

Telecommunications (Amendment) Bill

Bill No. 30/2016.

Read the first time on 10 October 2016.

A BILL

i n t i t u l e d

An Act to amend the Telecommunications Act (Chapter 323 of the 2000 Revised Edition) and to make related amendments to the Info-communications Media Development Authority Act 2016 (Act 22 of 2016).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Telecommunications (Amendment) Act 2016 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 2

2. Section 2 of the Telecommunications Act is amended —

(a) by inserting, immediately after the definition of “code of practice”, the following definition:

10 ““common property” has the same meaning as in section 2(1) of the Building Maintenance and Strata Management Act (Cap. 30C);”;

(b) by inserting, immediately after the definition of “Hertzian or radio waves”, the following definition:

15 ““Housing and Development Board” means the Housing and Development Board established by section 3 of the Housing and Development Act (Cap. 129);”;

(c) by inserting, immediately after the definition of “message”, the following definitions:

20 ““owner” —

(a) in relation to any premises comprised in a strata title plan under the Land Titles (Strata) Act (Cap. 158), means —

25 (i) in the case of a lot, the person who is registered as the subsidiary proprietor of the lot under that Act;

30 (ii) in the case of a common property, the management corporation having control of that common property, or the person receiving any rent or

charge for the maintenance and management of that common property; and

(iii) in the case of a limited common property as defined in section 2(1) of the Building Maintenance and Strata Management Act, the subsidiary management corporation established by the Building Maintenance and Strata Management Act having control of that limited common property, or the person receiving any rent or charge for the maintenance and management of that limited common property;

(b) in relation to a building in a housing estate of the Housing and Development Board (called a HDB housing estate) or a subdivided building in a housing estate as defined in section 2(1) of the HUDC Housing Estates Act (Cap. 131) (called a HUDC housing estate), means —

(i) in the case of a flat, any owner of the flat as defined in section 2(1) of the Housing and Development Act or section 2(1) of the HUDC Housing Estates Act, as the case may be;

(ii) in the case of the building's common property in a HDB

housing estate that is controlled, managed and maintained by a Town Council, that Town Council;

5 (iii) in the case of the building's common property in a HDB housing estate that is not controlled, managed and maintained by a Town Council, the Housing and Development Board; and

10 (iv) in the case of the subdivided building's common property in a HUDC housing estate, any body corporate constituted under section 3 of the HUDC Housing Estates Act;

15 (c) in relation to a subdivided building other than a subdivided building mentioned in paragraph (a) or (b), means —

20 (i) in the case of a lot, the person who is registered under the Land Titles Act (Cap. 157) as the proprietor of the fee simple, estate in perpetuity or leasehold estate of that lot; and

25 (ii) in the case of the subdivided building's common property, every person who is registered under the Land Titles Act as the proprietor of the fee simple, estate in perpetuity or leasehold estate of a lot in that building, or the person receiving any rent or charge

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for the maintenance and management of the common property;

(d) in relation to any premises which are not subdivided, means any person who is registered under the Land Titles Act as the proprietor of the fee simple, estate in perpetuity or leasehold estate of those premises; and

(e) in relation to any other premises or building, means the person for the time being receiving the rent of the premises or building, whether on the person’s own account or as agent, trustee or receiver, or who would receive such rent if the premises or building were let to a tenant, and includes the person whose name is entered in the Valuation List prepared under section 10 of the Property Tax Act (Cap. 254) as the owner of the premises or building, or a mortgagee in possession;

“premises” has the same meaning as in section 2(1) of the Building Control Act (Cap. 29);”;

(d) by inserting, immediately after the words “any service for telecommunications” in the definition of “telecommunication service”, the words “, including the leasing of a telecommunication cable,”; and

(e) by inserting, immediately after the definition of “telecommunications”, the following definition:

““Town Council” means a Town Council established by section 4 of the Town Councils Act (Cap. 329A);”.

Amendment of section 5

3. Section 5 of the Telecommunications Act is amended —

(a) by deleting paragraph (b) of subsection (2) and substituting the following paragraph:

5 “(b) the sharing and trading of radio frequency spectrum;” and

(b) by deleting subsection (3) and substituting the following subsections:

10 “(3) The grant of a licence under subsection (1) is subject to the payment to the Authority of such fees for the grant of the licence as may be prescribed.

(3A) A licensee must also pay to the Authority such other fees for the licence, or such periodic fees for the duration of the licence, or both —

15 (a) as may be prescribed; or

(b) if not prescribed, as may be specified by the Authority in the licence conditions.

(3B) Any fees payable under subsection (3) or (3A) in respect of a licence —

20 (a) need not bear any relationship to the cost of granting or administering the licence; and

(b) are recoverable by the Authority from the licensee as a debt due to the Authority.

25 (3C) A licensee is not entitled to the refund of any fee paid under subsection (3) or (3A) if —

(a) the licence is cancelled or suspended, or the period of the licence is reduced, under section 8; or

30 (b) the licence is terminated at the request of the licensee.”.

Amendment of section 5A

4. Section 5A of the Telecommunications Act is amended —

- (a) by deleting subsection (3) and substituting the following subsections:

“(3) For the purposes of subsection (1), the Authority may, subject to the regulations made under section 74, specify, in such form and manner as the Authority thinks fit —

- (a) the procedure and requirements for the grant of a spectrum right under subsection (1);
- (b) the conditions for participating in the process for the allocation of the spectrum right; and
- (c) the fees and charges payable, or the manner of determining the fees and charges payable, for the grant of the spectrum right.

