

TELECOMMUNICATION (AMENDMENT) ORDINANCE 2000

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HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE NO. 36 OF 2000

L.S.

TUNG Chee-hwa
Chief Executive
15 June 2000

An Ordinance to amend the Telecommunication Ordinance following the consultation on proposals set out in the consultation paper entitled “1998 Review of Fixed Telecommunications—A Considered View” issued by the Information Technology and Broadcasting Bureau in 1998 with a view to enhancing competition safeguards, improving interconnection and access arrangements to telecommunications services, streamlining licensing procedures and providing the Telecommunications Authority with powers over certain technical areas.

[16 June 2000]

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Telecommunication (Amendment) Ordinance 2000.

(2) Subject to subsection (3), this Ordinance shall come into operation on the day on which this Ordinance is published in the Gazette.

(3) Section 3 (to the extent that it relates to section 6D(2)(a) of the principal Ordinance as amended by this Ordinance), section 4 (to the extent that it relates to the repeal of section 7 of the principal Ordinance and to sections 7(1) and (4) to (11) inclusive and 7A of the principal Ordinance as amended by this Ordinance), section 5(a)(iii) and (b) and section 18(a), (b) and (c) shall come into operation on a day to be appointed by the Secretary for Information Technology and Broadcasting by notice in the Gazette.

2. Sections substituted

Sections 1 and 2 of the Telecommunication Ordinance (Cap. 106) are repealed and the following substituted—

“1. Short title

This Ordinance may be cited as the Telecommunications Ordinance.

2. Interpretation

(1) In this Ordinance, unless the context otherwise requires—
“assign” (指配) includes specify;

“associated corporation” (相聯法團), in relation to a licensee, means—

- (a) a corporation over which the licensee has control;
- (b) if the licensee is a corporation—
 - (i) a corporation which has control over the licensee; or
 - (ii) a corporation which is under the same control as is the licensee;

“associated person” (相聯人士) includes—

- (a) where the licensee is a natural person—
 - (i) a relative of the licensee;
 - (ii) a partner of the licensee and a relative of that partner;
 - (iii) a partnership in which the licensee is a partner;
 - (iv) a corporation controlled by the licensee, by a partner of the licensee or by a partnership in which the licensee is a partner;
 - (v) a director or principal officer of a corporation referred to in subparagraph (iv);
- (b) where the licensee is a corporation—
 - (i) an associated corporation;
 - (ii) a person who controls the corporation and where the person is a natural person, a relative of the person;
 - (iii) a partner of a person who controls the corporation and, where the partner is a natural person, a relative of the person;
 - (iv) a director or principal officer of the corporation or an associated corporation and a relative of the director or principal officer;
 - (v) a partner of the corporation and, where the partner is a natural person, a relative of the partner;
- (c) where the licensee is a partnership—
 - (i) a partner of the partnership and, where the partner is a natural person, a relative of the partner;
 - (ii) a corporation controlled by the partnership, a partner in the partnership or where a partner is a natural person, a relative of the partner;
 - (iii) a corporation of which a partner is a director or principal officer;

(iv) a director or principal officer of a corporation referred to in subparagraph (iii);

“Authority” (局長) means the Telecommunications Authority appointed under section 5;

“basic service” (基本服務) means—

- (a) a public switched telephone service including the service connection, continued provision of connectivity, provision of a dedicated telephone number, an appropriate directory listing (except where the customer otherwise directs), a standard telephone handset without switching capacity (except where the customer elects to provide the handset), standard billing and collection services and relevant ancillary services and facilities necessarily utilized by the licensee;
- (b) a reasonable number of public payphones including payphones located within publicly or privately owned facilities to which the public have access (including intermittent access);
- (c) a reasonable number of public payphones, designed for ease of effective use by the hearing impaired;
- (d) a reasonable number of public payphones, designed for access by the physically disabled, including but not limited to those persons using wheelchairs;
- (e) operator provided directory enquiries, fault reporting, service difficulty and connection services;
- (f) a tropical cyclone warning service;
- (g) a thunderstorm and heavy rain warning service;
- (h) a flood warning service;
- (i) access to a number or numbers for emergency services; and
- (j) such other service, as the Authority may include, under regulations made under section 37;

“carrier licence” (傳送者牌照) means a licence issued for the establishment or maintenance of a telecommunications network for carrying communications to or from the public between fixed locations, between moving locations or between fixed locations and moving locations, within Hong Kong, or between Hong Kong and places outside Hong Kong, on a point-to-point, point-to-multipoint or broadcasting basis, such locations within Hong Kong being separated by unleased Government land, but does not include the licences listed in the Schedule;

“carrier licensee” (傳送者牌照持牌人) means the holder of a carrier licence;

“class licence” (類別牌照) means a licence gazetted by the Authority under section 7B;

“communication” (通訊) includes any communication—

- (a) whether between persons and persons, things and things or persons and things; and
- (b) whether in the form of speech, music or other sounds; or text; or visual images whether or not animated; or signals in any other form or combination of forms;

“control” (控制), in relation to an associated corporation, means having—

- (a) a beneficial interest in or control over the exercise of 15% or more of the voting power at a general meeting of the corporation; or
- (b) control over the composition of 15% or more of the directors of the board of the corporation;

“customer equipment” (顧客設備) means equipment acquired by a customer of a carrier licensee intended to be connected to the network of that licensee;

“dominant position” (優勢) means dominant position construed in accordance with the provisions of section 7L and the words “dominance” and “dominant” shall also be construed accordingly;

“exclusive licence” (專利牌照) means any licence issued on an exclusive basis for operation or provision of telecommunications networks, systems, installations or services;

“external services” (對外服務) means telecommunications services between—

- (a) Hong Kong and one or more places outside Hong Kong; or
- (b) two or more places outside Hong Kong where the services are routed through Hong Kong;

“fixed carrier licence” (固定傳送者牌照) means a carrier licence issued for communication between fixed locations;

“fixed carrier licensee” (固定傳送者牌照持牌人) means the holder of a fixed carrier licence;

“harmful interference” (有害干擾) means interference which endangers the safety of life or property or seriously degrades, obstructs, or repeatedly interrupts a telecommunications service lawfully carried on within or outside Hong Kong;

“interconnection agreement” (互連協議) means an agreement of a type mentioned in section 36A whether made by mutual agreement or pursuant to a determination under that section;

“interference” (干擾) means the effect of unwanted energy due to any, or a combination of, emission, radiation or induction upon reception in a telecommunications network, system or installation manifested by any performance degradation, misinterpretation or loss of information which could be extracted from that telecommunications network, system or installation in the absence of such unwanted energy;

“issue” (發出) includes grant;

“licensee” (持牌人)—

(a) means the holder of a licence under this Ordinance;

(b) includes—

(i) the holder of a licence granted under section 8 of the Television Ordinance (Cap. 52) which, by virtue of subsection (3) of that section, is deemed to be a licence granted under this Ordinance;

(ii) a person given a right referred to in section 7B(1);

“message” (訊息) means any communication sent or received by telecommunications or given to a telecommunications officer to be sent by telecommunications or to be delivered;

“network” (網絡) means a telecommunications network;

“number portability” (號碼可攜性) means the ability for a customer of a telecommunications service to retain the number or code assigned to him when he changes the location of use or the provider of that service;

“numbering plan” (號碼計劃) means the Hong Kong telecommunications numbering plan which sets out the plan of numbers and codes used or designed for use for or in connection with the establishment, operation and maintenance of any means of telecommunications under—

(a) a licence; or

(b) an order made by the Chief Executive in Council under section 39;

“payphone” (收費電話機) means a telephone connected to a public telecommunications system which cannot be used to make a call (other than specified free calls) unless payment can be collected, or authorized, at the time a call is made;

“public place” (公眾地方) means a place to which the public or a section of the public may or are permitted to have access from time to time, whether by payment or not, but does not include a vessel, aircraft, vehicle or other means of transport;

“public telecommunications service” (公共電訊服務) means a telecommunications service which is offered for use to the general public;

“radiated interference” (輻射干擾) means any interference transmitted other than through a guided medium;

“radio spectrum” (無線電頻譜) means the range of frequencies within which radiocommunications are capable of being carried out;

“radio transmitter” (無線電發射器) means any radiocommunications apparatus designed or intended to transmit or emit radio waves;

“radio waves” (無線電波) means electromagnetic waves of frequency lower than 3000 GHz propagated in space without an artificial guide;

- “radiocommunications” (無線電通訊) means telecommunications by means of radio waves;
- “radiocommunications installation” (無線電通訊裝置) means a radio transmitter, receiver, aerial, support structure, ancillary equipment or apparatus used or intended for use in connection with radiocommunications;
- “relative” (親屬) means the spouse, parent, child, brother or sister of the relevant person (whether of full blood or half-blood or by affinity);
- “Secretary” (政策局局長) means the Secretary of a policy bureau in the Government Secretariat appointed by the Chief Executive for the purposes of the administration of this Ordinance;
- “sound broadcast receiving apparatus” (聲音廣播接收器具) means an apparatus which is capable of receiving sound only, transmitted by means of radiocommunications or by wire for reception by the general public;
- “space object” (空間物體) has the meaning assigned to it in section 2 of the Outer Space Ordinance (Cap. 523);
- “telecommunications” (電訊) means any transmission, emission or reception of communication by means of guided or unguided electromagnetic energy or both, other than any transmission or emission intended to be received or perceived directly by the human eye;
- “telecommunications industry” (電訊業) means the industry comprising the persons who provide or supply telecommunications networks, systems, installations, customer equipment or services;
- “telecommunications installation” (電訊裝置) means apparatus or equipment maintained for or in connection with a telecommunications network, telecommunications system or telecommunications service;
- “telecommunications line” (電訊線路) means any wire, cable, duct, optical fibre, filament, line, pipe, pole, post, tube, conduit, support structure, ancillary equipment or apparatus or other physical medium used or intended for use as a continuous artificial guide for or in connection with telecommunications;
- “telecommunications market” (電訊市場) means any market for the provision or acquisition of telecommunications networks, telecommunications systems, telecommunications installations, or customer equipment or services;
- “telecommunications network” (電訊網絡) means a system, or series of systems, for carrying communications by means of guided or unguided electromagnetic energy or both;
- “telecommunications officer” (電訊人員) means any person employed in connection with a telecommunications service;

- “telecommunications service” (電訊服務) means a service for the carrying of communication by means of guided or unguided electromagnetic energy or both;
- “telecommunications system” (電訊系統) means any telecommunications installation, or series of installations, for the carrying of communication by means of guided or unguided electromagnetic energy or both;
- “universal service obligation” (全面服務責任) means the provision of a good, efficient and continuous basic service by a carrier licensee subject to a universal service obligation to all persons within the areas of Hong Kong covered by that obligation;
- “vessel” (船隻) has the same meaning as defined in the Shipping and Port Control Ordinance (Cap. 313).
- (2) For the avoidance of doubt, it is hereby declared that—
- (a) a notice under section 7C(1) and an order under section 32J(4) are not subsidiary legislation;
 - (b) an order under section 32I(1) or 32K(6) is subsidiary legislation.”.

3. Sections added

The following are added in Part II—

“6A. Powers of Authority

- (1) The Authority may do all things necessary to be done to perform his functions under this Ordinance.
- (2) The Secretary may issue written policy directions to the Authority pursuant to which the Authority is to carry out his functions and exercise his powers.
- (3) In exercising his powers under this Ordinance, the Authority when—
- (a) forming an opinion or making a determination, direction or decision under this Ordinance shall only do so on reasonable grounds and having regard to relevant considerations;
 - (b) forming an opinion or making a determination, direction or decision under this Ordinance—
 - (i) shall provide reasons in writing for it;
 - (ii) shall not depart from guidelines issued under section 6D which are applicable to the subject matter of the opinion, determination, direction or decision, as the case may be, unless he has provided reasons in writing for the departure.

(4) A policy direction issued under subsection (2) may include a direction not to issue, before a date specified in the direction, any new licence of a type which may be issued under section 7(5).

(5) A policy direction issued under subsection (2) shall be published in the Gazette as soon as practicable after its issue.

6B. Powers of Authority in relation to services with places outside Hong Kong

(1) A licensee shall not enter into any agreement or arrangement with a supplier of international public switched services in a place outside Hong Kong the purpose or the effect of which is to substantially distort competition in the supply of external services between that place, or another place, and Hong Kong.

(2) Where, following consultation with the licensee, the Authority reasonably concludes that an agreement or arrangement substantially distorts competition in the supply of external services between a place, or another place, and Hong Kong, the Authority may give directions to the licensee and the licensee shall comply with such directions given.

