



Telecommunications Act 1984

1984 CHAPTER 12

PART II

PROVISION OF TELECOMMUNICATION SERVICES

Licensing etc. of telecommunication systems

5 Prohibition on running unlicensed systems

- (1) Subject to the provisions of this section and section 6 below, a person who runs a telecommunication system within the United Kingdom shall be guilty of an offence unless he is authorised to run the system by a licence granted under section 7 below.
- (2) Subject to the provisions of this section, a person who runs within the United Kingdom a telecommunication system which he is authorised to run by a licence granted under section 7 below shall be guilty of an offence if—
 - (a) there is connected to the system—
 - (i) any other telecommunication system; or
 - (ii) any apparatus,which is not authorised by the licence to be so connected ; or
 - (b) there are provided by means of the system any telecommunication services which are not authorised by the licence to be so provided.
- (3) A person guilty of an offence under this section shall be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (4) Where the commission by any person of an offence under this section is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.

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- (5) In any proceedings for an offence under this section it shall, subject to subsection (6) below, be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (6) Where the defence provided by subsection (5) above involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.
- (7) No proceedings shall be instituted in England and Wales or Northern Ireland in respect of an offence under this section except by or on behalf of the Secretary of State or the Director.

6 Exceptions to section 5

- (1) Section 5(1) above is not contravened by the running by a broadcasting authority of a telecommunication system in the case of which every conveyance made by it is either—
 - (a) a transmission, by wireless telegraphy, from a transmitting station for general reception of sounds, visual images or such signals as are mentioned in paragraph (c) of section 4(1) above; or
 - (b) a conveyance within a single set of premises of sounds, visual images or such signals which are to be or have been so transmitted.
- (2) Section 5(1) above is not contravened by—
 - (a) the running of a telecommunication system in the case of which the only agency involved in the conveyance of things thereby conveyed is light and the things thereby conveyed are so conveyed as to be capable of being received or perceived by the eye and without more;
 - (b) the running by a person of a telecommunication system which is not connected to another telecommunication system and in the case of which all the apparatus comprised therein is situated either—
 - (i) on a single set of premises in single occupation ; or
 - (ii) in a vehicle, vessel, aircraft or hovercraft or in two or more vehicles, vessels, aircraft or hovercraft mechanically coupled together; or
 - (c) the running by a single individual of a telecommunication system which is not connected to another telecommunication system and in the case of which—
 - (i) all the apparatus comprised therein is under his control; and
 - (ii) everything conveyed by it that falls within paragraphs (a) to (d) of section 4(1) above is conveyed solely for domestic purposes of his ;
 and references in paragraphs (b) and (c) above to another telecommunication system do not include references to such a system as is mentioned in subsection (1) above (whether run by a broadcasting authority or by any other person).
- (3) In the case of a business carried on by a person, section 5(1) above is not contravened by the running, for the purposes of that business, of a telecommunication system which is not connected to another telecommunication system and with respect to which the conditions specified in subsection (4) below are satisfied.
- (4) The said conditions are-

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- (a) that no person except the person carrying on the business is concerned in the control of the apparatus comprised in the system ;
- (b) that nothing falling within paragraphs (a) to (d) of section 4(1) above is conveyed by the system by way of rendering a service to another;
- (c) that, in so far as sounds or visual images are conveyed by the system, they are not conveyed for the purpose of their being heard or seen by persons other than the person carrying on the business or any employees of his engaged in the conduct thereof ;
- (d) that in so far as such signals as are mentioned in paragraph (c) of section 4(1) above are conveyed by the system, they are not conveyed for the purpose of imparting matter otherwise than to the person carrying on the business, any employees of his engaged in the conduct thereof or things used in the course of the business and controlled by him ; and
- (e) that, in so far as such signals as are mentioned in paragraph (d) of section 4(1) above are conveyed by the system, they are not conveyed for the purpose of actuating or controlling machinery or apparatus used otherwise than in the course of the business.

(5) In this section—

" broadcasting authority " means a person licensed under the Wireless Telegraphy Act 1949 to broadcast programmes for general reception;

" business " includes a trade, profession or employment and includes any activity carried on by a body of persons, whether corporate or unincorporate;

" vessel" means a vessel of any description used in navigation ;

" wireless telegraphy " has the same meaning as in the said Act of 1949.

7 Power to license systems

(1) A licence may be granted—

- (a) by the Secretary of State after consultation with the Director; or
- (b) with the consent of, or in accordance with a general authorisation given by, the Secretary of State, by the Director,

for the running of any such telecommunication system as is specified in the licence or is of a description so specified.

(2) A licence granted under this section shall be in writing and, unless previously revoked in accordance with any term in that behalf contained in the licence, shall continue in force for such period as may be specified in or determined by or under the licence.

(3) A licence granted under this section may be granted either to all persons, to persons of a class or to a particular person.

(4) A licence granted under this section may authorise—

- (a) the connection to any telecommunication system to which the licence relates of—
 - (i) any other telecommunication system specified in the licence or of a description so specified ; and
 - (ii) any apparatus so specified or of a description so specified; and
- (b) the provision by means of any telecommunication system to which the licence relates of any telecommunication services specified in the licence or of a description so specified.

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- (5) A licence granted under this section may include—
- (a) such conditions (whether relating to the running of a telecommunication system to which the licence relates or otherwise) as appear to the Secretary of State or the Director to be requisite or expedient having regard to the duties imposed on him by section 3 above ;
 - (b) conditions requiring the rendering to the Secretary of State of a payment on the grant of the licence or payments during the currency of the licence or both of such amount or amounts as may be determined by or under the licence; and
 - (c) conditions requiring any person who is authorised by the licence to run a telecommunication system to furnish to the Director, in such manner and at such times as he may reasonably require, such documents, accounts, estimates, returns or other information as he may require for the purpose of exercising the functions assigned or transferred to him by or under this Part or Part III of this Act.
- (6) Without prejudice to the generality of paragraph (a) of subsection (5) above, conditions included by virtue of that paragraph in a licence granted under this section to a particular person may require that person—
- (a) to comply with any direction given by the Director as to such matters as are specified in the licence or are of a description so specified;
 - (b) except in so far as the Director consents to his doing or not doing them, not to do or to do such things as are specified in the licence or are of a description so specified ; and
 - (c) to refer for determination by the Director such questions arising under the licence as are specified in the licence or are of a description so specified.
- (7) A licence granted under this section otherwise than to a particular person shall be published in such manner as the Secretary of State or the Director considers appropriate for bringing it to the attention of the persons for whose benefit it will enure.
- (8) A copy of every licence granted under this section by the Secretary of State shall be sent to the Director.
- (9) Any sums received by the Secretary of State under this section shall be paid into the Consolidated Fund.
- (10) Neither the requirement to consult with the Director imposed by subsection (1)(a) above nor sections 8(5) and 10(6) below shall apply to the granting by the Secretary of State of the licence or licences which, having regard to the provisions of this Act, require to be granted (whether to British Telecommunications or to any other person) before the appointed day.
- (11) Where a licence granted under this section to a particular person includes a provision requiring that person to run any telecommunication system to which the licence relates through the agency of some other person, that other person, as well as the first mentioned person, shall be taken for the purposes of this section and the following provisions of this Part to be authorised by that licence to run that system.