(3A) Without affecting subsection (3), the Authority may employ any, or any combination, of the following methods to determine the grant of a spectrum right:

- (a) auction;
- (b) tender;
- (c) allocation of the spectrum right in exchange for such fees or charges as determined or negotiated by the Authority.

(3B) The grant of a spectrum right to a person under subsection (1) is subject to the person paying to the Authority such fees or charges as may be specified, or as may be determined in the manner specified, by the Authority under subsection (3)(c).

(3C) A person who is granted a spectrum right under subsection (1) must also pay to the Authority such other fees or charges for the grant, or such periodic

fees or charges for the duration of the grant, or both, as may be specified, or as may be determined in the manner specified, by the Authority under subsection (3)(c).

5 (3D) The fees or charges payable by a person to the Authority under subsections (3B) and (3C) are recoverable by the Authority from the person as a debt due to the Authority.”; and

10 (b) by deleting paragraph (a) of subsection (9) and substituting the following paragraphs:

“(a) provide for the exclusion of any person from participation, or limiting the person’s participation, in the process of allocation of any spectrum right;

15 (aa) without affecting subsection (1)(a), specify the types of conditions that the Authority may impose on the grant of any spectrum right;

20 (ab) provide for the variation of the conditions of the grant of any spectrum right;”.

Amendment of section 5B

5. Section 5B of the Telecommunications Act is amended —

(a) by deleting sub-paragraph (ii) of subsection (2)(b); and

25 (b) by deleting subsection (3) and substituting the following subsections:

“(3) The grant of a licence under subsection (1) is subject to the payment to the Authority of such fees for the grant of the licence as may be prescribed.

30 (3A) A licensee must also pay to the Authority such other fees for the licence, or such periodic fees for the duration of the licence, or both —

(a) as may be prescribed; or

(b) if not prescribed, as may be specified by the Authority in the licence conditions.

(3B) Any fees payable under subsection (3) or (3A) in respect of a licence —

(a) need not bear any relationship to the cost of granting or administering the licence; and 5

(b) are recoverable by the Authority from the licensee as a debt due to the Authority.

(3C) A licensee is not entitled to the refund of any fee paid under subsection (3) or (3A) if — 10

(a) the licence is cancelled or suspended, or if the period of the licence is reduced, under section 8; or

(b) the licence is terminated at the request of the licensee.”. 15

Amendment of section 8

6. Section 8 of the Telecommunications Act is amended —

(a) by deleting the words “32D or 32F(2)” in subsection (1)(c) and substituting the words “32D(2)(a), (b) or (c), 32DA(2)(d)(ii) or 32F(2)”; 20

(b) by inserting, immediately after the words “section 32B” in subsection (1)(d), the words “or any terms or conditions of participation in a dispute resolution scheme (within the meaning of section 32N(2))”; and

(c) by inserting, immediately after the words “any compensation” in subsections (2) and (6A), the words “or refund of any fee”. 25

New section 11A

7. The Telecommunications Act is amended by inserting, immediately after section 11, the following section: 30

“Sharing of radio frequency spectrum

11A.—(1) Where a person (called the first person) is required under this Act or any regulations made under this Act, to share with any other person the radio frequency spectrum allocated to the first person under a licence granted under section 5 or the grant of a spectrum right under section 5A, for a station or network —

(a) all persons operating on the shared radio frequency spectrum must accept that interference may result from the legitimate operation of the station or network specified in the licence or the grant of a spectrum right; and

(b) the Authority is not responsible or liable for any interference that may arise from the first person’s or other person’s use of the shared radio frequency spectrum.

(2) In subsection (1) —

“network” means 2 or more stations operated by a person and used or intended to be used in communication with one another;

“station” means —

(a) a transmitter;

(b) a receiver;

(c) a combination of transmitters and receivers; or

(d) an accessory to any thing specified in paragraphs (a), (b) and (c).”.

Amendment of section 14

8. Section 14 of the Telecommunications Act is amended —

(a) by deleting subsections (6), (7) and (8) and substituting the following subsections:

“(6) The owner or occupier of the land or building may, within 14 days after receiving the notice

mentioned in subsection (4), lodge a written objection with the Authority.

(7) Where a written objection is lodged by the owner or occupier of the land or building under subsection (6) (called in this section the objector), the Authority must notify the public telecommunication licensee concerned to resolve the dispute with the objector due to the objection.

(8) On receipt of the Authority's notice under subsection (7), the public telecommunication licensee must take genuine steps to resolve the dispute with the objector due to the objection.

(8A) If the public telecommunication licensee fails to resolve the dispute due to the objection, the licensee must inform the Authority in writing and also furnish all relevant information relating to the steps taken by the licensee to resolve the dispute due to the objection.

(8B) After receipt of the information mentioned in subsection (8A), the Authority must notify the public telecommunication licensee and the objector as to whether the Authority is satisfied that the licensee has taken genuine steps to resolve the dispute due to the objection.

(8C) The Authority must hold an inquiry (in such manner as the Authority thinks fit) on the objection, giving each party a reasonable opportunity to be heard if —

(a) the Authority notifies the parties under subsection (8B) that the Authority is satisfied that the licensee has taken genuine steps to resolve the dispute due to the objection; and

(b) the objection is not withdrawn.”;

(b) by deleting the words “the enquiry” in subsection (9) and substituting the words “the inquiry”; and

(c) by inserting, immediately after subsection (9), the following subsection:

“(10) The public telecommunication licensee may enter the land or building and do all or any of the acts mentioned in the notice given under subsection (4) —

(a) where no written objection is lodged within the period mentioned in subsection (6), after the expiry of that period; or

(b) where a written objection is lodged under subsection (6) —

(i) after the objection is withdrawn;

(ii) after the public telecommunication licensee resolves the dispute with the objector due to the objection; or

(iii) on the Authority’s authorisation under subsection (9) subject to the terms, conditions and stipulations imposed by the Authority under that subsection.”.

