Changes to Legislation: as of 13 October 2026, this Act is up to date with all changes known to be in force.

Number 22 *of* 2007

COMMUNICATIONS REGULATION (AMENDMENT) ACT 2007

REVISED

Updated to 1 June 2025

This Revised Act is an administrative consolidation of the *Communications Regulation (Amendment) Act 2007*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Finance (Provision of Access to Cash Infrastructure) Act 2025* (4/2025), enacted 20 May 2025, and all statutory instruments up to and including *Telecommunications (Transfer of Departmental Administration and Ministerial Functions) Order 2025* (S.I. No. 237 of 2025), made 27 May 2025, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

Number 22 *of* 2007

COMMUNICATIONS REGULATION (AMENDMENT) ACT 2007

REVISED

Updated to 1 June 2025

ARRANGEMENT OF SECTIONS

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PRELIMINARY MATTERS

Section

1. Short title and commencement.
2. Principal Act defined.

PART 2

AMENDMENT OF PRINCIPAL ACT, ETC.

3. Amendment of section 2 of Principal Act (interpretation).
4. Repeal of section 9 and miscellaneous amendments to other enactments.
5. Amendment of section 10 of Principal Act (functions of Commission).
6. Insertion into Principal Act of new sections 13A to 13E.
7. Insertion into Principal Act of new sections 24A to 24C.
8. Amendment of section 30 of Principal Act (levies and fees).
9. Insertion into Principal Act of new sections 31A to 31C.
10. Insertion into Principal Act of new Part 2A.
11. Substitution of section 43 of Principal Act (prosecution of summary offences by Commission).
12. Amendment of section 44 of Principal Act (notice of Commission of intention to prosecute, etc.).
13. Substitution of sections 45 and 46 of Principal Act.
14. Insertion into Principal Act of new sections 46A to 46E.
15. Insertion into Principal Act of new section 57A.

16. Insertion into Principal Act of new Part 6.

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PART 3

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19. Amendment of section 2 of Electronic Commerce Act 2000 (interpretation).

20. Amendment of section 4 of the Electronic Commerce Act 2000 (laying of orders and regulations before Houses of Oireachtas).

21. Substitution of Part 4 of Electronic Commerce Act 2000.

PART 4

AMENDMENT OF COMPETITION ACT 2002

22. Amendment of section 3 of Competition Act 2002 (interpretation).

23. Amendment of section 4 of Competition Act 2002 (anti-competitive agreements, decisions and concerted practices).

24. Amendment of section 6 of Competition Act 2002 (offence in respect of breach of section 4(1) or Article 81(1) of the Treaty).

25. Amendment of section 8 of Competition Act 2002 (penalties and proceedings in relation to offences under section 6 and 7).

26. Amendment of section 13 of Competition Act 2002 (admissibility of statements contained in certain documents).

27. Amendment of section 14 of Competition Act 2002 (right of action for breaches of competition rules).

28. Amendment of section 18 of Competition Act 2002 (obligation to notify certain mergers and acquisitions).

29. Amendment of section 34 of Competition Act 2002 (provisions for co-operation between the Authority and statutory bodies).

30. Substitution of section 47 of Competition Act 2002.

31. Insertion into Competition Act of new Part 4A.

32. Amendment of Schedule 1 to Competition Act 2002.

SCHEDULE 1

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PART 4

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PART 6

Amendment of Broadcasting and Wireless Telegraphy Act 1988

PART 7

Amendment of Radio and Television Act 1988

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PART 10

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Amendment of European Communities (Telecommunications Infrastructure) Regulations 1997 (S.I. No. 338 of 1997)

PART 2

Amendment of Wireless Telegraphy (GSM and TACS Mobile Telephony Licence) Regulations 1997 (S.I. No. 468 of 1997)

PART 3

Amendment of Wireless Telegraphy (Fixed Wireless Point-to-Multipoint Access Licence) Regulations 1999 (S.I. No. 287 of 1999)

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Amendment of European Communities (Conditional Access) Regulations 2000 (S.I. No. 357 of 2000)

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ACTS REFERRED TO

Broadcasting Act 1990	1990, No. 24
Broadcasting and Wireless Telegraphy Act 1988	1988, No. 19
Broadcasting Authority Act 1960	1960, No. 10
Central Bank Act 1971	1971, No. 24
Communications Regulation Act 2002	2002, No. 20
Companies Act 1963	1963, No. 33
Competition Act 2002	2002, No. 14
Electronic Commerce Act 2000	2000, No. 27
European Communities Act 1972	1972, No. 27
Irish Aviation Authority Act 1993	1993, No. 29
Ministers and Secretaries (Amendment) (No. 2) Act 1977	1977, No. 28
Post Office Act 1908	8 Edw. 7, c. 48
Post Office (Amendment) Act 1951	1951, No. 17
Postal and Telecommunications Services Act 1983	1983, No. 24
Radio and Television Act 1988	1988, No. 20
Telecommunications (Miscellaneous Provisions) Act 1996	1996, No. 34
Wireless Telegraphy Act 1926	1926, No. 45
Wireless Telegraphy Act 1972	1972, No. 5

Number 22 *of* 2007

COMMUNICATIONS REGULATION (AMENDMENT) ACT 2007

REVISED

Updated to 1 June 2025

AN ACT TO AMEND THE COMMUNICATIONS REGULATION ACT 2002 TO CONFER ADDITIONAL FUNCTIONS ON THE COMMISSION FOR COMMUNICATIONS REGULATION; TO MAKE FURTHER PROVISION FOR THE ENFORCEMENT OF THAT ACT; TO PROVIDE FOR THE ESTABLISHMENT AND OPERATION OF AN EMERGENCY CALL ANSWERING SERVICE (ECAS); TO AMEND THE ELECTRONIC COMMERCE ACT 2000 WITH RESPECT TO THE REGISTRATION OF DOMAIN NAMES; AND TO MAKE CONSEQUENTIAL AMENDMENTS TO CERTAIN OTHER ACTS AND TO PROVIDE FOR RELATED MATTERS.

[21*st April*, 2007]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Editorial Notes:

E1 Collectively cited *Communications Regulations Acts 2002 to 2010* included in *European Communities (Birds and Natural Habitats) Regulations 2011* (S.I. No. 477 of 2011), sch. 2 (21.09.2011) by *European Communities (Birds and Natural Habitats) Regulations 2011* (S.I. No. 477 of 2011), in effect as per reg. 1(3).

PART 1

Preliminary Matters

Short title and commencement.

1.— (1) This Act may be cited as the Communications Regulation (Amendment) Act 2007.

(2) This Act comes into operation on such day or days as the Minister for Communications, Marine and Natural Resources may appoint by order or orders either generally or with reference to any particular purpose or provision. Different days may be appointed for different purposes or different provisions.

Annotations

Editorial Notes:

E2 Power pursuant to section exercised (15.05.2007 and 1.07.2007) by *Communications Regulation (Amendment) Act 2007 (Commencement) Order 2007* (S.I. No. 224 of 2007).

2. (1) The provisions of the Communications Regulation (Amendment) Act 2007 (other than sections 9 and 21) come into operation on 15th May 2007.

(2) Section 9 of the Communications Regulation (Amendment) Act 2007 comes into operation on 1 July 2007.

(3) Section 21 of the Communications Regulation (Amendment) Act 2007 comes into operation on 15th May 2007, except in relation to section 32(2) and (6) of the Electronic Commerce Act 2000.

Principal Act defined.

2.— In this Act "Principal Act" means the Communications Regulation Act 2002.

PART 2

Amendment of Principal Act, etc.

Amendment of section 2 of Principal Act (interpretation).

3.— Section 2 of the Principal Act is amended as follows:

(*a*) by inserting in subsection (1) the following definition after the definition of "Act of 1996":

" 'associate', in relation to an undertaking, means—

(*a*) a holding company of the undertaking, or

(*b*) a subsidiary company of the undertaking, or

(*c*) a company that is a subsidiary of a body corporate, if the undertaking is also a subsidiary of the body, but neither company is a subsidiary of the other, or

(*d*) a body corporate that is not a subsidiary of the undertaking but in respect of which the undertaking is beneficially entitled to more than 20 per cent of the nominal value of either—

(i) the allotted share capital of the body, or

(ii) the shares carrying voting rights (other than voting rights which arise only in specified circumstances) of the body,

or

(*e*) a partnership or joint venture in which the undertaking has a financial interest;";

(*b*) by inserting in subsection (1) the following definition after the definition of "associated facilities":

" 'association of undertakings' means a body corporate that comprises one or more undertakings but is not itself an undertaking;";

(*c*) by inserting in subsection (1) the following definition after the definition of "electronic communications service":

" 'end user', in relation to an electronic communications service or associated facility, means a person to whom such a service is supplied, or who has asked for the supply of such a service or facility, otherwise than for the purpose of resupply;";

(*d*) by inserting in subsection (1) the following definitions after the definition of "establishment day":

" 'failure to comply' includes contravene;

'financial year', in relation to the Commission, means the financial year of the Commission as specified in or in accordance with section 31A;";

(*e*) by inserting in subsection (1) the following definition after the definition of "prescribed":

" 'related enactment' means—

(*a*) an enactment specified in Part 1 of Schedule 1, or

(*b*) a statutory instrument specified in Part 2 of that Schedule, or

(*c*) a statutory instrument made by the Minister for the purpose of giving effect to an act of an institution of the European Communities relating to—

(i) the provision of an electronic communications service, an electronic communications network or associated facility, or

(ii) the radio frequency spectrum or national numbering resource, or

(iii) a postal service,

or

(*d*) a statutory instrument made by the Commission under an Act specified in Part 1 of Schedule 1, or

(*e*) any Act or statutory instrument declared by a provision of another Act or statutory instrument to be a related enactment for the purposes of this Act;";

(*f*) by inserting in subsection (1) the following definition after the definition of "television set":

" 'this Act' includes all statutory instruments made under this Act;";

(*g*) by repealing subsection (2).

Repeal of section 9 and miscellaneous amendments to other enactments.

4.— (1) Section 9 of the Principal Act is repealed.

(2) The Acts specified in *Schedule 1* are amended as indicated in that Schedule.

(3) The statutory instruments specified in *Schedule 2* are amended as indicated in that Schedule. The fact that those instruments are so amended does not preclude their subsequent amendment by the relevant instrument-making authority.

(4) The savings and transitional provisions specified in *Schedule 3* have effect.

Annotations

Editorial Notes:

E3 Functions transferred and references to Minister for and Department of the **Environment, Climate and Communications** construed as Minister for and Department of **Tourism, Culture, Arts, Gaeltacht, Sport and Media** (1.06.2025) by *Telecommunications (Transfer of Departmental Administration and Ministerial Functions) Order 2025* (S.I. No. 237 of 2025), arts. 2, 3 and sch. part 1, in effect as per art. 1(2), subject to transitional provisions in arts. 4-8. See below in E-notes for history of transfers of functions and changes of names of Minister and Department.

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 3 are transferred to the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media.

(2) References to the Department of the Environment, Climate and Communications contained in any Act or any instrument made under an Act and relating to any administration and business transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media.

3. (1) The functions vested in the Minister for the Environment, Climate and Communications —

(a) by or under the Acts or provisions of the Acts mentioned in Part 1 of the Schedule,

...

are transferred to the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media.

(2) References to the Minister for the Environment, Climate and Communications contained in any Act or instrument made under such Act and relating to any functions transferred by this Article shall, from the commencement of this Order, be construed as references to the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media.

Schedule

Part 1

...

Section 4 (4) of the Communications Regulation (Amendment) Act 2007 (No. 22 of 2007)

...

Note change of name of Minister of **Tourism, Culture, Arts, Gaeltacht, Sport and Media** to

- **Culture, Communications and Sport** (2.06.2025) by *Tourism, Culture, Arts, Gaeltacht, Sport and Media (Alteration of Name of Department and Title of Minister) Order 2025* (S.I. No. 236 of 2025), in effect as per art. 1(2).

Amendment of section 10 of Principal Act (functions of Commission).

5.— Section 10 of the Principal Act is amended as follows:

(*a*) by substituting "are" for "shall be", where first occurring;

(*b*) by inserting the following paragraph after subsection (1)(*c*):

"(*ca*) to monitor the quality and efficiency of the emergency call answering service established under Part 6,";

(*c*) by substituting the following paragraphs for subsection (1)(*d*):

"(*d*) to carry out investigations into matters relating to the supply of, and access to, electronic communications services,

electronic communications networks and associated facilities and the transmission of such services on such networks,

(*da*) for the purpose of contributing to an open and competitive market and also for statistical purposes, to collect, compile, extract, disseminate and publish information from undertakings relating to the provision of electronic communications services, electronic communications networks and associated facilities and the transmission of such services on those networks, and";

(*d*) by substituting the following subsection for subsection (2):

"(2) The Commission may carry out an investigation referred to in subsection (1) either on its own initiative or as a result of a complaint made by an end user or an undertaking.";

(*e*) in subsection (3), by substituting "under this or any other Act" for "under this Act".

Insertion into Principal Act of new sections 13A to 13E.

6.— The Principal Act is amended by inserting the following sections after section 13:

"Purpose of sections 13B and 13C.

13A.— The purpose of sections 13B and 13C is to enable the Minister to obtain information in order to formulate policies and plans to deal with emergencies and network security issues that may arise in connection with the provision of electronic communications services.

Power of Minister to obtain information from Commission.

13B.— For the purpose specified in section 13A, the Minister may, by notice in writing, require the Commission to provide the Minister with written information concerning either or both of the following:

(*a*) the technical operation or performance of electronic communications networks and infrastructures in the State;

(*b*) the breakdown or malfunctioning of an electronic communications network.

Power of Minister to obtain information from undertaking.

