REPRINT

TELECOMMUNICATIONS ACT (CAP. 115)

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2009) from 11 September 2009

AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO TELECOMMUNICATIONS

TELECOMMUNICATIONS ACT (CAP. 115)

Table of provisions

PARTI	PRELIMINARY	1
1 2 3	Short title Interpretation Application of Act	1 1 2
PART II	PRIVILEGES AND POWERS OF TELECOMMUNICATION AUTHORITY	2
4 5 6 7 8 9 10 11	Exclusive privilege Power to grant licence Revocation of licence Fees and charges for telecommunication licences Telecommunications Guide Powers of Government in emergency Powers to require production of messages Standards to be observed in broadcasts and transmissions Regulations	2 2 3 3 4 5 5 6
PART III	TELECOMMUNICATION LINES AND POSTS	. 7
13 14 15	Power to place telecommunication lines and posts Power to enter on property Power to alter position of overhead wires and water pipes ar drains	
16 17	Determination of disputes Application to telecommunication authority to remove telecommunication post or line	8 8 9
18	Telecommunication lines or posts placed before passing of this Act	10
19	Notice of acts likely to cause damage to a telecommunicatio line to be given and powers in connection therewith	n 10
20	Power of the Minister to confer powers under this Part on licensees	11

PART I	OFFENCES	11
21	Unlicensed telecommunications	11
22	Assisting the working of an unauthorised telecommunication	n
	station	11
23	Trespass and wilful obstruction of a communication officer	12
24	Tampering with plant of telecommunications	12
25	Detaining or altering a message or revealing its contents	13
26	Fraudulently transmitting messages	13
27	Impeding or delaying messages	14
28	Representing without authority that a document has been	
	issued with authority	14
29	Fraudulent retention of messages	14
30	Offences in connection with exercise by Government of its	
	powers in an emergency	15
31	Refusal or neglect to produce message	15
32	Forged telegram	15
33	Offences in connection with telecommunications	15
PART V	SUPPLEMENTAL	16
34	Onus of proof	16
35	Admissibility of transcript message in judicial proceedings	16
36	Exemption	17
37	Inspection of radio-communication station	17
38	Inspection of licence	17
39	Non-responsibility for loss or damage	17
40	Non-liability of communication officers for libel in message	18
41	Remission of fees	18
42	General exemption	18

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PART I PRELIMINARY

1 Short title

This Act may be cited as the *Telecommunications Act*.

2 Interpretation

In this Act, unless the context otherwise requires:

"broadcast receiving station" means a radio-communication station designed for the reception of sound transmission from broadcasting stations;

"communication officer" means any person employed either permanently or temporarily in connection with a telecommunication established, maintained or worked by the Government, or by a person licensed under this Act;

"dealer in radio-communication apparatus" means any person carrying on the business of producing, manufacturing, repairing, selling or distributing radio-communication apparatus constructed or adapted for the emission of sound transmission by means of Hertzian waves;

"Guide" means the Telecommunications Guide issued under section 8:

"message" means any communication sent or received, or made by telecommunication, or given to a communication officer to be sent by telecommunication;

"post" means a post, pole, standard, stay, strut or other aboveground contrivance for carrying, suspending or supporting a telecommunication line;

"radio-communication" means any telecommunication by means

1

of Hertzian waves;

"radio-communication station" means any apparatus or any component part thereof capable of being used or being adapted for the emission or reception of Hertzian waves and includes a complete set of components designed and intended to be assembled so as to become such apparatus;

"telecommunication" means any system (which expression shall not be deemed to include a broadcast receiving station) for the transmission, emission or reception of signs, signals, writings, images and sounds or intelligence of any nature by wires, radio, visual, or other electro-magnetic systems;

"telecommunication authority" means the Comptroller of Posts and Telecommunications in Solomon Islands and includes any officer empowered by him to perform all or any of the functions of the telecommunication authority under this Act;

"telecommunication line" means any wire or wires used for the purpose of a telecommunication with or without any casing, coating, tube or pipe enclosing the same and any appliances and apparatus connected therewith for the purpose of fixing or insulating the same.

3 Application of Act

The provisions of this Act shall not apply to officers or men of Her Majesty's Forces using telecommunications in the performance of their official duties or to telecommunications so used.