8 Special provisions applicable to certain licences

- (1) This section applies to any licence granted under section 7 above to a particular person which includes conditions requiring that person—

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- (a) to provide such telecommunication services as are specified in the licence or are of a description so specified;
 - (b) to connect to any telecommunication system to which the licence relates, or permit the connection to any such system of, such other telecommunication systems and such apparatus as are specified in the licence or are of a description so specified;
 - (c) to permit the provision by means of any telecommunication system to which the licence relates of such services as are specified in the licence or are of a description so specified;
 - (d) not to show undue preference to, or to exercise undue discrimination against, particular persons or persons of any class or description (including, in particular, persons in rural areas) as respects any service provided, connection made or permission given in pursuance of such conditions as are mentioned in the foregoing paragraphs (whether in respect of the charges or other terms or conditions applied or otherwise); and
 - (e) to publish, in such manner and at such times as are specified in the licence, a notice specifying, or specifying the method that is to be adopted for determining, the charges and other terms and conditions that are to be applicable to such services so provided, such connections so made and such permissions so given as are specified in the licence or are of a description so specified.
- (2) Where a licence granted under section 7 above to a particular person includes a condition requiring that person to provide such directory information services to which this subsection applies as are specified in the licence or are of a description so specified, subsection (1) above shall have effect as if the conditions there mentioned included a condition requiring that person to provide without charge for subscribers who are blind or otherwise disabled such directory information services to which this subsection applies as are appropriate to meet the needs of those subscribers and are specified in the licence or are of a description so specified.
- (3) Subsection (2) above applies to any directory information service which is provided for the purpose of facilitating the use of a voice telephony service and in that subsection " blind or otherwise disabled " means so blind or otherwise disabled as to be unable to use a telephone directory.
- (4) It is immaterial for the purposes of subsections (1) and (2) above whether the person to whom the licence is granted is required to refer for determination by the Director such questions arising under the conditions mentioned in those subsections as are specified in the licence or are of a description so specified.
- (5) Before granting a licence to which this section applies, the Secretary of State or the Director shall give notice—
- (a) stating that he proposes to grant the licence and setting out its effect;
 - (b) stating the reasons why he proposes to grant the licence; and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed licence may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.

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- (6) A notice under subsection (5) above shall be given by publication in such manner as the Secretary of State or the Director considers appropriate for bringing the matters to which the notice relates to the attention of persons likely to be affected by them.

9 Public telecommunication systems

- (1) The Secretary of State may by order designate as a public telecommunication system any telecommunication system the running of which is authorised by a licence to which section 8 above applies; and any reference in this Act to a public telecommunication system is a reference to a telecommunication system which is so designated and the running of which is so authorised.
- (2) An order under subsection (1) above shall not come into operation until after the end of the period of 28 days beginning with—
- (a) the day on which copies of the order, and of the licence to which section 8 above applies, are laid before each House of Parliament; or
 - (b) if such copies are so laid on different days, the last of those days.
- (3) In this Act " public telecommunications operator " means a person authorised by a licence to which section 8 above applies to run a public telecommunication system.
- (4) In any case where it appears to the Secretary of State that it is expedient for transitional provision to be made in connection with a telecommunication system ceasing to be a public telecommunication system, or a person ceasing to be a public telecommunications operator, the Secretary of State may make a scheme giving effect to such transitional provision as he thinks fit.

10 The telecommunications code

- (1) Subject to the following provisions of this section, the code (to be known as " the telecommunications code") which is contained in Schedule 2 to this Act shall have effect—
- (a) where it is applied to a particular person by a licence granted by the Secretary of State under section 7 above authorising that person to run a telecommunication system; and
 - (b) where the Secretary of State or a Northern Ireland department is running or is proposing to run a telecommunication system.
- (2) The telecommunications code shall not be applied to a person authorised by a licence under section 7 above to run a telecommunication system unless—
- (a) that licence is a licence to which section 8 above applies; or
 - (b) it appears to the Secretary of State—
 - (i) that the running of the system will benefit the public; and
 - (ii) that it is not practicable for the system to be run without the application of that code to that person.
- (3) Where the telecommunications code is applied to any person by a licence under section 7 above it shall have effect subject to such exceptions and conditions as may be included in the licence for the purpose of qualifying the rights exercisable by that person by virtue of the code.

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- (4) Without prejudice to the generality of subsection (3) above, the exceptions and conditions there mentioned shall include such exceptions and conditions as appear to the Secretary of State to be requisite or expedient for the purpose of securing—
- (a) that the physical environment is protected and, in particular, that the natural beauty and amenity of the countryside is conserved;
 - (b) that there is no greater damage to streets or interference with traffic than is reasonably necessary;
 - (c) that funds are available for meeting any liabilities which may arise from the exercise of rights conferred by or in accordance with the code ;
- and any condition falling within this subsection may impose on the person to whom the code is applied a requirement to comply with directions given in a manner specified in the condition and by a person so specified or of a description so specified.
- (5) A licence under section 7 above which applies the telecommunications code to any person in relation to any part or locality of the United Kingdom shall include a condition requiring that person to cause copies of—
- (a) the exceptions and conditions subject to which the telecommunications code has effect as so applied ; and
 - (b) every direction given in a manner specified in any such condition by a person so specified or of a description so specified,
- to be open for inspection by members of the public free of charge at such premises in that part or locality as are specified in the licence or are of a description so specified.
- (6) Before granting under section 7 above a licence which applies the telecommunications code to a particular person in relation to any part or locality of the United Kingdom, the Secretary of State shall publish a notice—
- (a) stating that he proposes to apply the code to that person in relation to that part or locality and setting out the effect of the exceptions and conditions subject to which he proposes that the code should have effect as so applied;
 - (b) stating the reasons why he proposes to apply the code to that person in relation to that part or locality and why he proposes that the code as so applied should have effect subject to those exceptions and conditions ; and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed application of the code to that person in relation to that part or locality and with respect to the proposed exceptions and conditions may be made,
- and shall reconsider his proposals in the light of any representations or objections which are duly made and not withdrawn.
- (7) If the Secretary of State, on reconsidering in pursuance of subsection (6) above any proposals specified in a notice under that subsection, grants a licence under section 7 above applying the telecommunications code to any person in relation to any part or locality of the United Kingdom, he shall on granting that licence publish a further notice—
- (a) stating that the code has been applied to that person in relation to that part or locality and setting out the effect of the exceptions and conditions subject to which the code has effect as so applied ; and
 - (b) stating the reasons why the code has been applied to that person in relation to that part or locality and why the code as so applied has effect subject to those exceptions and conditions.

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- (8) Where the Secretary of State has granted a licence under section 7 above which applies the telecommunications code to a particular person in relation to any part or locality of the United Kingdom, he may—
- (a) with the consent of that person ; or
 - (b) if it appears to him requisite or expedient to do so for the purpose mentioned in subsection (4) above,
- modify the exceptions and conditions subject to which the code has effect as so applied.
- (9) Before modifying the exceptions and conditions subject to which the telecommunications code has effect as applied to any person in relation to any part or locality of the United Kingdom by a licence granted under section 7 above, the Secretary of State shall publish a notice—
- (a) stating that he proposes to make the modifications and setting out their effect;
 - (b) stating the reasons why he proposes to make the modifications; and
 - (c) specifying the time (not being less than 23 days from the date of publication of this notice) within which representations or objections with respect to the proposed modifications may be made,
- and shall reconsider his proposals in the light of any representations or objections which are duly made and not withdrawn.
- (10) If the Secretary of State, on reconsidering in pursuance of subsection (9) above any proposals specified in a notice under that subsection, modifies the exceptions and conditions subject to which the telecommunications code has effect as applied to any person in relation to any part or locality of the United Kingdom by a licence granted under section 7 above, he shall on making the modifications publish a further notice—
- (a) stating that the modifications have been made and setting out their effect; and
 - (b) stating the reasons why the modifications have been made.
- (11) A notice under this section shall be published in such manner as the Secretary of State considers appropriate for bringing the matters to which the notice relates to the attention of persons likely to be affected by them.

11 Provisions supplementary to section 10

- (1) Without prejudice to section 10(3) above, in the application of the telecommunications code in relation to any place in Northern Ireland the words from " and accordingly " onwards in sub-paragraph (1) of paragraph 9 (which relate to the application of the street works code in the Public Utilities Street Works Act 1950) shall be omitted; but the Secretary of State may by order apply paragraphs 1 to 6 of Schedule 3 to the Electricity Supply (Northern Ireland) Order 1972 (execution of works affecting roads, bridges, sewers and pipes), with such modifications as may be specified in the order, to the exercise in Northern Ireland of any right conferred by or in accordance with that code to do one or more of the things mentioned in that sub-paragraph.
- (2) Without prejudice to the generality of subsection (1) above, an order under that subsection may contain provisions creating an offence punishable on summary conviction with a fine not exceeding level 3 on the standard scale.
- (3) The Secretary of State may from time to time by order provide that the telecommunications code shall have effect for all purposes as if an amount specified in the order were substituted for the amount specified, or for the time being having

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effect as if specified, in sub-paragraph (3) of paragraph 16 of the code as the minimum amount of compensation payable under that paragraph ; and an order under this subsection may contain such transitional provisions as the Secretary of State considers appropriate.