13C.— (1) For the purpose specified in section 13A, the Minister may, by notice in writing, require an undertaking to provide the Minister with written information concerning all or any of the following:

(*a*) the technical operation or performance of the undertaking's electronic communications service in the context of the relevant electronic communications network;

(*b*) the breakdown or malfunctioning of any part of the undertaking's electronic communications service;

(*c*) the operation of the undertaking in relation to electronic communications infrastructure.

(2) An undertaking commits an offence if it—

(*a*) fails to comply with a requirement made under subsection (1) within the period specified in the notice or within such extended period as the Minister allows, or

(*b*) in purporting to comply with such a requirement, provides information to the Minister that the undertaking knows to be false or misleading.

(3) In proceedings for an offence involving a failure by an undertaking to comply with a requirement made under subsection (1), it is a defence if the undertaking establishes—

(*a*) that it did not know and could not be reasonably expected to know or ascertain the required information, or

(*b*) that the disclosure of the information was prohibited by a law of the State.

(4) An undertaking that commits an offence under subsection (2) is liable on summary conviction to a fine not exceeding €5,000.

(5) If, after being convicted of an offence under subsection (2) or this subsection, an undertaking continues to fail to do the relevant act, the person commits a further offence on each day or part of a day during which the failure continues and is liable on summary conviction to a fine not exceeding €1,000 for each such further offence. However, if an undertaking is tried for 6 or more such further offences that are alleged to have been committed on successive days, the maximum fine that can be imposed for those offences at the trial is €5,000.

Power of Commission to obtain information from undertaking.

13D.— (1) The Commission may at any time, by notice in writing, require an undertaking to provide it with such written information as it considers necessary to enable it to carry out its functions or to comply with a requirement made to it by the Minister under section 13B.

(2) An undertaking commits an offence if it—

(*a*) fails to comply with a requirement made under subsection (1) within the period specified in the notice or within such extended period as the Commission allows, or

(*b*) in purporting to comply with such a requirement, provides to the Commission information that the undertaking knows to be false or misleading.

(3) In proceedings for an offence involving a failure by an undertaking to comply with a requirement made under subsection (1), it is a defence if the undertaking establishes—

(*a*) that it did not know and could not be reasonably expected to know or ascertain the required information, or

(*b*) that the disclosure of the information was prohibited by a law of the State.

(4) An undertaking that commits an offence under subsection (2) is liable on summary conviction to a fine not exceeding €5,000.

(5) If, after being convicted of an offence under this section, an undertaking continues to fail to do the relevant act, the undertaking commits a further offence on each day or part of a day during which the failure continues and is liable on summary conviction to a fine not exceeding €1,000 for each such further offence. However, if an undertaking is tried for 6 or more such further offences that are alleged to have been committed on successive days, the maximum fine that can be imposed for those offences at the trial is €5,000.

Alternative procedure for enforcement of section 13C or 13D.

13E.— (1) As an alternative to bringing a prosecution for an offence against section 13C or 13D, the Minister or the Commission may apply to the High Court to make a compliance order under subsection (4). Such an application is to be by motion.

(2) The High Court may hear the application only if it is satisfied that a copy of the application has been served on the undertaking concerned. On being served with such a copy, the undertaking becomes the respondent to the application.

(3) The High Court may make such interim or interlocutory order as it considers appropriate pending determination of an application made under subsection (1). The Court may not refuse interim or interlocutory relief merely because the Minister or Commission may not suffer damage if relief were not granted pending determination of the application.

(4) On the hearing of an application made under subsection (1), the High Court may make an order requiring the undertaking to comply with the relevant section or may refuse the application.

(5) If the High Court makes an order under subsection (4), it may make such ancillary orders as it considers appropriate.".

Insertion into Principal Act of new sections 24A to 24C.

7.— The Principal Act is amended by inserting the following sections after section 24:

"Protection of whistleblowers.

24A.— (1) A person who makes an appropriate disclosure of information to the Commission about the conduct of an undertaking, an associate of an undertaking or an association of undertakings incurs no civil or criminal liability for having done so.

(2) For the purpose of subsection (1), a person makes an appropriate disclosure of information about the conduct of an undertaking, or an associate of an undertaking or an association of undertakings only if—

(*a*) the conduct relates to the provision of an electronic communications network or service or an associated facility, and

(*b*) the person—

(i) believes on reasonable grounds that the information is true, or

(ii) not being able to form a belief on reasonable grounds about the truth of the information, believes on reasonable grounds that the information may be true and to be of sufficient significance to justify its disclosure with a view to enabling its truth to be investigated by the Commission or by a law enforcement authority that has a legitimate interest in receiving the information (such as the Garda Síochána).

(3) The Commission may not divulge the identity of a person who has made an appropriate disclosure to it without first obtaining the person's consent, except in so far as it may be necessary to ensure proper investigation of the matters to which the disclosure relates. This subsection applies despite any other enactment or rule of common law to the contrary.

(4) If a person has made an appropriate disclosure to the Commission, the Commission shall, so far as practicable and in accordance with the law, notify the person of the outcome of any investigation into the matters to which the disclosure relates.

(5) The Commission may decline to accept or deal with a disclosure of information made to it by a person about the conduct of an undertaking, an associate of an undertaking or an association of undertakings if it is satisfied on reasonable grounds that the information is false or misleading or that the disclosure is frivolous or vexatious.

Tortious liability of undertaking or associate for victimising whistleblower.

24B.— (1) If an undertaking, an associate of an undertaking or an association of undertakings causes detriment to a person because the person or a third person has made, or threatened to make, an appropriate disclosure of information to the Commission or a law enforcement authority (such as the Garda Síochána) either about the conduct of the undertaking or about the conduct of the associate or association, the person has a right of action in tort against the undertaking, associate or association.

(2) In this section, 'detriment' includes—

(*a*) injury, damage or loss, or

(*b*) intimidation or harassment, or

(*c*) discrimination, disadvantage or adverse treatment in relation to a person's employment, or

(*d*) a threat of reprisal.

Offence to make false disclosure.

24C.— A person who makes a disclosure of information about the conduct of an undertaking, an associate of an undertaking or an association of undertakings, knowing the information to be false or misleading commits an offence and is liable—

(*a*) on conviction on indictment, to a fine not exceeding €50,000, or

(*b*) on summary conviction, to a fine not exceeding €5,000.".

Amendment of section 30 of Principal Act (levies and fees).

8.— Section 30 of the Principal Act is amended by substituting the following subsection for subsection (6):

"(6) Subject to subsections (7) and (8), the Commission is entitled to retain for its own use all fees and levies paid to or recovered by it under this Act, a related enactment or any other enactment that expressly provides for a fee or levy to be paid to the Commission.".

Insertion into Principal Act of new sections 31A to 31C.

9.— The Principal Act is amended by inserting the following sections after section 31:

"Financial year of Commission.

31A.— (1) The financial year of the Commission is—

(*a*) the period of 12 months beginning on 1 July in each year, or

(*b*) if the Commission has published a notice in accordance with subsection (2), the period specified in the notice.

(2) The Commission may, by notice published in *Iris Oifigiúil*, specify as the Commission's financial year a period different from that specified in subsection (1)(*a*) or previously specified under this subsection.

Commission to prepare annual action plan.

31B.— (1) Before the end of each financial year of the Commission, the Commission shall—

(*a*) prepare an action plan setting out the principal activities that it proposes to undertake during the ensuing financial year, and

(*b*) present the plan to the Minister and arrange for a copy of the plan to be laid before each House of the Oireachtas.

(2) The action plan shall segregate the relevant activities according to the Commission's functions relating to—

(*a*) regulating electronic communications, and

(*b*) managing the radio frequency spectrum, and

(*c*) regulating postal services.

(3) In preparing the action plan, the Commission shall have regard to its current strategy statement.

(4) As soon as practicable after preparing an action plan, the Commission shall publish it in a form and manner that will enable members of the public to have access to it.

Commission to prepare annual financial forecast.

31C.— (1) Before the end of each financial year of the Commission, the Commission shall—

(*a*) prepare a financial forecast showing estimates of the Commission's revenue and expenditure for the ensuing financial year in relation to the activities referred to in the Commission's action plan for that year, and

(*b*) present the forecast to the Minister.

(2) In preparing its annual financial forecast, the Commission shall estimate the amounts of revenue expected to be derived, and the amount of expenditure expected to be made, in respect of each of its functions relating to electronic communications, managing the radio frequency spectrum and postal services.

(3) As soon as practicable after preparing its annual financial forecast, the Commission shall publish it in a form and manner that will enable members of the public to have access to it.".

Insertion into Principal Act of new Part 2A.

10.— The Principal Act is amended by inserting the following Part after section 38:

"PART 2A

Special Powers to Require Persons to Give Evidence or Produce Documents

Commission may require persons to give evidence or produce documents.

38A.— (1) If the Commission believes on reasonable grounds that a person may be able to give evidence, or to produce a document, that relates to a matter concerning the performance or exercise of any of the Commission's functions or objectives, it may serve on the person a notice requiring the person to appear before it—

(*a*) to give evidence about the matter, or

(*b*) to produce the document for examination.

(2) The notice shall specify—

(*a*) the matter to which the evidence or document relates, and

(*b*) the date, time and place at which the person is required to appear before the Commission.

(3) The notice may require the person concerned to appear before a specified Commissioner or a specified member of the Commission's staff and, if it does so, a reference in this Part to the Commission is to be read as a reference to the Commissioner or staff member concerned.

Conduct of proceeding under this Part.

38B.— (1) A person who appears before the Commission in compliance with a requirement made under section 38A may be required to swear an oath or make an affirmation.

(2) An oath or affirmation must be administered by the Commission.

(3) A person who appears before the Commission under section 38A is entitled to be accompanied by a barrister or solicitor or, with the approval of the Commission, any other person.

Proceeding under this Part to be normally in private.

38C.— (1) Except as provided by this section, evidence to be given, or a document to be produced, to the Commission by a person who appears before it in compliance with a requirement made under section 38A is to be given or produced in private.

(2) If a person who appears before the Commission in compliance with a requirement made under section 38A requests the matter to be dealt with in public, the Commission shall comply with the request.

(3) If the Commission is satisfied that it is desirable in the public interest that the evidence to be given, or the document to be produced, should be given or produced in public, the Commission may direct accordingly.

(4) If the evidence is to be given, or the document is to be produced, in private, the Commission may do either of the following:

(*a*) give directions as to the persons who may be present during the proceeding;

(*b*) give directions preventing or restricting the publication of the whole or any part of the evidence or of matters contained in the document.

(5) Nothing in a direction given under subsection (4) may prevent the presence of—

(*a*) a barrister, solicitor or other person who is representing the person who is appearing before the Commission, or

(*b*) a Commissioner or a member of the Commission's staff.

(6) If the evidence is to be given, or the document is to be produced, in private, a person (other than the person required to appear before the Commission, that person's barrister, solicitor or other representative, a Commissioner or a member of the Commission's staff) may be present only if entitled to be present because of a direction given under subsection (4)(*a*).

(7) A person who contravenes subsection (6) commits an offence.

Offence to fail to appear before Commission.

38D.— (1) A person commits an offence if, having been required to appear before the Commission in compliance with a requirement made under section 38A, the person fails to comply with the requirement, and has not been excused, or released from further attendance, by the Commission.

(2) Subsection (1) does not apply if the person has a reasonable excuse.

Offence to refuse to be sworn or to answer question.

38E.— (1) A person appearing before the Commission in compliance with a requirement made under section 38A, commits an offence if the person—

(*a*) refuses or fails to swear an oath, or to make an affirmation, on being required to do so by the Commission, or

(*b*) refuses or fails to give evidence in compliance with a requirement made under section 38A, or refuses or fails to answer a question

put to the person by the Commission in relation to any such evidence, or

(*c*) refuses or fails to produce a document that is required to be produced in compliance with such a requirement.

(2) Subsection (1) does not apply if the person has a reasonable excuse.

(3) It is a reasonable excuse for the purposes of subsection (2) for a person to refuse or fail to answer a question on the ground that the answer might tend to incriminate the person or to expose the person to a penalty.

(4) It is a reasonable excuse for the purposes of subsection (2) for a person to refuse or fail to produce a document on the ground that the production of the document might tend to incriminate the person or to expose the person to a penalty.

(5) Subsections (3) and (4) do not limit what is a reasonable excuse for the purposes of subsection (2).

Protection of persons appearing before Commission under section 38A.

38F.— Subject to this Part, a person who appears before the Commission in compliance with a requirement made under section 38A has the same protection, and is, in addition to the offences under this Part, subject to the same liabilities, as a witness in proceedings in the High Court.

Payment of allowances and expenses to persons who appear before Commission.

38G.— (1) A person who appears before the Commission in compliance with a requirement made under section 38A is entitled to be paid such allowances and travelling or other expenses as are payable to or in respect of a witness attending in civil proceedings before the High Court.

(2) All allowances and expenses payable under subsection (1) are payable by the Commission.

Trial of offences under this Part.

38H.— (1) An offence under this Part is triable summarily.

(2) A person found guilty of an offence under this Part is liable to a fine not exceeding €5,000.".

Substitution of section 43 of Principal Act (prosecution of summary offences by Commission).

11.— The Principal Act is amended by substituting the following section for section 43:

"Prosecution of summary offences by Commission.

43.— (1) Subject to subsection (2), a summary offence under this Act or a related enactment may be prosecuted only by the Commission or by some other person authorised by law to prosecute offences.

(2) Subsection (1) does not apply to a prosecution for—

(*a*) an offence under section 53(2) of this Act,

(*b*) an offence under the European Communities (Electronic Communications Networks and Services)(Universal Services and Users' Rights) Regulations (S.I. No. 308 of 2003), or

(*c*) an offence under the European Communities (Electronic Communications Networks and Services)(Data Protection and Privacy) Regulations (S.I. No. 535 of 2003).".

Amendment of section 44 of Principal Act (notice of Commission of intention to prosecute, etc.).

