section 52 of this Act, shall be liable for all expenses reasonably incurred in the repairing, restoration or replacement of any facility, works or other installation damaged, removed or destroyed by him and the expenses are recoverable summarily as a civil debt.

General penalty.

54. Any person who contravenes or fails to comply with any of the provisions of this Act or any regulations made hereunder commits an offence and, except where the penalty is specifically provided for such offence, is liable on summary conviction to a fine not exceeding twenty-five thousand dollars and in the case of a continuing offence to a further fine of one thousand dollars for each day that the offence continues after conviction.

Securing compliance with licence.

55.—(1) Where the PUC is satisfied that a person who has been granted a licence under this Act is contravening or has contravened, and is likely again to contravene, any of the conditions of his licence the PUC may by Order make such provision as is requisite for the purpose of securing compliance with that condition.

(2) In determining the extent of the Order to be made, the PUC shall consider in particular the extent to which every person is likely to sustain loss or damage in consequence of anything which, in contravention of the relevant condition, is likely to be done, or omitted to be done.

(3) The Order made under subsection (1) of this section,

- (a) shall require the telecommunications operator (according to the circumstances of the case) to do, or not to do, such things as are specified in the Order;
- (b) shall take effect at such time, being no earlier than,

- (i) twenty-eight days after notice of such an Order (stating the relevant conditions of the licence and the acts or omissions, which in the opinion of the PUC, constitute or would constitute the contravention of any of the provisions of the Act or the conditions of licence) has been served upon the licensee; or
- (ii) such longer period as may be specified by or under that Order,

Provided that no such Order shall take effect, if before the expiry of the period specified in subsection (3) (b) of this section, the licensee has remedied the alleged contravention to the reasonable satisfaction of the PUC,

Provided further that no such Order shall take effect unless the PUC has given reasonable consideration to any representations or objections made to it by or on behalf of the licensee or any other affected person within the first twenty days of the period specified in subsection 3(b) of this section; and

(c) may be revoked at any time by the PUC.

(4) In this section, “contravention”, in relation to any condition of a licence, includes any failure to comply with that condition and “contravene” shall be construed accordingly.

(5) Nothing in this section shall supersede the authority of the PUC to suspend or revoke a licence under section 19 of this Act.

(6) The power of the PUC to make an order under this section shall be exercisable by statutory instrument with legislative effect.

(7) Any person who fails to comply with an order issued by the PUC under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding three years, or both to such fine and imprisonment.

PART VIII

Miscellaneous

Regulations.

56.—(1) The PUC may make regulations for the better carrying out of the provisions of this Act and for prescribing any matter or thing that needs to be prescribed.

(2) Without prejudice to the generality of the foregoing, the PUC may, by regulations, prescribe,

- (a) procedures for applying for licences;
- (b) the fees payable to the PUC in relation to applications, licences and the Universal Service Fund;
- (c) the procedures relating to the management of the spectrum;
- (d) the certification of equipment;
- (e) matters relating to price regulation and cost accounting principles employed in setting prices;
- (f) matters relating to interconnection;
- (g) matters relating to numbering plans;
- (h) procedures for investigating any allegations related to breach of any term or condition of a licence or any other violations pertaining to this Act or any other regulations made pursuant to it.

Communications
during emergency.
29 of 2005.

57.—(1) Where an emergency has been declared under the Belize Constitution in whole or in part in Belize, or where in the opinion of the Minister, circumstances have arisen as a result of industrial action, civil strife or otherwise in which it is necessary and expedient in the public interest that the Government should have control over telecommunications, the Minister may by Order published in the *Gazette*,

- (a) authorize the taking of possession and control by the Government of any telecommunications equipment, installation, service, apparatus or station to be used,
 - (i) for Government service;
 - (ii) for such ordinary service as the Minister may determine; or
- (b) direct or authorise the control of the transmission and reception of messages in any manner as he may direct.

(2) The Government shall, excluding loss of profit, compensate reasonably the owner or controller of any installation, service, apparatus or station, the possession or control of which was assumed under subsection (1) of this section.