Amendment of section 19

9. Section 19 of the Telecommunications Act is amended —

(a) by deleting the words “or revoke” in subsection (1)(b) and substituting the words “, suspend or revoke the whole or any part of”;

(b) by deleting paragraph (a) of subsection (2) and substituting the following paragraph:

“(a) require the developer or owner of any land or building to provide, maintain or give access to, at the developer’s or owner’s expense, such space or facility within or on the land or building, for the installation, operation or maintenance of any

installation, plant or system used for all or any of the following purposes:

- (i) the provision of any telecommunication service or radio-communication service to that land or building; 5
- (ii) the provision of any telecommunication service or radio-communication service to any other land or building; and”; and 10

(c) by inserting, immediately after subsection (6), the following subsections:

“(6A) The Authority may give a written notice to a telecommunication licensee, or a developer, owner or occupier of any land or building, requiring compliance with any code of practice issued under subsection (1). 15

(6B) The Authority may at any time vary, suspend or revoke the whole or any part of a written notice given under subsection (6A).

(6C) To avoid doubt, the Authority may give a written notice under subsection (6A) notwithstanding that such written notice may prejudice the contractual obligations of the telecommunication licensee, or the developer, owner or occupier of any land or building, whether the obligation relates to a contract made before, on or after the commencement of section 9(c) of the Telecommunications (Amendment) Act 2016. 20 25

(6D) No liability shall lie against any party to a contract made before, on or after the commencement of section 9(c) of the Telecommunications (Amendment) Act 2016 for or in relation to, any breach of the contract where the breach is solely attributable to, or occasioned by, the compliance by that party with any written notice under subsection (6A). 30 35

“(1B) Where the Authority —

- (a) considers it necessary that in relation to any land or building, whether completed or not (called in this section the relevant property), a radio-communication service should be provided to the relevant property or the quality of a radio-communication service provided to the relevant property should be enhanced; and 5
- (b) is satisfied that it would be in the public interest for a telecommunication licensee providing the radio-communication service to install any installation, plant or system within or on another land or building (called in this section the subject property) in order to serve the relevant property or enhance the quality of the radio-communication service provided to the relevant property, 10 15

the Authority may by direction — 20

- (i) require the developer or owner of the subject property in paragraph (b) to provide, at the developer’s or owner’s expense and within such period as may be specified in the direction, such space or facility within or on the subject property, and access to the subject property, as the Authority may specify in its direction; and 25
- (ii) require the telecommunication licensee to install within or on the subject property, within such period as may be specified in the direction, such installation, plant or system as the Authority considers necessary for the provision or enhancement of the quality of the 30 35

radio-communication service to the relevant property.

5 (1C) To avoid doubt, the Authority may give directions under subsection (1), (1A), (1B) or (4) notwithstanding that such directions may prejudice the contractual obligations of the telecommunication licensee, or the developer, owner or occupier of any land or building, whether the obligation relates to a contract made before, on or after the commencement of section 10(b) of the Telecommunications (Amendment) Act 2016.

10 (1D) No liability shall lie against any party to a contract made before, on or after the commencement of section 10(b) of the Telecommunications (Amendment) Act 2016 for or in relation to, any breach of the contract where the breach is solely attributable to, or occasioned by, the compliance by that party with any direction of the Authority under subsection (1), (1A), (1B) or (4).

15 (1E) Nothing in subsection (1D) affects the operation of the Frustrated Contracts Act (Cap. 115).”;

20 (c) by deleting subsections (2), (3) and (4) and substituting the following subsections:

25 “(2) Where a telecommunication licensee that is using any space or facility within or on any land or building pursuant to a direction under subsection (1), (1A) or (1B), or any code of practice issued by the Authority, intends to use that space or facility —

30 (a) to provide any telecommunication service or broadcasting service, or to enhance the quality of any telecommunication service or broadcasting service provided, to any land or building not in the direction to the licensee under subsection (1) or (1A);

- (b) to provide any radio-communication service, or to enhance the quality of any radio-communication service provided, to any land or building that is not the relevant land or building in the direction to the licensee under subsection (1B); or 5
- (c) to provide any telecommunication service, broadcasting service or radio-communication service that is not in the direction to the licensee under subsection (1), (1A) or (1B), as the case may be, whether or not to the same land or building in the direction, 10

the licensee must give 14 days' notice to the developer or owner of that land or building, stating as fully and accurately as possible the nature and extent of the acts intended to be done for the purpose of paragraph (a), (b) or (c), as the case may be. 15

(3) The developer or owner of the land or building may, within 14 days after receiving a notice under subsection (2), lodge a written objection with the Authority. 20

(3A) Where a written objection is lodged by the developer or owner of the land or building under subsection (3) (called in this section the objector), the Authority must notify the telecommunication licensee concerned to resolve the dispute with the objector due to the objection. 25

(3B) On receipt of the Authority's notice under subsection (3A), the telecommunication licensee must take genuine steps to resolve the dispute with the objector due to the objection. 30

(3C) If the telecommunication licensee fails to resolve the dispute due to the objection, the licensee must inform the Authority in writing and also furnish 35

all relevant information relating to the steps taken by the licensee to resolve the dispute due to the objection.