12.— Section 44 of the Principal Act is amended as follows:

(*a*) by substituting the following subsection for subsection (1):

"(1) If the Commission believes on reasonable grounds that a person has committed a summary offence under this Act or under a related enactment, the Commission may give to the person (or, if the person believed to have committed the offence is a body corporate, to an officer of the body) a notice stating that—

(*a*) the person is alleged to have committed the offence, and

(*b*) if, within 21 days from the date on which the notice was given, the person, as far as is practicable, remedies to the satisfaction of the Commission the matter giving rise to the offence and pays to the Commission €1,500, accompanied by the notice, the person or body will not be prosecuted for the offence.";

(*b*) by repealing subsections (5) and (7).

Substitution of sections 45 and 46 of Principal Act.

13.— The Principal Act is amended by substituting the following sections for sections 45 and 46:

"Undertaking not to overcharge or charge for services not supplied.

45.— (1) An undertaking shall not impose, or purport to impose, a charge—

(*a*) for supplying an electronic communications service or electronic communications product to a consumer that exceeds the amount for that service or product specified—

(i) in the undertaking's published tariff of charges, or

(ii) in a written statement previously made or given to the consumer by the undertaking in relation to that supply,

or

(*b*) for supplying an electronic communications service or electronic communications product to a consumer that was not requested by the consumer, or

(*c*) for an electronic communications service or electronic communications product that was requested by a consumer but was not supplied.

(2) An undertaking that contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding €5,000.

(3) In carrying out an investigation under this Act to ascertain whether an undertaking may be contravening or may have contravened subsection (1), the Commission may conduct an audit of the undertaking's billing system.

(4) In this section—

'consumer' means a person to whom an electronic communications service or electronic communications product is supplied, otherwise than for the purpose of resupply;

'tariff of charges', in relation to an undertaking, includes any list setting out the prices charged by the undertaking for providing electronic communications services or electronic communications products to consumers.

Commission may apply to High Court for order to restrain repeated or apprehended contravention of section 45.

46.— (1) If it appears to the Commission that an undertaking—

(*a*) is contravening subsection (1) of section 45, or

(*b*) has contravened that subsection in the past and may contravene that subsection in the future,

the Commission may apply to the High Court to make a restraining order under subsection (4). Such an application is to be by motion.

(2) The High Court may hear the application only if it is satisfied that a copy of the application has been served on the undertaking concerned. On being served with such a copy, that undertaking becomes the respondent to the application.

(3) The High Court may make such interim or interlocutory order as it considers appropriate pending determination of an application made under subsection (1). The Court may not refuse interim or interlocutory relief merely because the Commission may not suffer damage if relief were not granted pending determination of the application.

(4) On the hearing of an application made under subsection (1), the High Court—

(*a*) may make a restraining order requiring the undertaking to cease contravening section 45 and not to repeat the contravention, or

(*b*) if it is of the opinion that the application is not substantiated, refuse the application.

(5) An application for a restraining order may include or be accompanied by a further application for an order directing the respondent to pay to the Commission a financial penalty of such amount as is proposed by the Commission having regard to the circumstances of the contravention or contraventions of section 45 committed by the respondent.

(6) On hearing the further application, the High Court may, having previously been satisfied that the respondent has contravened section 45 and having regard to the circumstances surrounding the contravention, order the respondent to pay to the Commission a financial penalty of such amount as is specified in the order. The amount can be more or less than the amount proposed by the Commission.

(7) The circumstances referred to in subsection (6) include (but are not limited to) the following:

(*a*) the duration of the contravention;

(*b*) the effect of the contravention on other parties to the relevant decision and on consumers;

(*c*) the submission of the Commission with respect to what it considers to be the appropriate amount;

(*d*) any excuse or explanation for the contravention provided by the respondent.

(8) If the High Court makes an order under this section, it may make such ancillary orders as it considers appropriate.

(9) In this section, 'consumer' has the same meaning as in section 45.".

Insertion into Principal Act of new sections 46A to 46E.

14.— The Principal Act is amended by inserting the following sections after section 46 (as substituted by *section 13*):

"Special powers enabling Minister to make regulations to give effect to European Communities instruments relating to communications matters.

46A.— (1) If regulations specified in Part 2 of Schedule 1 (inserted by *section 18* of the *Communications Regulation (Amendment) Act 2007*) that give effect to a provision of the treaties governing the European Communities, or an act, or provision of an act, adopted by an institution of those Communities, create an offence that is triable summarily, and the Minister considers it is necessary to do so for the purpose of giving effect to the provision or act, the Minister may, by regulations, amend the regulations—

(*a*) to provide for the offence to be also triable on indictment, and

(*b*) subject to subsection (6), to make such provision as the Minister considers necessary for the purpose of ensuring that penalties in respect of the offence are effective and proportionate, and have a deterrent effect, having regard to the acts or omissions to which the offence relates.

(2) If regulations specified in Part 2 of Schedule 1 that give effect to a provision of the treaties governing the European Communities, or an act, or provision of an act, adopted by an institution of those Communities, prohibit or require the doing of an act, the Minister may, where he or she considers it necessary for the purpose of giving effect to the provision or act, make regulations amending the first-mentioned regulations—

(*a*) to provide that a contravention of the prohibited act, or a failure or refusal to perform the required act, is an offence,

(*b*) to provide for the offence to be triable—

(i) summarily, or

(ii) on indictment, if the Minister considers it necessary for the purpose of giving effect to the provision or act concerned, and

(*c*) subject to subsection (6), to make such provision as the Minister considers necessary for the purpose of ensuring that penalties in respect of the offence are effective and proportionate, and have a deterrent effect, having regard to the acts or omissions to which the offence relates.

(3) The Minister may make regulations for the purpose of giving effect to a provision of the treaties governing the European Communities, or an act, or provision of an act, adopted by an institution of those Communities, relating to—

(*a*) the provision of an electronic communications service, an electronic communications network or an associated facility, or

(*b*) the radio frequency spectrum or national numbering resource, or

(*c*) a postal service.

(4) Regulations under subsection (3) may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of those regulations (including provisions repealing, amending or applying, with or without modification, a related enactment).

(5) Regulations under subsection (3) may—

(*a*) provide for an offence under those regulations to be triable—

(i) summarily, or

(ii) on indictment, if the Minister considers it necessary for the purpose of giving effect to the provision or act referred to in subsection (3),

and

(*b*) subject to subsection (6), make such provision as the Minister considers necessary for the purpose of ensuring that penalties in respect of the offence are effective and proportionate, and have a deterrent effect, having regard to the act or omission to which the offence relates.

(6) The maximum fine that may be provided for in regulations under this section shall—

(*a*) in respect of the conviction on indictment of a body corporate of an offence under the regulations, not be greater than—

(i) €5,000,000, or

(ii) if 10 per cent of the turnover of the body is greater than that amount, an amount equal to that percentage,

or

(*b*) in respect of the conviction on indictment of any other person of such an offence, not be greater than €500,000.

(7) If the Minister considers it necessary to do so for the purpose of giving full effect to a provision of the treaties governing the European Communities, or to an act, or provision of an act, adopted by an institution of those Communities, the Minister may, in regulations under subsection (1), (2) or (3), provide—

(*a*) for the High Court, on application by the Commission or some other person specified in the regulations, to make—

(i) an order requiring a specified person, or a person belonging to a specified class, to comply with an obligation imposed by or under the regulations, or

(ii) an order restraining such a person from continuing to contravene a prohibition or restriction specified in or under the regulations,

and

(*b*) for the High Court, on being satisfied that such a person has failed to comply with such an obligation, or has contravened such a prohibition or restriction, to order the person to pay a financial penalty of such amount as the Court considers appropriate, having regard to the circumstances of the failure to comply or contravention, including—

(i) the duration of the failure to comply or the contravention,

(ii) the effect of the failure to comply or contravention on consumers or users of the service or product provided or supplied by the person and on the person's competitors,

(iii) the submissions of the Commission as to the appropriate amount of the penalty to be imposed, and

(iv) any excuse or explanation given by the person with respect to the failure to comply or contravention.

(8) If the Minister considers it necessary to do so for the purpose of giving full effect to a provision of the treaties governing the European Communities, or to an act, or provision of an act, adopted by an institution of those Communities, the Minister may, in regulations under subsection (1), (2) or (3), provide—

(*a*) that if, after being convicted of an offence, a person continues to do the prohibited act, or to fail to do the required act, the person commits a further offence on each day or part of a day during which the act or failure continues, and

(*b*) that the person is to be liable on conviction for the further offence—

(i) if tried summarily, to a fine not exceeding €500, or

(ii) if tried on indictment, to a fine not exceeding €5,000.

However, if the regulations concerned provide for a person to be tried summarily for further offences that are alleged to have been committed on successive days, then, irrespective of anything to the contrary in the regulations concerned, the maximum fine that can be imposed for those offences under those regulations is €5,000.

(9) Section 2 of the Ministers and Secretaries (Amendment) (No. 2) Act 1977 does not apply to a power to make regulations for a purpose referred to in subsection (1), (2) or (3).

(10) In this section—

'European Communities' and 'treaties governing the European Communities' have the same meanings as they have in the European Communities Act 1972; and

'turnover' means, in relation to a body corporate, the turnover of the body in the financial year of the body ending immediately before the financial year in which the offence of which the body has been convicted was committed.

Admissibility of expert evidence in proceedings under this Act and related enactments.

46B.— (1) In civil or criminal proceedings under this Act or a related enactment, the opinion of any witness who appears to the court to possess the appropriate qualifications or experience about the matter to which the witness's evidence relates is admissible in evidence of matters that call for expertise or special knowledge relevant to the proceedings.

(2) A court that admits evidence under subsection (1) may, if it is of the opinion that it is in the interests of justice to do so, direct that the use of the evidence is to be limited to specified purposes only.

Power of court to order copies of certain documents to be given to juries in certain criminal proceedings.

46C.— In a trial on indictment of an offence under this Act or a related enactment, the trial judge may order copies of any of the following documents to be given to the jury in such form as the judge considers appropriate:

(*a*) any document admitted in evidence at the trial;

(*b*) the transcript of the opening speeches of counsel;

(*c*) any charts, diagrams, graphics, schedules or agreed summaries of evidence produced at the trial;

(*d*) the transcript of the whole or any part of the evidence given at the trial;

(*e*) the transcript of the closing speeches of counsel;

(*f*) the transcript of the trial judge's charge to the jury.

Presumptions to apply in civil and criminal proceedings under this Act and related enactments.

46D.— (1) The presumptions specified in this section apply in civil and criminal proceedings under this Act and under the related enactments.

(2) A document purporting to have been created by a person is presumed, unless the contrary is shown, to have been created by the person. Any statement contained in the document is, unless the document expressly attributes the statement to some other person, presumed to have been made by that person.

(3) A document purporting to have been created by a person and addressed and sent to a second person is presumed, unless the contrary is shown, to have been created and sent by the person and received by the second person. Any statement contained in the document is, unless the contrary is shown, presumed—

(*a*) to have been made by the person unless the document expressly attributes the statement to a third person, and

(*b*) to have come to the notice of the second person.

(4) The author of a document retrieved from an electronic database is, unless the contrary is shown, presumed to be the person who ordinarily uses the database in the course of that person's business.

(5) If an authorised officer who has, in the exercise of the officer's powers under this Act, removed one or more documents from a place, gives evidence in proceedings under this Act or a related enactment that, to the best of the officer's knowledge and belief, the material is the property of a specified person, the material is, unless the contrary is shown, presumed to be that person's property.

(6) If, in accordance with subsection (5), an authorised officer gives evidence that material is the property of a specified person and also gives evidence that, to the best of the officer's knowledge and belief, the material relates to a particular trade, profession or other activity carried on by that person, the material is, unless the contrary is shown, presumed to be material that relates to such a trade, profession or activity.

(7) A reference in this section to a document is a reference to anything that is in writing.

Admissibility of statements contained in certain documents.

46E.— (1) For the purposes of this section, a person is a competent person if the person is one who might reasonably be expected to have knowledge of the act or omission in question.

(2) A document that contains a statement by a competent person asserting that an act was done or was omitted to be done by a specified person is admissible in evidence in proceedings for an offence under this Act, or under a related enactment, that involves or relates to doing or omitting to do the act, but only if the document satisfies the conditions set out in subsection (3).

(3) The conditions referred to in subsection (2) are that the document—

(*a*) came into existence before proceedings for the offence were initiated, and

(*b*) was prepared otherwise than in response to an enquiry made or question put by a Commissioner, a member of the Commission's staff, a member of the Garda Síochána or an authorised officer relative to any aspect of the proceedings.

(4) In estimating the weight (if any) to be attached to a statement contained in a document admitted in evidence in the proceedings, the court shall take into account the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement.

(5) If a document containing a statement is admitted in evidence under this section—

(*a*) evidence that, if the person making the statement had been called as a witness, would have been admissible as relevant to the person's credibility as a witness is admissible for that purpose, and

(*b*) evidence may, with the leave of the court, be given of any matter that, had the person been called as a witness, could have been put in cross-examination as being relevant to the person's credibility but of which evidence could not be adduced by the cross-examining party, and

(*c*) evidence tending to prove that the person, whether before or after making the statement, made (whether orally or not) a statement that is inconsistent with it is (if not already admissible by virtue of another enactment or a rule of common law) admissible for the purpose of showing that the person had contradicted himself or herself.

(6) This section does not affect the admissibility, in proceedings for an offence under this Act or a related enactment, of a document as evidence of matters stated in it, if the document would be admissible in the proceedings because of the operation of any other enactment or a rule of common law.".

Insertion into Principal Act of new section 57A.

15.— The Principal Act is amended by inserting the following section after section 57:

"Power of High Court to make compliance orders in respect of conditions imposed under section 57.