(3) Where an agreement cannot be reached between the parties concerned with respect to the amount of the compensation paid, the matter shall be referred to an arbitrator agreed to by both parties whose decision shall be binding on all the parties.

(4) Each service provider may, during a period of emergency in which normal telecommunications installations are disrupted as a result of a hurricane, flood, earthquake or any other disaster, or as a result of sabotage or suspected sabotage, use his service, apparatus or station for emergency communications and in a manner other than that specified in his licence or in the regulations governing the relevant apparatus or station.

29 of 2005.

(5) Emergency use permitted under this section shall be discontinued when normal telecommunications facilities are again available or when such special use or the installation, service, apparatus or station is terminated by the Minister.

58. Where there is any inconsistency between the provisions of this Act and any other law, the provisions of this Act shall prevail.

Consequential amendments.

Repeals and transitional provisions.

59.—(1) The Telecommunications Act, hereinafter referred to as the repealed Act, is hereby repealed.

(2) Notwithstanding subsection (1) of this section, the repealed Act shall continue to apply to any licence, permit or permission granted under that Act until the expiry of the term of such licence, permit or permission, save and except that the PUC shall perform the duties and functions assigned to the Director of Telecommunications under the repealed Act.

Revocation of licence and acquisition of equipment, etc.

60.—(1) Where the licence granted to a public utility provider is revoked by the Public Utilities Commission, or where a licensee ceases operations or loses control of operations, or where the Minister considers that control over telecommunications should be acquired for a public purpose, the Minister may, with the approval of the Minister of Finance, by Order published in the *Gazette* acquire for and on behalf of the Government, all such property as he may, from time to time, consider necessary to take possession of and to assume control over telecommunications, and every such order shall be *prima facie* evidence that the property to which it relates is required for a public purpose.

8 of 2011.

(2) Upon publication in the *Gazette* of the Order made pursuant to subsection (1) of this section, the property to which it relates shall vest absolutely in the Government free of all encumbrances without any further assurance, and the Registrar General, the Registrar of Lands, the Registrar of Companies and all other relevant authorities shall take due notice thereof and shall make such annotations on the records as may be necessary and issue all such certificates or documents as may be required to perfect the title of the Government to all such property.

8 of 2011.

(3) In every case where the Minister makes an Order under subsection (1) of this section, there shall be paid to the owner of the property that has been acquired by virtue of the said Order, reasonable compensation within a reasonable time in accordance with the provisions of this Act.

8 of 2011.

(4) Any person claiming an interest in or right over the acquired property shall have a right of access to the courts for the purpose of determining whether the acquisition was duly carried out for a public purpose in accordance with this Act.

(5) Where a licence has been revoked by the Public Utilities Commission, the power vested in the Minister under subsection (1) of this section may be exercised notwithstanding that such revocation is the subject of any appeal or review proceedings.

(6) An Order made under subsection (1) of this section may contain such ancillary and consequential directions as may be necessary to give full effect to the Order, including the appointment of an interim Board of Directors of a public utility provider and of its subsidiaries.

(7) Notwithstanding anything contained in the Interpretation Act, Cap. 1, an Order made under subsection (1) of this section may provide that any contravention or breach thereof shall be punishable on summary conviction by a fine not exceeding five thousand dollars for each day the offence continues, or by a term of imprisonment not exceeding two years, or by both such fine and term of imprisonment.

(8) Every Order made by the Minister under this section shall be subject to negative resolution.

(9) In this section,

“property” includes shares, stock, interests of all kinds, including a mortgagee’s or chargee’s interest in property, telecommunications equipment, installations, service, apparatus or station, assets, cash and cash equivalents, rights, files, documentation, customer database, and all other property of whatever description, tangible or intangible, corporeal or incorporeal, including property held by the subsidiaries, affiliates or associates of a licensee;

“licensee” includes, where a licence has been revoked by the Public Utilities Commission, a person or entity, corporate or unincorporated, who held a licence immediately before such revocation;

(10) The power of the Minister to make an Order under this section shall be exercised by statutory instrument with legislative effect.

(11) The Minister may make successive Orders under this section as he may consider necessary and the foregoing provisions of this section shall apply to every such Order.