(3D) After receipt of the information mentioned in subsection (3C), the Authority —

5 (a) must notify the telecommunication licensee and the objector as to whether the Authority is satisfied that the licensee has taken genuine steps to resolve the dispute due to the objection; and

10 (b) if so satisfied, must hold an inquiry (in such manner as the Authority thinks fit) on the objection, giving each party a reasonable opportunity to be heard if the objection is not withdrawn.

15 (4) Upon the conclusion of the inquiry, the Authority may, upon being satisfied that the use of the space or facility for a purpose in the notice given under subsection (2) would be reasonable, by directions to the telecommunication licensee or the developer or owner of the land or building require either or both to give effect to the notice in such manner and on such terms, conditions and stipulations as the Authority may specify in the direction, including directions that —

20 (a) require the developer or owner to allow the licensee to use the space or facility; or

 (b) require the licensee to install and operate any installation, plant or system within the space or facility.

30 (4A) The telecommunication licensee may enter on the land or building and do all or any of the acts mentioned in the notice given under subsection (2) —

 (a) where no written objection is lodged within the period specified in subsection (3), after the expiry of that period; or

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(b) where a written objection is lodged under subsection (3) —

(i) after the objection is withdrawn;

(ii) after the telecommunication licensee resolves the dispute with the objector due to the objection; or 5

(iii) on the Authority’s direction under subsection (4), subject to the terms, conditions and stipulations imposed by the Authority under that subsection.”; and 10

(d) by inserting, immediately after “, (1A)” wherever it appears in subsections (5) and (6), “, (1B)”.

New section 22

11. The Telecommunications Act is amended by inserting, immediately after section 21, the following section: 15

“Prohibition against exclusive agreements or arrangements

22.—(1) The developer or owner of any land or building —

(a) must not enter into or enforce any agreement or arrangement with any occupier of the land or building that restricts or prevents the occupier from selecting any supplier of telecommunication systems and services to provide telecommunication services to the occupier; and 20
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(b) must not enter into or enforce any agreement or arrangement with any telecommunication licensee that restricts or prevents other telecommunication licensees from installing their installation, plant or system in the land or building or supplying telecommunication systems and services to the land or building or supplying telecommunication services to any occupier of the land or building. 30

(2) The Authority may give such directions as the Authority thinks fit to be observed by the telecommunication licensee, or the developer, owner or occupier of the land or building to ensure compliance with subsection (1).

5 (3) To avoid doubt, the Authority may give directions under subsection (2) notwithstanding that such directions may prejudice the contractual obligations of the telecommunication licensee, or the developer, owner or occupier of any land or building, whether the obligation relates to a contract made
10 before, on or after the commencement of section 11 of the Telecommunications (Amendment) Act 2016.

(4) No liability shall lie against any party to a contract made before, on or after the commencement of section 11 of the Telecommunications (Amendment) Act 2016 for or in relation
15 to, any breach of the contract where the breach is solely attributable to, or occasioned by, the compliance by that party with any direction of the Authority under subsection (2).

(5) Nothing in subsection (4) affects the operation of the Frustrated Contracts Act (Cap. 115).

20 (6) The Authority may at any time vary, suspend or revoke the whole or any part of a direction given under subsection (2).

(7) Any person who fails to comply with any requirement in a direction under this section shall be guilty of an offence.”.

Amendment of section 26

25 **12.** Section 26(1) of the Telecommunications Act is amended by inserting, immediately after paragraph (vii), the following paragraph:

30 “(viiia) the collection, use and disclosure by telecommunication licensees of information about subscribers of telecommunication services, without the subscribers’ consent, including information about the subscribers’ personal data, telecommunication subscription and usage;”.

Amendment of section 32B

13. Section 32B of the Telecommunications Act is amended —

(a) by deleting the words “Any person” in subsection (14) and substituting the words “Subject to subsection (15), any person”; and

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(b) by inserting, immediately after subsection (14), the following subsection:

“(15) Subsection (14) does not apply to a telecommunication licensee that is —

(a) a trustee-manager of a designated business trust; or

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(b) a trustee of a designated trust.”.

Amendment of section 32D

14. Section 32D of the Telecommunications Act is amended —

(a) by deleting subsection (7) and substituting the following subsection:

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“(7) Any direction given to a person under subsection (2) has effect, despite —

(a) the Business Trusts Act (Cap. 31A), the Companies Act (Cap. 50), the Limited Liability Partnerships Act (Cap. 163A) and the Trustees Act (Cap. 337);

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(b) anything in any listing rules as defined in section 2(1) of the Securities and Futures Act (Cap. 289); and

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(c) the provisions of the memorandum or articles of association, trust deed or other constitution of the designated telecommunication licensee, designated business trust or designated trust.”;

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(b) by deleting the words “Notwithstanding the provisions of any other written law and the provisions of the

memorandum or articles of association, trust deed or other constitution of the designated telecommunication licensee, the designated business trust or the designated trust” in subsection (8) and substituting the words “Without affecting subsection (7)”;

(c) by deleting the words “Any person (other than a designated telecommunication licensee)” in subsection (9) and substituting the words “Subject to subsection (10), any person”; and

(d) by inserting, immediately after subsection (9), the following subsection:

“(10) Subsection (9) does not apply to a telecommunication licensee that is —

(a) a designated telecommunication licensee mentioned in subsection (2)(a);

(b) a trustee-manager of the designated business trust mentioned in subsection (2)(b); or

(c) a trustee of the designated trust mentioned in subsection (2)(c).”.