- (4) In any case where it appears to the Secretary of State that it is expedient for transitional provision to be made in connection with the telecommunications code ceasing to apply to any person by reason of the expiry or revocation of a person's licence under section 7 above, the Secretary of State may make a scheme giving effect to such transitional provision as the Secretary of State thinks fit.
- (5) Without prejudice to the generality of subsection (4) above, a scheme under that subsection may—
 - (a) impose obligations on a person to whom the telecommunications code has ceased to apply as mentioned in subsection (4) above to remove anything installed in pursuance of any right conferred by or in accordance with the telecommunications code, to restore land to its condition before anything was done in pursuance of any such right or to pay the expenses of any such removal or restoration;
 - (b) provide for those obligations to be enforceable in such manner (otherwise than by criminal penalties) and by such persons as may be specified in the scheme;
 - (c) authorise the retention of apparatus on any land pending the grant of a licence under section 7 above authorising the running by any person of a telecommunication system for the purposes of which that apparatus may be used;
 - (d) provide for the purposes of any provision contained in the scheme by virtue of paragraph (a), (b) or (c) above for such questions arising under the scheme as are specified in the scheme, or are of a description so specified, to be referred to, and determined by, the Director.

Modification of licences

12 Modification of licence conditions by agreement

- (1) Subject to the following provisions of this section, the Director may modify the conditions of a licence granted under section 7 above.
- (2) Before making modifications under this section, the Director shall give notice—
 - (a) stating that he proposes to make the modifications and setting out their effect;
 - (b) stating the reasons why he proposes to make the modifications ; and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,and shall consider any representations or objections which are duly made and not withdrawn.
- (3) A notice under subsection (2) above shall be given by publication in such manner as the Director considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them and, in the case of a licence granted to a particular person, by sending a copy of the notice to that person.

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- (4) In the case of a licence granted to a particular person, the Director shall not make the modifications except with the consent of that person; and, in the case of a licence granted to all persons or to persons of a class, the Director shall not make the modifications unless either—
- (a) no representations or objections are duly made by persons authorised by that licence to run telecommunication systems; or
 - (b) any representations or objections duly made by such persons are withdrawn.
- (5) The Director shall also send a copy of a notice under subsection (2) above to the Secretary of State ; and if, within the time specified in the notice, the Secretary of State directs the Director not to make any modification, the Director shall comply with the direction.
- (6) The Secretary of State shall not give a direction under subsection (5) above unless—
- (a) it appears to him that the modification should be made, if at all, under section 15 below ; or
 - (b) it appears to him to be requisite or expedient to do so in the interests of national security or relations with the government of a country or territory outside the United Kingdom.
- (7) References in this section and in sections 13 to 15 below to modifications of the conditions of a licence do not include references to modifications of conditions relating to the application of the telecommunications code.

13 Licence modification references to Commission

- (1) The Director may make to the Monopolies and Mergers Commission (in this Act referred to as " the Commission ") a reference which is so framed as to require the Commission to investigate and report on the questions—
- (a) whether any matters which relate to the provision of telecommunication services or the supply of telecommunication apparatus by a person authorised by a licence under section 7 above to run a telecommunication system and which are specified in the reference operate, or may be expected to operate, against the public interest; and
 - (b) if so, whether the effects adverse to the public interest which those matters have or may be expected to have could be remedied or prevented by modifications of the conditions of that licence.
- (2) The Director may, at any time, by notice given to the Commission vary a reference under this section by adding to the matters specified in the reference or by excluding from the reference some or all of the matters so specified; and, subject to subsection (5) below, on receipt of such notice the Commission shall give effect to the variation.
- (3) The Director may specify in a reference under this section, or a variation of such a reference, for the purpose of assisting the Commission in carrying out the investigation on the reference—
- (a) any effects adverse to the public interest which, in his opinion, the matters specified in the reference or variation have or may be expected to have ; and
 - (b) any modifications of the conditions of the licence by which, in his opinion, those effects could be remedied or prevented.
- (4) The Director shall publish particulars of a reference under this section, or of a variation of such a reference, in such manner as he considers appropriate for the purpose of

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- bringing the reference or variation to the attention of persons likely to be affected by it and, in the case of a licence granted to a particular person, shall send a copy of the reference or variation to that person.
- (5) The Director shall also send a copy of a reference under this section, or a variation of such a reference, to the Secretary of State; and if, before the end of the period of 14 days beginning with the day on which the Secretary of State receives the copy of the reference or variation, the Secretary of State directs the Commission not to proceed with the reference or, as the case may require, not to give effect to the variation, the Commission shall comply with the direction.
- (6) The Secretary of State shall not give a direction under subsection (5) above unless it appears to him to be requisite or expedient to do so in the interests of national security or relations with the government of a country or territory outside the United Kingdom.
- (7) It shall be the duty of the Director, for the purpose of assisting the Commission in carrying out an investigation on a reference under this section, to give to the Commission—
- (a) any information which is in his possession and which relates to matters falling within the scope of the investigation, and which is either requested by the Commission for that purpose or is information which in his opinion it would be appropriate for that purpose to give to the Commission without any such request; and
 - (b) any other assistance which the Commission may require, and which it is within his power to give, in relation to any such matters,
- and the Commission, for the purpose of carrying out any such investigation, shall take account of any information given to them for that purpose under this subsection.
- (8) In determining for the purposes of this section whether any particular matter operates, or may be expected to operate, against the public interest, the Commission shall have regard to the matters as respects which duties are imposed on the Secretary of State and the Director by section 3 above.
- (9) Sections 70 (time limit for report on merger reference) and 85 (attendance of witnesses and production of documents) of the Fair Trading Act 1973 (in this Act referred to as "the 1973 Act") and Part II of Schedule 3 to that Act (performance of functions of the Commission) shall apply in relation to references under this section as if—
- (a) the functions of the Commission in relation to those references were functions under that Act;
 - (b) the expression "merger reference" included a reference under this section;
 - (c) in the said section 70 references to the Secretary of State were references to the Director and the reference to three months were a reference to six months;
 - (d) in paragraph 11 of the said Schedule 3 the reference to section 71 of that Act were a reference to subsection (2) above; and
 - (e) paragraph 16(2) of that Schedule were omitted.
- (10) For the purposes of references under this section the Secretary of State shall appoint not less than three additional members of the Commission; and if any functions of the Commission in relation to any such reference are performed through a group, the chairman of the Commission shall select one, two or three of those additional members to be members of the group and the number of regular members to be selected by him under paragraph 10 of Schedule 3 to the 1973 Act shall be reduced accordingly.

14 Reports on licence modification references

- (1) In making a report on a reference under section 13 above, the Commission—
 - (a) shall include in the report definite conclusions on the questions comprised in the reference together with such an account of their reasons for those conclusions as in their opinion is expedient for facilitating proper understanding of those questions and of their conclusions ;
 - (b) where they conclude that any of the matters specified in the reference operate, or may be expected to operate, against the public interest, shall specify in the report the effects adverse to the public interest which those matters have or may be expected to have ; and
 - (c) where they conclude that any adverse effects so specified could be remedied or prevented by modifications of the conditions of the licence, shall specify in the report modifications by which those effects could be remedied or prevented.
- (2) Where, on a reference under this section, the Commission conclude that any person who is authorised by the licence to run a telecommunication system is a party to an agreement to which the Restrictive Trade Practices Act 1976 applies, the Commission, in making their report on that reference, shall exclude from their consideration the question whether the provisions of that agreement, in so far as they are provisions by virtue of which it is an agreement to which that Act applies, operate, or may be expected to operate, against the public interest ; and paragraph (b) of subsection (1) above shall have effect subject to the provisions of this subsection.
- (3) Section 82 of the 1973 Act (general provisions as to reports) shall apply in relation to reports of the Commission on references under section 13 above as it applies to reports of the Commission under that Act.
- (4) A report of the Commission on a reference under section 16 above shall be made to the Director.
- (5) On receiving such a report, the Director—
 - (a) shall send a copy of the report to the Secretary of State and, in the case of a licence granted to a particular person, to that person ; and
 - (b) subject to any direction given under subsection (6) below, shall publish the report in such manner as he considers appropriate for bringing the report to the attention of persons likely to be affected by it.
- (6) If it appears to the Secretary of State that the publication of any matter in such a report would be against the public interest or the commercial interests of any person, he may, before the end of the period of 34 days beginning with the day on which he receives the copy of the report, direct the Director to exclude that matter from the report as published under subsection (5) above.