8 of 2011.

Publication of notice of acquisition.
9 of 2009.

61.—(1) As soon as may be after the acquisition of property by virtue of section 60 of this Act, the Financial Secretary shall publish in the *Gazette* and in at least one newspaper of general circulation in Belize, a notice of acquisition containing particulars of the property that has been acquired and requiring all interested persons to submit their claims within such time as may be specified, being not less than one month after the date of publication of the notice in the *Gazette*.

(2) The Financial Secretary shall cause a copy of the notice of acquisition to be served, either personally on, or by registered post addressed to the last known place of abode or business of, every person who is known or believed by the Financial Secretary to be entitled to compensation in respect of the acquisition, and whose whereabouts are known to the Financial Secretary.

8 of 2011.

(3) Any person who is required to make a claim under this section wilfully makes a claim which is false in any material particular commits an offence and shall be liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding one year.

Verification and settlement of claims.
9 of 2009.

62.—(1) On receipt and verification of the claims, the Financial Secretary shall, without delay, and with the prior approval of the Minister of Finance, enter into negotiations with the claimants for the payment of reasonable compensation within a reasonable time.

(2) In default of determination by agreement, the compensation payable under this Act shall be determined by the Supreme Court (hereinafter referred to as “the Court”) as hereinafter provided.

Procedure for settlement of claims.
9 of 2009.

63.—(1) Proceedings in respect of any claim to compensation under this Act (other than claims determined by agreement) may be taken either by the claimant or by the Financial Secretary and shall, unless otherwise provided by rules made under section 69, be commenced by a fixed date claim form and the procedure set out in the Supreme Court (Civil procedure) Rules, made in Statutory Instrument No. 75 of 2005, shall accordingly apply.

8 of 2011.

(2) In any proceedings for assessment of compensation instituted by the Financial Secretary, every person by whom or on whose behalf any

such compensation is claimed or who has an interest in the property in respect of which compensation is payable under this Act and whose whereabouts are known to the Financial Secretary shall be named as a party to the proceedings.

(3) Where in any such proceedings or otherwise, the Court is of the opinion that any person by whom or on whose behalf compensation is claimed or who has an interest in the property in respect of which compensation is payable is subject to any disability or incapacity, the Court may appoint a guardian *ad litem* to protect the interests of that person.

8 of 2011.

64.—(1) Subject to this Act the following rules shall apply to the determination of compensation for the acquisition of property,

Rules for assessment of compensation.
9 of 2009.

- (a) the value of the property shall, subject as hereinafter provided, be taken to be the amount which the property in its condition at the time of acquisition, if sold in the open market by a willing seller, might have been expected to have realised at the date of publication in the *Gazette* of the Order made under section 60 of this Act;
- (b) where the property is acquired consequent upon (he revocation of the licence of the public utility provider, or on the cessation of telecommunications operations by such provider, the market value of the property shall be reduced by such amount as may be considered reasonable in all the circumstances;
- (c) in assessing compensation, the Court shall employ the generally accepted methods of valuation of the kind of property that has been acquired, taking particularly into account the comparable sales of such property in Belize;
- (d) the special suitability or adaptability of the property for any purpose shall not be taken into account if that purpose is a purpose to which the property could be applied only in pursuance of statutory powers or other permit, licence or authority not already granted

or revoked, or for which there is no market apart from the special needs of a particular purchaser or the requirements of any Government Department or a public statutory body;

- (e) account shall be taken of any pending litigation against the public utility provider and of any pending or potential claims against such provider;
- (f) all compensation assessed under this Act shall be expressed and payable in the lawful currency of Belize.

(2) In assessing compensation, no allowance shall be made on account of,

- (a) the acquisition being compulsory or the degree of urgency or necessity which had led to the acquisition;
- (b) any disinclination on the part of the person interested to part with the property acquired;
- (c) any damage sustained by the person interested which, if caused by a private person, would not render such person liable to an action or claim;
- (d) any increase in the value of the property acquired likely to accrue from the use to which the property acquired will be put;
- (e) any outlay or improvement of, or other dealings with, such property, which have been made, commenced or effected within twelve months immediately before the publication of the Order under section 60, with the intention of enhancing the compensation to be awarded therefor in the event of such property being acquired for public purposes;
- (f) any accommodation or other agreements or settlement deeds (by whatever name called), containing provisions contrary to law.