New section 32DA

15. The Telecommunications Act is amended by inserting, immediately after section 32D, the following section:

“Power to issue directions to enforce conditions imposed by Authority when approving application under section 32B(5), (6) or (7)

32DA.—(1) Without affecting section 27, the Authority may issue a direction under subsection (2) if —

(a) a person (called in this section the specified person) —

(i) is a 12% controller or 30% controller of a designated telecommunication licensee, designated business trust or designated trust;

- (ii) owns any business (of a designated telecommunication licensee, designated business trust or designated trust) that is conducted under a telecommunication licence granted under section 5, or any part of any such business, as a going concern; or 5
 - (iii) has effective control over a designated telecommunication licensee, designated business trust or designated trust;
 - (b) the Authority, in granting its written approval to the specified person under section 32B(5), (6) or (7) in respect of any designated telecommunication licensee, designated business trust or designated trust, imposes a condition that the specified person must transfer or dispose of all or any part of — 10
 - (i) the shares which the specified person holds, or which the specified person and his associates together hold, in the designated telecommunication licensee (called in this section the specified shares); 15
 - (ii) the units which the specified person holds, or which the specified person and his associates together hold, in the designated business trust (called in this section the specified units); or 20
 - (iii) the equity interests which the specified person holds, or which the specified person and his associates together hold, in the designated trust (called in this section the specified equity interests); and 25
 - (c) the Authority is satisfied that the condition has not been complied with. 30
- (2) The Authority may, in the circumstances specified in subsection (1), issue all or any of the following directions:
- (a) direct the specified person, or any associate of the specified person, to transfer or dispose of all or any 35

part of the specified shares, specified units or specified equity interests, as the case may be, within such time and subject to such conditions as the Authority specifies;

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(b) direct the specified person to transfer or dispose of all or any part of the business that is conducted under a telecommunication licence granted under section 5, and that is acquired from the designated telecommunication licensee, designated business trust or designated trust as a going concern, within such time and subject to such conditions as the Authority specifies;

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(c) direct the specified person to relinquish effective control over the designated telecommunication licensee, designated business trust or designated trust, within such time and subject to such conditions as the Authority specifies;

(d) direct —

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(i) the specified person, or any associate of the specified person, to procure the issue of such number of shares, units or equity interests in the designated telecommunication licensee, designated business trust or designated trust, as the case may be, as the Authority may determine, within such time and subject to such conditions as the Authority specifies;

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(ii) the designated telecommunication licensee, the trustee-manager of the designated business trust, or the trustee of the designated trust, to procure the issue of such number of shares, units or equity interests in the designated telecommunication licensee, designated business trust or designated trust, as the case may be, as the Authority may determine, within such time and subject to such conditions as the Authority specifies; and

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(iii) the specified person, or any associate of the specified person, to transfer or dispose of all or any part of the specified shares, specified units or specified equity interests, in the designated telecommunication licensee, designated business trust or designated trust, as the case may be, within such time and subject to such conditions as the Authority specifies. 5

(3) Before issuing a direction to any person under subsection (2), the Authority must, unless the Authority decides that it is not practicable or desirable to do so, cause to be given to that person written notice of the Authority's intention to issue the direction, specifying a date by which that person may make written representations with regard to the proposed direction. 10 15

(4) Upon receipt of any written representation under subsection (3), the Authority must consider the representation for the purpose of determining whether to issue the direction.

(5) Any person to whom a direction is issued under subsection (2) must comply with the direction. 20

(6) The Authority may at any time vary, suspend or revoke any direction issued under this section.

(7) Any direction issued to a person under subsection (2) has effect, despite —

(a) the Business Trusts Act (Cap. 31A), the Companies Act (Cap. 50), the Limited Liability Partnerships Act (Cap. 163A) and the Trustees Act (Cap. 337); 25

(b) anything in any listing rules as defined in section 2(1) of the Securities and Futures Act (Cap. 289); and

(c) the provisions of the memorandum or articles of association, trust deed or other constitution of the specified person, designated telecommunication licensee, designated business trust or designated trust. 30

(8) Subject to subsection (9), any person that contravenes subsection (5) shall be guilty of an offence and shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part of a day during which the offence continues after conviction; or

(b) in any other case, to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part of a day during which the offence continues after conviction.

(9) Subsection (8) does not apply to a telecommunication licensee that is —

(a) a designated telecommunication licensee mentioned in subsection (2)(d)(ii);

(b) a trustee-manager of the designated business trust mentioned in subsection (2)(d)(ii); or

(c) a trustee of the designated trust mentioned in subsection (2)(d)(ii).”.

Amendment of section 32F

16. Section 32F of the Telecommunications Act is amended —

(a) by inserting, immediately after subsection (1), the following subsection:

“(1A) The Authority may —

(a) grant its approval, without or with conditions, such conditions limited to all or any of the following:

(i) specifying the period of appointment for which the approval is granted, including any requirement for the

designated telecommunication licensee to seek approval for re-appointment;

(ii) specifying the actions to be taken by the designated telecommunication licensee or the person appointed; and

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(b) at any time add to, vary or revoke any condition of the approval under paragraph (a), subject to the limitation in that paragraph.”; and

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(b) by inserting, immediately after the words “subsection (1),” in subsection (2), the words “or the designated telecommunication licensee or the person appointed is in contravention of any of the conditions imposed under subsection (1A),”.