57A.— (1) If, in making a decision under section 57, the Commission has imposed conditions for infrastructure sharing, and it appears to the Commission that a network operator or physical infrastructure provider to whom the decision relates is failing, or has failed, to comply with any of those conditions, the Commission may apply to the High Court to make a compliance order under subsection (5). Such an application is to be by motion.

(2) However, the Commission may make an application under subsection (1) only if—

(*a*) at least one month previously, it has served on the network operator or physical infrastructure provider concerned a notice in writing requiring the operator or provider to comply with a condition imposed by it under section 57 and has given the operator or provider an opportunity to make representations to it about the matter and to comply with the requirement, and

(*b*) the operator or provider has failed to comply with the requirement.

(3) The High Court may hear the application only if it is satisfied that the Commission has complied with subsection (2)(*a*) and has served a copy of the application on the network operator or physical infrastructure provider concerned. On being served with a copy of the application, that network operator or physical infrastructure provider becomes the respondent to the application.

(4) The High Court may make such interim or interlocutory order as it considers appropriate pending determination of an application made under subsection (1). The Court may not refuse interim or interlocutory relief merely because the Commission may not suffer damage if relief were not granted pending determination of the application.

(5) On the hearing of an application made under subsection (1), the High Court may make an order requiring the respondent to comply with the relevant section or may refuse the application.

(6) An application for a compliance order may include or be accompanied by a further application for an order directing the respondent to pay to the Commission a financial penalty of such amount as is proposed by the Commission having regard to the circumstances of the non-compliance.

(7) On hearing the further application, the High Court may, having previously been satisfied that the respondent has not complied with a condition imposed under section 57 and having regard to the circumstances surrounding the non-compliance, order the respondent to pay to the Commission a financial penalty of such amount as is specified in the order. The amount can be more or less than the amount proposed by the Commission.

(8) The circumstances referred to in subsection (7) include (but are not limited to) the following:

(*a*) the duration of the non-compliance;

(*b*) the effect of the non-compliance on other parties to the relevant decision and to end users;

(*c*) the submission of the Commission with respect to what it considers to be the appropriate amount;

(*d*) any excuse or explanation for the non-compliance provided by the respondent.

(9) If the High Court makes an order under this section, it may make such ancillary orders as it considers appropriate.".

Insertion into Principal Act of new Part 6.

16.— The Principal Act is amended by inserting the following Part after section 58:

"PART 6

EMERGENCY CALL ANSWERING SERVICE (ECAS)

Interpretation: Part 6.

58A.— In this Part—

'ECAS' means an emergency call answering service operated under a contract entered into under section 58B;

'ECAS contract' means a contract for the operation of an emergency call handling service;

'ECAS operator' means the person who operates an emergency call answering service in accordance with a contract entered into under section 58B;

'emergency call' means an electronic communication (such as a telephone call) that is forwarded from an undertaking to the ECAS operator for onward transmission to an emergency service, and includes a call that may not be a genuine one;

'emergency service' means the Garda Síochána, a fire brigade, ambulance service, the Irish Coast Guard or a civil emergency service.

Power of Minister to enter into contract for the operation of emergency call answering service (ECAS).

58B.— (1) The Minister may enter into a contract with a person under which the person undertakes to operate an emergency call answering service for a specified period. The contract shall specify terms and conditions for the effective operation of the service and, in particular, shall—

(*a*) specify the maximum call handling fee that the operator is permitted to charge during the first 2 years of the operation of the contract, and

(*b*) specify that the Commission can increase or reduce the amount of that fee after conducting a review in accordance with section 58D.

(2) On entering into a contract with a person for the operation of the service, the Minister shall, by notice published in *Iris Oifigiúil*, designate the person as its operator.

(3) While the contract remains in force, the ECAS operator shall provide such information as the Minister or Commission requires to enable the Minister or Commission to perform their respective functions under this or any other enactment.

(4) The Minister may terminate a contract entered into under this section without paying compensation if it is proved that the ECAS operator has failed or is failing to comply with a term or condition of the contract or a requirement imposed under this section.

(5) The Minister may from time to time vary a contract entered into under this section, but, subject to section 58D, only with the consent of the ECAS operator.

Payment of ECAS call handling fees.

58C.— (1) An entity that forwards emergency calls to the ECAS operator during a month shall, within 45 days after the end of that month, pay to that operator the call handling fees charged by that operator for emergency calls forwarded by the entity during that month.

(2) The maximum amount that the ECAS operator may charge for forwarding an emergency call is—

(*a*) during the first 2 years of the ECAS contract, the amount specified in that contract, and

(*b*) during the remainder of the period for which that contract is in force, the amount determined by the Commission under section 58D.

(3) If a call handling fee is not paid by the deadline fixed for payment, the ECAS operator may, by proceedings brought in a court of competent jurisdiction, recover the amount of the fee as a debt due to that operator.

(4) A call handling fee is payable in respect of an emergency call even if the call is not forwarded to the emergency service concerned.

Commission to conduct review of maximum call handling fee.

58D.— (1) Not later than 2 months before the second anniversary of the date on which an ECAS contract was entered into, and not later than 2 months before each subsequent anniversary of that date while the contract remains in force, the Commission shall conduct a review of the maximum permitted call handling fee that the ECAS operator can charge for handling emergency calls.

(2) As soon as practicable after conducting a review in accordance with subsection (1), the Commission shall determine the maximum call handling fee that the ECAS operator can charge for handling emergency calls during the period of 12 months beginning with the date of the relevant anniversary of the date on which the ECAS contract was entered into. In determining that fee, the Commission may either confirm the existing maximum call handling fee or, after consulting the ECAS operator, determine a higher or lower maximum fee.

(3) In making a determination under subsection (2), the Commission shall have regard to—

(*a*) the need for the ECAS operator to cover the reasonable costs likely to be incurred by it in operating the service and, in particular, to recover a guaranteed rate of return for providing the ECAS, and

(*b*) the cost likely to be incurred by the Commission in monitoring the ECAS.

ECAS operator to pay reasonable costs of Commission in monitoring service.

58E.— (1) The ECAS operator shall pay to the Commission such amount as the Commission certifies in writing as being the amount it has reasonably incurred in monitoring the operation of the ECAS during a specified period.

(2) The ECAS operator shall pay such an amount by such date, or within such period, as the Commission specifies in the certificate or separately notifies in writing to that operator.

(3) If an amount payable under this section is not paid by the deadline fixed for payment, the Commission may, by proceedings brought in a court of competent jurisdiction, recover the amount as a debt due to the Commission.

ECAS operator not liable for certain actions done in good faith.

58F.— An ECAS operator is not liable in damages to any person for any act done or omitted to be done in the course of operating the ECAS unless it is established that the act was done or omitted in bad faith or with gross negligence.

Commission to report to Minister on operation of service.

58G.— The Commission shall provide the Minister with a report concerning the operation of the ECAS at such times, or within such periods, as the Minister specifies in writing to the Commission. If an event occurs with respect to the operation of the ECAS and the Commission considers that the Minister should be made aware of the event, the Commission shall provide the Minister with a report on the event.

Interim measure pending the Minister entering into contract under section 58B.

58H.— (1) In this section—

'call handling fee' means a fee fixed under subsection (2), and includes that amount as varied under that subsection;

'current operator', in relation to the emergency call answering service operating at the commencement of this section, means Eircom plc;

'payment period' means the period beginning with the date on which an order made under subsection (2) takes effect and ending with—

(*a*) the date (as publicly notified by the Minister) on which a contract entered into under section 58B becomes fully effective, or

(*b*) the day that falls 18 months after the date on which the order takes effect, or such extended period as the Minister may allow,

whichever first occurs.

(2) The Commission may, by notice published in the *Iris Oifigiúil*, fix the amount of the call handling fee payable under subsection (5), and may from time to time, by similar order, vary the amount of that fee. In fixing the amount of the fee, the Commission shall take into account the need to ensure the effectiveness and efficiency of the operator of the service.

(3) An order made under subsection (2) ceases to have effect at the end of the payment period.

(4) Before making an order under subsection (2) (including an order varying the call handling fee), the Commission shall convene one or more meetings to which it must invite all undertakings that carry on business in the State and such users of electronic communications services as it thinks appropriate.

(5) During the payment period, each entity that forwards emergency calls to the current operator during a month or part of a month that falls during that period, shall, within 45 days after the end of that month, pay to that operator for each of those calls a call fee fixed in accordance with subsection (2).

(6) If call handling fees are not paid by the deadline fixed for payment, the current operator may, by proceedings brought in a court of competent jurisdiction, recover as a debt due to that operator any amount of fees that remain outstanding.

(7) A call handling fee is payable in respect of an emergency call even if the call is not forwarded to the emergency service concerned.

(8) To enable the Minister to award and enter into an ECAS contract, the current operator shall, so far as it is able to do so, provide the Minister with such co-operation and assistance as the Minister reasonably requires in writing.

(9) If it appears to the Minister that the current operator is failing to provide the level of co-operation and assistance required under subsection (8), the Minister may apply to the High Court to make a compliance order under subsection (12). Such an application is to be by motion.

(10) The High Court may hear the application only if it is satisfied that a copy of the application has been served on the current operator. On being served with such a copy, the current operator becomes the respondent to the application.

(11) The High Court may make such interim or interlocutory order as it considers appropriate pending determination of an application made under subsection (9). The Court may not refuse interim or interlocutory relief merely because the Minister may not suffer damage if relief were not granted pending determination of the application.

(12) On the hearing of an application made under subsection (9), the High Court may make an order requiring the current operator to comply with the relevant requirements or may refuse the application.

(13) If the High Court makes an order under subsection (12), it may make such ancillary orders as it considers appropriate.”.

Insertion into Principal Act of new Part heading.

17.— The Principal Act is amended by inserting the following Part heading before section 59:

“PART 7

Miscellaneous Provisions”.

Substitution of Schedule 1 to Principal Act.

18.— The Principal Act is amended by substituting the following Schedule for Schedule 1:

“SCHEDULE 1

Related Enactments for the Purposes of this Act

PART 1

Acts

(1) The Wireless Telegraphy Act 1926:

(*a*) section 2;

(*b*) section 2A;

(*c*) section 3(3B) to 3(3C) (except in relation to television sets);

(*d*) section 3(6);

(*e*) section 5 (except in relation to licensing television sets);

(*f*) section 6 (except in relation to licensing television sets);

(*g*) section 7 (except in relation to licensing television sets);

(*h*) section 8 (except in relation to licensing television sets);

(*i*) Section 9(1) (except in relation to aircraft);

(*j*) section 10A(2);

(*k*) section 12(2) (except in relation to television sets or broadcasting matters or aircraft as appropriate);

(*l*) section 13 (except as regards prosecutions for offences under section 3 in respect of television sets);

(2) the Broadcasting Authority Act 1960, section 16(3)(*a*);

(3) the Wireless Telegraphy Act 1972, sections 5, 7 and 8;

(4) the Postal and Telecommunications Services Act 1983:

(*a*) section 5(6) (the functions of the Minister in so far as they relate to the company);

(*b*) section 70(2);

(5) the Radio and Television Act 1988, sections 2, 4, 5 and 7;

(6) the Broadcasting and Wireless Telegraphy Act 1988, sections 1, 3, 6, 7, 13, 14 and 20;

(7) the Broadcasting Act 1990, sections 1, 9(1), 12, 16 and 17;

(8) the Irish Aviation Authority Act 1993, section 70;

(9) the Telecommunications (Miscellaneous Provisions) Act 1996, sections 1 and 7 (subsection (5) excepted).

PART 2

Statutory Instruments

(1) Wireless Telegraphy (Business Radio Licence) Regulations 1949 (S.I. No. 320 of 1949);

(2) Telecommunications Tariff Regulation Order 1996 (S.I. No. 393 of 1996) (as amended by S.I. No. 438 of 1999);

(3) European Communities (Mobile and Personal Communications) Regulations 1996 (S.I. No. 123 of 1996);

(4) European Communities (Telecommunications Services Monitoring) Regulations 1997 (S.I. No. 284 of 1997);

(5) European Communities (Telecommunications Infrastructure) Regulations 1997 (S.I. No. 338 of 1997);

(6) Wireless Telegraphy Act 1926 (Section 3) (Exemption of Mobile Telephones) Order 1997 (S.I. No. 409 of 1997);

(7) Wireless Telegraphy Act 1926 (Section 3) (Exemption of Sound Broadcasting Receivers) Order 1972 (S.I. No. 211 of 1972);

(8) Wireless Telegraphy Act 1926 (Section 3) (Exemption of Certain Wired Broadcast Relay Stations) Order 1976 (S.I. No. 200 of 1976);

(9) Wireless Telegraphy (Community Repeater Licence) Regulations 1988 (S.I. No. 83 of 1988);

(10) Wireless Telegraphy (Radio Link Licence) Regulations 1992 (S.I. No. 319 of 1992);

(11) Wireless Telegraphy (Cordless Telephones)(Exemption) Order 1997 (S.I. No. 410 of 1997);

(12) Wireless Telegraphy (GSM and TACS Mobile Telephony Licence) Regulations 1997 (S.I. No. 468 of 1997);

(13) European Communities (Electromagnetic Compatibility) Regulations 1998 (S.I. No. 22 of 1998);

(14) Wireless Telegraphy Act 1926 (Section 3) (Exemption of Short Range Business Radios) Order 1998 (S.I. No. 93 of 1998);

(15) European Communities (Interconnection in Telecommunications) Regulations 1998 to 2000, comprising:

(*a*)Regulation 3 of the European Communities (Telecommunications) (Amendment) Regulations, 1998 (S.I. No. 286 of 1998);

(*b*)Regulation 6 of the European Communities (Voice Telephony and Universal Service) Regulations 1999 (S.I. No. 71 of 1999); and

(*c*)the European Communities (Interconnection in Telecommunications) (Amendment) Regulations 1999 (S.I. No. 249 of 1999);