65.—(1) The Court, in awarding compensation, may add interest thereto and shall be guided by the rate paid by commercial banks in Belize on fixed deposits at the date of acquisition; so, however, that reasonable compensation shall be paid to the claimant having regard to all the circumstances.

Interest.
9 of 2009.

(2) The interest under subsection (1) of this section may be added for the whole or any part of the period between the date of acquisition of the property and the date of the payment of the compensation awarded by the Court.

66.—(1) Subject to this section, the amount of costs to be awarded in proceedings in the Supreme Court and all questions relating thereto shall be determined by the Court.

Costs proceedings
in the Supreme
Court.
9 of 2009.

(2) Where an unconditional offer in writing of any sum as compensation to any claimant has been made by or on behalf of the Financial Secretary with the prior approval of the Minister of Finance and the sum awarded as compensation does not exceed the sum offered, the Court shall, unless for special reasons it considers otherwise, order the claimant to bear his own costs and to pay the costs of the Financial Secretary so far as the costs of the Financial Secretary were incurred after the offer was made.

(3) Where the claimant has failed to put forward a proper claim in sufficient time to enable the Financial Secretary to make a proper offer, the foregoing provisions of this section shall apply as if an unconditional offer had been made by or on behalf of the Financial Secretary at the time when, in the opinion of the Court, a proper claim should have been put forward and the claimant had been awarded a sum not exceeding the amount of such offer.

(4) Where a claimant has indicated in writing to accept any sum as compensation and has put forward a proper claim in sufficient time to enable the Financial Secretary to make a formal offer and the sum awarded is equal to or exceeds that sum, the Court shall, unless for special reasons it considers otherwise, order the Financial Secretary to bear his own costs and to pay the costs of the claimant so far as the costs of the claimant were incurred after he had indicated in writing to accept such sum as compensation.

(5) Where the Court orders the claimant to pay the costs or any part of the costs of the Financial Secretary, the Financial Secretary may deduct the amount so payable by the claimant from the amount compensation payable to him.

(6) For the purpose of this section, costs includes fees, charges and expenses.

Limitation of time
for making claims.
9 of 2009.

67. Unless the Court considers that injustice may otherwise be done, no claim for compensation in respect of compulsory acquisition of property under this Act shall be admitted or entertained by the Government unless it is made in writing to the Financial Secretary within twelve months after the publication in the *Gazette* of the notice of acquisition pursuant to section 61 of this Act.

Payment of com-
pensation etc.
9 of 2009.

68. All amounts which have been awarded by way of compensation under this Act, including interest and costs to be paid by the Financial Secretary, and all other costs, charges and expenses which shall be incurred under the authority of this Act, shall be paid out of moneys voted for the purpose by the National Assembly and all such compensation shall be paid within a reasonable time.

Provided that the Financial Secretary shall be entitled to deduct from any compensation which may have been awarded such sums as are due to the Government as arrears of any taxes, duties and charges, and all other sums whatsoever, which are owed to the Government by the person entitled to compensation.

Rules of Court.
9 of 2009.
S.I 75/2005.

69. The Chief Justice may, with the approval of the Attorney General, make rules for regulating the practice and procedure to be adopted in proceedings in the Supreme Court under this Act, but until such rules are made, the Supreme Court (Civil Procedure) Rules, 2005 will continue to apply.

Appeals.
9 of 2009.

70. Either party may appeal to the Court of Appeal against the determination of the Supreme Court under this Act, and every such appeal shall be made within the time and in the manner laid down by

the Court of Appeal Act, Cap. 90, and the rules made thereunder.

71. Subject to the Belize Constitution, Cap. 4, where there is a conflict between the provisions of this Part of this Act (or any Orders made thereunder) and any other law, rule or regulation, or the articles of association or other corporate documents of a public utility provider or its subsidiaries, this Part and any Orders made thereunder shall prevail.

Resolution of conflict.
9 of 2009.