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New Part VC

17. The Telecommunications Act is amended by inserting, immediately after section 32L, the following Part:

“PART VC

ALTERNATIVE DISPUTE RESOLUTION SCHEME

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Interpretation of this Part

32M. In this Part, unless the context otherwise requires —

“declared telecommunication licensee” means a telecommunication licensee —

(a) that is declared by the Authority to be a telecommunication licensee subject to this Part; or

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(b) that is within a class of telecommunication licensees declared by the Authority to be a class of telecommunication licensees subject to this Part,

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and the declaration must be notified in the *Gazette*;

“dispute resolution scheme” means a dispute resolution scheme established or approved by the Authority under section 32N(1);

“subscriber” means an end user that subscribes to a telecommunication service from a telecommunication licensee.

Power of Authority in relation to dispute resolution scheme

32N.—(1) The Authority may establish or approve one or more dispute resolution schemes for the resolution of disputes between subscribers and declared telecommunication licensees, arising from or relating to the provision of telecommunication services by the declared telecommunication licensees to the subscribers.

(2) Every declared telecommunication licensee must participate in a dispute resolution scheme and must comply with such terms and conditions of participation in the scheme as may be prescribed.

(3) To avoid doubt, nothing in this Part affects the operation of the Consumer Protection (Fair Trading) Act (Cap. 52A).

Operator of dispute resolution scheme

32O. The Authority may, with the approval of the Minister, make regulations under section 74 to provide for matters relating to the operations of an operator of a dispute resolution scheme, including —

- (a) the standards or requirements of the services provided under the dispute resolution scheme;
- (b) the fees that the operator may charge for the services provided under the dispute resolution scheme;
- (c) the records that the operator must keep and the period of retention of such records;
- (d) the reports that the operator must submit to the Authority, and the manner and time for such submission;

- (e) matters relating to the administration of the dispute resolution scheme; and
- (f) generally to give effect to or for carrying out the purposes of this Part.”.

Amendment of section 33

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18. Section 33(1) of the Telecommunications Act is amended by inserting, immediately after the words “licence granted under section 5”, the words “, or during the suspension of the person’s licence under section 8”.

Amendment of section 69

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19. Section 69 of the Telecommunications Act is amended —

- (a) by deleting the words “21, 27, 32D, 32E(1) or 32F(2)” in subsection (1)(b) and substituting the words “21, 22(2), 27, 32D(2), 32DA(2), 32E(1) or 32F(2)”;
- (b) by inserting, immediately after “19(6)” in subsection (2)(a), “, (6A)”;
- (c) by deleting the words “21, 32D or 32E(1) or (2)” in subsection (2)(b) and substituting the words “21, 22(2), 32D(2), 32DA(2), 32E(1) or (2)”.

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Amendment of section 74

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20. Section 74(2) of the Telecommunications Act is amended —

- (a) by deleting the words “public telecommunication licensee” in paragraph (f) and substituting the words “telecommunication system licensee”; and
- (b) by deleting the full-stop at the end of paragraph (g) and substituting a semi-colon, and by inserting immediately thereafter the following paragraph:
 - “(h) the prescribing of anything that is required or permitted to be prescribed under this Act.”.

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Related amendments to Info-communications Media Development Authority Act 2016

21. The Info-communications Media Development Authority Act 2016 (Act 22 of 2016) is amended —

- 5 (a) by inserting, immediately after section 65, the following section:

“Power of Authority in relation to alternative dispute resolution scheme

10 **65A.**—(1) The Authority may establish or approve one or more dispute resolution schemes for the resolution of disputes between subscribers and designated media licensees, arising from or relating to the provision of media services by the designated media licensees to the subscribers.

15 (2) Every designated media licensee must participate in a dispute resolution scheme mentioned in subsection (1) and comply with such terms and conditions of participation in the scheme as may be prescribed.

20 (3) To avoid doubt, nothing in this section affects the operation of the Consumer Protection (Fair Trading) Act (Cap. 52A).

25 (4) The Authority may, with the approval of the Minister, make regulations under section 81 to provide for matters relating to the operations of an operator of a dispute resolution scheme mentioned in subsection (1), including —

- 30 (a) the standards or requirements of the services provided under the dispute resolution scheme;
- (b) the fees that the operator may charge for the services provided under the dispute resolution scheme;

- (c) the records that the operator must keep and the period of retention of such records;
 - (d) the reports that the operator must submit to the Authority, and the manner and time for such submission; 5
 - (e) matters relating to the administration of the dispute resolution scheme; and
 - (f) generally to give effect to or for carrying out the purposes of this section.
- (5) In this section, unless the context otherwise requires — 10
- “designated media licensee” means a media licensee —
- (a) that is designated by the Authority to be a media licensee subject to this section; or 15
 - (b) that is within a class of media licensees designated by the Authority to be a class of media licensees subject to this section, 20
- and the designation must be notified in the *Gazette*;
- “media licensee” means —
- (a) a person to whom a permit under section 21, 22 or 23 of the Newspaper and Printing Presses Act (Cap. 206) is granted; 25
 - (b) a holder of a broadcasting licence granted under section 8 or 9 of the Broadcasting Act (Cap. 28); or 30
 - (c) a holder of a licence granted under section 7 of the Films Act (Cap. 107);

“subscriber” means an end user that subscribes to a media service from a media licensee.”;

(b) by inserting, immediately after the word “person,” wherever it appears in section 66(1) to (5), the words “designated media licensee,”;

