

THE OFFICIAL GAZETTE 19TH DECEMBER, 2008
LEGAL SUPPLEMENT — A



GUYANA

ACT No. 20 of 2008

TELECOMMUNICATIONS (AMENDMENT) ACT 2008

I assent,

Bharat Jagdeo
Bharat Jagdeo,
President

December 19, 2008

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Insertion of new sections 9A, 9B, 9C and 9D in the Principal Act.
3. Insertion of new section 33A in the Principal Act.

AN ACT to amend the Telecommunications Act 1990

A.D. 2008

Enacted by the Parliament of Guyana:-

Short title
and com-
mencement.
Act No. 27
of 1990.

1. This Act, which amends the Telecommunications Act 1990, may be cited as the Telecommunications (Amendment) Act 2008 and shall come into operation on the date the Ministry may, by order, appoint.

Insertion of
new sections
9A, 9B, 9C
and 9D in
the Principal
Act.

2. The Principal Act is amended by the insertion immediately after section 9 of the following sections 9A, 9B, 9C and 9D –

“Certain
licensees to
obtain and
store records
of SIM-cards
and mobile
cellular
phones.

9A. (1) A licensee of a telecommunication system having license to provide a mobile cellular phone service shall not –

- (a) activate or reactivate a SIM-card; or
- (b) allow the use of any mobile cellular phone.

on its telecommunication system unless the particulars of the SIM-card or mobile cellular phone are recorded and stored in the manner provided for in subsection (2).

(2) From the date of commencement of this section, a licensee referred to in subsection (1) shall, subject to subsection (4), at its own cost implement a process to record and store, and shall record and store for a period of five years –

- (a) the mobile subscriber integrated service digital network number (MSISDN number) or any equivalent identification number of the SIM-card that is to be activated or reactivated.
- (b) the international mobile equipment identity number (IMEI number) of the mobile cellular phone that is to be used;
- (c) the full name, age, national identity number (if any) or passport number (if any) and residential, business and postal addresses of the person who requests that a SIM-card be activated or reactivated or that a mobile cellular phone be allowed to be used with a SIM-card;

Provided that the Minister may determine or may by regulations provide an alternative to any of the specified requirements; and

(d) details of transactions of persons calling and persons receiving calls and the time and duration of calls.

(3) For the purposes of subsection (2) (c), a licensee shall —

(a) verify the full name and identity of the person with reference to his identification documents; and

(b) require the person to furnish attested copies of documents in which his addresses are identified to the satisfaction of the licensee.

(4) A licensee shall ensure that —

(a) the process contemplated in subsection (2);

(b) the information recorded and stored in terms of subsection (2); and

(c) the facility in or on which the information is recorded and stored,

are secure and only accessible to persons specifically designated or authorised by that licensee and to the Police request.

(5) A dealer of SIM-cards or mobile cellular phones who sells or in any other manner transfers a SIM-card or mobile cellular phone to any person at any time after the commencement of this section shall —

(a) obtain from such person his self-attested passport size photograph and a document in the form as approved by the Minister stating his —

(i) full name and age;

(ii) national identity number or passport number or any other sufficient proof of identity; and

(iii) residential, business and postal addresses;

(b) by referring to such person's identification document, verify the person's photograph, full names and national identity number or passport number (if any);

(c) retain the information referred to in paragraph (a) for a period of five years; and

(d) notify the telecommunication service provider of —

(i) his own name and national identity number or other sufficient particulars of identity;

(ii) the date on which the mobile cellular phone or SIM-card was handed over to the other person;

(iii) the particulars of the mobile cellular phone or SIM-card;

and

(iv) the particulars set out in paragraph (a).

(6) Any customer in lawful possession of any SIM-card or mobile cellular phone who sells or in any other manner transfers, at any time after the commencement of this section, a SIM-card or mobile cellular phone to a person other than a member of his family residing with him shall also comply with the provisions of subsection (5).

(7) A licensee shall, upon receipt of the information provided in terms of subsection (5) (d) or subsection (6) record and store or update the information already recorded and stored in terms of subsection (2).

Time limit
for updating
records and
storing data
by licensee.

9B. (1) A licensee who provides a mobile cellular phone service shall, within twelve months from the date of commencement of this section, record and store the particulars of all SIM-cards and mobile cellular phones that are used on its telecommunications system if such particulars have not already been recorded and stored in terms of section 9A.

(2) A licensee who provides a mobile cellular phone service shall not allow service continuation, other than allowing network access to emergency calls, customer care calls and calls for the purpose of compliance with subsection (1), in respect of any SIM-card or mobile cellular phone of which the particulars are not recorded and stored at the expiry of the twelve-month period referred to in subsection (1), unless there is due compliance with that subsection.

Storage of
registration
data.

9C. A licensee who provides a mobile cellular phone service shall store the particulars of registration including any other data required to be stored under this

Act and the data shall remain available when required by a person designated by the Minister or by the Police.

Evidence of technical experts.

9D. Evidence given by a technical expert of a licensee in a court of law shall be heard in camera to protect the identity of the technical expert.”

3. The Principal Act is amended by the insertion immediately after section 33 of the following section as section 33A.

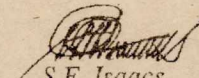
Punishment for non-compliance with Act.

33A. (1) A licensee who fails to comply with section 9A (1), (2), (3), (4) and (7) and sections 9B and 9C commits an offence and is liable on summary conviction to a fine of one million dollars and imprisonment for six months.

(2) A dealer or any other person authorized by a licensee who fails to comply with section 9A (5) commits an offence and is liable on summary conviction to a fine of twenty-five thousand dollars and imprisonment for six months.

(3) A person who fails to comply with section 9A (6) commits an offence and is liable on summary conviction to a fine of twenty-five thousand dollars and imprisonment of six months.”

Passed by the National Assembly on 17th October, 2008.



S.E. Isaacs,

Clerk of the National Assembly.

(BILL No. 18/2008)