(16) Wireless Telegraphy Act 1926 (Section 3) (Exemption of Satellite Earth Stations for Satellite Personal Communications Services (S-PCS)) Order 1998 (S.I. No. 214 of 1998);

(17) Wireless Telegraphy Act 1926 (Section 3) (Exemption of Citizens' Band (CB) Radios) Order 1998 (S.I. No. 436 of 1998);

(18) Wireless Telegraphy Act 1926 (Section 3) (Exemption of DCS 1800 Mobile Terminals) Order 1999 (S.I. No. 107 of 1999);

(19) Wireless Telegraphy Act 1926 (Section 3) (Exemption of ERMES Paging Receivers) Order 1999 (S.I. No. 108 of 1999);

(20) Wireless Telegraphy (Fixed Wireless Point-to-Multipoint Access Licence) Regulations 1999 (S.I. No. 287 of 1999);

(21) Wireless Telegraphy (GSM and TACS Mobile Telephony Licence) Regulations 1999 (S.I. No. 442 of 1999);

(22) European Communities (Conditional Access) Regulations 2000 (S.I. No. 357 of 2000);

(23) Wireless Telegraphy Act 1926 (Section 3) (Exemption of Certain Fixed Satellite Receiving Earth Stations) Order 2000 (S.I. No. 273 of 2000);

(24) Wireless Telegraphy Act 1926 (Section 3) (Exemption of Mobile Satellite Earth Stations for Satellite Personal Communication Systems operating in bands below 1 GHz (S-PCS<1 GHz)) Order 2000 (S.I. No. 173 of 2000);

(25) Wireless Telegraphy (Fixed Satellite Earth Stations) Regulations 2000 (S.I. No. 261 of 2000);

(26) Wireless Telegraphy (Teleport Facility) Regulations 2001 (S.I. No. 18 of 2001);

(27) European Communities (Radio Equipment and Telecommunications Terminal Equipment) Regulations 2001 (S.I. No. 240 of 2001);

(28) Telecommunications (Miscellaneous Provisions) Act 1996 (Section 6) (Postal Levy) Order 2001 (S.I. No. 282 of 2001);

(29) Wireless Telegraphy Act 1926 (Section 3) (Exemption of certain classes of Land Mobile Earth Stations) Order 2001 (S.I. No. 398 of 2001);

(30) Telecommunications (Miscellaneous Provisions) Act 1996 (Section 6) (Postal Levy) No. 2 Order 2001 (S.I. No. 474 of 2001);

(31) Wireless Telegraphy (Teleport Facility) Regulations 2001 (S.I. No. 18 of 2001);

(32) Wireless Telegraphy (Third Generation and GSM Mobile Telephony Licence) Regulations 2002 (S.I. No. 345 of 2002);

(33) Wireless Telegraphy Act 1926 (Section 3) (Exemption of Short Range Devices) Order 2002 (S.I. No. 405 of 2002);

(34) Wireless Telegraphy (Mobile Radio Systems) Regulations 2002 (S.I. No. 435 of 2002);

(35) Wireless Telegraphy (Experimenter's Licence) Regulations 2002 (S.I. No. 450 of 2002);

(36) European Communities (Postal Services) Regulations 2002 (S.I. No. 616 of 2002);

(37) Telecommunications Tariff Regulation Order 2003 (S.I. No. 31 of 2003);

(38) Wireless Telegraphy (Fixed Wireless Access Local Area Licence) Regulations 2003 (S.I. No. 79 of 2003);

(39) European Communities (Electronic Communications Networks and Services) (Access) Regulations 2003 (S.I. No. 305 of 2003);

(40) European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2003 (S.I. No. 306 of 2003);

(41) European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2003 (S.I. No. 307 of 2003);

(42) European Communities (Electronic Communications Networks and Services) (Universal Services and Users' Rights) Regulations 2003 (S.I. No. 308 of 2003);

(43) Communications Regulation Act 2002 (Section 30) Levy Order 2003 (S.I. No. 346 of 2003);

(44) Wireless Telegraphy Act 1926 (Section 3) (Exemption of Certain Classes of Fixed Satellite Earth Stations) Order 2003 (S.I. No. 505 of 2003);

(45) Wireless Telegraphy (Multipoint Microwave Distribution System) Regulations 2003 (S.I. No. 529 of 2003);

(46) European Communities (Electronic Communications Networks and Services) (Data Protection and Privacy) Regulations 2003 (S.I. No. 535 of 2003);

(47) Wireless Telegraphy (UHF Television Programme Retransmission) Regulations 2003 (S.I. No. 675 of 2003);

(48) Communications Regulation Act 2002 (Section 30) Postal Levy Order 2003 (S.I. No. 733 of 2003);

(49) Wireless Telegraphy Act 1926 (Section 3) (Exemption of Low Power Aircraft Earth Stations) Order 2004 (S.I. No. 7 of 2004);

(50) Wireless Telegraphy (Research and Development Licence) Regulations 2005 (S.I. No. 113 of 2005);

(51) Wireless Telegraphy (Third-Party Trial Licence) Regulations 2005 (S.I. No. 114 of 2005);

(52) Wireless Telegraphy Act 1926 (Section 3) (Exemption of certain classes of Land Mobile Earth Stations) Order 2005 (S.I. No. 128 of 2005);

(53) Wireless Telegraphy Act 1926 (Section 3) (Exemption of Receive Only Apparatus for Wireless Telegraphy) Order 2005 (S.I. No. 197 of 2005);

(54) Wireless Telegraphy (Wideband Digital Mobile Data Services) Regulations 2005 (S.I. No. 642 of 2005);

(55) Wireless Telegraphy (Third-Party Business Radio Licence) Regulations 2005 (S.I. No. 646 of 2005);

(56) Wireless Telegraphy (National Point-to-Point and Point-to-Multipoint Block Licences) Regulations 2006 (S.I. No. 296 of 2006);

(57) Wireless Telegraphy (Wireless Public Address System) Regulations 2006 (S.I. No. 304 of 2006);

(58) Wireless Telegraphy (Ship Station Radio Licence) Regulations 2006 (S.I. No. 414 of 2006).".

PART 3

Amendment of Electronic Commerce Act 2000

Amendment of section 2 of Electronic Commerce Act 2000 (interpretation).

19.— Section 2 of the Electronic Commerce Act 2000 is amended by inserting the following definition after the definition of "certification service provider":

" 'Commission' means the Commission for Communications Regulation established under the Communications Regulation Act 2002;".

Amendment of section 4 of the Electronic Commerce Act 2000 (laying of orders and regulations before Houses of Oireachtas).

20.— Section 4 of the Electronic Commerce Act 2000 is amended by substituting "Every order made under this Act (other than an order made under section 1(2)), and every regulation made under section 3 or 32," for "Every order (other than an order made under section 1(2)) or regulation made by the Minister under section 3".

Substitution of Part 4 of Electronic Commerce Act 2000.

21.— The Electronic Commerce Act 2000 is amended by substituting the following Part for Part 4 (section 31):

"PART 4

REGISTRATION OF DOMAIN NAMES

Interpretation: Part 4.

31.— In this Part, ' ".ie" domain name' means the top level of the global domain name system assigned to Ireland according to the two-letter code in the International Standard ISO 3166-1 (Codes for Representation of Names of Countries and their Subdivision) of the International Organisation for Standardisation.

Registration of '.ie' domain names.

32.— (1) The purpose of this Part is to facilitate easy comprehension, fairness, transparency, avoidance of deception, promotion of fair competition and public confidence with respect to the use of '.ie' domain names.

(2) A person shall not use an '.ie' domain name unless the name is registered in accordance with regulations made under this section.

(3) The Commission may make regulations for the purposes of this section, but only after consultation with the Minister for Enterprise, Trade and Employment and such other persons and public bodies (if any) as the Commission thinks appropriate.

(4) In particular, regulations under subsection (3) may do all or any of the following:

(*a*) specify an entity as the authority authorised to register '.ie' domain names;

(*b*) prescribe the form and manner in which an application for registration or renewal of registration of an '.ie' domain name is to be made;

(*c*) prescribe the circumstances and manner in which, the terms on which and the period for which an '.ie' domain name may be registered;

(*d*) prescribe the circumstances and manner in which, the terms on which and the period for which registration of an '.ie' domain name may be renewed;

(*e*) prescribe the circumstances and manner in which an application for registration or renewal of registration of an '.ie' domain name can be refused by the registering authority;

(*f*) empower the registering authority to revoke the registration of an '.ie' domain name in specified circumstances;

(*g*) confer a right of appeal against—

(i) a refusal of an application for registration or a renewal of registration of an '.ie' domain name, and

(ii) the revocation of the registration of such a name;

(*h*) provide for the procedure for hearing and determining appeals;

(*i*) prescribe the fees (if any) to be paid on registering and renewing the registration of an '.ie' domain name and the time within which and the manner in which such fees are to be paid;

(*j*) provide for such other matters relating to registration as appear to the Commission to be necessary or desirable for the purposes of this section.

(5) The regulations shall provide that persons who have registered '.ie' domain names before the regulations came into operation are taken to have registered those names in accordance with the regulations.

(6) A person who contravenes subsection (2), or contravenes a regulation made under this section, is liable on summary conviction to a fine not exceeding €5,000.

Commission may impose levy.

33.— (1) In order to provide a fund to meet the expenses properly incurred by the Commission in performing its function with respect to the use of '.ie' domain names, the Commission may, by order, impose a levy on the entity authorised to register '.ie' domain names in the State. The order shall specify the deadline for payment of such a levy.

(2) While an order made under subsection (1) remains in force, the entity shall, before the deadline specified in the order, pay to the Commission the amount of levy so specified.

(3) If the entity fails to pay a levy by the deadline fixed for payment, the Commission may, by proceedings brought in a court of competent jurisdiction, recover from the entity the amount of the levy as a debt due to the Commission.

Commission to have access to domain database.

34.— The Commission is at all times entitled to have access to all internet '.ie' domain name databases and any associated records.

Power of Commission to designate interim registration authority.

35.— (1) If the Commission considers it necessary to do so, it may, with the consent of the Minister, designate a person on an interim basis as the registration authority for the purposes of regulations in force under section 32.

(2) A designation under subsection (1) or subsection (3) is to be for a period not exceeding 12 months and is to be on such terms as may be specified in the designation.

(3) A designation under subsection (1) or this subsection may, with the consent of the Minister, be renewed for a further period not exceeding 12 months on such terms as may be specified in the renewal of the designation.

(4) This section has effect despite anything to the contrary in regulations in force under section 32.".

PART 4

Amendment of Competition Act 2002

Amendment of section 3 of Competition Act 2002 (interpretation).

22.— Section 3 of the Competition Act 2002 is amended as follows:

(*a*) by inserting in subsection (1) the following definition before the definition of "authorised officer":

" 'associated facilities', in relation to an electronic communications undertaking, has the same meaning as in section 2(1) of the Communications Regulation Act 2002 (No. 20 of 2002);";

(*b*) in subsection (1), by repealing the definition of "Commission";

(*c*) by inserting in subsection (1) the following definitions before the definition of "conditional determination":

" 'Commission' means the Commission for Communications Regulation established by Part 2 of the Communications Regulation Act 2002;

'competent authority'—

(*a*) except as provided by paragraph (*b*), means the Competition Authority, and

(*b*) if the Competition Authority and the Commission have, under section 47E, agreed that the Commission should, in relation to a particular matter, perform the functions conferred on the relevant authority by Part 2, or the Minister has made a determination under that section that the Commission should exercise those functions in relation to that matter, also means the Commission;

'Competition Authority' means the Authority continued by section 29;";

(*d*) by inserting in subsection (1) after the definition of "director" the following definitions:

" 'electronic communications network' has the same meaning as in section 2 of the Communications Regulation Act 2002;

'electronic communications service' has the same meaning as in section 2 of the Communications Regulation Act 2002;

'electronic communications undertaking' means an undertaking that provides an electronic communications network or an electronic communications service or associated facilities;".

Amendment of section 4 of Competition Act 2002 (anti-competitive agreements, decisions and concerted practices).

23.— Section 4 of the Competition Act 2002 is amended as follows:

(*a*) by substituting the following subsection for subsection (3):

"(3) Either competent authority may in writing declare that in its opinion a specified category of agreements, decisions or concerted practices complies with the conditions referred to in subsection (5), but only with the concurrence of the other competent authority. If the competent authority that made the declaration later forms the opinion that the category no longer complies with those conditions, it may revoke the declaration, but only with the concurrence of the other competent authority.";

(*b*) in subsection (4), by substituting "the competent authority" for "the Authority".

Amendment of section 6 of Competition Act 2002 (offence in respect of breach of section 4(1) or Article 81(1) of the Treaty).

24.— Section 6 of the Competition Act 2002 is amended by substituting "European Commission" for "Commission" wherever occurring.

Amendment of section 8 of Competition Act 2002 (penalties and proceedings in relation to offences under section 6 and 7).

25.— Section 8 of the Competition Act 2002 is amended as follows:

(*a*) in subsection (4)—

(i) by substituting "the competent authority" for "the Authority", where firstly occurring, and

(ii) by substituting "that authority" for "the Authority", where secondly, thirdly, fourthly and fifthly occurring;

(*b*) in subsections (5) and (9), by substituting "the competent authority" for "the Authority".

Amendment of section 13 of Competition Act 2002 (admissibility of statements contained in certain documents).

26.— Section 13 of the Competition Act 2002 is amended by substituting the following paragraph for paragraph (*b*) of subsection (3):

"(*b*) has been prepared otherwise than in response to any enquiry made or question put by a member or officer of the competent authority, a member of the Garda Síochána, an officer of the European Commission or an authorised officer relative to any matter the subject of those proceedings.".

Amendment of section 14 of Competition Act 2002 (right of action for breaches of competition rules).