15 Modification of licence conditions following report

- (1) Where a report of the Commission on a reference under section 13 above—
 - (a) includes conclusions to the effect that any of the matters specified in the reference operate, or may be expected to operate, against the public interest;
 - (b) specifies effects adverse to the public interest which those matters have or may be expected to have;
 - (c) includes conclusions to the effect that those effects could be remedied or prevented by modifications of the conditions of the licence; and

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- (d) specifies modifications by which those effects could be remedied or prevented,
- the Director shall, subject to the following provisions of this section, make such modifications of the conditions of the licence as appear to him requisite for the purpose of remedying or preventing the adverse effects specified in the report.
- (2) Before making modifications under this section, the Director shall have regard to the modifications specified in the report.
- (3) Before making modifications under this section, the Director shall give notice—
- (a) stating that he proposes to make the modifications and setting out their effect;
 - (b) stating the reasons why he proposes to make the modifications ; and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.
- (4) A notice under subsection (3) above shall be given by publication in such manner as the Director considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them and, in the case of a licence granted to a particular person, by sending a copy of the notice to that person.
- (5) The Director shall also send a copy of a notice under subsection (3) above to the Secretary of State; and if, within the time specified in the notice, the Secretary of State directs the Director not to make any modification the Director shall comply with the direction.
- (6) The Secretary of State shall not give a direction under subsection (5) above unless it appears to him requisite or expedient to do so in the interests of national security or relations with the government of a country or territory outside the United Kingdom.

Enforcement of licences

16 Securing compliance with licence conditions

- (1) Subject to subsections (2) and (5) and section 17 below, where the Director is satisfied that a person who is authorised by a licence granted under section 7 above to run a telecommunication system (in this Act referred to as a " telecommunications operator ") is contravening, or has contravened and is likely again to contravene, any of the conditions of his licence, the Director shall by a final order make such provision as is requisite for the purpose of securing compliance with that condition.
- (2) Subject to subsection (5) below, where it appears to the Director—
- (a) that a telecommunications operator is contravening, or has contravened and is likely again to contravene, any of the conditions of his licence ; and
 - (b) that it is requisite that a provisional order be made,
- the Director shall (instead of taking steps towards the making of a final order) by a provisional order make such provision as appears to him requisite for the purpose of securing compliance with that condition.
- (3) In determining for the purposes of subsection (2) (b) above whether it is requisite that a provisional order be made, the Director shall have regard, in particular, to the extent

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to which any 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, before a final order may be made.

(4) Subject to subsection (5) and section 17 below, the Director shall confirm a provisional order with or without modifications if—

- (a) he is satisfied that the telecommunications operator is contravening, or has contravened and is likely again to contravene, any of the conditions of his licence ; and
- (b) the provision made by the order (with any modifications) is requisite for the purpose of securing compliance with that condition.

(5) The duties imposed by subsections (1) to (4) above shall not apply where the Director gives notice that he is satisfied—

- (a) that the duties imposed on him by section 3 above preclude the making of a final or provisional order or, as the case may be, the confirmation of the provisional order; or
- (b) that the contraventions or apprehended contraventions are of a trivial nature ; and a notice under this subsection shall be given by publication in such manner as the Director considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them and by sending a copy of the notice to the telecommunications operator.

(6) A final or provisional order—

- (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 or are of a description so specified;
- (b) shall take effect at such time, being the earliest practicable time, as is determined by or under the order ; and
- (c) may be revoked at any time by the Director.

(7) In this section and sections 17 to 19 below—

" contravention ", in relation to any condition of a licence, includes any failure to comply with that condition and " contravene " shall be construed accordingly ;

" final order " means an order under this section other than a provisional order;

" provisional order" means an order under this section which, if not previously confirmed under subsection (4) above, will cease to have effect at the end of such period (not exceeding three months) as is determined by or under the order.

(8) References in this section to conditions of a licence do not include references to conditions relating to the application of the telecommunications code.

17 Procedural requirements

(1) Before making a final order or confirming a provisional order, the Director shall give notice—

- (a) stating that he proposes to make or confirm the order and setting out its effect;
- (b) stating the relevant condition of the licence and the acts or omissions which, in his opinion, constitute or would constitute contraventions of it; and

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- (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections to the proposed order or confirmation of the order may be made,
and shall consider any representations or objections which are duly made and not withdrawn.
- (2) The Director shall not make a final order, or confirm a provisional order, with modifications except with the consent of the telecommunications operator or after complying with the requirements of subsection (3) below.
- (3) The said requirements are that the Director shall—
- (a) give to the telecommunications operator such notice as appears to him requisite of his proposal to make or confirm the order with modifications ;
 - (b) specify the time (not being less than 28 days from the date of the service of the notice) within which representations or objections to the proposed modifications may be made; and
 - (c) consider any representations or objections which are duly made and not withdrawn.
- (4) Before revoking a final order or a provisional order which has been confirmed, the Director shall give notice—
- (a) stating that he proposes to revoke the order and setting out its effect; and
 - (b) specifying the time (not being less than 28 days) from the date of publication of the notice within which representations or objections to the proposed revocation may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.
- (5) A notice under subsection (1) or (4) above shall be given by publication in such manner as the Director considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them and by sending a copy of the notice to the telecommunications operator.
- (6) As soon as practicable after a final order is made or a provisional order is made or confirmed, the Director shall—
- (a) publish the order in such manner as he considers appropriate for the purpose of bringing the order to the attention of persons likely to be affected by it; and
 - (b) serve a copy of the order on the telecommunications operator.

18 Validity and effect of orders

- (1) If the telecommunications operator is aggrieved by a final or provisional order and desires to question its validity on the ground that the making or confirmation of it was not within the powers of section 16 above or that any of the requirements of section 17 above have not been complied with in relation to it, he may within 42 days from the date of service on him of a copy of the order make an application to the court under this section.
- (2) On any such application the court may, if satisfied that the making or confirmation of the order was not within those powers or that the interests of the telecommunications operator have been substantially prejudiced by a failure to comply with those requirements, quash the order or any provision of the order.

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- (3) Except as provided by this section, the validity of a final or provisional order shall not be questioned by any legal proceedings whatever.
- (4) No criminal proceedings shall, by virtue of the making of a final order or the making or confirmation of a provisional order, lie against any person on the ground that he has committed, or aided, abetted, counselled or procured the commission of, or conspired or attempted to commit, or incited others to commit, any contravention of the order.
- (5) The obligation to comply with a final or provisional order is a duty owed to any person who may be affected by a contravention of it.
- (6) Where a duty is owed by virtue of subsection (5) above to any person—
- (a) any breach of the duty which causes that person to sustain loss or damage ; and
 - (b) any act which, by inducing a breach of that duty or interfering with its performance, causes that person to sustain loss or damage and which is done wholly or partly for the purpose of achieving that result,
- shall be actionable at the suit or instance of that person.
- (7) In any proceedings brought against any person in pursuance of subsection (6)(a) above, it shall be a defence for him to prove that he took all reasonable steps and exercised all due diligence to avoid contravening the order.
- (8) Without prejudice to any right which any person may have by virtue of subsection (6) (a) above to bring civil proceedings in respect of any contravention or apprehended contravention of a final or provisional order, compliance with any such order shall be enforceable by civil proceedings by the Director for an injunction or interdict or for any other appropriate relief.
- (9) In this section—
- " act", in relation to any person, includes any failure to do an act which he is under a duty to do and " done " shall be construed accordingly;
 - " contravention ", in relation to a final or provisional order, includes any failure to comply with it;
 - " the court "—
 - (a) in relation to England and Wales and Northern Ireland, means the High Court; and
 - (b) in relation to Scotland, means the Court of Session.