(c) by inserting, immediately after subsection (9) of section 66, the following subsection:

“(10) In this section, unless the context otherwise requires, “designated media licensee” has the same meaning as in section 65A(5).”; and

(d) by inserting, immediately after subsection (3) of section 67, the following subsection:

“(4) To avoid doubt, this section does not apply to disputes between subscribers and designated media licensees (within the meaning of section 65A), arising from or relating to the provision of media services by the designated media licensees to the subscribers.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Telecommunications Act (Cap. 323) for the following purposes:

- (a) to provide the Info-communications Media Development Authority (the Authority) with the powers to regulate and facilitate the use of and access to rooftop space for mobile deployment;
- (b) to clarify the notification and objection process for public telecommunication licensees’ and telecommunication licensees’ entry to land and buildings;
- (c) to enhance and strengthen the Authority’s oversight of the telecommunication industry;
- (d) to provide the Authority with the power to establish or approve one or more alternative dispute resolution schemes for the telecommunication sector;
- (e) to provide clarity to certain provisions of the Act;

- (f) to make related amendments to the Info-communications Media Development Authority Act 2016 (Act 22 of 2016).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 to insert new definitions for “common property”, “Housing and Development Board”, “premises” and “Town Council” used in the context of the new definition for “owner”. A new definition for “owner” is added to provide how the owner of any land or building is identified. The definition of “telecommunication service” is also amended so that the amended definition includes leasing out and taking a lease of a telecommunication cable.

Clause 3 makes a technical amendment to section 5(2)(b). The clause also amends section 5 to delete subsection (3) and inserts —

- (a) a new subsection (3) to provide that the grant of a section 5(1) licence is subject to the payment of fees prescribed in regulations;
- (b) a new subsection (3A) to provide that for the section 5(1) licence, a licensee must also pay such other fees as may be prescribed in regulations, or if not so prescribed, as may be specified in the licence conditions;
- (c) a new subsection (3B) to clarify that the fees payable in respect of a licence need not bear any relationship to the cost of granting or administering the licence and are recoverable as a debt; and
- (d) a new subsection (3C) to provide that there is no refund of any fees paid under subsection (3) or (3A).

Clause 4 amends section 5A to delete subsection (3) and inserts —

- (a) a new subsection (3) to provide the Authority with the power to specify the procedure and requirement for the grant of a spectrum right, conditions for participating in the spectrum right allocation process, the fees and charges payable and the manner of determining fees and charges;
- (b) a new subsection (3A) to provide the methods which the Authority may use in determining the grant of a spectrum right and these include an auction and a tender;
- (c) a new subsection (3B) to provide that the grant of a spectrum right to a person is subject to the payment of fees or charges;
- (d) a new subsection (3C) to provide that a person who is granted a spectrum right must pay to the Authority such other fees or charges for the grant; and
- (e) a new subsection (3D) to provide that the fees or charges payable to the Authority under subsections (3B) and (3C) are recoverable as a debt.

Clause 4 also amends section 5A(9) —

- (a) to delete paragraph (a) and substitute a new paragraph (a) to provide that regulations may be made to exclude or limit any person from participating in a spectrum right allocation process;
- (b) to insert a new paragraph (aa) to provide that regulations may be made to specify the conditions that may be imposed on the grant of any spectrum right; and
- (c) to re-enact the existing paragraph (a) as paragraph (ab).

Clause 5 amends section 5B. The amendments for section 5B under this clause are similar to the amendments for section 5 under clause 3.

Clause 6 makes consequential amendments to section 8. The clause also amends section 8 to clarify that fees will not be refunded if a licence is cancelled, suspended or shortened.

Clause 7 inserts a new section 11A which provides that where the Authority requires a person to share radio frequency spectrum, all persons operating on the shared radio frequency spectrum for a station or network must accept that interference may arise. The Authority is also not responsible or liable for any interference that may arise from the use of the shared radio frequency spectrum.

Clause 8 amends the notification and objection process in section 14 under which public telecommunication licensees may enter lands or buildings to lay, place or carry on and erect installations or plants used for telecommunications. The developer or owner of a land or building may raise an objection against this. The Authority will only hold an inquiry into this objection if the Authority is satisfied that the public telecommunication licensee has taken genuine steps to resolve the objection and the objection is not withdrawn.

Clause 9 amends section 19 to provide that codes of practice may require the developer or owner of a land or building to provide, maintain or give access to a space or facility within or on the land or building for telecommunication service or radio-communication service to be provided not only to that land or building but also to any other land or building. The amendment also empowers the Authority to issue a written notice to licensees, developers, owners or occupiers of any land or building, to comply with a code of practice notwithstanding that the written notice would prejudice the performance of any contractual obligation of the licensee, developer, owner or occupier, whether the obligation relates to a contract made before, on or after the commencement of the amendments. The amendment also confers immunity on a party to a contract that complies with the written notice without affecting the operation of the Frustrated Contracts Act (Cap. 115).

Clause 10 amends section 21(1) to make it clear that the Authority may give directions to telecommunication licensees to install any installation, plant or system the Authority considers necessary to provide or enhance the quality of the

telecommunication services to lands or buildings as well as to the occupiers of the lands or buildings.

Clause 10 also amends section 21 to provide that —

- (a) if the Authority considers it necessary that a radio-communication service should be provided or that the quality of a radio-communication service provided to any land or building (the relevant property) should be enhanced; and
- (b) if the Authority is satisfied that it would be in the public interest for a telecommunication licensee to install any installation, plant or system within or on any other land or building (the subject property) to serve the relevant property or enhance the quality of the radio-communication service provided to the relevant property,

the Authority may issue certain directions to the developer or owner of the subject property and the licensee, under a new subsection (1B).