PART II PRIVILEGES AND POWERS OF TELECOMMUNICATION AUTHORITY

4 Exclusive privilege

Subject to the provisions of section 5, the Government shall have the exclusive privilege of establishing, maintaining and working telecommunications within Solomon Islands.

5 Power to grant licence

The telecommunication authority may, subject to the provisions of

any regulations made under this Act, grant to any person a licence (hereinafter called a telecommunication licence) to establish or maintain or work a radio-communication station or telecommunication within Solomon Islands or a licence to import radio-communication equipment constructed or adapted for emission, subject to such terms, provisions and limitations as the telecommunication authority may think fit to impose.

(2) A telecommunication licence shall, unless previously revoked, continue in force for such period as may be specified therein.

6 Revocation of licence

A telecommunication licence may be revoked at any time by the telecommunication authority upon proof to his satisfaction that the licence holder has contravened or failed to comply with any of the terms, provisions or limitations of the licence.

7 Fees and charges for telecommunication licences

On the issue of a telecommunication licence and, where regulations under section 12 so provide, at such times thereafter as may be therein prescribed, there shall be paid to the telecommunication authority by the person to whom the licence is issued such sums as may be therein prescribed and different provisions may be made in relation to different licences according to the nature, terms, provisions limitations and duration thereof.

8 Telecommunications Guide

The telecommunication authority shall publish a guide to be known as the Telecommunications Guide and shall include therein any regulations made under this Act, and may also include therein:

- (a) a declaration of the adoption of the International Telegraph Regulations agreed upon by the International Telecommunication Union and that the same or any part or modification thereof shall be enforced within Solomon Islands;
- (b) a statement of the manner in which amendments to the Guide will be published;

- (c) information or notification as to:
 - (i) the examination of and issue of certificates of proficiency to operators of telegraphs or of radio-communication stations:
 - (ii) the rates at which and the conditions subject to which messages shall be accepted, transmitted or delivered by or on behalf of the telecommunication authority:
 - (iii) the installation by or on behalf of the telecommunication authority of telephones in private houses, shops or other buildings, the use of telephones so installed and the charges and fees to be paid in respect of their installation;
 - (iv) the period during which and the conditions subject to which messages and papers relating or belonging to, or in the custody of, the telecommunication authority shall be preserved;
 - (v) the fees to be charged in respect of any search made for any message or other paper relating thereto in the custody of the telecommunication authority;
 - (vi) the levy of fees and other charges for the hire and use of equipment supplied or let on hire by the telecommunication authority;
- (d) such other information as the telecommunication authority may think fit to include.

9 Powers of Government in emergency

- (1) On the occasion of any public emergency or in the interest of public safety the Prime Minister in his discretion or any officer specially authorised in that behalf by the Prime Minister acting in his discretion may:
 - take temporary possession of any radio-communication station or telecommunication established, maintained or worked by any person licensed under this Act;

- (b) prohibit or regulate the use of radio-communication stations or telecommunications in all cases or in such cases as may be deemed desirable;
- (c) order that any message or class of messages to or from any person or class of persons or relating to any particular subject matter, brought for transmission by, or transmitted or received by, any radio-communication station or telecommunication shall not be transmitted or shall be interrupted or detained or shall be disclosed to the Prime Minister or to any public officer mentioned in the order:

Provided that any order made under paragraph (c) shall not be construed to apply to the use of radio-communication for the purpose of making or answering signals of distress.

(2) If any doubt arises as to the existence of a public emergency or whether any act done under this section was in the interests of public safety a certificate signed by the Prime Minister and delivered to the person in charge of the radio-communication station or telecommunication shall be conclusive proof of the fact.

10 Powers to require production of messages

Where it appears to the Prime Minister that such a course is expedient in the public interest, he may in his discretion by warrant under his hand require any person who owns or controls any radio-communication station or telecommunication to produce to him or to any person named in the warrant the originals and transcripts of all messages or of messages of any special class or description or of messages sent from or addressed to any specified person or place by means of such radio-communication station or telecommunication and all other papers relating to such messages.

11 Standards to be observed in broadcasts and transmissions

The holder of a telecommunication licence shall ensure that, as far as practicable, broadcasts and transmissions intended for public reception comply with the following requirements:

(a) that nothing is included in any such programme which offends against good taste or decency or is likely to incite to crime or to

- lead to disorder or to offend any racial or religious susceptibilities or to be offensive to public feeling;
- (b) that the programmes maintain a proper balance in their subject matter and a high general standard of quality; and
- (c) that any news given in the programme (in whatever form) is presented with due accuracy and impartiality and with due regard to the public interest.