19 Register of licences and orders

- (1) The Director shall keep a register of licences granted under section 7 above and final and provisional orders at such premises and in such form as he may determine.
- (2) Subject to any direction given under subsection (3) below, the Director shall cause to be entered in the register the provisions of—
- (a) every licence granted under section 7 above and every modification or revocation of, and every direction or consent given or determination made under, such a licence; and
 - (b) every final or provisional order, every revocation of such an order and every notice under section 16(5) above.

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- (3) If it appears to the Secretary of State that the entry of any provision in the register would be against the public interest or the commercial interests of any person, he may direct the Director not to enter that provision in the register.
- (4) The register shall be open to public inspection during such hours and subject to payment of such fee as may be prescribed by an order made by the Secretary of State.
- (5) Any person may, on payment of such fee as may be prescribed by an order so made, require the Director to supply to him a copy of or extract from any part of the register, certified by the Director to be a true copy or extract.
- (6) Any sums received by the Director under this section shall be paid into the Consolidated Fund.

Approvals etc. for the purposes of licences

20 Approval of contractors

- (1) Where licences granted under section 7 above include provisions which are framed by reference to the carrying out of relevant operations by persons for the time being approved under this section then, for the purposes of those provisions, persons may be approved under this section in relation to such operations—
 - (a) by the Secretary of State ; or
 - (b) with the consent of, or in accordance with a general authorisation given by, the Secretary of State, by the Director.
- (2) A person applying for an approval under this section may be required by the person to whom the application is made to comply with such requirements as the person to whom the application is made may think appropriate; and those requirements may include a requirement to satisfy some other person with respect to any matter.
- (3) An approval under this section may apply either to a particular person or to persons of a description specified in the approval, and may so apply either in relation to particular relevant operations or in relation to relevant operations of a description so specified.
- (4) An approval under this section may specify conditions which must be complied with if the approval is to apply, for any purposes specified in the approval, to any person who is so specified or is of a description so specified; and any such condition may impose on the person to whom the approval is given a requirement from time to time to satisfy any person with respect to any matter.
- (5) Nothing in this section shall preclude a person (not being the Secretary of State or the Director) by whom any matter falls to be determined for the purposes of any requirement imposed in pursuance of subsection (2) or (4) above from charging any fee in respect of the carrying out of any test or other assessment made by him.
- (6) Any power conferred by this section to give an approval includes power to vary or withdraw an approval given in exercise of that power.
- (7) The Secretary of State shall send to the Director—
 - (a) a copy of every approval given by him under this section ; and
 - (b) particulars of every variation or withdrawal of an approval so given.

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- (8) The Secretary of State may by order provide for the charging of fees in respect of the exercise of any functions conferred by or under this section.
- (9) Any sums received by the Secretary of State or the Director under this section shall be paid into the Consolidated Fund.
- (10) In this section " relevant operations " means the installation, maintenance, adjustment, repair, alteration, moving, removal or replacement of apparatus which is or is to be connected to any telecommunication system to which a licence under section 7 above relates.

21 Register of approved contractors

- (1) The Director shall keep a register of approvals given under section 20 above at such premises and in such form as he may determine.
- (2) The Director shall cause particulars of every such approval, and of every variation or withdrawal of such an approval, to be entered in the register.
- (3) Subsections (4) to (6) of section 19 above shall apply for the purposes of this section as they apply for the purposes of that section.

22 Approval etc. of apparatus

- (1) Where licences granted under section 7 above include provisions which are framed by reference to apparatus for the time being approved under this section for connection to telecommunication systems to which the licences relate, then, for the purposes of those provisions, apparatus may be approved for connection to those systems—
 - (a) by the Secretary of State; or
 - (b) with the consent of, or in accordance with a general authorisation given by, the Secretary of State, by the Director.
- (2) A person applying for an approval under this section may be required by the person to whom the application is made to comply with such requirements as the person to whom the application is made may think appropriate; and those requirements may include a requirement to satisfy some other person with respect to any matter.
- (3) An approval under this section may apply either to particular apparatus or to any apparatus of a description specified in the approval, and may so apply either for the purposes of a particular telecommunication system or for the purposes of any telecommunication system of a description so specified.
- (4) An approval under this section may specify conditions which must be complied with if the approval is to apply, for any purposes specified in the approval, to any apparatus which is so specified or is of a description so specified; and any such condition may impose on the person to whom the approval is given a requirement from time to time to satisfy any person with respect to any matter.
- (5) Nothing in this section shall preclude a person (not being the Secretary of State or the Director) by whom any matter falls to be determined for the purposes of any requirement imposed in pursuance of subsection (2) or (4) above from charging any fee in respect of the carrying out of any test or other assessment made by him.

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- (6) Standards to which apparatus of a description specified in the designation must conform if it is to be approved for connection to a telecommunication system so specified or of a description so specified may be designated—
- (a) by the Secretary of State ; or
 - (b) with the consent of, or in accordance with a general authorisation given by, the Secretary of State, by the Director;
- and a standard so designated may apply subject to such exceptions as may be determined by or under the designation.
- (7) A designation under this section may specify conditions which must be complied with if any apparatus of a description specified in the designation is to be regarded, for any purposes so specified, as conforming to the standard to which the designation relates.
- (8) Before designating a standard under this section, the Secretary of State or the Director shall give notice—
- (a) stating that he proposes to make the designation and setting out its effect;
 - (b) stating any conditions which he proposes to specify in the designation; and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed designation may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.
- (9) A notice under subsection (8) above shall be given by sending a copy of the notice to the person running the system and such other persons (if any) as the Secretary of State or the Director considers appropriate.
- (10) Any power conferred by this section to give an approval or designate a standard includes power to vary or withdraw an approval given or designation made in the exercise of that power.
- (11) The Secretary of State shall send to the Director—
- (a) a copy of every approval given or designation made by him under this section ; and
 - (b) particulars of every variation or withdrawal of an approval so given or a designation so made,
- except where it appears to him requisite or expedient not to do so in the interests of national security.
- (12) The Secretary of State may by order provide for the charging of fees in respect of the exercise of any functions conferred by or under this section.
- (13) Any sums received by the Secretary of State or the Director under this section shall be paid into the Consolidated Fund.

23 Register of approved apparatus etc.

- (1) The Director shall keep a register of approvals given and. designations made under section 22 above at such premises and in such form as he may determine.
- (2) Subject to subsection (3) below and to any direction given under subsection (4) below, the Director shall cause particulars of every such approval or designation, and of every variation or withdrawal of such an approval or designation, to be entered in the register.

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- (3) The Director shall not enter in the register particulars of—
 - (a) any approval given or designation made by the Secretary of State under section 22 above a copy of which is not sent to the Director under subsection (11) of that section; or
 - (b) any variation or withdrawal of an approval so given or a designation so made particulars of which are not so sent.
- (4) Subsections (3) to (6) of section 19 above shall apply for the purposes of this section as they apply for the purposes of that section.

24 Approval etc. of meters

- (1) Where licences granted under section 7 above include provisions which are framed by reference to meters for the time being approved under this section for use in connection with telecommunication systems to which the licences relate, then, for the purposes of those provisions, meters may be approved for use in connection with those systems—
 - (a) by the Secretary of State; or
 - (b) with the consent of, or in accordance with a general authorisation given by, the Secretary of State, by the Director.
- (2) A person applying for an approval under this section may be required by the person to whom the application is made to comply with such requirements as the person to whom the application is made may think appropriate ; and those requirements may include a requirement to satisfy some other person with respect to any matter.
- (3) An approval under this section may apply either to a particular meter or to any meter of a description specified in the approval, and may so apply either for the purposes of a particular telecommunication system or for the purposes of any telecommunication system of a description so specified.
- (4) An approval under this section may specify conditions which must be complied with if the approval is to apply, for any purpose specified in the approval, to any meter which is so specified or is of a description so specified; and any such condition may impose on the person to whom the approval is given a requirement from time to time to satisfy any person with respect to any matter.
- (5) Nothing in this section shall preclude a person (not being the Secretary of State or the Director) by whom any matter falls to be determined for the purposes of any requirement imposed in pursuance of subsection (2) or (4) above from charging any fee in respect of the carrying out of any test or other assessment made by him.
- (6) Standards to which any meter of a description specified in the designation must conform if it is to be approved for use in connection with a telecommunication system so specified or of a description so specified may be designated—
 - (a) by the Secretary of State ; or
 - (b) with the consent of, or in accordance with a general authorisation given by, the Secretary of State, by the Director;
 and a standard so designated may apply subject to such exceptions as may be determined by or under the designation.
- (7) A designation under this section may specify conditions which must be complied with if any meter of a description specified in the designation is to be regarded, for any purposes so specified, as conforming to the standard to which the designation relates.