(3) For the avoidance of doubt, in this section “agreement or arrangement” (協議或安排) includes an agreement, arrangement, understanding or the like in relation to payments between service suppliers whether by way of the international accounting methods or establishing rates, revenue divisions, termination charges, or any other like charge.

6C. Consultation

Before performing any function or exercising any power under this Ordinance, the Authority may consult with—

- (a) the persons who may be directly affected by the performance of that function or the exercise of that power, as the case may be; or
- (b) members of the public.

6D. Guidelines

(1) Subject to subsection (4), the Authority may, for the purpose of providing practical guidance in respect of any provisions of this Ordinance, issue such guidelines as in his opinion are suitable for that purpose.

(2) Without prejudice to the generality of subsection (1), the Authority shall, as soon as is practicable, issue guidelines—

- (a) indicating the manner in which he proposes to perform his function of determining applications for licences which may be issued by him, including the licensing criteria and other relevant matters he proposes to consider;
- (b) subject to subsection (3), on the application of the principle referred to in section 14(6)(a) in any arbitration proceedings.

(3) Without prejudice to the generality of section 6C, the Authority shall, before issuing guidelines under subsection (2)(b), carry out such consultation—

- (a) with the persons who may be affected by the operation of section 14(1A); and
- (b) on the factors to be taken into account for the purposes of subsection (2)(b),

as is reasonable in all the circumstances of the case.

(4) Without prejudice to the generality of section 6C, the Authority shall, before issuing any guidelines—

- (a) for the purposes of the test of dominance prescribed in section 7L(2), carry out such consultation with the licensees in the relevant telecommunications market as is reasonable in all the circumstances of the case;
- (b) setting out principles governing the criteria for any determination under section 36A(1) and the matters to be considered for the purposes of section 36A(3) and (3B) in the application of section 36A(3) and (3B) to any such determination, carry out such consultation with the telecommunications industry as is reasonable in all the circumstances of the case;
- (c) setting out principles governing the criteria for making a determination under section 36AA(6), carry out such consultation with—
 - (i) the telecommunications industry; and
 - (ii) such other persons who may be directly affected by such a determination,as is reasonable in all the circumstances of the case.”.

4. Sections substituted

Section 7 is repealed and the following substituted—

“7. Issue of licences

- (1) Subject to Part IIIA, the Chief Executive in Council may, for an exclusive licence under this Ordinance—
 - (a) determine the conditions of the licence including (but not limited to)—
 - (i) the period of validity;
 - (ii) the payment of fees and royalty;
 - (iii) the frequency of any payments;
 - (b) grant the licence; and
 - (c) publish notice of the grant of the licence as he sees fit.
- (2) The Secretary may by regulations prescribe—
 - (a) the general conditions, including the period of validity, for a carrier licence other than an exclusive licence; and
 - (b) the fees payable including for the grant and renewal of a carrier licence other than an exclusive licence and by way of annual fees.
- (3) Before making a regulation under subsection (2), the Secretary shall—
 - (a) by notice in the Gazette invite members of the public who are interested to make representations by a date not less than 21 days after the notice is published and as specified in the notice; and
 - (b) consider the representations received by the date.
- (4) The Secretary may by order published in the Gazette amend the Schedule.
- (5) The Authority may issue a licence other than an exclusive licence.
- (6) For licences other than exclusive licences and carrier licences, the Authority may determine—
 - (a) the form of licences;
 - (b) the conditions of licences;
 - (c) the period for which a licence is valid;
 - (d) the types of licences, including class licences, to be issued;
 - (e) the fees payable including for the grant and renewal of licences and by way of annual fees.
- (7) Without limiting the general nature of the conditions that may be prescribed for or attached to a licence, the conditions may relate to—
 - (a) the manner of service provision;
 - (b) interconnection;
 - (c) interference;
 - (d) adherence to technical standards;
 - (e) compliance with directions, guidelines, codes of practice, regulations, this Ordinance and international obligations;

- (*f*) universal service obligations;
- (*g*) accounting practices;
- (*h*) the provision of information;
- (*i*) tariffs;
- (*j*) network coordination;
- (*k*) protecting customer information;
- (*l*) prohibiting unfair market practice;
- (*m*) the regulation of a dominant licensee;
- (*n*) the provision of performance bonds.

(8) The Authority shall publish in the Gazette the form of a licence he issues together with the general conditions to be imposed under the licence.

(9) The Authority shall maintain a register of licences and general conditions he publishes in the Gazette.

(10) The Authority may authorize the provision of ancillary and associated services under a licence and, where such services are so authorized, the licence shall be deemed to be granted in respect of those services.

(11) Where the Authority refuses to issue a licence to a person, he shall provide to the person his reasons in writing for the refusal.

7A. Special licence conditions

The Authority may attach special conditions, consistent with this Ordinance and not inconsistent with the prescribed general conditions, to a licence he is empowered to issue, including special conditions on a carrier licence in addition to the prescribed general conditions and which special conditions are to be interpreted subject to the prescribed general conditions.

7B. Class licences

(1) A class licence gives a person the right to carry on the activities specified in the class licence that are prohibited under section 8(1) except under a licence subject to the conditions of the class licence.

(2) The Authority may create a class licence for telecommunications networks, systems, installations or services.

(3) Before creating a class licence, the Authority shall—

- (*a*) by notice in the Gazette invite members of the public who are interested to make representations by a date not less than 21 days after the notice is published and as specified in the notice; and
- (*b*) consider the representations received by the date.

(4) The Authority shall not create a class licence—

- (*a*) for a telecommunications network, system, installation or service that is subject to an exclusive licence; or

(b) for a telecommunications network, system, installation or service subject to the requirement for a carrier licence.

(5) The Authority shall ensure that a class licence is consistent with any general policy directions issued by the Secretary and any regulations made under this Ordinance.

(6) The Authority shall publish a class licence in the Gazette specifying—

(a) the telecommunications networks, systems, installations or services that eligible persons may supply or use;

(b) the conditions of the class licence; and

(c) the qualification that a person is required to possess before he is eligible to be licensed under the class licence.

(7) Without limiting the general nature of the conditions that may be prescribed for or attached to a licence, the Authority may include in the conditions for a class licence—

(a) the scope of the telecommunications network, system, installation or service;

(b) technical and operational standards for the supply of the telecommunications network, system, installation or service;

(c) the manner in which the person is to supply the telecommunications network, system, installation or service;

(d) the location in which the person is to supply the telecommunications network, system, installation or service;

(e) the rights of consumers in the supply of the telecommunications network, system, installation or service;

(f) interconnection requirements for the telecommunications network, system, installation or service;

(g) a requirement for the person to supply information including technical, financial and accounting information for the telecommunications network, system, installation or service;

(h) a requirement for the person to publish tariffs for the service or the different classes of service provided under the class licence;

(i) requirements to ensure fairness and quality of the services supplied;

(j) requirements to ensure the person complies with fair market conduct;

(k) a requirement for the person to register with the Authority before the supply of the telecommunications network, system, installation or service can commence;

(l) a requirement to adhere to the numbering plan;

- (m) a prohibition on the illegal use of the telecommunications network, system, installation or service;
- (n) any safety requirements; and
- (o) any other provision that the Authority considers necessary for the control of activities under a class licence.

7C. Variation of class licence

(1) The Authority may vary the conditions of a class licence by notice in the Gazette.

(2) The Authority may in varying a class licence—

- (a) specify further telecommunications networks, systems, installations or services that a person may supply under the licence;
- (b) vary or revoke the type of telecommunications network, system, installation or service that a person may supply under the licence;
- (c) add conditions to the licence; and
- (d) vary or revoke conditions in the licence.

(3) The Authority shall not vary a class licence so that it is inconsistent with—

- (a) a general policy direction of the Secretary;
- (b) the regulations made under this Ordinance; or
- (c) the rights of an exclusive licensee or a carrier licensee.

(4) Before varying a class licence, the Authority shall by notice in the Gazette—

- (a) state that he proposes to vary the class licence specified in the notice;
- (b) state the subject matter of the variations to the class licence;
- (c) set out where a member of the public may purchase a copy of the class licence and the proposed variations;
- (d) invite members of the public who are interested to make representations by a date set out in the notice; and
- (e) give an address to which a member of the public may send representations about the proposed variation.

(5) A person may make representations to the Authority on the proposed variation to the class licence not later than the date set out in the notice in the Gazette.

(6) Before varying a class licence, the Authority shall consider all representations made by any person.

(7) The Authority may vary a class licence if the requirements of this section are substantially complied with.

7D. Register of class licences

(1) The Authority shall keep a register of the types of class licences he has created.

(2) For those class licences that specify that the licensee shall be registered with the Authority, the Authority shall keep a register of the registered licensees.

(3) The Authority shall keep the registers available for public inspection during the normal business hours of the Authority.

7E. Permits

(1) The Authority may issue a permit to a person to carry out an activity prohibited under section 8 for a period not exceeding 6 months—

- (a) for the purpose of a field test;
- (b) for the purpose of a demonstration;
- (c) in connection with an event; or
- (d) for a purpose that the Authority determines.

(2) The Authority may issue a permit subject to conditions necessary or desirable for the regulation of telecommunications under this Ordinance.

7F. Tariffs

(1) A licensee shall publish its tariffs in accordance with the requirements of its licence or directions issued in writing by the Authority.

(2) A licensee shall include in the published tariffs the terms on which the telecommunications service is provided including—

- (a) a description of the service;
- (b) discounts, allowances, rebates or credits given or allowed on the supply of the service;
- (c) the supply of goods or other services related to the service;
- (d) the payment for goods or other services related to the service; and
- (e) any other relevant information that the Authority considers necessary as a part of the terms and conditions.

(3) A carrier licensee shall not, without the Authority's prior written consent, combine a number of telecommunications services into a single tariff without offering to its customers the services separately at individual tariffs.

(4) The Authority may require a carrier licensee to provide a telecommunications service, which the licensee includes in a tariff for a combination of a number of telecommunications services, separately at a specified single tariff.

7G. Price control

The Secretary may by regulations provide—

- (a) for a fixed carrier licensee who is in a dominant position in a telecommunications market to be subject to the price control measures that the Secretary determines on the advice of the Authority; and
- (b) for a carrier licensee who is in a dominant position in a telecommunications market specified by the Authority for the purposes of tariff control not to charge more or less than its published tariffs.

7H. Accounting practices

A licensee shall adopt the accounting practices, consistent with accounting principles generally accepted, that the Authority specifies.

7I. Information

(1) A person who provides or offers a public telecommunications service shall supply the Authority in the manner and at the times the Authority requests the information relating to its business that the Authority may reasonably require to perform his functions, or exercise his powers, in order to ensure the person's compliance with the provisions of this Ordinance, licence conditions, and the determinations and directions of the Authority, applicable to the person.

(2) A person shall not refuse to supply information reasonably requested under subsection (1) on the basis that the information is the subject of a confidentiality agreement that prevents the person from releasing the information.

(3) The Authority may disclose information supplied to him under this section subject to the requirement in subsection (4) and if the Authority considers that it is in the public interest to disclose that information.

(4) The Authority shall give the person supplying the information a reasonable opportunity to make representations on a proposed disclosure of information obtained under this section before the Authority makes a final decision to disclose the information if the Authority considers that the disclosure—

- (a) would result in the release of information concerning the business, commercial or financial affairs of the person supplying the information; and
- (b) could reasonably be expected to affect adversely the person's lawful business, commercial or financial affairs.

(5) For the avoidance of doubt, it is hereby declared that where a person supplies information reasonably requested under subsection (1) notwithstanding that the information is the subject of a confidentiality agreement with another person that prevents the first-mentioned person from releasing the information, the first-mentioned person shall not be liable for any civil liability or claim whatever in respect of the supply of that information contrary to that agreement.

(6) Nothing in this section shall require a person to supply information which the person could not be compelled to give in evidence, or produce, in civil proceedings before the Court of First Instance.

7J. Inspection, etc., of facilities

(1) The Authority may, on giving reasonable prior written notice to a licensee, enter and inspect the offices, premises and places in Hong Kong where the licensee has installed a facility (including equipment associated with the facility), or used for providing services, to verify that the licensee is complying with the licence conditions.

(2) A licensee shall provide and maintain, up to the reasonable technical standards set by the Authority, facilities to enable the Authority to inspect, test, read or measure, as the case may require, any telecommunications installations, equipment (including but not limited to testing instruments), premises or places used or to be used for the installation of a telecommunications facility or the provision of a telecommunications service.

(3) A licensee may, at its option, and shall, on the prior written request of the Authority, and subject to the Authority giving reasonable prior written notice, provide a representative to be present at any inspection, testing, reading or measurement by the Authority.