12 Regulations

The Minister may make regulations for any purpose for which regulations may be made under this Act and for prescribing anything that may be prescribed under this Act and generally for the purpose of carrying this Act into effect and in particular but without prejudice to the generality of the foregoing may make regulations with respect to any of the following matters:

- (a) the working and use of telecommunications;
- (b) the secrecy of telecommunications;
- electrical interference with the working or using of any radiocommunication apparatus and the requirements to be complied with to prevent or reduce such interference;
- (d) the regulation of the use of any radio-communication station on board any vessel while in Solomon Islands waters;
- (e) the regulation of the use of any radio-communication station on any aircraft while in or over Solomon Islands;
- (f) the licensing, and fees therefor, of dealers in radiocommunication apparatus and the sale or transfer of radiocommunication apparatus;

and different regulations may be made as respects different classes or descriptions of radio-communication stations or tele-communications or as respects the same class or description of radio-communication stations or telecommunications in different circumstances.

PART III TELECOMMUNICATION LINES AND POSTS

13 Power to place telecommunication lines and posts

The telecommunication authority may from time to time place and maintain a telecommunication line under, over, along or across, and posts in or upon, any immovable property and do all such works and things as may be necessary for such purpose including cutting and removing on each side of any proposed or existing line all such trees and underwood as may interfere or be likely to interfere with the construction or proper working of any telecommunication line:

Provided that:

- (a) the telecommunication authority shall not exercise the powers conferred by this section except for the purposes of a telecommunication established or maintained by the Government, or to be so established or maintained;
- (b) the Government shall not acquire any right other than that of user only in the property under, over, along, across, in or upon which the telecommunication authority places any telecommunication line or post; and
- (c) in the exercise of the powers conferred by this section or section 15, the telecommunication authority shall do as little damage as possible, and, when he has exercised these powers in respect of any property, other than property across which a right is reserved to the Government whether expressly or by implication to make telecommunications without compensation, shall pay compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

14 Power to enter on property

The telecommunication authority, his officers, servants and agents may at any time for the purpose of examining, repairing, altering or removing any telecommunication line or post, enter on the property under, over, along, across, in or upon which the line or post has been placed.

Power to alter position of overhead wires and water pipes and drains

The telecommunication authority may, for the purpose of exercising the powers conferred upon him by this Act, require to have altered the position of any high tension or other overhead wire, or of any pipe (not being a main) for the supply of water, or of any drain (not being a main drain):

Provided that:

- (a) when the telecommunication authority desires to have the position of any such high tension or other overhead wire or pipe or drain altered, he shall give reasonable notice of his desire to do so, specifying the time at which such alteration will be commenced to the person under whose control the wire or pipe or drain is; and
- (b) a person receiving notice under paragraph (a) shall send a person to superintend the work and the telecommunication authority shall have the work executed to the reasonable satisfaction of the person so sent.

16 Determination of disputes

- (1) If any dispute arises concerning the exercise by the telecommunication authority of his powers under sections 13 or 15, or concerning the sufficiency of the compensation to be paid under paragraph (c) of the proviso to section 13, it shall, on application for that purpose by either of the disputing parties to a Judge, be determined by such Judge.
- (2) If any dispute arises as to the persons entitled to receive compensation, or as to the proportion in which the persons interested are entitled to share in it, the telecommunication authority may pay into the court such amount as he deems sufficient, or where all the disputing parties have in writing admitted the amount tendered to be sufficient, or where the amount has been determined under subsection (1), that amount; and the Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive compensation, or, as the case may be, the proportions in which the persons interested are

entitled to share in it.

(3) Every determination of a dispute by a Judge under subsection (1) or subsection (2) shall be final and conclusive and shall not be questioned in any proceedings whatsoever:

Provided that nothing in this subsection shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telecommunication authority from the person who has received the same.