- (8) A meter shall not be approved under this section for use in connection with any telecommunication system unless either—
- (a) the meter conforms to a standard designated under this section which applies to it for the purposes of that system; or
 - (b) the Secretary of State or the Director is satisfied that, if used in connection with that system in accordance with the approval, the meter would be sufficiently accurate and reliable.
- (9) Before giving an approval under this section by virtue of subsection (8)(i) above or designating a standard under this section, the Secretary of State or the Director shall give notice—
- (a) stating that he proposes to give the approval or make the designation and setting out its effect;
 - (b) stating any conditions which he proposes to specify in the approval or designation ; and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed approval or designation may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.
- (10) A notice under subsection (9) above shall be given by sending a copy of the notice—
- (a) in the case of an approval, to the person applying for the approval;
 - (b) in the case of a designation, to the person running the system,
- and (in either case) to such other persons (if any) as the Secretary of State or the Director considers appropriate.
- (11) Any power conferred by this section to give an approval or designate a standard includes power to vary or withdraw an approval given or designation made in the exercise of that power.
- (12) The Secretary of State shall send to the Director—
- (a) a copy of every approval given or designation made by him under this section ; and
 - (b) particulars of every variation or withdrawal of an approval so given or a designation so made.
- (13) The Secretary of State may by order provide for the charging of fees in respect of the exercise of any functions conferred by or under this section.
- (14) Any sums received by the Secretary of State or the Director under this section shall be paid into the Consolidated Fund.
- (15) In this section "meter" means any system or apparatus constructed or adapted for use in ascertaining the extent of telecommunication services provided by means of a telecommunication system.

25 Delegation of functions under sections 22 and 24

- (1) The functions conferred on the Secretary of State by sections 22 and 24 above (other than the powers to make orders) shall be exercisable by any person appointed by the Secretary of State for the purpose to such extent and subject to such conditions as may

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be specified in the appointment; and an appointment under this section may authorise the person appointed to retain any fees received by him.

- (2) Before appointing any person under this section, the Secretary of State shall consult with the persons running the telecommunication systems concerned, or with such organisations as appear to the Secretary of State to be representative of those persons.

26 Grants and loans to persons exercising certain functions

- (1) The Secretary of State may, with the approval of the Treasury, make grants or loans—
- (a) to persons by whom any matter falls to be determined for the purposes of any requirement imposed in pursuance of subsection (2) or (4) of section 20, 22 or 24 above; or
 - (b) to persons appointed under section 25 above.
- (2) Any loans under this section shall be repaid to the Secretary of State at such times and by such methods and interest thereon shall be paid to him at such rates and at such times as he may, with the approval of the Treasury, from time to time direct.
- (3) There shall be paid out of money provided by Parliament any sums required by the Secretary of State for making grants or loans under this section.
- (4) Any sums received by the Secretary of State under subsection (2) above shall be paid into the Consolidated Fund.

27 Recognition of bodies representing consumers etc.

- (1) Where licences granted under section 7 above include provisions which are framed by reference to bodies for the time being recognised under this section to be representing the interests of consumers, purchasers and other users of telecommunication services provided by means of, or telecommunication apparatus connected to, telecommunication systems to which the licences relate, then, for the purposes of those provisions, bodies may be so recognised by the Secretary of State.
- (2) A recognition under this section may apply either to a particular body or to bodies of a description specified in the recognition, and may so apply either for the purposes of a particular telecommunication system or for the purposes of any telecommunication system of a description so specified.
- (3) The Secretary of State may pay such allowances as he may determine to members of a body recognised by him under this section, and may pay such expenses of a body so recognised as he may determine.
- (4) Any power conferred by this section to give a recognition includes power to withdraw a recognition given in the exercise of that power.
- (5) There shall be paid out of money provided by Parliament any sums required by the Secretary of State for making payments under this section.

Marking etc. of telecommunication apparatus

28 Information etc. to be marked on or to accompany telecommunication apparatus

- (1) Where it appears to the Secretary of State expedient that any description of telecommunication apparatus should be marked with or accompanied by any information or instruction relating to the apparatus or its connection or use, the Secretary of State may by order impose requirements for securing that apparatus of that description is so marked or accompanied, and regulate or prohibit the supply of any such apparatus with respect to which the requirements are not complied with; and the requirements may extend to the form and manner in which the information or instruction is to be given.
- (2) Where an order under this section is in force with respect to telecommunication apparatus of any description, any person who, in the course of any trade or business, supplies or offers to supply telecommunication apparatus of that description in contravention of the order shall, subject to subsection (3) below, be guilty of an offence and liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (3) Subsections (4) to (6) of section 5 above shall apply for the purposes of this section as they apply for the purposes of that section.
- (4) An order under this section may, in the case of telecommunication apparatus supplied in circumstances where the information or instruction required by the order would not be conveyed until after delivery, require the whole or part thereof to be also displayed near the apparatus.
- (5) For the purposes of this section a person exposing telecommunication apparatus for supply or having telecommunication apparatus in his possession for supply shall be deemed to offer to supply it
- (6) In this section and section 29 below " supply " shall be construed in accordance with section 9 of the Consumer Safety Act 1978.

29 Information etc. to be given in advertisements

- (1) Where it appears to the Secretary of State expedient that any description of advertisements of telecommunication apparatus should contain or refer to any information relating to the apparatus or its connection or use, the Secretary of State may by order impose requirements as to the inclusion of that information, or an indication of the means by which it may be obtained, in advertisements of that description.
- (2) Where an advertisement of any telecommunication apparatus to be supplied in the course of any trade or business fails to comply with any requirement imposed under this section, any person who publishes the advertisement shall, subject to subsections (3) and (4) below, be guilty of an offence and liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (3) Subsections (4) to (6) of section 5 above shall apply for the purposes of this section as they apply for the purposes of that section.

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- (4) In any proceedings for an offence under this section it shall be a defence for the person charged to prove that he is a person whose business it is to publish or arrange for the publication of advertisements and that he received the advertisement for publication in the ordinary course of business and did not know and had no reason to suspect that its publication would amount to an offence under this section.
- (5) An order under this section may specify the form and manner in which any information or indication required by the order is to be included in advertisements of any description.
- (6) In this section "advertisement" includes a catalogue, a circular and a price list.

30 Enforcement provisions

- (1) The Director or a relevant authority shall have power to purchase telecommunication apparatus, and to authorise any of his or their officers to purchase telecommunication apparatus on his or their behalf, for the purpose of ascertaining whether sections 28 and 29 above and orders made under those sections (in this section referred to as "the relevant provisions ") are being complied with.
- (2) The Director shall have power to enforce the relevant provisions and every local weights and measures authority in Great Britain shall have power to enforce those provisions within their area ; but nothing in this subsection shall be construed as authorising the Director or a local weights and measures authority to institute proceedings in Scotland for an offence.
- (3) In this section "relevant authority " means—
 - (a) in relation to Great Britain, the Secretary of State of a local weights and measures authority on whom a power to enforce the relevant provisions is conferred by subsection (2) above;
 - (b) in relation to Northern Ireland, the Department of Economic Development for Northern Ireland.