(4) The Authority may, on giving reasonable prior written notice to a licensee, direct the licensee to demonstrate that a telecommunications installation complies with the technical requirements imposed under this Ordinance and regulations made under this Ordinance or any other directions that the Authority issues under this Ordinance or regulations made thereunder.

(5) A licensee shall provide adequate testing instruments and operating staff for the purposes of this section and otherwise comply with the directions of the Authority under this section.

(6) The Authority shall not exercise his power under subsection (1) in respect of any office, premises or place in such a way as to disrupt any operations being carried on therein—

- (a) by a licensee or any other person; and
- (b) any more than is necessary for the proper exercise of that power in all the circumstances of the case.

7K. Anti-competitive practices

(1) A licensee shall not engage in conduct which, in the opinion of the Authority, has the purpose or effect of preventing or substantially restricting competition in a telecommunications market.

(2) The Authority in considering whether conduct has the purpose or effect prescribed under subsection (1) is to have regard to relevant matters including, but not limited to—

- (a) agreements to fix the price in a telecommunications market;
- (b) an action preventing or restricting the supply of goods or services to competitors;
- (c) agreements between licensees to share any telecommunications market between them on agreed geographic or customer lines;
- (d) the conditions of relevant licences.

(3) Without limiting the general nature of subsection (1), a licensee engages in conduct prescribed under that subsection if he—

- (a) enters into an agreement, arrangement or understanding that has the purpose or effect prescribed by that subsection;
- (b) without the prior written authorization of the Authority, makes the provision of or connection to a telecommunications network, system, installation, customer equipment or service conditional upon the person acquiring it also acquiring or not acquiring a specified telecommunications network, system, installation, customer equipment or service, either from the licensee or from another person;
- (c) gives an undue preference to, or receives an unfair advantage from, an associated person if, in the opinion of the Authority, a competitor could be placed at a significant disadvantage, or competition would be prevented or substantially restricted.

7L. Abuse of position

(1) A licensee in a dominant position in a telecommunications market shall not abuse its position.

(2) A licensee is in a dominant position when, in the opinion of the Authority, it is able to act without significant competitive restraint from its competitors and customers.

(3) In considering whether a licensee is dominant, the Authority shall take into account relevant matters including, but not limited to—

- (a) the market share of the licensee;

- (b) the licensee's power to make pricing and other decisions;
- (c) any barriers to entry to competitors into the relevant telecommunications market;
- (d) the degree of product differentiation and sales promotion;
- (e) such other relevant matters as may be stipulated in guidelines referred to in section 6D(4)(a).

(4) A licensee who is in a dominant position is deemed to have abused its position if, in the opinion of the Authority, the licensee has engaged in conduct which has the purpose or effect of preventing or substantially restricting competition in a telecommunications market.

(5) The Authority may consider conduct to fall within the conduct referred to in subsection (4) as including, but not limited to—

- (a) predatory pricing;
- (b) price discrimination, except to the extent that the discrimination only makes reasonable allowance for differences in the costs or likely costs of supplying telecommunications networks, systems, installations, customer equipment or services;
- (c) making conclusion of contracts subject to acceptance by other parties of terms or conditions which are harsh or unrelated to the subject of the contract;
- (d) arrangements (other than arrangements the subject of an authorization referred to in section 7K(3)(b)) requiring a person seeking the provision of or connection to a telecommunications network, system, installation, customer equipment or service conditional upon the person acquiring it also acquiring or not acquiring a specified telecommunications network, system, installation, customer equipment or service either from the licensee providing the service or from another person;
- (e) discrimination in supply of services to competitors.

7M. Misleading or deceptive conduct

A licensee shall not engage in conduct which, in the opinion of the Authority, is misleading or deceptive in providing or acquiring telecommunications networks, systems, installations, customer equipment or services including (but not limited to) promoting, marketing or advertising the network, system, installation, customer equipment or service.

7N. Non-discrimination

(1) Subject to subsection (4) and without prejudice to the operation of section 7K, a licensee who is in a dominant position in a telecommunications market shall not discriminate between persons who acquire the services in the market on charges or the conditions of supply.

(2) Subject to subsection (4), an exclusive licensee or a carrier licensee shall not discriminate between a person who lawfully acquires and uses telecommunications networks, systems, installations, customer equipment or services to provide services to the public and any other person who is not providing a service to the public.

(3) Discrimination includes discrimination relating to—

(a) charges, except to the extent that the discrimination only makes reasonable allowance for difference in the cost or likely cost of supplying the service;

(b) performance characteristics; and

(c) other terms or conditions of supply.

(4) The prohibitions in subsections (1) and (2) apply only where in the opinion of the Authority such discrimination has the purpose or effect of preventing or substantially restricting competition in a telecommunications market.

7O. Transitional provisions applicable to the repealed section 7

Where, immediately before the commencement of section 4 of the Telecommunication (Amendment) Ordinance 2000 (36 of 2000), there was in existence a licence granted or deemed to be granted under section 7, then, on and after that commencement, the licence shall, for the unexpired period of validity it had left to run immediately before that commencement and subject to the same conditions to which it was subject immediately before that commencement, be deemed to be a licence granted under this Ordinance, and the other provisions of this Ordinance (including any power under this Ordinance to cancel, withdraw or suspend a licence granted under this Ordinance) shall apply accordingly.”.

5. Prohibition of establishment and maintenance of means of telecommunications, etc., except under licence

Section 8 is amended—

(a) in subsection (1)—

(i) by adding “or created” after “appropriate licence granted”;

- (ii) by adding “or licensed” after “registered”;
- (iii) by adding—
 - “(aa) offer in the course of business a telecommunications service; or”;
- (b) by adding—
 - “(1A) For the purpose of subsection (1)(aa), a person is to be regarded as offering a telecommunications service if—
 - (a) he makes an offer which, if accepted, would give rise to an agreement, arrangement or understanding for the provision of a telecommunications service by him or by another person with whom he has made an arrangement for the provision of the telecommunications service; or
 - (b) he invites a person to make an offer of the kind referred to in paragraph (a).”.

6. Application of section 9 to air transit or air transhipment cargo

Section 9A(1), (2), (3) and (6) is amended by repealing “radiocommunication” wherever it appears and substituting “radiocommunications”.

7. Control of use of radiocommunications apparatus on vessel in Hong Kong waters

Section 10 is amended—

- (a) in subsection (3), by repealing “Radiocommunication” and substituting “Radiocommunications”;
- (b) in subsection (6), by repealing “INMARSAT” where it twice appears and substituting “Inmarsat”;
- (c) in subsection (9)—
 - (i) in paragraphs (a), (b) and (e), by repealing “INMARSAT” and substituting “Inmarsat”;
 - (ii) in paragraph (b)—
 - (A) by repealing “Maritime” where it twice appears and substituting “Mobile”;
 - (B) by repealing “(國際海事)” and substituting “(國際移動)”.

8. Power to place and maintain telecommunications lines, etc., on land, etc.

Section 14 is amended—

(a) in subsection (1)—

(i) by adding “or seabed and may enter upon the land or seabed for the purpose of site inspection, or other activities for or incidental to placement and maintenance of a telecommunications line” after “any land”;

(ii) in paragraph (a), by adding “or seabed” after “land”;

(b) by adding—

“(1A) Notwithstanding any other law, but subject to subsections (1B) and (2), any licensee authorized by the Authority for any particular occasion may—

(a) place and maintain a radiocommunications installation in, over or upon any land for the purpose of providing a radiocommunications service to a public place;

(b) enter any such land for the purpose of—

(i) inspecting it; or

(ii) other activities which are for the purpose of or incidental to the maintenance and placement of the installation.

(1B) The Authority shall not grant an authorization referred to in subsection (1A)—

(a) unless he is satisfied that the authorization is in the public interest;

(b) except after taking into account—

(i) whether an alternative location can be reasonably utilized for placing the radiocommunications installation to which the authorization, if granted, will relate;

(ii) whether or not there are technical alternatives to the installation;

(iii) whether or not the utilization of the land to which the authorization, if granted, will relate is critical for the supply of the service by the licensee seeking the authorization;

(iv) whether or not that land has available capacity to be so utilized having regard to the current and reasonable future needs of the occupants of that land; and

- (v) the costs, time, penalties and inconvenience to the licensee and the public of the alternatives, if any, referred to in subparagraph (ii);
- (c) unless he has given a reasonable opportunity to the persons having a lawful interest in the land concerned and to the licensees concerned to make representations and has considered all representations made before he decides whether or not to grant the authorization; and
- (d) unless he—
 - (i) gives reasons in writing for the grant of the authorization; and
 - (ii) specifies in writing the technical requirements, if any, of the right of access arising from the authorization.

(1C) Paragraph (a) of subsection (1) shall apply to land referred to in subsection (1A) as it applies to land referred to in subsection (1).

(1D) Where subsection (1A) is applicable—

- (a) the Authority shall, upon application made to him by the licensee or the person having a lawful interest in the land concerned, specify in writing an interim fee (including the terms and conditions in accordance with which it shall be payable) to be paid by the licensee to the person; and
- (b) the licensee shall not exercise any rights conferred by the authorization referred to in that subsection on the licensee—
 - (i) until—
 - (A) the licensee and the person having a lawful interest in the land concerned come to an agreement referred to in subsection (5)(a);
 - (B) the determination of the fee referred to in subsection (5)(a) in the arbitration proceedings concerned for the purposes of subsection (5)(b);
 - (C) the payment of the interim fee concerned to the person or, if the interim fee is to be paid in instalments, upon the payment of the first instalment of the interim fee to the person; or

- (D) such time as is agreed between the licensee and the person; and
- (ii) except in compliance with any other conditions to which the authorization is subject.”;
- (c) by repealing subsection (2) and substituting—
 - “(2) In exercising the powers conferred by subsection (1) or (1A), as the case may be, the Authority or the licensee, as the case may be, shall—
 - (a) give reasonable notice to the owner of any land or seabed or to the person in control of any land or seabed of his or its intention to enter upon that land or seabed;
 - (b) do as little damage as possible,
 - and—
 - (i) full compensation shall be paid by the Authority, or the licensee, as the case may be, to any person having a lawful interest in the land or seabed, or being lawfully thereon, who suffers physical damage to any fixture or chattels found on the land or seabed as a result of the exercise of those powers;
 - (ii) where subsection (1A) is applicable, a fee (which may be a once only fee or a monthly or annual fee) shall be paid—
 - (A) which is fair and reasonable in all the circumstances of the case; and
 - (B) by the licensee to any person having a lawful interest in the land.”;
- (d) in subsection (3)—
 - (i) by adding “or (1A), as the case may be” after “subsection (1)”;
 - (ii) in paragraph (b), by adding “or upon the seabed” after “Government land”;
- (e) by adding—
 - “(4) The Authority, or a licensee authorized by the Authority under subsection (1) or (1A), as the case may be, may apply to a magistrate for an order that a person shall not prevent or obstruct the Authority or the licensee, as the case may be, from exercising the powers conferred by that subsection.

- (5) Where subsection (1A) is applicable—
- (a) the licensee and the person having a lawful interest in the land concerned shall endeavour to come to an agreement as to the fee to be paid under subsection (2)(ii) by the licensee to that person;
 - (b) in the absence of any such agreement within a reasonable time, then—
 - (i) the fee, and the terms and conditions in accordance with which it shall be payable, shall be determined by arbitration under the Arbitration Ordinance (Cap. 341); and
 - (ii) for the purpose of subparagraph (i), the licensee and the person having a lawful interest in the land concerned shall be regarded as having made an arbitration agreement within the meaning of that Ordinance the provisions of which agreement shall be deemed to include—
 - (A) a provision that the fee, and the terms and conditions in accordance with which it shall be paid, shall, in the absence of agreement, be determined by a single arbitrator; and
 - (B) a provision equivalent to subsection (7).
- (6) In any arbitration proceedings for the purposes of subsection (5)(b)—
- (a) regard shall be given to—
 - (i) the principle that the fee to be paid shall be fair and reasonable in all the circumstances of the case, including, but not limited to, factors relating to cost, property-value and the benefits to be derived from the authorization concerned referred to in subsection (1A);
 - (ii) the guidelines issued by the Authority under section 6D(2)(b) on the application of the principle referred to in subparagraph (i) in any such proceedings; and

- (iii) the reasons and technical requirements concerned, if any, referred to in subsection (1B)(d);
 - (b) regard shall not be given to the amount of any interim fee specified by virtue of the operation of subsection (1D).
- (7) Where in any arbitration proceedings for the purposes of subsection (5)(b)—
 - (a) there is a dispute on a matter other than the technical requirements concerned, if any, referred to in subsection (1B)(d); and
 - (b) the arbitrator is of the opinion that, without determining that matter—
 - (i) the licensee and the person concerned will not reach an agreement to give effect to the authorization concerned referred to in subsection (1A); or
 - (ii) the determination referred to in subsection (5)(b) cannot be made,then the arbitrator may determine that matter in any manner fair and reasonable in all the circumstances of the case and not inconsistent with the authorization concerned referred to in subsection (1A).
- (8) In a determination referred to in subsection (5)(b), the arbitrator shall—
 - (a) in specifying the fee to which the determination relates, include provisions for set-off in view of any interim fee paid by virtue of the operation of subsection (1D); and
 - (b) specify that the fee to which it relates is payable for the period commencing on the first exercise of a right—
 - (i) conferred by the authorization concerned referred to in subsection (1A); and
 - (ii) by the licensee concerned in relation to the land concerned.
- (9) (a) The Authority may issue a certificate certifying that a licensee has the right of access under subsection (1) or (1A) to the land or seabed specified in the certificate to place and maintain telecommunications lines, or a radiocommunications installation, as the case may be, in, over or upon the land or seabed.