27.— Section 14 of the Competition Act 2002 is amended by substituting "the competent authority" for "the Authority", wherever occurring.

Amendment of section 18 of Competition Act 2002 (obligation to notify certain mergers and acquisitions).

28.— Section 18 of the Competition Act 2002 is amended as follows:

(*a*) in subsections (13) and (14), by substituting"the European Commission" for "the Commission";

(*b*) in subsection (14), by substituting "that Commission's" for "the Commission's".

Amendment of section 34 of Competition Act 2002 (provisions for co-operation between the Authority and statutory bodies).

29.— Section 34 of the Competition Act 2002 is amended by inserting the following subsection after subsection (12):

"(13) To the extent that a cooperation agreement entered into under this section is inconsistent with a cooperation agreement to which section 47G (inserted by *section 31* of the *Communications Regulation (Amendment) Act 2007*) applies, the second-mentioned cooperation agreement shall apply.".

Substitution of section 47 of Competition Act 2002.

30.— The Competition Act 2002 is amended by substituting the following section for section 47:

"Power to disclose certain information relating to offences under this Act.

47.— (1) An authorised person may disclose to the Authority, a member of the Authority, a member of the Authority's staff or an authorised officer of the Authority any information that, in the person's opinion, relates to the commission of an offence against this Act.

(2) However, in the case of an offence under section 6 or 7 relating to the provision of an electronic communications service or electronic communications network, or associated facilities, an authorised person may also disclose the information to the Commission, a member of the Commission or a member of the Commission's staff.

(3) This section has effect despite any other law to the contrary.

(4) In this section, ' authorised person ' means—

(*a*) the Director of Corporate Enforcement, or

(*b*) a member of the Garda Síochána, or

(*c*) a person, or a person belonging to a class of persons, designated under subsection (5).

(5) The Minister may, by notice published in *Iris Oifigiúil*, designate a person or a class of persons for the purpose of paragraph (*c*) of the definition of 'authorised person' in subsection (4).".

Insertion into Competition Act 2002 of new Part4A.

31.— The Competition Act 2002 is amended by inserting the following Part after section 47:

"PART 4A

PERFORMANCE OF FUNCTIONS OF COMMISSION UNDER THIS ACT

Function of the Commission to investigate complaints relating to the electronic communications market.

47A.— The Commission has, in addition to its other functions under this Act or any other enactment, the function of investigating, either on its own initiative or in response to a complaint made to it by any person, the existence of an agreement, decision or practice of a kind specified in section 4, or the occurrence of an abuse of the kind specified in section 5, involving the provision of an electronic communications service or electronic communications network, or associated facilities.

Delegation of functions of Commission.

47B.— (1) Except as provided by subsection (2), the Commission may delegate the performance of any of its functions under this Act to any member of the Commission or any member of the Commission's staff.

(2) The Commission may not delegate the performance of—

(*a*) its function under section 4(3), or

(*b*) the power to prosecute an offence under section 6 or 7, or for relief under section 14.

Commission to notify Authority before acting under this Act.

47C.— Before performing any of its functions under this Act, the Commission shall notify the Authority in writing of its intention to perform that function.

Responsibilities of Authority with respect to notifying existence of certain agreements, decisions, practices and abuses.

47D.— (1) If—

(*a*) at any time the Authority suspects on reasonable grounds that there exists or has existed an agreement, decision or practice of a kind specified in section 4, or there is occurring or has occurred an abuse of the kind specified in section 5, and

(*b*) it appears to the Authority that the agreement, decision or practice, or the abuse, relates to the provision of an electronic communications service or electronic communications network, or an associated facility,

it shall notify its suspicion in writing to the Commission, together with particulars setting out the basis for the suspicion.

(2) If at any time the Commission suspects on reasonable grounds that there exists or has existed an agreement, decision or practice of a kind specified in section 4, or there is occurring or has occurred an abuse of the kind specified in section 5, it shall notify that suspicion in writing to the Authority. This subsection applies irrespective of whether it appears to the Commission that the suspected breach relates to the provision of an electronic communications service or electronic communications network, or an associated facility.

Authority and Commission to make every effort to settle disputed questions.

47E.— (1) The Authority and the Commission shall make every effort to settle by agreement any question arising as to which of them should perform the functions conferred on a competent authority by Part 2 (section 4(3) excepted) that may relate to the provision of an electronic communications service or electronic communications network, or associated facilities.

(2) If at any time the Authority or the Commission considers that the question cannot be resolved by agreement, it may refer the question for resolution by the Minister.

(3) As soon as practicable after the question has been referred under subsection (2), the Minister shall determine the question and then notify the Authority and the Commission of the determination. In making a determination, the Minister shall—

(*a*) consult with the Minister for Communications, Marine and Natural Resources, and

(*b*) take into account any representations made with respect to the question by the Authority or the Commission.

(4) The determination of the Minister under subsection (3) is final.

Undertaking not liable to be prosecuted by both Authority and Commission for same offence.

47F.— If an undertaking that provides an electronic communications service or electronic communications network, or associated facilities, is being, or has been, prosecuted for an offence under section 6 or 7 by the Authority or by the Commission, the undertaking is not liable to be prosecuted for the same offence by the other of those entities.

Co-operation agreement between Authority and the Commission with respect to performing their respective functions under this Act.

47G.— (1) As soon as practicable after the commencement of this Part, the Authority and the Commission shall enter into negotiations for a co-operation agreement that will—

(*a*) facilitate the performance of their respective functions under this Act, and

(*b*) avoid duplicating activities by the Authority and the Commission in relation to the performance of those functions, and

(*c*) ensure, as far as practicable, consistency between decisions made, and other steps taken, by the Authority and the Commission so far as any part of those decisions or steps relates to the performance of those functions.

(2) As far as practicable, a co-operation agreement shall—

(*a*) require the Authority and the Commission to consult each other before performing any of their respective functions under this Act if the performance of the functions concerned involves the same issues, and

(*b*) enable the Authority and the Commission to provide each other with information in its possession if the information is required by the other to perform its functions under this Act.

(3) The Authority and the Commission may vary a co-operation agreement by further agreement.

(4) The Authority and the Commission shall respectively provide the Minister for Enterprise, Trade and Employment and the Minister for Communications, Marine and Natural Resources with a copy of a co-operation agreement, or a variation of such an agreement, as soon as practicable after the agreement or variation has been entered into.

(5) A co-operation agreement, and any variation to it, is to be in writing.

(6) As soon as practicable after a co-operation agreement, or variation of the agreement, is entered into, the Authority and the Commission shall publish in such manner as they think appropriate a notice to the effect that the agreement or variation has been entered into. The notice shall state—

(*a*) that a copy of the agreement or variation can be inspected at premises of the Authority and premises of the Commission, or by a means, specified in the notice, and

(*b*) that a copy of the agreement or variation can be purchased from either the Authority or the Commission in a manner so specified.

However, if either the Authority or the Commission has complied with this subsection, the other of them is taken to have so complied.

(7) As soon as practicable after a co-operation agreement, or a variation of the agreement, is entered into, the Authority shall arrange for a copy of the agreement or variation to be laid before each House of the Oireachtas.

(8) The Authority and the Commission shall each make available to members of the public copies of a co-operation agreement, or a variation of the agreement, for inspection and for purchase (at a cost not exceeding the reasonable cost of making a copy and the cost (if any) of posting it).

(9) If information is provided by the Authority or the Commission under a co-operation agreement to which this section applies, any enactment restricting or

prohibiting the disclosure of that information by the provider of the information also applies to the receiver of the information.".

Amendment of Schedule 1 to Competition Act 2002.

32.— Schedule 1 to the Competition Act 2002 is amended by—

(*a*) the deletion of the item of the Schedule relating to the Director of Telecommunications Regulation, and

(*b*) the substitution—

(i) in column (1), of "Commission for Communications Regulation" for "Director of Telecommunications Regulation", and

(ii) in column (2), of "Minister for Communications, Marine and Natural Resources" for "Minister for Public Enterprise" wherever it occurs.

Section 4(2).

SCHEDULE 1

CONSEQUENTIAL AMENDMENT OF CERTAIN ACTS

PART 1

AMENDMENT OF WIRELESS TELEGRAPHY ACT 1926

Item	Provision inserted or affected	Amendment
1.	Section 2	In section 2, insert the following definitions before the definition of "the Minister": "except as provided by section 9, the expression 'the appropriate authority'— (*a*) in relation to the use of a television set, means the Minister for Communications, Marine and Natural Resources, and (*b*) in relation to wireless telegraphy apparatus associated with the safety, security and operation of ships and vessels (including the certificates of competency for the operation of apparatus for wireless telegraphy on ships and vessels), means the Minister for Transport, and (*c*) in relation to any other matter, means the Commission; the expression 'the Commission' means the Commission for Communications Regulation established by Part 2 of the Communications Regulation Act 2002;".
2.	Section 2A	Insert the following section after section 2: "Minister for Transport to consult other authorities before making regulations or orders. 2A.—(1) The Minister for Transport may make regulations or orders under this Act only after having consulted the Commission and the Minister for Communications, Marine and Natural Resources. (2) Regulations or orders made in contravention of subsection (1) have no effect.".
3.	Section 3(6)	Substitute "The appropriate authority" for "The Minister".
4.	Section 5	(*a*) In subsection (1), substitute "The appropriate authority" for "The Minister". (*b*)F1[...] (*c*) In subsection (2), substitute "appropriate authority" for "Minister".
5.	Section 6	(*a*) In subsection (1), substitute "The appropriate authority" for "The Minister". (*b*) In subsection (1)(*d*) and (*g*), substitute "that authority" for "the Minister".

Item	Provision inserted or affected	Amendment
		(*c*) In subsection (2), substitute "satisfies the appropriate authority that the person" for "satisfies the Minister that he". (*d*) In subsection (2A) (inserted by section 17(2) of the Broadcasting Act 1990), substitute "If it appears to the appropriate authority expedient to do so, it" for "Where it appears to be expedient to the Minister he". (*e*) In subsection (2A), substitute "that authority" for "the Minister", where secondly occurring.
6.	Section 7	(*a*) Substitute the following subsection for subsection (1): "(1) The appropriate authority may, whenever it considers it appropriate to do so, serve on a person a special notice, accompanied by or including a form of declaration, requiring the person— (*a*) to state on the form of declaration such one or more of the matters specified in subsection (2) as is specified in the notice, and (*b*) to complete and sign the declaration, and (*c*) to give or send the completed declaration by post to a specified officer of that authority. The special notice is required to be in writing and to be sent by registered post.". (*b*) In subsection (3), substitute "shall, within 14 days after service," for "shall within the time aforesaid".
7.	Section 8	(*a*) In subsection (1), substitute "the appropriate authority" for "the Minister", where firstly occurring. (*b*) In subsection (1), substitute "that authority" for "the Minister", where secondly and thirdly occurring. (*c*) In subsection (2), substitute "officer of the appropriate authority" for "officer of the Minister". (*d*) In subsection (3)(*a*), substitute "the officer of the appropriate authority" for "officer of the Minister". (*e*) In subsection (3)(*a*), substitute "the appropriate authority" for "the Minister", where secondly and thirdly occurring. (*f*) In subsection (3)(*b*), substitute "the appropriate authority" for "the Minister".
8.	Section 9	(*a*) In subsection (1), substitute "The appropriate authority" for "The Minister". (*b*) In subsection (1)(*e*), substitute "that authority" for "the Minister". (*c*) Insert the following subsection after subsection (6): "(7) In this section, 'appropriate authority'—

Item	Provision inserted or affected	Amendment
		(*a*) in relation to apparatus for wireless telegraphy on ships, means the Minister for Transport, and (*b*) in relation to apparatus for wireless telegraphy on aircraft, means the Commission.".
9.	Section 10A(2) (as inserted by section 12(1)(*e*) of the Broadcasting and Wireless Telegraphy Act 1988)	Substitute "the appropriate authority" for "the Minister".
10.	Section 13	Substitute the following section: "Prosecution of offences. 13.—A prosecution for a summary offence under this Act may be brought only by the appropriate authority, a person to whom the functions of that authority have been delegated or some other person authorised by law to prosecute offences.".
11.	The whole Act	Substitute "the State" for "Saorstát Éireann", wherever occurring.

Annotations

Amendments:

F1 Deleted (12.07.2009) by *Broadcasting Act 2009* (18/2009), s. 3 and sch. 1, commenced on enactment.

PART 2

AMENDMENT OF POST OFFICE (AMENDMENT) ACT 1951

Item	Provision affected	Amendment
1.	Section 13	Substitute the following section: "Offences in connection with telephones. 13.—(1) Any person who— (*a*) sends by telephone any message that is grossly offensive, or is indecent, obscene or menacing, or (*b*) for the purpose of causing annoyance, inconvenience, or needless anxiety to another person— (i) sends by telephone any message that the sender knows to be false, or (ii) persistently makes telephone calls to another person without reasonable cause, commits an offence. (2) A person found guilty of an offence under subsection (1) is liable on conviction—

Item	Provision affected	Amendment
		(*a*) if tried on indictment, to a fine not exceeding €75,000 or to imprisonment for a term not exceeding 5 years, or to both, or (*b*) if tried summarily, to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 12 months, or to both. (3) A contravention of this section is an offence under the Post Office Act 1908. (4) On convicting a person for an offence under subsection (1), the court may, in addition to any other penalty imposed for the offence, order any apparatus, equipment or other thing used in the course of committing the offence to be forfeited to the State. (5) In this section, 'message' includes a text message sent by means of a short message service (SMS) facility.".

PART 3

AMENDMENT OF BROADCASTING AUTHORITY ACT 1960

Item	Provision affected	Amendment
1.	Section 16(3)	Substitute the following paragraph for paragraph (*a*): "(*a*) The powers conferred on the Authority by subsection (2)(*a*) and (*b*) are exercisable only under a licence issued by the Commission for Communications Regulation and in accordance with any conditions to which the licence is subject.".