Rating of telecommunications operators

31 Rating in England and Wales

- (1) In Schedule 3 to the Local Government Act 1974 (hereditaments to which section 19(1) of that Act applies) for paragraph 5A (hereditaments occupied by British Telecommunications by certain property used for the purposes of telecommunication services) there shall be substituted the following paragraph—

“5A Any hereditament occupied by a telecommunications operator (within the meaning of the Telecommunications Act 1984) by any such property as follows, namely, posts, wires, underground cables and ducts, telephone kiosks and other equipment being property used for the purpose of providing telecommunication services.”
- (2) Where an order made under the said section 19 applies to hereditaments occupied by a telecommunications operator by any such property as aforesaid, that operator shall be treated, for the purposes of the law relating to rating, as not being a public utility undertaking.

(3) This section extends to England and Wales only.

32 Rating in Scotland

(1) In paragraph 5 of Schedule 1 to the Local Government (Scotland) Act 1975 (lands and heritages to which section 6(1) of that Act applies and occupied by British Telecommunications by certain property used for the purposes of telecommunication services)—

- (a) for the words " British Telecommunications " there shall be substituted the words " a telecommunications operator (within the meaning of the Telecommunications Act 1984) "; and
- (b) for the words from " not within " to " purposes of " there shall be substituted the words " , being property used for the purpose of providing " .

(2) This section extends to Scotland only.

33 Rating in Northern Ireland

(1) For the purposes of any valuation list in force on or after the appointed day the Department of Finance and Personnel for Northern Ireland (in this section referred to as " the Department ") may by order determine the aggregate amount of the net annual value of the following hereditaments occupied by a telecommunications operator for the purpose of providing telecommunication services, namely, posts, wires, underground cables and ducts, telephone kiosks and other equipment.

(2) The Department shall, after consultation with such telecommunications operators, associations of district councils and district councils as the Department considers appropriate, make an order under subsection (1) above for the purpose of any valuation list in force on or after 1st April in a relevant year.

(3) The aggregate amount determined under subsection (1) above shall be apportioned by the Commissioner of Valuation for Northern Ireland in the valuation list prepared by him among the districts of the district councils in such manner as the Department may by order prescribe.

(4) An order under subsection (1) above may, if the Department thinks fit, provide, with respect to each of the years subsequent to the first with respect to which the order has effect or with respect to such of those years as may be specified in the order—

- (a) for the aggregate amount referred to in that subsection to be re-determined in manner prescribed by the order; or
- (b) for the apportioned parts of that amount to be varied in manner so prescribed ;

and, where such an order includes such provision as is authorised by paragraph (a) above to be included therein the aggregate amount, as re-determined in accordance with the order, shall be apportioned among the districts of the district councils in which the hereditaments in question are situate in like manner as that amount, as determined by the order, was apportioned.

(5) Where an order under this section includes any such provision as is authorised by subsection (4) above to be included therein it may further include provision for effecting such alterations in net annual values shown in the valuation list as are rendered requisite in consequence of an apportionment effected by virtue of that subsection or a variation effected by virtue of the order and for any incidental,

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supplementary or consequential matters for which it appears to the Department requisite to provide for the purposes of the order.

- (6) An order under this section shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979, which shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.
- (7) In this section " relevant year " means—
 - (a) the calendar year in which a general revaluation first comes into force;
 - (b) each successive fifth year after 1983 unless a year such as is mentioned in paragraph (a) above has occurred within the five years preceding that fifth year.
- (8) This section extends to Northern Ireland only.

Acquisition etc. of land by public telecommunications operators

34 Compulsory purchase of land in England and Wales

- (1) Subject to subsection (2) below, the Secretary of State may authorise a public telecommunications operator to purchase compulsorily any land in England and Wales which is required by the operator for, or in connection with, the establishment or running of the operator's system or as to which it can reasonably be foreseen that it will be so required; and the Acquisition of Land Act 1981 shall apply to any compulsory purchase under this section as if the operator were a local authority within the meaning of that Act.
- (2) No order shall be made authorising a compulsory purchase under this section except with the consent of the Director.
- (3) The power of purchasing land compulsorily under this section includes power to acquire an easement or other right over land by the creation of a new right.
- (4) The following provisions of the Town and Country Planning Act 1971 shall have effect in relation to land acquired compulsorily by a public telecommunications operator under this section as they have effect in relation to land acquired compulsorily by statutory undertakers under any other enactment, namely—
 - (a) section 128 (use and development of consecrated land and burial grounds);
 - (b) section 129 (use and development of land for open spaces); and
 - (c) sections 230 to 232 (extinguishment of rights of way, and rights as to apparatus, of statutory undertakers).
- (5) Where a public telecommunications operator has acquired any land under this section, he shall not dispose of that land or of any interest or right in or over it except with the consent of the Director.

35 Compulsory purchase of land in Scotland

- (1) Subject to subsection (2) below, the Secretary of State may authorise a public telecommunications operator to purchase compulsorily any land in Scotland which is required by the operator for, or in connection with, the establishment or running of the operator's system or as to which it can reasonably be foreseen that it will be so

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required; and the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply to any compulsory purchase under this section as if the operator were a local authority within the meaning of that Act and as if this section had been in force immediately before the commencement of that Act.

- (2) No order shall be made authorising a compulsory purchase under this section except with the consent of the Director.
- (3) The power of purchasing land compulsorily under this section includes power to acquire a servitude or other right over land by the creation of a new right.
- (4) The following provisions of the Town and Country Planning (Scotland) Act 1972 shall have effect in relation to land acquired compulsorily by a public telecommunications operator under this section as they have effect in relation to land acquired compulsorily by statutory undertakers under any other enactment, namely—
 - (a) section 118 (provisions as to churches and burial grounds);
 - (b) section 119 (use and development of land for open spaces); and
 - (c) sections 219 to 221 (extinguishment of rights of way, and rights as to apparatus, of statutory undertakers).
- (5) Where a public telecommunications operator has acquired land under this section, he shall not dispose of that land or of any interest or right in or over it except with the consent of the Director.

36 Compulsory purchase of land in Northern Ireland

- (1) Where a public telecommunications operator proposes to acquire, otherwise than by agreement, any land in Northern Ireland required by him for, or in connection with, the establishment or running of his system or as to which it can reasonably be foreseen that it will be so required, he may, with the consent of the Director, apply to the Secretary of State for an order vesting that land in him and the Secretary of State shall have power to make such an order.
- (2) The power of acquiring land compulsorily under this section shall include power to acquire, by the creation of a new right, an easement or other right over land.
- (3) Where a public telecommunications operator has acquired any land under this section, he shall not dispose of it except with the consent of the Director.
- (4) For the purposes of the acquisition of land by means of a vesting order under this section, Schedule 6 to the Local Government Act (Northern Ireland) 1972 and Schedule 8 to the Health and Personal Social Services (Northern Ireland) Order 1972 are hereby incorporated in this Act subject to the modifications specified in subsection (5) below.
- (5) The said modifications are as follows—
 - (a) for any reference in the said Schedule 6 to a council there shall be substituted a reference to the operator;
 - (b) for any reference in either Schedule to the Department there shall be substituted a reference to the Secretary of State;
 - (c) for any reference in either Schedule to the Act or Order in question there shall be substituted a reference to this Act;
 - (d) in paragraph 6(2) of the said Schedule 6, for the words from " the fund " onwards there shall be substituted the words " funds of the operator (in this

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Schedule referred to as ' the compensation fund') and shall be discharged by payments made by the operator "; and

- (e) in paragraph 12(2) of that Schedule for the words " the clerk of the council" there shall be substituted the words " such person as may be designated for the purposes of this Schedule by the operator " .
- (6) The enactments for the time being in force relating to the assessment of compensation in respect of land vested in a district council by an order made under Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall, subject to any necessary modifications, apply in relation to any land vested in a public telecommunications operator by an order made under this section.
- (7) In this section " land " has the meaning assigned to it by section 45(1)(a) of the Interpretation Act (Northern Ireland) 1954.