(b) Where a person having an interest in the land or seabed specified in a certificate referred to in paragraph (a) does not allow the licensee concerned to gain access to the land or seabed for the purpose of placing and maintaining telecommunications lines, or a radiocommunications installation, as the case may be, in, over or upon the land or seabed, the licensee may apply to the court for an injunction.

(10) In subsections (1) and (1A), “land” (土地) does not include land for the exclusive occupation or use of any person whilst the land is being so occupied or used.

(11) For the avoidance of doubt, it is hereby declared that—

- (a) where there is an inconsistency between any provision of a technical requirement referred to in subsection (1B)(d) and any provision, relating to public safety, of any other Ordinance, then the second-mentioned provision shall prevail over the first-mentioned provision to the extent of the inconsistency;
- (b) compensation is not payable under subsection (2) in relation to any physical damage referred to in that subsection for which full compensation has been paid or is payable under any other provision of this Ordinance or under any other law.”.

9. Removal, etc., of line, post or installation where necessary by reason of use of land, etc.

Section 16(1) is repealed and the following substituted—

“(1) Where any person desires to use land or seabed in a way that makes it necessary to remove to another part of the land or seabed a telecommunications line, post or radiocommunications installation maintained by the Authority or a licensee in, over or upon the land or seabed under section 14 or to alter such telecommunications line, post or radiocommunications installation in any way, he may by written notice served upon the Authority or licensee, as the case may be, require the removal or alteration of the telecommunications line, post or radiocommunications installation and such requirement shall not be unreasonably refused by the Authority or licensee, as the case may be.”.

10. Trees interrupting telecommunications

Section 17(1) is amended by adding “or radiocommunications installation” after “line” where it twice appears.

11. Work affecting telecommunications lines, etc.

Section 18 is amended—

- (a) by adding “or seabed” after “land” wherever it appears;
- (b) in subsections (1) and (2), by adding “or radiocommunications installation” after “line” wherever it appears.

12. Section substituted

Section 19 is repealed and the following substituted—

“19. Power to enter on land, etc., to inspect, repair, etc., telecommunications lines, etc.

The Authority and a licensee may at such times as may be necessary enter upon any land or seabed in, over or upon which he maintains a telecommunications line, post or radiocommunications installation for the purpose of inspecting, repairing, removing or altering the telecommunications line, post or radiocommunications installation.”.

13. Interpretation

Section 19A is amended—

- (a) by renumbering it as section 19A(1);
- (b) by adding—

“(2) In this Part “seabed” (海床) includes an estuary or arm of the sea or the shore or bed of any tidal waters within the boundaries of Hong Kong.”.

14. Section added

The following is added in Part IV—

“19B. Right of access to public telecommunications services

(1) A term in a lease agreement, deed of mutual covenant or commercial contract that, in all the circumstances of the case, unreasonably restricts the right of a resident or occupier, or deprives a resident or occupier of the right, to have access to the public telecommunications services of his choice is void on and after the day on which this section comes into operation to the extent only that it imposes such restriction.

(2) Subsection (1) shall apply to any agreement, deed or contract entered into before, on or after the day on which this section comes into operation.”.

15. Part heading amended

The heading to Part V is amended by adding “, ENFORCEMENT” after “OFFENCES”.

16. Sections added

The following are added—

“32A. Use of unauthorized frequencies

A licensee who possesses or uses a radio transmitter operating on a frequency, or installed at a location, not authorized under its licence commits an offence and shall be liable on conviction to a fine at level 5 and to imprisonment for 2 years.

32B. Unauthorized dealing in radio transmitters

A licensee authorized to deal in radio transmitters in the course of trade or business—

- (a) who sells or offers to sell or delivers a radio transmitter to a person who is not licensed, or issued with a permit, or exempt from licensing, to possess or use that transmitter;
- (b) who sells or offers to sell or delivers a radio transmitter the sale or delivery of which is prohibited under a condition of the licence; or
- (c) where the licence conditions provide that the sale or delivery of a particular class of radio transmitters shall be recorded in a transaction register in accordance with the licence conditions, who fails to make the record upon sale or delivery,

commits an offence and shall be liable on conviction to a fine at level 5 and to imprisonment for 2 years.

**32C. Unauthorized modification of
radio transmitters**

A person who knowingly, and without lawful excuse, modifies, or causes to be modified, a radio transmitter that is licensed or authorized under a permit under this Ordinance so that the possession or use of the modified radio transmitter contravenes the licence or permit commits an offence and shall be liable on conviction to a fine at level 5 and to imprisonment for 2 years.”.

17. Parts added

The following are added—

“PART VA

TECHNICAL REGULATION

32D. Standards

- (1) The Authority may prescribe standards and specifications of—
 - (a) telecommunications networks, systems, installations, customer equipment and services;
 - (b) other non-telecommunications equipment generating, deliberately or incidentally, radio frequency energy that may cause interference to telecommunications networks, systems, installations, customer equipment and services; and
 - (c) other non-telecommunications equipment that may suffer interference from telecommunications networks, systems, installations, customer equipment and services,in pursuit of the following objectives—
 - (i) to prevent or reduce radio interference or the risk of interference to telecommunications networks, systems, installations, customer equipment and services;
 - (ii) to facilitate correct, efficient or reliable operation of telecommunications;
 - (iii) to ensure safety and health of users and personnel affected by electrical voltages or non-ionising electromagnetic radiation from telecommunications apparatus;
 - (iv) to ensure that equipment complies with international or recognized industrial standards;

- (v) to ensure the compatibility of the interfacing equipment between 2 or more interconnecting telecommunications networks, systems, installations, customer equipment or services;
 - (vi) to ensure the interoperability of customer equipment with the telecommunications system to which it is connected;
 - (vii) to ensure an acceptable quality of reception of telecommunications services;
 - (viii) as a means to achieve the objectives of this Ordinance.
- (2) Without prejudice to the generality of section 6C, before prescribing the standards and specifications under subsection (1), the Authority shall carry out such consultation with the telecommunications industry as is reasonable in all the circumstances of the case.

32E. Certification requirements

The Authority may—

- (a) test or require the testing of equipment or installations against prescribed specifications;
- (b) determine the measuring apparatus to be used, the method by which and the conditions under which tests are to be made;
- (c) issue certificates to certify that the equipment or installation complies with prescribed specifications if the Authority is satisfied that the equipment or installation complies with the specifications;
- (d) prescribe the labels to be affixed to the equipment or installation to show that the equipment or installation complies with the prescribed specifications and to impose requirements for securing information to be marked on, to be given in advertisements or to accompany specified telecommunications equipment or a specified installation;
- (e) by order prescribe that equipment or an installation shall not be offered for sale unless the equipment or installation complies with the prescribed specifications or bears the prescribed label;
- (f) recover the actual costs incurred plus overhead from persons submitting equipment or installations for testing against the prescribed specifications;
- (g) accredit other organizations or institutions for the purpose of carrying out the responsibilities set out in paragraphs (a) and (c).

32F. Power of Authority in relation to numbering plan

(1) All powers and privileges relating to or connected with the numbering plan, including its ownership and control, are vested in the Authority.

(2) The Authority shall promote the efficient and equitable allocation and use of numbers and codes in the numbering plan.

(3) The Authority may—

- (a) prepare, specify, approve, publish, administer (including, in particular, allocate, assign, lease or sell the right to use a number or a code, a block or blocks of numbers or a block or blocks of codes), enforce and amend the numbering plan;
- (b) issue codes of practice relating to the use of numbers and codes in the numbering plan, and any code so issued may include provisions relating to number portability;
- (c) designate, or approve on request by any person, a number or a code, a block or blocks of numbers or a block or blocks of codes in the numbering plan to be the subject of special allocation, assignment, lease or sale as provided for under regulations made by the Secretary under subsection (5);
- (d) recover the cost of administration of the numbering plan from the allocation, assignment, lease or sale of right to use numbers and codes in the numbering plan;
- (e) delegate the administration of the numbering plan or a part of the numbering plan to any person.

(4) The Authority may issue directions in writing to require a licensee or a person who is exempted from licensing under section 39 to—

- (a) submit information on the utilization of numbers and codes to which it has been allocated or assigned;
- (b) adhere to the numbering plan; and
- (c) observe the codes of practice issued by the Authority under subsection (3)(b).

(5) The Secretary may by regulation—

- (a) provide for—
 - (i) the allocation, assignment, lease or sale, whether by auction, tender or for consideration, or otherwise of;
 - (ii) the amount of fees to be levied for, the right to use a number, a code, a block or blocks of numbers or a block or blocks of codes designated, or approved on request by any person, by the Authority under subsection (3)(c);

- (b) require any proceeds arising out of any allocation, assignment, lease or sale referred to in paragraph (a), less the administrative costs of carrying out the allocation, assignment, lease or sale, to be—
 - (i) either—
 - (A) paid to a charitable institution or an institution carrying out education, or research and development, activities connected with telecommunications; or
 - (B) applied towards promoting education, or research and development, connected with telecommunications; or
 - (ii) paid into a fund established by the Authority for the purpose of holding such proceeds prior to the payment or application of the funds referred to in subparagraph (i);
 - (c) impose requirements on the Authority in relation to the establishment and management of any such fund.
- (6) The amount of any fees prescribed under subsection (5) need not be limited by reference to the amount of administrative or other costs incurred or likely to be incurred in relation to the allocation, assignment, lease or sale of a number or code.

PART VB

MANAGEMENT OF RADIO SPECTRUM AND PREVENTION OF INTERFERENCE

32G. Spectrum management

(1) The Authority shall promote the efficient allocation and use of the radio spectrum as a public resource of Hong Kong.

(2) Without prejudice to the generality of section 6C, before exercising his powers under sections 32H(2)(a) and (b) and 32I(1), the Authority shall carry out such consultation with—

(a) the telecommunications industry; and

(b) such other persons who may be directly affected by the exercise of such powers,

as is reasonable in all the circumstances of the case.

32H. Power to allocate frequency

(1) The Authority may assign—
(a) frequencies and bands of frequencies in all parts of the radio spectrum used in Hong Kong or on board a ship, aircraft or space object that is registered or licensed in Hong Kong; and
(b) satellite orbital positions and parameters for satellites registered or licensed in Hong Kong,
and shall keep a central register of the frequencies, bands of frequencies and satellite orbital positions and parameters assigned.

(2) The Authority may—

- (a) subject to the consultation requirement under section 32G(2), divide any part of the radio spectrum into the number of bands of frequencies he thinks appropriate and specify the general purpose for which each band may be used;
- (b) subject to the consultation requirement under section 32G(2), divide a frequency band into the channels he considers appropriate and specify the general purpose for which each channel may be used;
- (c) assign the frequencies or bands of frequencies to users of radiocommunications apparatus and specify the purpose for which and the conditions under which the frequencies or bands of frequencies are to be used.

(3) Subject to subsection (4), the Authority may vary or withdraw frequencies, bands of frequencies or satellite orbital positions or parameters assigned, or vary the purposes for which and the conditions under which the frequencies, bands of frequencies or satellite orbital positions or parameters are to be used.

(4) The Authority may only exercise its authority under subsection (3) if the Authority has given reasonable notice of the intended variation or withdrawal to the licensee which has been assigned the relevant frequency, band of frequency or satellite orbital position or parameter.

(5) A person shall not, in Hong Kong or on board any ship, aircraft or space object that is registered or licensed in Hong Kong, use a frequency in any part of the radio spectrum unless the frequency is assigned, or located within a band of frequencies assigned, by the Authority or the use is for the purpose and in compliance with the conditions specified by the Authority.

32I. Spectrum utilization fee

(1) Subject to the consultation requirement under section 32G(2), the Authority may by order designate the frequency bands in which the use of spectrum is subject to the payment of spectrum utilization fee by the users of the spectrum.