PART 4

AMENDMENT OF WIRELESS TELEGRAPHY ACT 1972

Item	Provision affected	Amendment
1.	Section 1	In subsection (1), insert the following definition after the definition of "appointed day": " 'Commission' means the Commission for Communications Regulation established by Part 2 of the Communications Regulation Act 2002;".
2.	Section 5	(*a*) In subsection (1), substitute "the Commission for Communications Regulation" for "the Minister", where first occurring. (*b*) In subsection (1), substitute "that Commission" for "the Minister", where secondly occurring.
3.	Section 6	(*a*) Substitute the following subsection for subsection (1): "(1) A notice to be given to the Minister or the Commission under this Act is required to be in writing and be in the prescribed form (if any).".

Item	Provision affected	Amendment
		(*b*) Substitute the following subsections for subsections (4) and (5): "(4) If an authorised officer believes on reasonable grounds that a record required to be kept under this section is kept at a particular place, the officer may, at any reasonable time, enter the place and request the person apparently having charge of the place to produce the record for inspection by the officer. On being so required, that person shall, without delay, comply with the request so far as it is practicable to do so. (5) Any notification required to be given to the Minister or the Commission by or under this Act may be given by delivering personally or sending it by registered post and not otherwise. (6) In subsection (4), 'authorised officer' means a person employed in the Department of Communications, Marine and Natural Resources who is authorised in writing by the Minister to exercise the power conferred by subsection (4).".
4.	Section 8	In subsections (1), (2), (3) and (5), substitute "the Commission for Communications Regulation" for "the Minister" wherever occurring.

PART 5

AMENDMENT OF POSTAL AND TELECOMMUNICATIONS SERVICES ACT 1983

Item	Provision affected	Amendment
1.	Section 2	In subsection (1), insert the following definition after the definition of "Companies Acts": " 'Commission' means the Commission for Communications Regulation established by Part 2 of the Communications Regulation Act 2002;".
2.	Section 4	In subsection (1), delete paragraph (*e*).
3.	Section 70 (as amended by Regulation 4 of the European Communities (Postal Services) Regulations 2000)	In subsection (2), substitute "the Commission" for "the Director".

PART 6

AMENDMENT OF BROADCASTING AND WIRELESS TELEGRAPHY ACT 1988

Item	Provision affected	Amendment
1.	Section 1	(*a*) Insert the following definition after the definition of "apparatus for wireless telegraphy":

Item	Provision affected	Amendment
		" 'appropriate authority' means— (*a*) the Minister, in the case of a matter involving licences for television sets, and (*b*) the Minister for Transport, in the case of a matter involving wireless telegraphy apparatus associated with the safety, security and operation of ships and vessels (including certificates of competency for the operation of apparatus for wireless telegraphy on ships and vessels), and (*c*) the Commission, in the case of any other matter.". (*b*) Insert the following definition after the definition of "cinematograph film": " 'Commission' means the Commission for Communications Regulation established by Part 2 of the Communications Regulation Act 2002 (No. 20 of 2002);".
2.	Section 3	In subsection (1), substitute "Commission" for "Minister".
3.	Section 6	In subsection (2)(*b*), substitute "Commission" for "Minister".
4.	Section 7	(*a*) Substitute "Commission" for "Minister", wherever occurring. (*b*) Substitute "provider of an electronic communications service" for "Bord Telecom Éireann", wherever occurring.
5.	Section 13	Substitute "the appropriate authority" for "the Minister".
6.	Section 14	Substitute "by the Commission" for "by the Minister".
7.	Section 20	Substitute "The appropriate authority" for "The Minister".

PART 7

AMENDMENT OF RADIO AND TELEVISION ACT 1988

Item	Provision affected	Amendment
1.	Section 2	In subsection (1), insert the following definition after the definition of "company": " 'ComReg' means the Commission for Communications Regulation established by Part 2 of the Communications Regulation Act 2002;".
2.	Section 4	In subsections (3), (5) and (6), substitute "ComReg" for "the Minister", wherever occurring.
3.	Section 5	Substitute "ComReg" for "the Minister", wherever occurring.
4.	Section 7	Substitute "ComReg" for "the Minister", wherever occurring.

PART 8

AMENDMENT OF BROADCASTING ACT 1990

Item	Provision affected	Amendment
1.	Section 1	In subsection (1), insert the following definition after the definition of "the Authority": " 'Commission' means the Commission for Communications Regulation established by Part 2 of the Communications Regulation Act 2002;".
2.	Section 9(1)	Substitute "officer of the Commission" for "officer of the Minister".
3.	Section 12	Substitute "the Commission" for "the Minister", except where fourthly occurring.
4.	Section 16	Substitute "the Commission" for "the Minister", wherever occurring.
5.	Section 17	(*a*) In subsection (1), substitute "the Commission" for "the Minister", wherever occurring. (*b*) Repeal subsection (2).

PART 9

AMENDMENT OF IRISH AVIATION AUTHORITY ACT 1993

Item	Provision affected	Amendment
1.	Section 70	Substitute the following section: "Transfer of certain functions under Wireless Telegraphy Act 1926 to company. 70.—(1) The Commission may, by order— (*a*) transfer to the company the functions of the Commission under section 5 of the Wireless Telegraphy Act 1926, or (*b*) assign to the company functions of the Commission under section 7 of that Act in so far, in each case, as they relate to apparatus for wireless telegraphy in aircraft. (2) If an order under subsection (1) is in force, in relation to functions under section 7, those functions continue to be vested in the Commission but concurrently with the company and so as to be capable of being performed, as the Commission may determine, either by the Commission or the company. (3) The company shall remit to the Commission any fees paid to it under section 5 of the Wireless Telegraphy Act 1926, subject to the deduction of amounts determined by the company and the Commission for expenses incurred by the company under that section. (4) The company shall provide the Commission with information in relation to such matters concerning the performance of functions transferred or assigned to it under this section as the Commission specifies in writing. (5) In this section, 'the Commission' means the Commission for Communications Regulation.".

PART 10

AMENDMENT OF TELECOMMUNICATIONS (MISCELLANEOUS PROVISIONS) ACT 1996

Item	Provision affected	Amendment
1.	Section 1	(*a*) In subsection (1), insert the following definition before the definition of "the company": " 'Commission' means the Commission for Communications Regulation established by Part 2 of the Communications Regulation Act 2002;". (*b*) In subsection (1), repeal the definition of "the Director".
2.	Section 7	(*a*) In subsections (1) to (4), substitute "the Commission" for "the Minister". (*b*) Repeal subsections (5) to (7).
3.	Section 12	Substitute the following section: "Authorised officers. 12.—(1) The Commission may appoint persons to be authorised officers for the purposes of this section. (2) The Commission shall provide each person appointed under subsection (1) with a certificate of appointment. (3) When exercising a power conferred by this section, an authorised officer shall, if asked to do so by the person in relation to whom the power is being exercised, produce the certificate to the person for inspection. (4) For the purposes of obtaining information necessary for the performance of the Commission's functions under this Act, an authorised officer may do all or any of the following: (*a*) enter at any time the premises of a provider of telecommunications services for the purpose of exercising powers conferred by this section; (*b*) require any provider of telecommunications services to produce records relating to the provision of telecommunications services that are within the provider's power or control and to provide the officer with such information as the officer may reasonably require in relation to any entries in the records; (*c*) inspect or take copies of any such records or any of their contents; (*d*) require a provider of telecommunications services mentioned in paragraph (*a*) to provide the officer with such information as the officer may reasonably require with respect to the provision of telecommunications services; (*e*) make such inspections, tests and measurements of machinery, apparatus and other equipment on the premises as the officer considers appropriate.".

Section 4(3).

SCHEDULE 2

Consequential Amendment of Certain Statutory Instruments

PART 1

Amendment of European Communities (Telecommunications Infrastructure) Regulations 1997 (S.I. No. 338 of 1997)

Item	Provision affected	Amendment
1.	Regulation 2	Insert the following paragraph after paragraph (1): "(2) In these Regulations, 'Commission' means the Commission for Communications Regulation established by Part 2 of the Communications Regulation Act 2002.".
2.	Regulation 3	In the definition of "national numbering scheme" in paragraph (2), substitute "the Commission that" for "the Director of Telecommunications Regulation which".
3.	Regulation 9	Delete the Regulation.

PART 2

Amendment of Wireless Telegraphy (GSM and TACS Mobile Telephony Licence) Regulations 1997 (S.I. No. 468 of 1997)

Item	Provision affected	Amendment
1.	Regulation 2	(*a*) In paragraph (1), substitute the following definition for the definition of "Director": " 'Commission' means the Commission for Communications Regulation established by Part 2 of the Communications Regulation Act 2002 (No. 20 of 2002);". (*b*) Delete paragraph (3).
2.	Regulation 3	(*a*) In paragraphs (1) and (2), substitute "the Commission" for "the Director", wherever occurring. (*b*) Substitute the following paragraph for paragraph (3): "(3) A person who makes an application to the Commission under paragraph (1) of this Regulation shall provide such information as the Commission reasonably requires to enable it to perform its functions under these Regulations. If the applicant, without reasonable cause, fails or refuses to comply with this paragraph, the Commission may decline to continue to deal with the application.".
3.	Regulation 4	Substitute "the Commission" for "the Director", wherever occurring.
4.	Regulation 5	(*a*) Substitute "the Commission" for "the Director", wherever occurring. (*b*) Substitute "it" for "he or she", wherever occurring.
5.	Regulation 6	(*a*) Substitute "the Commission" for "the Director", wherever occurring.

Item	Provision affected	Amendment
		(*b*) In paragraph (3), substitute "it" for "him or her".
6.	Regulation 7	(*a*) Substitute "the Commission" for "the Director", wherever occurring. (*b*) In paragraph (1), substitute "it" for "he or she".
7.	Regulation 8	(*a*) Substitute the following paragraph for paragraph (3): "(3) The fee referred to in paragraphs (1) and (2) is payable to the Commission by banker's draft or by such other means and on such terms as the Commission decides.". (*b*) In paragraph (6), substitute "the Commission" for "the Director".
8.	Schedule	(*a*) Substitute "The Commission for Communications Regulation, in exercise of the powers conferred on it by section 5(1) of the Wireless Telegraphy Act 1926 (No. 45 of 1926), and section 4 of the Telecommunications (Miscellaneous Provisions) Act 1996 (No. 34 of 1996), grants the following licence to" for "I, Director of Telecommunications Regulation, in exercise of the powers conferred on me by section 5(1) of the Wireless Telegraphy Act 1926 (No. 45 of 1926), and section 4 of the Telecommunications (Miscellaneous Provisions) Act, 1996 (No. 34 of 1996), hereby grant the following Licence to". (*b*) In paragraph (2), substitute the following definition for the definition of "the Director": " 'Commission' means the Commission for Communications Regulation established by Part 2 of the Communications Regulation Act 2002 (No. 20 of 2002);". (*c*) In paragraph (5), substitute "the Commission" for "the Director", wherever occurring. (*d*) In paragraph (5)(*m*) and (*n*), substitute "it" for "he or she".

PART 3

AMENDMENT OF WIRELESS TELEGRAPHY (FIXED WIRELESS POINT-TO-MULTIPOINT ACCESS LICENCE) REGULATIONS 1999 (S.I. NO. 287 OF 1999)

Item	Provision affected	Amendment
1.	Regulation 2	(*a*) In the definitions of "apparatus", "application", "Radio Point-to-Multipoint Systems" and "Telecommunications Licence" in paragraph (1), substitute "the Commission" for "the Director". (*b*) In paragraph (1), substitute the following definition for the definition of "Director": " 'Commission' means the Commission for Communications Regulation established by Part 2 of the Communications Regulation Act 2002 (No. 20 of 2002);". (*c*) Delete paragraph (3).
2.	Regulation 4	(*a*) Substitute "the Commission" for "the Director", wherever occurring.

Item	Provision affected	Amendment
		(*b*) In paragraph (2), substitute "its" for "his or her".
3.	Regulations 5, 6, 7 and 9	Substitute "the Commission" for "the Director", wherever occurring.
4.	Regulation 8	(*a*) Substitute "the Commission" for "the Director", wherever occurring. (*b*) In paragraph (2), substitute "its" for "his or her".

PART 4

AMENDMENT OF WIRELESS TELEGRAPHY (GSM AND TACS MOBILE TELEPHONY LICENCE) REGULATIONS 1999 (S.I. NO. 442 OF 1999)

Item	Provision affected	Amendment
1.	Regulation 2	(*a*) In paragraph (1), substitute the following definition for the definition of "Director": " 'Commission' means the Commission for Communications Regulation established by Part 2 of the Communications Regulation Act 2002 (No. 20 of 2002);". (*b*) Delete paragraph (3).
2.	Regulations 3, 4 and 5	Substitute "the Commission" for "the Director", wherever occurring.
3.	Regulation 6	(*a*) Substitute "the Commission" for "the Director", wherever occurring. (*b*) In paragraph (3), substitute "it" for "he or she".
4.	Regulation 7	In paragraph (1)— (*a*) substitute "the Commission" for "the Director", wherever occurring, and (*b*) substitute "it" for "he or she".
5.	Regulation 8	(*a*) Substitute the following paragraph for paragraph (3): "(3) The fees specified in paragraphs (1) and (2) are payable to the Commission by banker's draft or such other method and on such terms as the Commission decides.". (*b*) In paragraph (6), substitute "the Commission" for "the Director", wherever occurring.