37 Entry, for exploratory purposes, on land in England and Wales

- (1) A person nominated by a public telecommunications operator and duly authorised in writing by the Secretary of State may, at any reasonable time, enter upon and survey any land in England and Wales, other than land covered by buildings or used as a garden or pleasure ground, for the purpose of ascertaining whether the land would be suitable for use by the operator for, or in connection with, the establishment or running of the operator's system.
- (2) Sections 280(9) and 281(1) to (3) and (6) of the Town and Country Planning Act 1971 (which contain supplementary provisions relating to the powers of entry conferred by section 280(1) to (8) thereof) shall have effect in relation to the power conferred by this section as they have effect in relation to the powers conferred by the said section 280, subject however to the following modifications, namely—
- (a) that section 280(9) (which relates to power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein) shall so have effect as if the words "or the presence of minerals therein " were omitted ; and
 - (b) that section 281(1) (which requires twenty-four hours' notice to be given of an intended entry upon occupied land) shall so have effect as if for the words " twenty-four hours " there were substituted the words " twenty-eight days " .
- (3) Where, in an exercise of the power conferred by this section, any damage is caused to land or to chattels, the operator shall make good the damage or pay to every person interested in the land or chattels compensation in respect of the damage; and where, in consequence of an exercise of that power, any person is disturbed in his enjoyment of any land or chattels, the operator shall pay to that person compensation in respect of the disturbance.
- (4) Section 179 of the said Act of 1971 (which provides for the determination of disputes as to compensation under Part VIII of that Act) shall apply to any question of disputed compensation under this section.

38 Entry, for exploratory purposes, on land in Scotland

- (1) A person nominated by a public telecommunications operator and duly authorised in writing by the Secretary of State may, at any reasonable time, enter upon and survey any land in Scotland, other than land covered by buildings or used as a garden or pleasure ground, for the purpose of ascertaining whether the land would be suitable

for use by the operator for, or in connection with, the establishment or running of the operator's system.

- (2) Sections 265(8) and 266(1) to (3) and (6) of the Town and Country Planning (Scotland) Act 1972 (supplementary provisions as to powers of entry) shall have effect in relation to the power conferred by this section as they have effect in relation to the powers conferred by the said section 265, subject to the following modifications, namely—
 - (a) that section 266(1) (twenty-four hours' notice to be given of an intended entry upon occupied land) shall so have effect as if for the words " twenty-four hours " there were substituted the words " twenty-eight days "; and
 - (b) that section 265(8) (power to search and bore for minerals etc.) shall so have effect as if the words " or the presence of minerals therein " were omitted.
- (3) Where, in an exercise of the power conferred by this section, any damage is caused to land or to corporeal moveables, the operator shall make good the damage or pay to every person interested in the land or corporeal moveables compensation in respect of the damage ; and where, in consequence of an exercise of that power, any person is disturbed in his enjoyment of any land or corporeal moveables, the operator shall pay to that person compensation in respect of the disturbance.
- (4) Any question arising under this section as to the effect of damage or as to the amount of compensation shall, in the case of dispute, be determined by arbitration, and the reference in such an arbitration shall be to a single arbiter to be appointed by agreement between the parties or, in default of an agreement, by the Secretary of State.

39 Entry, for exploratory purposes, on land in Northern Ireland

- (1) A person nominated by a public telecommunications operator and duly authorised in writing by the Secretary of State may, at any reasonable time, enter upon and survey any land in Northern Ireland, other than land covered by buildings or used as a garden or pleasure ground, for the purpose of ascertaining whether the land would be suitable for use by the operator for, or in connection with, the establishment or running of the operator's system.
- (2) Section 40(2) to (5) and (8) of the Land Development Values (Compensation) Act (Northern Ireland) 1965 (which contains supplementary provisions relating to the power of entry conferred by subsection (1) of that section) shall have effect in relation to the power conferred by this section as it has effect in relation to the power conferred by the said subsection (1), subject however to the following modifications, namely—
 - (a) that section 40(2) (which relates to power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein) shall so have effect as if the words " or the presence of minerals therein " were omitted ; and
 - (b) that section 40(3)(b) (which requires three days' notice to be given of an intended entry upon occupied land) shall so have effect as if for the word " three " there were substituted the word " twenty-eight ".
- (3) Where, in an exercise of the power conferred by this section, any damage is caused to land or to chattels, the operator shall make good the damage or pay to every person interested in the land or chattels, compensation in respect of the damage; and where in consequence of an exercise of that power, any person is disturbed in his enjoyment of any land or chattels, the operator shall pay to that person compensation in respect of the disturbance.

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- (4) Section 31 of the said Act of 1965 (which provides for the determination of disputes as to compensation under Part III of that Act) shall apply to any question of disputed compensation under this section.

40 Acquisition of land by agreement

- (1) For the purpose of the acquisition by agreement by a public telecommunications operator of land in England and Wales the provisions of Part I of the Compulsory Purchase Act 1965 (so far as applicable) other than sections 4 to 8, section 27 and section 31 shall apply.
- (2) For the purpose of the acquisition by agreement by a public telecommunications operator of land in Scotland, section 109(2) of the Town and Country Planning (Scotland) Act 1972 (incorporation of Lands Clauses Acts) shall, with any necessary modifications, apply for the purposes of this Act as it applies for the purposes of that Act.
- (3) For the purpose of the acquisition by agreement by a public telecommunications operator of land in Northern Ireland, the Lands Clauses Acts shall be incorporated with this Act except for sections 127 to 133 (sale of superfluous land) and sections 150 and 151 (access to the special Act) of the Lands Clauses Consolidation Act 1845.

41 Purchase of Duchy of Lancaster land

The Chancellor and Council of the Duchy of Lancaster may, if they think fit, agree with a public telecommunications operator for the sale, and absolutely make sale, for such sum of money as appears to them to be sufficient consideration for the same, of any land belonging to Her Majesty in right of the Duchy of Lancaster which the operator seeks to acquire for, or in connection with, the establishment or running of his system.

Offences

42 Fraudulent use of telecommunication system

- (1) A person who dishonestly obtains a service provided by means of a licensed telecommunication system with intent to avoid payment of any charge applicable to the provision of that service shall be guilty of an offence and liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both ;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (2) In this section " licensed telecommunication system" means a telecommunication system the running of which is authorised by a licence granted under section 7 above.

43 Improper use of public telecommunication system

- (1) A person who—

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- (a) sends, by means of a public telecommunication system, a message or other matter that is grossly offensive or of an indecent, obscene or menacing character; or
 - (b) sends by those means, for the purpose of causing annoyance, inconvenience or needless anxiety to another, a message that he knows to be false or persistently makes use for that purpose of a public telecommunication system,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (2) Subsection (1) above does not apply to anything done in the course of providing a cable programme service (within the meaning of Part IV of this Act).

44 Modification etc. of messages 45. Interception and disclosure of messages etc.

- (1) A person engaged in the running of a public telecommunication system who otherwise than in the course of his duty intentionally modifies or interferes with the contents of a message sent by means of that system shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both ;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

45 Interception and disclosure of messages etc.

- (1) A person engaged in the running of a public telecommunication system who otherwise than in the course of his duty—
- (a) intentionally intercepts a message sent by means of that system; or
 - (b) where a message so sent has been intercepted, intentionally discloses to any person the contents of that message,
- shall be guilty of an offence.
- (2) A person engaged in the running of a public telecommunication system who otherwise than in the course of his duty intentionally discloses to any person the contents of any statement of account specifying the telecommunication services provided for any other person by means of that system shall be guilty of an offence.
- (3) Subsection (1) above does not apply to anything done in obedience to a warrant under the band of the Secretary of State ; and paragraph (b) of that subsection and subsection (2) above do not apply to any disclosure in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings.
- (4) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.

46 Assaults etc. on persons engaged in the business of public telecommunications operator

- (1) A person who—

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- (a) assaults or intentionally obstructs a person engaged in the business of a public telecommunications operator ; or
 - (b) whilst in any premises used for the purposes of the business of such an operator, intentionally obstructs the course of business of the operator,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) Any person engaged in the business of a public telecommunications operator may require any person guilty of an offence under subsection (1) above to leave premises used for the purposes of that business and, if any such offender who is so required refuses or fails to comply with the requirement, he shall be liable on summary conviction to a further fine not exceeding level 3 on the standard scale and may be removed by a person engaged in that business; and any constable shall on demand remove or assist in removing any such offender.