(2) The Secretary may by regulation prescribe the level, or the method for determining the level, of spectrum utilization fees.

(3) A spectrum utilization fee may be calculated on the basis of a royalty or any other basis that includes an element in excess of the simple recovery of the cost of providing a service by the Authority.

32J. Interference

(1) A person shall not knowingly, and without lawful excuse, use an apparatus, whether or not it is an apparatus for telecommunications, in a manner that causes direct or indirect harmful interference with any telecommunications service lawfully carried on, or other apparatus for telecommunications lawfully operated, in or outside Hong Kong.

(2) The Authority may, by notice in writing, direct a person possessing an apparatus, whether or not it is an apparatus for telecommunications, to take such measures as the Authority specifies and within the time directed to prevent the interference specified in the notice.

(3) A person who contravenes subsection (1) or fails to comply with the direction in subsection (2) commits an offence and shall be liable on summary conviction to a fine at level 5 and to imprisonment for 6 months.

(4) The Authority may, by order, specify the limits of conducted or radiated interference from any apparatus which is not subject to the licensing requirement under section 8, to prevent harmful interference with telecommunications networks, systems, installations or services.

(5) The powers of the Authority under Part VA extend to the apparatus mentioned in subsection (4).

(6) The Authority may require an apparatus mentioned in subsection (4) to be submitted to the Authority for testing to verify whether the apparatus complies with the limits specified by the Authority under that subsection.

(7) A magistrate may, if he is satisfied by information on oath that—

- (a) access to premises, vessel, aircraft or vehicle has been requested; or
- (b) permission to examine or test any apparatus has been requested,

and in either case has been unreasonably refused, issue a warrant empowering the Authority, or an authorized officer, to enter and search the premises, vehicle, aircraft or vessel specified in the warrant and to examine, test and confiscate any apparatus found on or in the premises, vehicle, aircraft or vessel.

**32K. Examination, certification and authorization
of operating personnel**

(1) The Authority may conduct an examination of the competence of a person in the operation of a particular class of apparatus for radiocommunications.

(2) The Authority may issue a certificate of competency to a person whom he considers suitably qualified to certify that the person is competent in the operation of a particular class of apparatus for radiocommunications and may revoke the certificate issued if he considers that the person holding the certificate is no longer competent in the operation.

(3) A condition of a licence under this Ordinance may require that a particular radiocommunications station or a class of radiocommunications stations must be operated only by persons with the appropriate authority to operate issued by the Authority.

(4) The Authority may issue an authority to operate to a person whom he considers fit to authorize that person to hold the position in a particular radiocommunications station or a class of radiocommunications stations.

(5) The Authority may suspend or revoke such an authority to operate issued if he considers the person holding the authority to operate is no longer fit to hold the position in the radiocommunications station or class of radiocommunications stations concerned.

(6) The Authority may by order provide for the examination of persons in connection with the operation of apparatus for radiocommunications, the issue and revocation of certificates of competency in the operation of apparatus for radiocommunications and the issue, suspension and revocation of authority to operate to hold positions in radiocommunications stations and the fees payable in respect of such examination, certification and authorization.

PART VC

APPEALS RELATING TO SECTIONS 7K, 7L, 7M AND 7N

32L. Interpretation

In this Part—

“appeal” (上訴) means an appeal under section 32N(1);

“Appeal Board” (上訴委員會) means the Telecommunications (Competition Provisions) Appeal Board established under section 32M(1);

“appeal subject matter” (標的事項), in relation to an appeal, means the opinion, determination, direction, decision, sanction or remedy referred to in section 32N(1)—

(a) to the extent to which it relates to section 7K, 7L, 7M or 7N or any licence condition relating to any such section; and

(b) which is the subject of the appeal;

“Chairman” (主席) means the Chairman of the Appeal Board appointed under section 32M(2);

“Deputy Chairman” (副主席) means a Deputy Chairman of the Appeal Board appointed under section 32M(2);

“panel member” (備選委員) means a member of the panel of persons appointed under section 32M(5).

**32M. Establishment and membership
of Appeal Board**

(1) There is hereby established an appeal board called in English the “Telecommunications (Competition Provisions) Appeal Board” and in Chinese the “電訊(競爭條文)上訴委員會”.

(2) Subject to subsections (3) and (4), the Chief Executive shall appoint a person to be the Chairman of the Appeal Board and such other persons as he thinks fit to be Deputy Chairmen of the Appeal Board.

(3) A person shall not be appointed under subsection (2) unless the person is eligible to be appointed a judge of the High Court under section 9 of the High Court Ordinance (Cap. 4).

(4) Subject to subsections (7) and (8), the Chairman and a Deputy Chairman shall each be appointed for a term of not more than 2 years but may be reappointed.

(5) The Chief Executive shall appoint a panel of persons not being public officers whom he considers suitable for appointment under section 32O(1)(a)(ii) as members of the Appeal Board.

(6) An appointment under subsection (2) or (5) shall be notified in the Gazette.

(7) The Chairman, a Deputy Chairman or a panel member may at any time resign by notice in writing to the Chief Executive.

(8) The Chief Executive may revoke the appointment of the Chairman, a Deputy Chairman or a panel member on the ground of incapacity, bankruptcy, neglect of duty or misconduct proved to the satisfaction of the Chief Executive.

(9) The remuneration, if any, of the Chairman, a Deputy Chairman and a panel member shall be paid at a rate that the Financial Secretary determines.

32N. Appeals to Appeal Board

(1) Any person aggrieved by—

(a) an opinion, determination, direction or decision of the Authority relating to—

(i) section 7K, 7L, 7M or 7N; or

(ii) any licence condition relating to any such section; or

(b) any sanction or remedy imposed or to be imposed under this Ordinance by the Authority in consequence of a breach of any such section or any such licence condition,

may appeal to the Appeal Board against the opinion, determination, direction, decision, sanction or remedy, as the case may be, to the extent to which it relates to any such section or any such licence condition, as the case may be.

(2) Subject to subsection (3), an appeal shall not suspend the operation of the appeal subject matter.

(3) Where an appeal is made and the appeal subject matter falls within section 36C, then the appeal subject matter shall be suspended in its operation from the day on which the appeal is made until the appeal is determined, withdrawn or abandoned.

(4) A person who wishes to make an appeal shall, not later than 14 days after he knows, or ought reasonably to have known, of the proposed appeal subject matter, lodge a notice of appeal with the Appeal Board.

32O. Procedure and powers of Appeal Board, etc.

(1) In the hearing of an appeal—

(a) the Appeal Board shall consist of—

(i) the Chairman or a Deputy Chairman who shall preside at the hearing; and

(ii) 2 panel members appointed by the Chairman or Deputy Chairman;

- (b) every question before the Appeal Board shall be determined by the opinion of the majority of the members hearing the appeal except a question of law which shall be determined by the Chairman or Deputy Chairman and in the case of an equality of votes the Chairman or Deputy Chairman shall have a casting vote;
- (c) any party shall be entitled to be heard either in person or through a counsel or solicitor, and if any party is a company, through any of its directors or other officers, or if a partnership, through any of its partners;
- (d) subject to section 32P, the Appeal Board may—
 - (i) subject to subsection (2), receive and consider any material, whether by way of oral evidence, written statements, documents or otherwise, and whether or not it would be admissible in a court of law;
 - (ii) by notice in writing signed by the Chairman or Deputy Chairman, summon any person—
 - (A) to produce to it any document that is relevant to the appeal and is in his custody or under his control;
 - (B) to appear before it and to give evidence relevant to the appeal;
 - (iii) administer oaths and affirmations;
 - (iv) require evidence to be given on oath or affirmation;
 - (v) make an award of such sum, if any, in respect of the costs involved in the appeal as is just and equitable in all the circumstances of the case;
 - (vi) where the Appeal Board is satisfied that it is just and equitable in all the circumstances of the case to do so, require a party to the appeal to pay the costs of the Appeal Board in hearing the appeal;
 - (vii) make an order prohibiting a person from publishing or otherwise disclosing any material the Appeal Board receives;
 - (viii) make an order prohibiting the publication or other disclosure of any material the Appeal Board receives at a sitting, or part of a sitting, which is held in private;
- (e) if the term of appointment of—
 - (i) the Chairman or Deputy Chairman; or
 - (ii) any panel member appointed under paragraph (a)(ii), expires during the hearing, the Chairman, Deputy Chairman or panel member, as the case may be, may continue to hear the appeal until the appeal is determined.

(2) Subsection (1)(d)(i) shall not entitle a person to require the Appeal Board to receive and consider any material which had not been submitted to or made available to the Authority at any time before the opinion, determination, direction, decision, sanction or remedy referred to in section 32N(1) was formed, made, imposed or to be imposed, as the case may be.

(3) Costs referred to in subsection (1)(d)(vi) are recoverable as a civil debt.

(4) After hearing an appeal, the Appeal Board shall determine the appeal by upholding, varying or quashing the appeal subject matter and may make such consequential orders as may be necessary.

(5) Every decision of the Appeal Board under subsection (4) shall be in writing and contain a statement of the reasons for its decision.

(6) Every sitting of the Appeal Board shall be held in public unless the Appeal Board considers that in the interests of justice a sitting or part of a sitting should not be held in public in which case it may hold the sitting or part of the sitting in private.

(7) The Chairman may determine any matter of practice or procedure relating to the hearing of appeals where no provision governing such matter is made in this Ordinance or in regulations made thereunder.

32P. Privilege against disclosure

The person making an appeal and the Authority and, if different, any other person summoned under section 32O(1)(d)(ii) shall, for the purposes of the appeal, each have the same privileges in respect of the disclosure of any material as if the proceedings were proceedings before a court of law.

32Q. Appeal Board's decision is final

Subject to section 32R, the determination of an appeal by the Appeal Board or any order as to costs made by the Appeal Board shall be final.

32R. Case may be stated for Court of Appeal

(1) The Appeal Board may refer any question of law arising in an appeal to the Court of Appeal for determination by way of case stated.

(2) On the hearing of the case, the Court of Appeal may—

(a) determine the question stated; or

(b) remit the case to the Appeal Board, in whole or in part, for reconsideration in the light of the Court's determination.

(3) Where a case is stated under subsection (1), the Appeal Board shall not determine the relevant appeal before the Court of Appeal determines the relevant point of law.

32S. Offences relating to appeals, etc.

(1) In relation to an appeal, any person who, without reasonable excuse, refuses or fails—

- (a) to attend and give evidence when required to do so by the Appeal Board;
- (b) to answer truthfully and completely questions put to him by the Appeal Board; or
- (c) to produce any document which he is required by the Appeal Board to produce,

commits an offence and is liable on summary conviction to a fine at level 4.

(2) Any person who publishes or otherwise discloses any material in contravention of—

- (a) an order under section 32O(1)(d)(vii); or
- (b) subject to subsection (3), an order under section 32O(1)(d)(viii),

commits an offence and is liable on summary conviction to a fine at level 4.

(3) It shall be a defence for a person charged with an offence under subsection (2)(b) to prove that he did not know and had no reason for knowing that the Appeal Board had made an order under section 32O(1)(d)(viii) prohibiting the publication or other disclosure of the material concerned.

32T. Immunity

(1) The Chairman, a Deputy Chairman and a panel member have, in the performance of their duties under this Part, the same privileges and immunities as a judge of the Court of First Instance in civil proceedings in that court.

(2) A witness before the Appeal Board shall be entitled to the same privileges and immunities as if he were a witness in civil proceedings in the Court of First Instance.

32U. Rules

The Secretary for Information Technology and Broadcasting may make rules—

- (a) to provide for the lodging of appeals;
- (b) relating to the practice and procedure of the Appeal Board.”.

18. General provisions as to licences, etc.

Section 34 is amended—

- (a) by repealing subsection (1);
- (b) in subsection (1B), by repealing “subsection (1) or (3)” where it twice appears and substituting “section 7(8) or 7A”;
- (c) by repealing subsections (2) and (3);
- (d) by adding—

“(4A) The Authority shall not exercise a power under subsection (4) unless the exercise of the power is, in all the circumstances of the case, proportionate and reasonable in relation to the contravention concerned referred to in that subsection giving rise to the exercise of the power.

(4B) Where the Authority proposes to exercise a power under subsection (4), he shall give the licensee or other person concerned a reasonable opportunity to make representations and shall consider all representations made before he decides whether or not to exercise that power in the case of the licensee or other person, as the case may be.

(4C) Where the Authority exercises a power under subsection (4), he shall provide reasons in writing for it to the licensee or other person concerned.”;

- (e) by adding—

“(7) In the exercise of the power under subsection (4) by the relevant authority to cancel, withdraw or suspend a licence, permit, permission or consent granted under this Ordinance, the authority may cancel, withdraw or suspend (at such times and for such period as the authority determines) any part of the licence, permit, permission or consent without affecting the validity of the remaining part of the licence, permit, permission or consent.”.

