

THE OFFICIAL GAZETTE 7TH AUGUST, 2008
LEGAL SUPPLEMENT - C

BILL No. 18 of 2008

Thursday 7th August, 2008

PARLIAMENT OFFICE
Public Buildings,
Georgetown,
Guyana.

7th August, 2008

The following Bill which will be introduced in the National Assembly is published for general information.

S. E. Isaacs,
Clerk of the National Assembly.



GUYANA

BILL No. 18 of 2008

TELECOMMUNICATIONS (AMENDMENT) BILL 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.

**A BILL
Intituled**

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 as 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; 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 on 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).

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 telecommunication system if such particulars have not already been recorded and stored in terms of section 9A.

Time limit for updating records and storing data by licensees.

(2) A licensee who provides a mobile cellular phone service shall not allow service continuation, other than allowing network access to emergency cells, 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.

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.

Storage of registration data.

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.”

Evidence of technical experts.

Evidence of technical experts.

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

“Punishment for improper sale or transfer of SIM-card or cell phone device

33A. A dealer or any other person authorised by the licensee who sells or otherwise transfers any SIM-card or a mobile cellular phone device in contravention of section 9A shall be guilty of an offence and liable on summary conviction to a fine of twenty thousand dollars and imprisonment of six months.”.

EXPLANATORY MEMORANDUM

The Bill seeks to amend the Telecommunications Act 1990 (Act No. 27 of 1990).

In the recent past, it has been observed that mobile cellular phones are frequently used to facilitate planning and commission of serious crimes. Also, there has been a spate of thefts of mobile devices by unscrupulous persons. In order to track these sources in the investigation by the Police, the identification of the persons in possession of the cellular devices is very vital. Hence it is considered necessary to lay down provisions making it compulsory for the telecommunications service providers of SIM-cards and mobile cellular phone services to establish at its own cost a system of recording and storing particulars of its SIM-cards and mobile cellular phones and the customers using the SIM-cards or mobile cellular phones services. A dealer or any other person selling or otherwise transferring a SIM-card or mobile cellular phone to any person is required to get the data with the telecommunication service provider suitably recorded and stored or changed and updated. However, this requirement does not apply in case a person transfers his SIM-card or mobile cellular phone to a member of his family residing with him.

Clause 1 of the Bill sets out its short title and provides for its commencement.

Clause 2 seeks to insert four new sections 9A, 9B, 9C and 9D in the Principal Act.


The proposed section 9A sought to be inserted in the Principal Act seeks to prohibit any telecommunication service provider who provides a mobile cellular service from activating or reactivating a SIM-card or from allowing the use of any mobile cellular phone on its telecommunication system unless the particulars of the SIM-card or cellular phone are recorded and stored by it. The proposed section further sets out the details that have to be recorded and how it should be verified. The proposed section also seeks to require a service provider to ensure that the process of collecting the data, the facility where the information is to be stored and the information itself are secure and only accessible to persons designated or authorised by it and to the Police on request. A dealer of SIM-cards or mobile cellular phones is required to obtain certain information, should he sell or otherwise transfer any of the items to someone. A customer who sells or otherwise transfers a SIM-card or mobile cellular phone to any person other than his family member residing with him is also required to take similar action. This information must be conveyed to the telecommunication service provider who is required to keep and update the records relating to the SIM-cards or mobile cellular phones using its services. In case of loss or theft of a SIM-card or mobile cellular phone, the matter should be reported to the telecommunication service provider as well as the nearest Police Station.

The proposed new section 9B in the Principal Act seeks to provide a time limit of twelve months from the date of commencement of the proposed piece of legislation for the telecommunication service providers to record and store the particulars of all SIM-cards and cellular phones used on its telecommunication system.

The proposed new section 9C seeks to provide for storage of the particulars of registration including any other data required to be stored under the Act and the data shall remain available when required by a person designated by the Minister or by the Police.

The proposed new section 9D seeks to provide that the 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.

Clause 3 seeks to insert a new section 33A in the Principal Act making it an offence, the action of selling or otherwise transferring a SIM-card or mobile cellular phone device in contravention of the requirement of the proposed new section 9A.



Prime Minister.