17 Application to telecommunication authority to remove telecommunication post or line

(1) When, under the foregoing provisions of this Act, a telecommunication line or post has been placed by the telecommunication authority under, over, along, across, in or upon any property, and any person entitled to do so desires to deal with that property in such manner as to render it necessary or convenient that the telecommunication line or post should be removed to another part thereof or to a higher or lower level or altered in form, he may require the telecommunication authority to remove or alter the line or post accordingly:

Provided that he shall when making the requisition, tender to the telecommunication authority the amount requisite to defray the expense of the removal or alteration.

- (2) If the telecommunication authority fails to comply with the requisition the person making it may apply to a Judge within the province in which the property is situated to order the removal or alteration.
- (3) A Judge receiving an application under subsection (2) may, in his discretion, reject the same or make an order absolutely or subject to conditions for the removal of the telecommunication line or post to any other part of the property or to a higher or lower level or for the alteration of its form; and the order so made shall be final and conclusive and shall not be questioned in any proceedings whatsoever.

18 Telecommunication lines or posts placed before passing of this Act

Every telecommunication line or post placed before the passing of this Act under, over, along, across, in or upon any property for the purposes of a telecommunication established or maintained by the Government shall be deemed to have been placed in exercise of the powers conferred by, and after observance of all the requirements of, this Act.

19 Notice of acts likely to cause damage to a telecommunication line to be given and powers in connection therewith

- (1) Any person desiring to deal in the legal exercise of a right with any property in such a manner as is likely to cause damage to a telecommunication line or post which has been duly placed in accordance with provisions of this Act, or to interrupt or interfere with telecommunications, shall give not less than one month's notice in writing of the intended exercise of such right to the telecommunication authority.
- (2) If any such person without having complied with the provisions of subsection (1) deals with any property in such a manner as is likely to cause damage to any telecommunications, line or post, or to interrupt or interfere with telecommunications, a Magistrate within the province in which such property is situate may, on the application of the telecommunication authority, order such person to abstain from dealing with such property in such manner for a period not exceeding one month from the date of his order, and forthwith to take such action with regard to such property as may be, in the opinion of the said Magistrate, necessary to remedy or prevent such damage, interruption or interference during such period.
- (3) A person dealing with any property in the manner referred to in subsection (1) with the bona fide intention of averting imminent danger of personal injury to himself or other human beings shall be deemed to have complied with the provisions of the said subsection if he gives such notice of the intended exercise of the right as is in the circumstances possible or, where no such previous notice can be given without incurring the imminent danger referred to above, if he forthwith gives notice of the actual exercise of such right to the telecommunication authority.

20 Power of the Minister to confer powers under this Part on licensees

The Minister may by notice confer upon any person to whom a telecommunication licence has been granted under section 5, in respect of the extent of his licence, and subject to any conditions and restrictions which the Minister may think fit to impose, and to the provisions of this Part, all or any of the powers which the telecommunication authority possesses under this Part with regard to a telecommunication established or maintained by the Government or to be so established or maintained:

Provided that the notice prescribed in section 19 shall always be given to the telecommunication authority.

PART IV OFFENCES

21 Unlicensed telecommunications

Any person who imports into Solomon Islands without a licence from the telecommunication authority any radio-communication equipment constructed or adapted for emission, or establishes, maintains or works a radio-communication station other than a broadcast receiving station, or a telecommunication within Solomon Islands except under and in accordance with a licence issued under this Act shall be guilty of an offence and liable to a fine of two hundred dollars and in the case of a continuing offence to a further fine of one hundred dollars for each week or part of a week during which the offence continues.

(2) Where any person is convicted of an offence under this section, the court by which he was convicted may direct that the radiocommunication station or telecommunication in respect of which the offence has been committed or any part of such radiocommunication station or telecommunication be forfeited.

22 Assisting the working of an unauthorised telecommunication station

Any person who, knowing or having reason to believe that a radiocommunication station or telecommunication has been established or is maintained or worked in contravention of this Act, transmits or receives any message by such radio-communication station or telecommunication, or performs any service incidental thereto, or delivers any message sent thereby, shall be guilty of an offence and liable to a fine of two hundred dollars or to imprisonment for three months, or to both such fine and such imprisonment.