19. Sections added

The following are added—

**“35A. Inspection of records, documents
and accounts**

(1) The Authority or a person whom he authorizes in writing may at all reasonable times enter the premises of a licensee and inspect and make copies of, or make or take an abstract of or extract from, a document or an account relating to a telecommunications network, system, installation or service conducted by the licensee for the purposes of the Authority performing his functions, or exercising his powers, under this Ordinance in order to ensure the licensee’s compliance with the provisions of this Ordinance, licence conditions, and the determinations and directions of the Authority, applicable to the licensee.

(2) The Authority or an authorized person in exercising his powers under this section may require a licensee to produce to him the document or account.

(3) To enable the Authority or an authorized person to exercise his powers under this section, a licensee shall give the Authority or authorized person access to the documents or accounts the Authority or authorized person may reasonably require for inspection, and shall produce to the Authority or authorized person the documents or accounts as he may reasonably require.

(4) A document or account includes information recorded by electronic or other means and the licensee’s requirement to provide access to documents and accounts includes a requirement to provide the appropriate system for reading and reducing the information into a written form on paper.

(5) Where—

(a) a copy of a document or an account is supplied by a person under this section; or

(b) a copy of a document or an account is made under this section, and a facility of a person other than the Authority is used to make the copy,

the Authority shall reimburse the expenses which, in the opinion of the Authority, have been reasonably incurred by the person in making the copy.

(6) A person who, without reasonable excuse, contravenes subsection (3) commits an offence and shall be liable on conviction to a fine at level 6 and to imprisonment for 6 months.

(7) A person who, without reasonable excuse, in purported compliance with a requirement made under this section, produces a document or an account, or gives information, which he knows to be false or misleading in a material particular commits an offence and shall be liable on summary conviction to a fine at level 6 and to imprisonment for 6 months.

(8) The Authority shall not disclose any document or account produced under this section except subject to the requirement in subsection (9) and if the Authority considers that it is in the public interest to disclose that document or account, as the case may be.

(9) The Authority shall give a licensee producing any document or account under this section a reasonable opportunity to make representations on a proposed disclosure of the document or account, as the case may be, and shall consider all representations made before the Authority makes a final decision to disclose the document or account, as the case may be, if the Authority considers that the disclosure—

- (a) would result in the release of information concerning the business, commercial or financial affairs of the licensee; and
- (b) could reasonably be expected to affect adversely the licensee's lawful business, commercial or financial affairs.

(10) For the avoidance of doubt, it is hereby declared that where a person produces a document or account under this section notwithstanding that the document or account is the subject of a confidentiality agreement with another person that prevents the first-mentioned person from releasing the document or account, the first-mentioned person shall not be liable for any civil liability or claim whatever in respect of the production of that document or account, as the case may be, contrary to that agreement.

(11) Nothing in this section shall require a person to produce any document or account which the person could not be compelled to produce in civil proceedings before the Court of First Instance.

35B. Universal service obligation

(1) The Authority may require that one or more fixed carrier licensees have a universal service obligation.

(2) A universal service obligation requires a licensee to ensure that a good, efficient and continuous basic service is, in the Authority's opinion, reasonably available to all persons within the areas of Hong Kong covered by that obligation.

(3) The Authority may establish a system for licensees prescribed by the Authority to meet a reasonable contribution to the cost of providing the universal service obligation and managing the fund established under subsection (4).

(4) The Authority may establish and manage a fund for the purpose of holding the contributions under subsection (3) prior to payment to the carrier licensee with the obligation.

(5) The Authority may—

- (a) recover the cost of the management of the fund established under subsection (4);
- (b) delegate the management of the fund to any person and prescribe the requirements for the management of the fund.”.

20. Authority may determine terms of interconnection

Section 36A is amended—

- (a) by repealing subsections (1), (2) and (3) and substituting—

“(1) The Authority may determine the terms and conditions of interconnection of the type mentioned in subsection (3D).

(2) The Authority may make a determination on the request of a party to the interconnection or, in the absence of a request, if he considers it is in the interest of the public to do so.

(3) The terms and conditions in a determination may include any technical, commercial and financial terms and conditions that the Authority considers fair and reasonable.

(3A) Without limiting the general nature of subsection (3), the terms and conditions in a determination may include—

- (a) the level of, and the method of calculating, the charges that any party will pay to another;
- (b) the points at which interconnection is to be made;
- (c) the technical standards for interconnection;
- (d) the supply by any party to another of any element of a telecommunications network, system or installation;
- (e) the supply by any party to another of any telecommunications or ancillary service;
- (f) the supply by any party to another of any information necessary for the efficient planning and handling of services through the interconnection;
- (g) the sharing of facilities referred to in section 36AA.

(3B) The charges in a determination shall be based on the relevant reasonable costs attributable to interconnection and, in determining the level, or method of calculation, of the relevant reasonable costs attributable to interconnection, the Authority may select from among alternative costing methods what he considers to be a fair and reasonable costing method.

(3C) The terms and conditions in a determination—

- (a) are deemed to be of the essence of any agreement for the interconnection to which the determination is made unless the Authority otherwise directs for any particular term or condition; and
- (b) override a different intention arising from the provisions of the agreement.

(3D) The type of interconnection includes an arrangement among 2 or more parties for—

- (a) interconnection to and between telecommunications systems or services including—
 - (i) those licensed under section 7, expressed as being licensed under section 7 or 34 or deemed licensed by the Chief Executive in Council under this Ordinance under section 8(3) of the Television Ordinance (Cap. 52);
 - (ii) those of a description mentioned in section 8(4)(e) and (f);
 - (iii) telecommunications services that are the subject of an order made under section 39;
- (b) access to, or interconnection with, any element of a telecommunications network, system, installation or service on an unbundled basis at any point that is technically feasible;
- (c) the supply of a telecommunications service in connection with paragraph (a) or (b).

(3E) In this section—

“element” (元件) means any cable, component, unit, equipment, hardware or software used to provide a telecommunications service and includes the facilities referred to in section 36AA;

“interconnection” (互連) means any connection between systems or services or elements of systems or services for the delivery of any communication, message or signal over the connection and, without limiting the generality of the foregoing, includes interconnection to a system, to a service, between systems, between services and between a system and a service;

“service” (服務) includes elements of a service;

“system” (系統) includes elements of a system.”;

(b) in subsection (4)—

(i) by repealing “subsection (3)” and substituting “subsection (3D)”;

(ii) by adding “and the Authority has considered representations made before he decides whether or not to make such a determination” after “not be made”;

(c) by repealing subsections (5) and (6) and substituting—

“(5) Written notice of a determination, or of the completion or adjournment of a determination process commenced, under subsection (1) shall be served personally or by registered post on the parties to the arrangement for interconnection or, in the absence of a concluded arrangement, the parties who in the Authority’s opinion would have been parties to the interconnection arrangement had it been concluded.

(5A) Subject to subsection (5B), parties to an interconnection agreement shall ensure a copy of the agreement is filed with the Authority within 14 days of it being made.

(5B) The obligation to file a copy of an interconnection agreement under subsection (5A) may be waived by the Authority in relation to a particular interconnection agreement or interconnection agreements of a certain kind.

(5C) The Authority may publish all or any part of an interconnection agreement if he—

(a) considers it is in the interest of the public to do so;

(b) has first given the parties an opportunity to make representations on which parts of the interconnection agreement should not be published; and

(c) has considered such representations received within the time specified by him.

(5D) A determination takes effect even though it is under review unless stayed by a court of competent jurisdiction.

(6) The amount of any costs or expenses incurred, including, without limitation, staff costs and expenses, and the financing of liabilities paid out of the Telecommunications Authority Trading Fund in respect of a determination or determination process under subsection (1) is a debt due to the Government, and is on service of a notice under subsection (5), recoverable from a person on whom notice has been served.”;

(d) by repealing subsection (8);

(e) by adding—

“(9) The Authority may, after consultation with the parties to an interconnection agreement, issue codes of practice—

(a) relating to the efficient and reliable provision of interconnection; and

(b) which shall be observed by the parties.

(10) In making a determination under subsection (1), the Authority shall give regard to—

(a) the Government’s policy objectives for the telecommunications industry;

(b) consumer interests;

(c) encouraging efficient investment in telecommunications infrastructure;

(d) the nature and extent of competition among the parties to the interconnection concerned and their respective abilities to compete with each other fairly; and

(e) such other matters as the Authority considers appropriate in the particular circumstances of the case.”.

21. Section added

The following is added—

“36AA. Sharing of use of facilities

(1) The Authority may direct a licensee to coordinate and cooperate with another licensee specified by the Authority in the public interest to share the use of any facility owned or used by it.

(2) Prior to issuing a direction in the public interest under subsection (1), the Authority shall provide a reasonable opportunity for the licensee, and any other interested party, to make representations on the matter and shall give consideration to all representations made before he decides whether or not to issue the direction.

(3) In considering a direction in the public interest to share a facility, the Authority shall take into account relevant matters including, but not limited to—

- (a) whether the facility is a bottleneck facility;
- (b) whether the facility can be reasonably duplicated or substituted;
- (c) the existence of technical alternatives;
- (d) whether the facility is critical to the supply of service by the licensees;
- (e) whether the facility has available capacity having regard to the current and reasonable future needs of the licensee or person to whom the facility belongs;
- (f) whether joint use of the facility encourages the effective and efficient use of telecommunications infrastructure;
- (g) the costs, time, penalties and inconvenience to the licensees and the public of the alternatives to shared provision and use of the facility.

(4) Where another licensee reasonably requests to share a facility, the licensee shall endeavour to come to an agreement with the requesting party on the conditions, including but not limited to providing for fair compensation to the licensee for the provision, use or sharing of the facility.

(5) A shared facility may include a building, place or premises that is exclusively occupied and operated by one of the parties to the sharing agreement.

(6) If the parties do not reach an agreement within a reasonable time, and the Authority requires shared use of the facility, then—

- (a) the Authority may determine the terms and conditions for the shared use of the facility;
- (b) the determination under paragraph (a) shall include terms and conditions providing for fair and reasonable compensation payable in all the circumstances of the case for the shared use of the facility;
- (c) the compensation referred to in paragraph (b) shall include the relevant reasonable costs attributable to the provision, use or sharing of the facility;

- (d) to calculate the costs referred to in paragraph (c), the Authority may select from alternative costing methods what he considers to be a fair and reasonable costing method.
- (7) For the purposes of this section “facility” (設施) includes—
- (a) a cable, wire, telecommunications line, duct, pit, tunnel and manhole;
 - (b) a tower, mast, pole and antenna;
 - (c) land, buildings and ancillary equipment at sites on which radiocommunications facilities have been established;
 - (d) reasonable space within a carrier licensee’s exchange buildings or other sites to locate equipment of another licensee required to establish interconnection between the licensee’s and that other licensee’s network at the exchange or sites;
 - (e) other installations, including but not limited to in-building risers, cable trays and cable entry points into buildings, reasonably necessary for the efficient provision of a telecommunications network; and
 - (f) services incidental to the building, place and premises in which the facility is situated that are reasonably necessary or incidental to the efficient operation by all parties to the sharing of the facility.”.

22. Directions by Authority

Section 36B(1)(a)(iii) and (b) is amended by repealing “section 36A(3)” and substituting “section 36A(3D)”.

23. Authority or court may impose financial penalties

Section 36C is amended—

(a) in subsection (1)—

- (i) by repealing “pay to the Authority” and substituting “pay to the Government”;
- (ii) by repealing everything after “to comply with” and substituting—

“—

- (a) any licence condition;
- (b) any provision of this Ordinance or any regulation made thereunder; or

- (c) any direction issued in respect of the licensee by the Authority under section 36AA(1) or 36B(1)(a).”;
- (b) in subsection (2), by repealing “pay to the Authority” and substituting “pay to the Government”;
- (c) in subsection (3), by repealing “\$20,000”, “\$50,000” and “\$100,000” and substituting “\$200,000”, “\$500,000” and “\$1,000,000” respectively;
- (d) by adding—

“(3A) Without prejudice to subsections (3) and (3B), the Authority may, by notice to a licensee who has committed a breach of a licence condition or provision in this Ordinance or regulation made thereunder, or a breach of a direction, require the licensee—

- (a) to disclose to the public, to a particular person or to a class of persons, in such manner as is specified in the notice, such information, or information of such a kind, as is so specified, being information that relates to the breach and is in the possession of the licensee or to which the licensee has access;
- (b) to publish, at its own expense, in newspapers corrective advertisements in such manner, at such times and on such terms as are specified in the notice and for this purpose, the Authority may specify among other things the newspapers in which the advertisements shall be published, the languages that shall be used, the days on which the advertisements shall be published, the content of the advertisements and the size and prominence of the advertisements in the newspapers.