PART 5

AMENDMENT OF EUROPEAN COMMUNITIES (CONDITIONAL ACCESS) REGULATIONS 2000 (S.I. NO. 357 OF 2000)

Item	Provision affected	Amendment
1.	Regulation 2	In paragraph (1)—

Item	Provision affected	Amendment
		(*a*) insert the following definition after the definition of "associated service": " 'Commission' means the Commission for Communications Regulation established by Part 2 of the Communications Regulation Act 2002 (No. 20 of 2002);", (*b*) delete the definition of "Director".
2.	Regulation 4	(*a*) In paragraph (1), substitute "the Commission" for "the Director". (*b*) Substitute the following paragraph for paragraph (3): "(3) The Commission shall, as it thinks fit, destroy or otherwise dispose of an illicit device forfeited under paragraph (1).".
3.	Regulation 5	Substitute the following paragraph for paragraph (1): "(1) The Commission may appoint such and so many persons to be authorised officers as it thinks necessary for the purpose of securing compliance with these Regulations.".
4.	Regulation 6	In paragraph (2), substitute "by the Commission" for "by the Director".

PART 6

AMENDMENT OF EUROPEAN COMMUNITIES (RADIO EQUIPMENT AND TELECOMMUNICATIONS TERMINAL EQUIPMENT) REGULATIONS 2001 (S.I. NO. 240 OF 2001)

Item	Provision affected	Amendment
1.	Regulation 2	In paragraph (1)— (*a*) substitute the following definition for the definition of "Commission": " 'Commission' means the Commission for Communications Regulation established by Part 2 of the Communications Regulation Act 2002 (No. 20 of 2002);", (*b*) delete the definition of "Director", (*c*) in the definition of "notified body", substitute "the European Commission" for "the Commission".
2.	Regulation 4	(*a*) Substitute "European Commission" for "Commission", wherever occurring. (*b*) Substitute "the Commission" for "the Director", wherever occurring.
3.	Regulation 5	(*a*) Substitute the following paragraph for paragraph (4): "(4) An operator shall ensure that publication under the obligations of this Regulation accord with any requirements or instructions specified by the Commission from time to time.". (*b*) Substitute "the Commission shall notify the European Commission" for "the Director shall notify the Commission".
4.	Regulation 6	Substitute "the Commission" for "the Director", wherever occurring.
5.	Regulation 7	(*a*) In paragraph (2), substitute "the Commission" for "the Director", wherever occurring.

Item	Provision affected	Amendment
		(*b*) Substitute the following paragraphs for paragraphs (4) and (5): "(4) An operator who disconnects apparatus in accordance with paragraph (3) shall immediately inform the Commission of the disconnection. As soon as practicable after being asked to do so by the Commission, the operator shall provide the Commission with such relevant information concerning the disconnection as it specifies. (5) As soon as practicable after issuing an authorisation under paragraph (2), the Commission shall notify to the European Commission of the authorisation.".
6.	Regulation 9	Substitute the following Regulation: "9.—(1) The Commission may, from time to time, appoint such persons as it considers necessary to be notified bodies under these Regulations, having regard to the criteria specified in Annex VI to the Directive. In making such an appointment, the Commission may attach such conditions as it considers appropriate. (2) The Commission shall inform the European Commission and the other Member States of the names of the notified bodies appointed under paragraph (1). (3) An appointment under paragraph (1) may be for a fixed or indefinite period. The Commission— (*a*) may at any time revoke an appointment, and (*b*) shall revoke an appointment if it reasonably believes that the notified body in the State does not meet or has ceased to meet the conditions referred to in paragraph (1). (4) The Commission may— (*a*) amend or revoke any or all of the conditions (if any) attached under paragraph (1) to an appointment made under that paragraph, or (*b*) attach additional conditions from time to time to such appointment for the efficient and proper functioning of the body in question. (5) As soon as practicable after an appointment has been revoked under paragraph (4), the Commission shall notify the revocation to the European Commission and the other Member States.".
7.	Regulation 11	(*a*) Substitute the following paragraphs for paragraphs (1) to (4): "(1) If of the opinion that— (*a*) any apparatus to which these Regulations apply does not comply with these Regulations, or (*b*) radio equipment has caused or may cause harmful interference, the Commission may direct the person concerned to take one or more of the actions specified in paragraph (2). (2) The following actions are specified for the purpose of paragraph (1):

Item	Provision affected	Amendment
		(*a*) to withdraw the apparatus or equipment from the market or from service; (*b*) not to place the apparatus or equipment on the market, or to put it into service; (*c*) not to move the apparatus or equipment or any part of it; (*d*) to do or not to do any other thing in order to comply with these Regulations and the Directive. (3) The Commission may take any other appropriate measures, including the seizing and removing of apparatus or radio equipment from the market to ensure compliance with these Regulations and the avoidance of harmful interference. (4) The Commission shall give the opportunity to any person to whom it has given a direction, or who is otherwise affected by measures taken by the Commission under this Regulation, to make representations to the Commission about the direction or measures. If, because of the urgency of the matter, this opportunity is not given before the direction is given or other measures are taken, the Commission shall give such an opportunity as soon as possible afterwards. (4A) A direction given under this Regulation is to be in writing and— (*a*) state the reasons upon which it is based, and (*b*) inform the person of the right of appeal under Regulation 13. (4B) If it considers it appropriate to do so, the Commission may withdraw, or amend by a further direction in writing, any direction given under this Regulation.". (*b*) Substitute the following paragraph for paragraph (7): "(7) The Commission shall, in accordance with Article 9 of the Directive, notify the European Commission of any relevant direction or other measures taken under this Regulation.". (*c*) In paragraph (8), substitute "the Commission" for "the Director".
8.	Regulation 13	In paragraph (3), substitute "the Commission" for "the Director".
9.	Regulation 14	Substitute the following Regulation: "14.—(1) If of the opinion that apparatus to which these Regulations apply— (*a*) is being or may be placed on the market, and (*b*) is likely to cause serious injury or damage to property or harmful interference, the Commission may apply to the High Court for an order under paragraph (4). Such an application is to be by motion. (2) The High Court may hear the application only if it is satisfied that a copy of the application has been served on the person alleged to be responsible for placing or proposing to place the apparatus on the market. On being served with such a copy, the person becomes the respondent to the application.

Item	Provision affected	Amendment
		(3) The High Court may make such interim or interlocutory order as it considers appropriate pending determination of an application made under paragraph (1). The Court may not refuse interim or interlocutory relief merely because the Commission may not suffer damage if relief were not granted pending determination of the application. (4) On hearing an application made under paragraph (1), the High Court may, if it considers it appropriate to do so, make either or both of the following orders: (*a*) if it appears to the Court that the respondent has placed the apparatus on the market, an order requiring the respondent to withdraw the apparatus from the market; or (*b*) if it appears to the Court that the respondent is proposing or continuing to place the apparatus on the market, an order prohibiting the respondent from doing or continuing to do so. (5) If the High Court makes an order under paragraph (4), it may make such ancillary orders as it considers appropriate.".
10.	Regulation 15	(*a*) Substitute the following paragraph for paragraph (1): "(1) The Commission may appoint such and so many of its officers or officers of the Director of Consumer Affairs or any other persons whom it considers to be suitably qualified to be authorised officers for the purpose of these Regulations and the Directive.". (*b*) In paragraph (3), substitute "enabling the Commission to perform its functions" for "enabling the Director to exercise his or her functions". (*c*) Substitute the following subparagraph for paragraph (3)(*c*): "(*c*) require any person who is on or employed at, or who is apparently the owner or in charge of, the premises, place, vehicle, vessel or aircraft— (i) to give the officer such information, or (ii) to produce to the officer such books, records or other documents in the possession or under the control of the person, as the officer or the Commission reasonably requires for the performance of the functions of the officer or Commission under these Regulations;".
11.	Regulation 17	Substitute the following paragraphs for paragraphs (1) and (2): "(1) As soon as practicable after completing such an examination, the Commission or designated person shall return the thing to the authorised officer concerned or to any other authorised officer to whom duties are, for the time being, assigned in relation to the matter concerned. (2) If an authorised officer reasonably believes that a thing referred to in paragraph (1) is evidence of, or relates to, an offence under these Regulations (whether as a result of an examination referred to in that paragraph or not), the officer may retain the thing— (*a*) for such period from the date of seizure as is reasonable, or

Item	Provision affected	Amendment
		(*b*) if proceedings are commenced under these Regulations in which the thing is to be used in evidence, until the conclusion of those proceedings. As soon as practicable after the end of that period, or the conclusion of those proceedings, the officer, or some other authorised officer to whom duties are for the time being assigned in relation to the matter, shall deliver the thing to such person as, in the opinion of the officer, is the owner of the thing.".
12.	Regulation 18	In paragraph (3), substitute "by the Commission" for "by the Director".
13.	Schedule 1	(*a*) Insert the following heading after Regulation 21: "Schedule 1". (*b*) In item 5 of the matter headed "MARKING OF EQUIPMENT", substitute "the European Commission" for "the Commission".

Section 4(4).

SCHEDULE 3

SAVINGS AND TRANSITIONAL PROVISIONS

Interpretation: Schedule 3.

1. In this Schedule—

"Commission" has the same meaning as it has in the Principal Act;

"Director" means the Director of Telecommunications Regulation who was, immediately before the commencement of section 9 of the Principal Act, holding office as such under the Telecommunications (Miscellaneous Provisions) Act 1996;

"relevant day"—

(*a*) in relation to a function transferred to the Commission under section 9 of the Principal Act (as in force immediately before the commencement of *section 4* of this Act), means the establishment day referred to in that section, or

(*b*) in relation to any other matter, means the day on which *section 4* of this Act came into operation;

"relevant Minister" means the Minister for Public Enterprise or any Minister to whom the functions of that Minister have been subsequently transferred.

Orders made before relevant day.

2. If—

(*a*) an order made by a Minister under an Act or statutory instrument amended by this Act was in force immediately before the relevant day, and

(*b*) the Commission would have power to make such an order under that Act or statutory instrument as in force on and after that day,

the order continues in force on and after that day and may, subject to that Act or instrument, be amended or revoked by the Commission.

Appointments made before relevant day.

3. If—

(*a*) a person appointed to an office or position under an Act or statutory instrument amended by this Act was holding the office or position immediately before the relevant day, and

(*b*) the Commission could have appointed the person under the amended Act or statutory instrument as in force on and after that day,

the person continues to hold the office or position on and after that day for the remainder of the period for which, and subject to the same terms and conditions on which, the person was originally appointed.

Legal proceedings started before relevant day.

4. (1) If—

(*a*) civil proceedings brought or defended by the Director or the relevant Minister under an Act or statutory instrument amended by this Act were pending immediately before the relevant day, and

(*b*) the Commission could have brought or defended those proceedings under that Act or statutory instrument as in force on and after that commencement,

then, on that commencement, the Commission becomes the plaintiff or defendant in those proceedings and may pursue or defend them accordingly.

(2) If—

(*a*) immediately before the relevant day, criminal proceedings brought by or under the authority of the Director or the relevant Minister were pending under an Act or statutory instrument amended by this Act, and

(*b*) the Commission could have brought or defended those proceedings under that Act or statutory instrument as in force on and after that day,

then, on that day, the Commission becomes the plaintiff or prosecutor in those proceedings and the Commission may continue to prosecute those proceedings accordingly.

Documents created before relevant day.

5. (1) If—

(*a*) a document (such as a notice, record, certificate or licence) granted or made by the Director or the relevant Minister under an Act or statutory instrument amended by this Act was effective immediately before the relevant day, and

(*b*) the document could have been granted or made by the Commission under the Act or statutory instrument on or after that day,

the document continues to have effect on and after that day as if it had been granted or made by the Commission.

(2) If a document that continues to have effect because of *subparagraph (1)* was, immediately before the relevant day, in the possession of the Director or the relevant Minister and the document remained in the possession of a person other than the Commission on and after that day, the person shall deliver the document to the Commission as soon as practicable after the commencement of this paragraph.

Acts done and not completed before relevant commencement.

6. Without limiting *paragraphs 2*, *3* and *4* of this Schedule, if—

(*a*) an act done by the Director or the relevant Minister under an Act or statutory instrument amended by this Act was not completed before the relevant day, and

(*b*) the act could be lawfully done by or under the authority of the Commission under the Act or statutory instrument as in force on and after that day,

the act may be continued and completed by the Commission.

Number 22 *of* 2007

COMMUNICATIONS REGULATION (AMENDMENT) ACT 2007

REVISED

Updated to 1 June 2025

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was first passed.

Related legislation

Communications Regulation Acts 2002 to 2023: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023* (4/2023), s. 1(2)). The Acts in this group are:

- *Communications Regulation Act 2002* (20/2002)
- *Communications Regulation (Amendment) Act 2007* (22/2007)
- *Communications Regulation (Premium Rate Services and Electronic Communications Infrastructure) Act 2010* (2/2010)
- *Communications Regulation (Postal Services) Act 2011* (21/2011), other than ss. 62-65 and Part 4 (ss. 67-72)
- *Communications Regulation (Postal Services) (Amendment) Act 2015* (20/2015)
- *Communications Regulation (Postal Services) (Amendment) Act 2017* (3/2017)
- *Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023* (4/2023)

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Communications Regulation (Postal Services) Act 2011* (21/2011)
- *Communications Regulation (Premium Rate Services and Electronic Communications Infrastructure) Act 2010* (2/2010)
- *Broadcasting Act 2009* (18/2009)

All Acts up to and including *Finance (Provision of Access to Cash Infrastructure) Act 2025* (4/2025), enacted 20 May 2025, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Telecommunications (Transfer of Departmental Administration and Ministerial Functions) Order 2025* (S.I. No. 237 of 2025)
- *European Communities (Birds and Natural Habitats) Regulations 2011* (S.I. No. 477 of 2011)
- *Communications Regulation (Amendment) Act 2007 (Commencement) Order 2007* (S.I. No. 224 of 2007)

All statutory instruments up to and including *Telecommunications (Transfer of Departmental Administration and Ministerial Functions) Order 2025* (S.I. No. 237 of 2025), made 27 May 2025, were considered in the preparation of this revision.