23 Trespass and wilful obstruction of a communication officer

Any person who:

- (a) without permission of the communication officer in charge enters any room in any telecommunication office reserved for the transmission of signals; or
- (b) enters a fenced enclosure around such a telecommunication office in contravention of any notice erected or displayed by or by authority of the telecommunication authority forbidding such entry; or
- (c) refuses to quit such room or enclosure on being requested to do so by any officer or servant employed therein; or
- (d) wilfully obstructs any such officer or servant in the performance of his duty,

shall be guilty of an offence and liable to a fine of two hundred dollars or to imprisonment for three months, or to both such fine and such imprisonment;

Provided that any person who does any of the aforesaid acts with the intention of unlawfully learning the contents of any message shall be liable to imprisonment for one year.

24 Tampering with plant of telecommunications

Any person who, intending:

- (a) to prevent or obstruct the transmission or delivery of any message; or
- (b) to intercept or to acquaint himself with the contents of any message; or

(c) to commit mischief,

damages, removes, tampers with or touches any battery, machinery, telecommunication line, post or other thing whatever, being part of or used in or about any telecommunication or in the working thereof, shall be liable to a fine of five hundred dollars or to imprisonment for three years, or to both such fine and such imprisonment.

25 Detaining or altering a message or revealing its contents

Any communication officer, or any person not being a communication officer but having official duties connected with any office which is used as a telecommunication office, who:

- (a) wilfully secretes, makes away with or alters any message which he has received for transmission or delivery; or
- (b) wilfully, and otherwise than in obedience to an order of the Minister or of an officer especially authorised by the Minister to make the order, omits to transmit, or intercepts, or detains any message or any part thereof, or otherwise than in pursuance of his official duty or in obedience to the direction of a court discloses the contents or any part of the contents of any message to any person not entitled to receive the same; or
- (c) divulges the purport of any message to any person not entitled to become acquainted with the same,

shall be guilty of an offence and liable to a fine of five hundred dollars or to imprisonment for three years, or to both such fine and such imprisonment.

26 Fraudulently transmitting messages

Any communication officer who transmits by telecommunication any message on which the prescribed charge has not been paid, intending thereby to defraud the telecommunication authority or a person licensed under this Act, shall be guilty of an offence and liable to a fine of five hundred dollars or to imprisonment for three years, or to both such fine and such imprisonment.

27 Impeding or delaying messages

Any communication officer or any person not being a communication officer but having official duties connected with any office which is used as a telecommunication office who is guilty of any act of drunkenness, carelessness, or other misconduct whereby the correct transmission or the delivery of any message is impeded or delayed, or any communication officer who wilfully delays in the transmission or delivery of any message, shall be guilty of an offence and liable to a fine of twenty dollars or to imprisonment for one month, or to both such fine and such imprisonment.

28 Representing without authority that a document has been issued with authority

Any person who, without due authority:

- (a) makes or issues any document of a nature reasonably calculated to cause it to be believed that the document has been issued by, or under the authority of, the telecommunication authority; or
- (b) makes on any document any mark in imitation of or similar to, or purporting to be, any stamp or mark of any telecommunication office under the telecommunication authority, or a mark of a nature reasonably calculated to cause it to be believed that the document so marked has been issued by, or under the authority of, the telecommunication authority,

shall be guilty of an offence and liable to a fine of one hundred dollars or to imprisonment for three months, or to both such fine and such imprisonment.

29 Fraudulent retention of messages

Any person who fraudulently retains, or wilfully secretes, makes away with, or detains a message which ought to have been delivered to some other person, or, being required by a communication officer to deliver up any such message, neglects or refuses to do so, shall be guilty of an offence and liable to a fine of five hundred dollars or to imprisonment for three years, or to both such fine and such imprisonment.

Offences in connection with exercise by Government of its powers in an emergency

Any person who obstructs an officer authorised under section 9 in the exercise of his powers under that section or who fails to comply with any prohibition, regulation or order made under the said section shall be guilty of an offence and liable to a fine of two hundred dollars or to imprisonment for one year, or to both such fine and such imprisonment.

31 Refusal or neglect to produce message

Any person who on being required to produce any original or transcript of a message or any paper relating to a message refuses or neglects to do so shall be guilty of an offence and liable to a fine of two hundred dollars or to imprisonment for one year, or to both such fine and such imprisonment.

32 Forged telegram

- (1) Any person who with intent to deceive forges or wilfully and without due authority alters a telegram, or utters a telegram knowing the same to be forged or wilfully and without due authority altered, shall be guilty of an offence and liable to a fine of two hundred dollars or to imprisonment for one year, or to both such fine and such imprisonment.
- (2) For the purposes of this section, the expression "telegram" means a written or printed communication sent to or delivered at a post office or telecommunication office for transmission by telecommunication.