(3B) Where the Authority considers that if he were to impose a financial penalty under subsection (3) it would not be adequate for a breach referred to in subsection (1)—

- (a) the Authority may—
 - (i) within 3 years of the commission of the breach; or
 - (ii) if the breach comes to the notice of the Authority within 3 years of its commission, within 3 years of it so coming to the notice of the Authority, whichever is the later, make an application to the Court of First Instance; and

- (b) upon such application, the Court of First Instance may, without prejudice to any powers conferred on the Authority by any provision of this Ordinance or any regulation made thereunder or any licence condition, impose upon the licensee who has committed the breach a financial penalty of a sum not exceeding 10% of the turnover of the licensee in the relevant telecommunications market in the period of the breach, or \$10,000,000, whichever is the higher.”;
- (e) by repealing subsections (4) and (5) and substituting—
- “(4) The Authority shall not impose a financial penalty under this section unless, in all the circumstances of the case, the financial penalty is proportionate and reasonable in relation to the failure or series of failures concerned giving rise to that penalty.
- (5) Subsection (1), (2) or (3A) shall not apply in the case of the licensee or person concerned unless the Authority is satisfied that the licensee or person, as the case may be, has been afforded a reasonable opportunity of complying with the requirement of any licence condition, provision of this Ordinance or regulation made thereunder, or direction, in respect of which that subsection is sought to be applied.
- (5A) A financial penalty imposed under this section shall be recoverable as a civil debt due and payable to the Government.”;
- (f) by adding—
- “(7) The Authority shall, before imposing a sanction under this section on a licensee or person concerned, afford the licensee or person concerned, as the case may be, a reasonable opportunity to make representations and shall consider all representations made before the Authority decides whether or not to impose such sanction.”.

24. Section added

The following is added—

“36D. Authority may obtain information

(1) If the Authority is satisfied that there are reasonable grounds for believing that a person, other than a licensee, is, or is likely to be, in possession of information or a document that is relevant to the Authority’s investigation of a breach or suspected breach of a provision of this Ordinance, or of a determination or direction of the Authority or of a licence condition, the Authority may serve a notice in writing on the person—

- (a) requesting the person to—
 - (i) give the information or document in writing to the Authority; or
 - (ii) produce the document to the Authority, as the case requires, before a date (“the relevant date”) specified in the notice, being a date reasonable in all the circumstances of the case;
- (b) stating that if the person is of the view that he cannot, or does not wish to, comply with the request, then he may make representations in writing to the Authority as to why he is of that view before the relevant date; and
- (c) accompanied by a copy of this section in the Chinese and English languages.

(2) Where the Authority receives representations referred to in subsection (1)(b) from a person, the Authority shall—

- (a) consider them; and
- (b) serve a notice in writing on the person stating that the Authority has considered the representations and that—
 - (i) the notice under subsection (1) served on the person is withdrawn with effect from the date of service of the notice under this subsection; or
 - (ii) the notice under subsection (1) served on the person remains in force and the Authority will on a date specified in the notice under this subsection seek an order under subsection (3) unless the person has, before that date, complied with the notice under subsection (1) served on the person.

(3) Where a notice under subsection (1) served on a person has not been withdrawn under subsection (2)(b)(i) and the person has not complied with the notice before the relevant date, or before the date specified in the notice under subsection (2) served on the person, as the case requires, then a magistrate may—

- (a) if satisfied by information on oath that there are reasonable grounds for believing that the person is, or is likely to be, in possession of the information or a document to which the first-mentioned notice relates and that the information or document is relevant to the Authority's investigation of a breach or suspected breach of a provision of this Ordinance, or of a determination or direction of the Authority or of a licence condition; and
- (b) after considering the representations, if any, referred to in subsection (1)(b) received by the Authority in consequence of the service of the notice,

issue an order that the person shall, within the time specified in the order, give the information or document in writing to the Authority or produce the document to the Authority, as the case requires.

(4) Any information or document to be given or produced to the Authority by a person in compliance with a notice under subsection (1) or an order under subsection (3) shall be so given or produced by reference to the information or document at the time of service of that notice except that the information or document may take account of any processing—

- (a) made between that time and the time when the information or document is so given or produced; and
- (b) that would have been made irrespective of the service of that notice.

(5) The Authority shall not disclose any information or document given or produced to him under this section except subject to the requirement in subsection (6) and if the Authority considers that it is in the public interest to disclose that information or document, as the case may be.

(6) The Authority shall give a person giving or producing any information or document under this section a reasonable opportunity to make representations on a proposed disclosure of the information or document, as the case may be, and shall consider all representations made before the Authority makes a final decision to disclose the information or document, as the case may be.

(7) For the avoidance of doubt, it is hereby declared that where a person gives or produces any information or document under this section notwithstanding that the information or document is the subject of a confidentiality agreement with another person that prevents the first-mentioned person from releasing the information or document, the first-mentioned person shall not be liable for any civil liability or claim whatever in respect of the giving or production of that information or document, as the case may be, contrary to that agreement.

(8) Nothing in this section shall require a person to give any information or document, or to produce any document, which the person could not be compelled to give in evidence, or produce, in civil proceedings before the Court of First Instance.

(9) A person commits an offence if he, without reasonable excuse—

(a) fails to comply with an order under subsection (3);

(b) fails to comply with subsection (4); or

(c) in purported compliance with a notice under subsection (1) or an order under subsection (3), knowingly gives information that is false or misleading,

and shall be liable on conviction to a fine at level 5 and to imprisonment for 2 years.

(10) In this section, “processing” (處理), in relation to any information or document, includes amending, augmenting, deleting or rearranging all or any part of the information or document, whether by automated means or otherwise.”.

25. Regulations

Section 37(1)(h) and (i) is repealed.

26. Section added

The following is added—

“39A. Remedies

(1) A person sustaining loss or damage from a breach of section 7K, 7L, 7M or 7N, or a breach of a licence condition, determination or direction relating to that section, may bring an action for damages, an injunction or other appropriate remedy, order or relief against the person who is in breach.

(2) No action may be brought under subsection (1) more than 3 years after—

(a) the commission of the breach concerned referred to in that subsection; or

(b) the imposition of a penalty in relation to the breach by the Authority under section 36C, or, as the case may be, by the Court of First Instance under section 36C (3B),

whichever is the later.

39B. Immunity

(1) No person to whom this subsection applies, acting in good faith, shall be personally liable for any civil liability or claim whatever in respect of any act done or default made in the performance or purported performance of any function, or the exercise or purported exercise of any power, under this Ordinance.

(2) The persons to whom subsection (1) applies are—

- (a) the Authority;
- (b) any public officer who is a delegate of the Authority under section 6; and
- (c) any other public officer assisting the Authority in the performance or purported performance of any function, or the exercise or purported exercise of any power, under this Ordinance.”.

27. Schedule added

The following is added—

“SCHEDULE

[ss. 2(1) & 7(4)]

LICENCES WHICH ARE NOT CARRIER LICENCES
WITHIN THE MEANING OF SECTION 2

1. Public Radiocommunications Service Licence for radio paging services
2. Public Radiocommunications Service Licence for trunked radio services
3. Public Radiocommunications Service Licence for radiolocation services
4. Broadcast Relay Station Licence
5. Broadcast Radio Relay Station Licence
6. Closed Circuit Television Licence
7. Satellite Master Antenna Television Licence
8. Hotel Television Services Licence”.

28. Consequential and miscellaneous amendments

(1) The enactments specified in Schedule 1 are amended as set out in that Schedule.

(2) The titles to the subsidiary legislation set out in Part 1 of Schedule 2 are amended by repealing “**TELECOMMUNICATION**” wherever it appears and substituting “**TELECOMMUNICATIONS**”.

(3) The citations to the subsidiary legislation set out in Part 2 of Schedule 2 are amended by repealing “Telecommunication” and substituting “Telecommunications”.

(4) The provisions set out in Part 3 of Schedule 2 are amended by repealing “telecommunication” wherever it appears and substituting “telecommunications”.

(5) The provisions set out in Part 4 of Schedule 2 are amended by repealing “Telecommunication” wherever it appears and substituting “Telecommunications” except in any case where “Telecommunication” is immediately followed by “Convention”.

(6) The provisions set out in Part 5 of Schedule 2 are amended by repealing “TELECOMMUNICATION” wherever it appears and substituting “TELECOMMUNICATIONS” except in any case where “TELECOMMUNICATION” is immediately followed by “CONVENTION”.

(7) The provisions set out in Part 6 of Schedule 2 are amended by repealing “International Telecommunication Convention” wherever it appears and substituting “Constitution and Convention of the International Telecommunication Union”.

(8) The provisions set out in Part 7 of Schedule 2 are amended by repealing “radiocommunication” wherever it appears and substituting “radiocommunications”.

(9) The provisions set out in Part 8 of Schedule 2 are amended by repealing “Radiocommunication” wherever it appears and substituting “Radiocommunications”.

(10) The provisions set out in Part 9 of Schedule 2 are amended by repealing “RADIOCOMMUNICATION” wherever it appears and substituting “RADIOCOMMUNICATIONS”.

(11) The Authority within the meaning of the principal Ordinance may by order published in the Gazette amend any reference to “telecommunication” or “radiocommunication” in any Ordinance.

SCHEDULE 1

[s. 28(1)]

CONSEQUENTIAL AMENDMENTS

Television Ordinance

1. Grant of licences

Section 8(3) of the Television Ordinance (Cap. 52) is amended by repealing “by the Chief Executive in Council”.

Import and Export (Strategic Commodities) Regulations

2. Strategic Commodities

Schedule 1 to the Import and Export (Strategic Commodities) Regulations (Cap. 60 sub. leg.) is amended, under the heading "*DEFINITIONS OF TERMS*", in the definition of "ITU", by repealing "Telecommunications" and substituting "Telecommunication".

Telecommunication Regulations

3. Citation amended

Regulation 1 of the Telecommunication Regulations (Cap. 106 sub. leg.) is amended by repealing "Telecommunication" and substituting "Telecommunications".

4. Form of Licences

Schedule 3 is amended—

- (a) in the form of the Public Non-exclusive Telecommunications Service Licence, in general condition 2, by repealing "International Telecommunications Convention" and substituting "Constitution and Convention of the International Telecommunication Union";
- (b) in the form of the Radiodetermination and Conveyance of Commands, Status and Data Licence, in condition 11, by repealing "International Telecommunication Convention" and substituting "Constitution and Convention of the International Telecommunication Union".

Charges for Radiotelegrams Order

5. Repeal

The Charges for Radiotelegrams Order (Cap. 106 sub. leg.) is repealed.

**Telecommunication (Closed Circuit
Television Systems) Regulations**

6. Repeal

The Telecommunication (Closed Circuit Television Systems) Regulations (Cap. 106 sub. leg.) is repealed.

**Telecommunication (Cable and Wireless
(Hong Kong) Limited) (Exemption
from Licensing) Order**

7. Repeal

The Telecommunication (Cable and Wireless (Hong Kong) Limited) (Exemption from Licensing) Order (Cap. 106 sub. leg.) is repealed.

**Telecommunication (Model Control Equipment)
(Exemption from Licensing) Order**

8. Citation amended

Paragraph 1 of the Telecommunication (Model Control Equipment) (Exemption from Licensing) Order (Cap. 106 sub. leg.) is amended by repealing "Telecommunication" and substituting "Telecommunications".

9. Interpretation

Paragraph 2 is amended, in the definition of “spurious emission”, by repealing “Telecommunications” and substituting “Telecommunication”.

Telecommunication (Public Radiocommunication Service Customers) (Exemption from Licensing) Order

10. Citation amended

Paragraph 1 of the Telecommunication (Public Radiocommunication Service Customers) (Exemption from Licensing) Order (Cap. 106 sub. leg.) is amended by repealing “Telecommunication” and “Radiocommunication” and substituting “Telecommunications” and “Radiocommunications” respectively.

Telecommunication (Possession and Export of Radiocommunication Apparatus by Visitors) (Exemption) Order

11. Title amended

The title to the Telecommunication (Possession and Export of Radiocommunication Apparatus by Visitors) (Exemption) Order (Cap. 106 sub. leg.) is amended by repealing “TELECOMMUNICATION” and “RADIOCOMMUNICATION” and substituting “TELECOMMUNICATIONS” and “RADIOCOMMUNICATIONS” respectively.

Telephone Ordinance

12. Repeal

The Telephone Ordinance (Cap. 269) is repealed.