Clause 10 also expands section 21(2) —

- (a) to provide that where a telecommunication licensee that is using any space or facility provided by the developer or owner of a land or building under any direction under the new subsection (1B), intends to use that space or facility to provide any radio-communication service or to enhance any radio-communication service provided to any land or building that is not the relevant land or building specified in the direction under that subsection, the licensee must give notice to the developer or owner;
- (b) to provide that where a telecommunication licensee intends to provide any telecommunication service, broadcasting service or radio-communication service that is not in the direction to it under subsection (1), (1A) or (1B), as the case may be, the licensee must give notice to the developer or owner; and
- (c) to clarify the current notice requirement by requiring the licensee to give 14 days' notice to the developer or owner of the licensee's intention.

The amended section 21 further provides that the developer or owner may, within 14 days after receiving the licensee's notice, lodge a written objection with the Authority against the licensee's intended use of the developer's or owner's space or facility. When a written objection is lodged with the Authority, the Authority must notify the licensee to resolve the dispute due to the objection with the developer or owner. On receipt of the Authority's notice, the licensee must take genuine steps to resolve the dispute due to the objection. The Authority will only hold an inquiry on the objection if the Authority is satisfied that the licensee has taken genuine steps to resolve the objection and the objection is not withdrawn.

Upon the conclusion of the inquiry, the Authority may give directions to the licensee, developer or owner, including directions that —

- (a) require the developer or owner to allow the licensee to use the developer's or owner's space or facility; or
- (b) require the licensee to install and operate any installation, plant or system within the developer's or owner's space or facility.

The amendment also empowers the Authority to issue directions, notwithstanding that the directions may prejudice the performance of any contractual obligation of the licensee, developer, owner or occupier, whether the obligation relates to a contract made before, on or after the commencement of the amendments. The amendment also confers immunity on a party to a contract that complies with the Authority's directions under that section without affecting the operation of the Frustrated Contracts Act.

Clause 11 inserts a new section 22 which prohibits exclusive agreements or arrangements that —

- (a) restrict or prevent occupiers of lands or buildings from selecting their choice of telecommunication service providers; or
- (b) restrict or prevent telecommunication licensees from installing their installation, plant or system in a land or building.

The amendment also empowers the Authority to issue directions to licensees, developers, owners or occupiers of any land or building to ensure compliance with the requirements in section 22(1), notwithstanding that such directions may prejudice the performance of any contractual obligation of the licensee, developer, owner or occupier, whether the obligation relates to a contract made before, on or after the commencement of the amendments. The amendment also confers immunity on a party to a contract that complies with the direction without affecting the operation of the Frustrated Contracts Act.

Clause 12 amends section 26(1) to provide that the Authority may issue or approve a code of practice or standard of performance that authorises the collection, use or disclosure of personal data by telecommunication licensees without the end users' consent.

Clause 13 amends section 32B to exclude a trustee-manager of a designated business trust and a trustee of a designated trust from the criminal provision in section 32(14) if the trustee-manager or trustee is a telecommunication licensee.

Clause 14 amends section 32D to clarify that the Authority's power to issue directions can override the provisions of the Business Trusts Act (Cap. 31A), the Companies Act (Cap. 50), the Limited Liability Partnerships Act (Cap. 163A), the Trustees Act (Cap. 337) and anything in any listing rules as defined in section 2(1) of the Securities and Futures Act (Cap. 289). The clause also amends

section 32D(9) and inserts a new subsection (10) so that certain designated telecommunication licensees, trustee-managers of designated business trusts and trustees of designated trusts are not subject to the criminal provision in section 32D(9) if the designated telecommunication licensees, trustee-managers and trustees are telecommunication licensees.

Clause 15 inserts a new section 32DA to provide the Authority with the power to issue directions to enforce conditions imposed by the Authority when granting its written approval under section 32B(5), (6) or (7).

Clause 16 amends section 32F to provide the Authority with the power to impose certain limited conditions in respect of the Authority's approval of the appointment of the chief executive officer, director or chairman of the board of directors of designated telecommunication licensees.

Clause 17 inserts a new Part VC (comprising new sections 32M, 32N and 32O) to enable the Authority to establish or approve one or more dispute resolution schemes for the resolution of disputes between subscribers and declared telecommunication licensees arising from the provision of telecommunication services.

Clause 18 amends section 33(1) to clarify that it is an offence for a telecommunication licensee whose licence has been suspended, to establish, install, maintain or operate a telecommunication system or service, during the suspension of the licence.

Clause 19 makes consequential amendments to section 69.

Clause 20 amends section 74(2) so that regulations may be made on the installation, wiring, cabling and other works to be carried out on the telecommunication systems of telecommunication system licensees. The amendments also enable regulations to be made for anything that is required to be prescribed under the Act.

Clause 21 makes related amendments to the Info-communications Media Development Authority Act 2016 to insert provisions so that dispute resolution schemes can be established or approved for the media industry. These provisions are similar to the provisions on alternative dispute resolution schemes in the new Part VC of the Telecommunications Act (as inserted by clause 17).

The clause also amends section 66(1) to (5) of the Info-communications Media Development Authority Act 2016 such that the Authority may issue directions to designated media licensees. Failure to comply with such directions can result in financial penalties and criminal penalties being imposed.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