33 Offences in connection with telecommunications

If any person:

- (a) sends any message by telecommunication which is grossly offensive or of an indecent, obscene or menacing character;
- sends any message by telecommunication which he knows to be false for the purpose of causing annoyance, inconvenience or needless anxiety to any other person; or

(c) persistently makes telephone calls without reasonable cause and for any such purpose as aforesaid,

he shall be guilty of an offence and liable to a fine of two hundred dollars or to imprisonment for six months, or to both such fine and such imprisonment.

PART V SUPPLEMENTAL

34 Onus of proof

- (1) Any person who is in possession of a radio-communication station shall be deemed to have worked it until the contrary is proved.
- (2) The occupier of any dwelling-house or premises in which there is any radio-communication station shall be deemed to be in possession thereof unless he satisfies the court that he was not aware and could not with reasonable diligence have become aware of the presence in the dwelling-house or premises of the radio-communication station in question.
- (3) Any apparatus which, if fully assembled and in working order would be a radio-communication station shall not, unless completely dismantled, cease to be a radio-communication station by reason of the fact that it is temporarily incapable of emitting or receiving Hertzian waves owing to a defect or the absence of some part.

35 Admissibility of transcript message in judicial proceedings

The transcript of every message after transmission shall before delivery thereof to a person to whom the same is addressed be stamped or initialled by the official receiving the same for delivery, and such transcript message, purporting to have been so stamped or initialled, shall be admissible in every court and in every judicial proceeding as *prima facie* evidence of the matter therein contained being the same as that stated in the original message left for transmission, and of such original message having been duly signed and delivered for transmission by the person by whom the same purports to be signed and it shall not be necessary to prove the signature of the person purporting to have signed such original message or that the same was left at any telecommunication office for transmission, nor to prove the stamps or initials of the official

receiving such transcript for delivery.

36 Exemption

- (1) The provisions of this Act, other than the provisions of regulations made under paragraphs (d) or (e) of section 12, shall not apply to any foreign vessel or aircraft.
- (2) A licence shall not be required under this Act in respect of any radio-communication station being part of the radio-communication apparatus of a British vessel or aircraft registered outside Solomon Islands where such radio-communication station is licensed by a competent authority in the country of registration.
- (3) Nothing in this Act shall apply in respect of any telecommunication, other than radio-communication, contained wholly within a building or part of a building where such telecommunication is owned and operated by a person occupying that building or part of a building for his sole use and interest.

37 Inspection of radio-communication station

The telecommunication authority or any person authorised in writing by him in that behalf shall have the right at all reasonable hours to inspect any radio-communication station in respect of which a person is licensed under this Act.

38 Inspection of licence

Every person who is required to possess a licence under this Act shall exhibit his licence for inspection on demand by the telecommunication authority.

39 Non-responsibility for loss or damage

- (1) Neither the Government nor the telecommunication authority shall be responsible for any loss or damage which may occur in consequence of any communication officer failing in his duty with respect to the receipt, transmission or delivery of any message.
- (2) No communication officer shall be responsible for any such loss unless he causes the same negligently, maliciously or fraudulently.

40 Non-liability of communication officers for libel in message

No communication officer shall be liable to any criminal proceedings or in any suit for damages by reason of his having in the course of his employment transmitted or conveyed by any telecommunication or taken any part in transmitting or conveying by any telecommunication any defamatory libel.

41 Remission of fees

The Minister of Finance may, if he thinks fit, remit the whole of any portion of any charge, rate or fee payable under this Act.

42 General exemption

The Minister may by order exempt any person or any class of persons from this Act or from such of the provisions thereof as he thinks fit.

ENDNOTES

1 KEY

amd = amended Pt = Part

Ch = Chapter rem = remainder
Div = Division renum = renumbered
exp = expires/expired rep = repealed
GN = Gazette Notice Sch = Schedule

ins = inserted SIG = Solomon Islands Gazette

It = long title st = short title LN = Legal Notice sub = substituted

nc = not commenced

hdg = heading

NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 115 of the Revised Edition of the Laws of Solomon Islands.

Sdiv = Subdivision

2 LIST OF LEGISLATION

Telecommunications Act (Cap. 115)

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3 LIST OF AMENDMENTS