Shipping and Port Control Regulations

13. Interpretation

Regulation 3 of the Shipping and Port Control Regulations (Cap. 313 sub. leg.) is amended, in the definition of “Radio Regulations”, by repealing “International Telecommunications convention” and substituting “Constitution and Convention of the International Telecommunication Union”.

SCHEDULE 2

[s. 28(2) to (10)]

MISCELLANEOUS AMENDMENTS

PART 1

REPEAL “**TELECOMMUNICATION**” AND SUBSTITUTE
“**TELECOMMUNICATIONS**”

- Telecommunication (Cordless Telecommunications Apparatus) (Exemption from Licensing) Order (Cap. 106 sub. leg.)
- Telecommunication (Radio Receivers) (Exemption from Licensing) Order (Cap. 106 sub. leg.)
- Telecommunication (APSTAR-1) (Exemption from Licensing) Order (Cap. 106 sub. leg.)
- Telecommunication (Fixed Telecommunication Network Services) (Exemption from Licensing) Order (Cap. 106 sub. leg.)
- Telecommunication (APSTAR-IA) (Exemption from Licensing) Order (Cap. 106 sub. leg.)
- Telecommunication (APSTAR-IIR) (Exemption from Licensing) Order (Cap. 106 sub. leg.)
- Telecommunication (Mobile Earth Stations) (Exemption) Order (Cap. 106 sub. leg.)

PART 2

REPEAL “Telecommunication” AND SUBSTITUTE
“Telecommunications” IN CITATION

- Telecommunication (Control of Interference) Regulations (Cap. 106 sub. leg.) regulation 1.
- Telecommunication (Essential Services Corps Fuel Oil Unit) (Exemption) Order (Cap. 106 sub. leg.) paragraph 1.
- Telecommunication (Public Non-exclusive Telecommunications Service Customers) (Exemption from Licensing) Order (Cap. 106 sub. leg.) paragraph 1.
- Telecommunication (China Light and Power Company Limited) (Exemption from Licensing) Order (Cap. 106 sub. leg.) paragraph 1.
- Telecommunication (Low Power Devices) (Exemption from Licensing) Order (Cap. 106 sub. leg.) paragraph 1.

PART 3

REPEAL “telecommunication” AND SUBSTITUTE
“telecommunications”

- Bankruptcy Ordinance (Cap. 6)
section 30E.
- Defamation Ordinance (Cap. 21)
section 2.

- Television Ordinance (Cap. 52)
sections 2, 8, 10, 17B and 20A and Schedules 1 and 1A.
- Import and Export (Strategic Commodities) Regulations (Cap. 60 sub. leg.)
Schedule 1.
- Telecommunications Ordinance (Cap. 106)
long title and sections 3, 4, 8(1) and (2), 12, 13(1) and (3), 14(1), 17(1), 18(1) and (2), 23, 24,
25, 26, 27, 27A(1), 28, 29, 35(1)(d), 36B(1), 37(1) and 40(2).
- Telecommunications Regulations (Cap. 106 sub. leg.)
regulations 2, 11, 12, 13 and 14 and Schedules 1 and 3.
- Telecommunications (Control of Interference) Regulations (Cap. 106 sub. leg.)
regulations 1A, 5 and 9.
- Telecommunications (Model Control Equipment) (Exemption from Licensing) Order (Cap. 106
sub. leg.)
paragraph 2 and the Schedule.
- Telecommunications (Public Non-exclusive Telecommunications Service Customers) (Exemption
from Licensing) Order (Cap. 106 sub. leg.)
paragraph 2.
- Telecommunications (China Light and Power Company Limited) (Exemption from Licensing)
Order (Cap. 106 sub. leg.)
paragraph 3.
- Telecommunications (Low Power Devices) (Exemption from Licensing) Order (Cap. 106 sub. leg.)
paragraph 2 and the Schedule.
- Telecommunications (APSTAR-1) (Exemption from Licensing) Order (Cap. 106 sub. leg.)
section 2.
- Telecommunications (Fixed Telecommunications Network Services) (Exemption from Licensing)
Order (Cap. 106 sub. leg.)
section 2.
- Telecommunications (APSTAR-IA) (Exemption from Licensing) Order (Cap. 106 sub. leg.)
section 2.
- Telecommunications (APSTAR-IIR) (Exemption from Licensing) Order (Cap. 106 sub. leg.)
section 2.
- Eastern Harbour Crossing Road Tunnel Regulations (Cap. 215 sub. leg.)
regulation 3.
- Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276)
sections 4 and 13.
- Air Pollution Control (Construction Dust) Regulation (Cap. 311 sub. leg.)
section 2.
- Arbitration Ordinance (Cap. 341)
the Fifth Schedule.
- Merchant Shipping (Safety) (GMDSS Radio Installations) Regulation (Cap. 369 sub. leg.)
section 2.
- Roads (Works, Use and Compensation) Ordinance (Cap. 370)
sections 13 and 20.
- Tate's Cairn Tunnel Regulations (Cap. 393 sub. leg.)
regulation 3.
- Electricity (Exemption) Regulations (Cap. 406 sub. leg.)
regulation 2.

- Electricity (Wiring) Regulations (Cap. 406 sub. leg.)
regulation 2.
- Western Harbour Crossing Regulation (Cap. 436 sub. leg.)
section 2.
- Bills of Lading and Analogous Shipping Documents Ordinance (Cap. 440)
sections 2 and 7.
- Land Drainage Ordinance (Cap. 446)
section 37.
- Air Navigation (Hong Kong) Order 1995 (Cap. 448 sub. leg.)
section 35 and Schedule 12.
- Tai Lam Tunnel and Yuen Long Approach Road Regulation (Cap. 474 sub. leg.)
section 2.
- Non-local Higher and Professional Education (Regulation) Ordinance (Cap. 493)
section 2.
- Environmental Impact Assessment Ordinance (Cap. 499)
Schedule 2 (Part I).
- Railways Ordinance (Cap. 519)
sections 2, 18 and 25.
- Discovery Bay Tunnel Link Regulation (Cap. 520 sub. leg.)
section 5.
- Copyright Ordinance (Cap. 528)
sections 8 and 9.

PART 4

REPEAL “Telecommunication” AND SUBSTITUTE “Telecommunications”

- Bankruptcy Ordinance (Cap. 6)
section 30E.
- Defamation Ordinance (Cap. 21)
section 2.
- Television Ordinance (Cap. 52)
sections 2, 8, 10 and 17B and Schedules 1, 1A and 2.
- Import and Export (Strategic Commodities) Regulations (Cap. 60 sub. leg.)
Schedule 1 (but excluding the entry of 3A002(a)(2) in Category 3 of the Dual-use Goods List
and the definition of “ITU” under the heading “*DEFINITIONS OF TERMS*”).
- Telecommunications Ordinance (Cap. 106)
section 41 (where it secondly appears).
- Telecommunications Regulations (Cap. 106 sub. leg.)
Schedule 1 (but excluding the definition of “radio frequency co-ordination” in the Self-
provided External Telecommunication System Licence in Part II) and Schedule 3 (but
excluding general condition 15 in the form of the Satellite Master Antenna Television
Licence, condition 6(b) in the forms of the Self-provided External Telecommunication
System Licence and the Self-provided External Telecommunication System (Short Term)
Licence and general conditions 4 and 10 in the form of the Public Radiocommunication
Service Licence (For Services other than Land Mobile Service)).

- Telecommunications (Essential Services Corps Fuel Oil Unit) (Exemption) Order (Cap. 106 sub. leg.)
paragraph 2.
- Telecommunications (Public Non-exclusive Telecommunications Service Customers) (Exemption from Licensing) Order (Cap. 106 sub. leg.)
paragraph 2.
- Telecommunications (Cordless Telecommunications Apparatus) (Exemption from Licensing) Order (Cap. 106 sub. leg.)
paragraphs 2 and 4.
- Telecommunications (Public Radiocommunications Service Customers) (Exemption from Licensing) Order (Cap. 106 sub. leg.)
paragraph 2.
- Shipping and Port Control Regulations (Cap. 313 sub. leg.)
regulation 6.
- Merchant Shipping (Safety) Ordinance (Cap. 369)
section 82.
- Merchant Shipping (Safety) (Navigational Equipment) Regulations (Cap. 369 sub. leg.)
regulation 2.
- Merchant Shipping (Safety) (GMDSS Radio Installations) Regulation (Cap. 369 sub. leg.)
section 2.
- Smoking (Public Health) Ordinance (Cap. 371)
section 13B.
- Broadcasting Authority Ordinance (Cap. 391)
sections 2, 9, 11, 14, 16, 19, 20, 24 and 26.
- Office of the Telecommunications Authority Trading Fund (Cap. 430 sub. leg.)
Schedule 1.
- Non-local Higher and Professional Education (Regulation) Ordinance (Cap. 493)
section 2.
- Railways Ordinance (Cap. 519)
section 2.
- Official Secrets Ordinance (Cap. 521)
section 17.
- Copyright Ordinance (Cap. 528)
sections 82 and 259.
- Legislative Council Ordinance (Cap. 542) as amended by the Legislative Council (Amendment) Ordinance 1999 (48 of 1999)
section 20Z.

PART 5

REPEAL "TELECOMMUNICATION" AND SUBSTITUTE
"TELECOMMUNICATIONS"

- Television Ordinance (Cap. 52)
Schedule 3.
- Telecommunications Ordinance (Cap. 106)
the heading to Part IV.
- Telecommunications Regulations (Cap. 106 sub. leg.)
Schedules 1 and 3.

PART 6

REPEAL “International Telecommunication Convention”
AND SUBSTITUTE “Constitution and Convention of
the International Telecommunication Union”

Telecommunications Regulations (Cap. 106 sub. leg.)
Schedule 3.

Merchant Shipping (Safety) (Radio Installations) Regulations (Cap. 369 sub. leg.)
regulation 2.

Merchant Shipping (Safety) (GMDSS Radio Installations) Regulation (Cap. 369 sub. leg.)
section 2.

Merchant Shipping (Seafarers) (Certification and Watchkeeping) Regulation (Cap. 478 sub. leg.)
Schedule 3.

PART 7

REPEAL “radiocommunication” AND SUBSTITUTE
“radiocommunications”

Television Ordinance (Cap. 52)
section 2.

Telecommunications Ordinance (Cap. 106)
sections 8, 10, 11, 12 and 22.

Telecommunications Regulations (Cap. 106 sub. leg.)
regulations 2, 3 and 4 and Schedules 1, 2 and 3.

Telecommunications (Control of Interference) Regulations (Cap. 106 sub. leg.)
regulation 2.

Telecommunications (Model Control Equipment) (Exemption from Licensing) Order (Cap. 106
sub. leg.)
paragraph 2.

Telecommunications (Cordless Telecommunications Apparatus) (Exemption from Licensing)
Order (Cap. 106 sub. leg.)
paragraph 2.

Telecommunications (Public Radiocommunications Service Customers) (Exemption from
Licensing) Order (Cap. 106 sub. leg.)
paragraph 2.

Telecommunications (Possession and Export of Radiocommunications Apparatus by Visitors)
(Exemption) Order (Cap. 106 sub. leg.)
sections 1 and 2.

Telecommunications (Fixed Telecommunications Network Services) (Exemption from Licensing)
Order (Cap. 106 sub. leg.)
section 2.

Merchant Shipping (Safety) (Signals of Distress and Prevention of Collisions) Regulations (Cap.
369 sub. leg.)
the Schedule (Part E, Annex IV, paragraph 1(o)).

Merchant Shipping (Safety) (Navigational Equipment) Regulations (Cap. 369 sub. leg.)
regulation 2.

Merchant Shipping (Safety) (Radio Installations) Regulations (Cap. 369 sub. leg.)
regulations 2 and 28.

Merchant Shipping (Safety) (GMDSS Radio Installations) Regulations (Cap. 369 sub. leg.)
sections 2, 5, 6, 10, 16, and 17.

Merchant Shipping (Seafarers) (Certification and Watchkeeping) Regulation (Cap. 478 sub. leg.)
Schedule 1.

PART 8

REPEAL “Radiocommunication” AND SUBSTITUTE
“Radiocommunications”

Telecommunication Regulations (Cap. 106 sub. leg.)
Schedules 1 and 3.

Merchant Shipping (Safety) (Radio Installations) Regulations (Cap. 369 sub. leg.)
regulation 27.

Legislative Council Ordinance (Cap. 542) as amended by the Legislative Council (Amendment)
Ordinance 1999 (48 of 1999)
section 20Z.

PART 9

REPEAL “RADIOCOMMUNICATION” AND SUBSTITUTE
“RADIOCOMMUNICATIONS”

Telecommunications Regulations (Cap. 106 sub. leg.)
Schedules 1 and 3.