

**THE INFORMATION AND COMMUNICATION TECHNOLOGIES (AMENDMENT)
BILL (No. XXI of 2016)**

Explanatory Memorandum

The object of this Bill is to amend the Information and Communication Technologies Act so as to streamline and clarify some provisions of the Act.

2. Opportunity is being taken to exempt MultiCarrier (Mauritius) Ltd (the Multiplex Operator), which will operate the transmission stations for the broadcast of the proceedings of the National Assembly, from payment of any fee to the Information and Communication Technologies Authority. Consequently, the Independent Broadcasting Authority Act is being amended to provide that the National Assembly shall, for the broadcast of its proceedings, be exempt from being licensed with the Independent Broadcasting Authority and the National Assembly (Privileges, Immunities and Powers) Act is being amended to provide that no civil or criminal proceedings shall be instituted against any person for broadcasting the proceedings of the National Assembly.

Sir ANEROOD JUGNAUTH, G.C.S.K., K.C.M.G., Q.C.

*Prime Minister, Minister of Defence, Home Affairs, Minister for
Rodrigues and National Development Unit*

11 November 2016

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ARRANGEMENT OF CLAUSES

Clause

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|---|---|
| 1. Short title | 8. Section 18 of principal Act amended |
| 2. Interpretation | 9. Part V of principal Act repealed |
| 3. Section 2 of principal Act amended | 10. Section 32 of principal Act amended |
| 4. Section 3 of principal Act amended | 11. New section 45A inserted in principal Act |
| 5. Section 5 of principal Act repealed and replaced | 12. Section 46 of principal Act amended |
| 6. Section 6 of principal Act amended | 13. Section 48 of principal Act amended |
| 7. Section 7 of principal Act amended | 14. Consequential amendment |

15. Commencement

A BILL

To amend the Information and Communication Technologies Act

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Information and Communication Technologies (Amendment) Act 2016.

2. Interpretation

In this Act –

“principal Act” means the Information and Communication Technologies Act.

3. Section 2 of principal Act amended

Section 2 of the principal Act is amended –

- (a) in the definition of “access”, by deleting the words “his network” and replacing them by the word “interconnection”;
- (b) by deleting the definitions of “appointed day” and “Minister”;
- (c) by inserting, in the appropriate alphabetical order, the following new definitions –

“allocation” means the entry of a given frequency band in the Mauritius Frequency Allocation Table to be used by one or more terrestrial or space radio communication service, or the radio astronomy services;

“frequency band” means a continuous frequency range of spectrum;

“International Mobile Station Equipment Identity” or “IMEI” means a unique number which is allocated to every individual mobile station equipment in the Public Land Mobile Network and which shall unconditionally be implemented by the Mobile Station (MS) manufacturer;

“Internet” means a publicly accessible system of global interconnected computer networks which uses the Internet Protocol as its communication protocol to provide a variety of information and communication facilities;

“Internet Protocol” or “IP” means a standard consisting of a set of rules governing digital data communication on the Internet;

“Mauritius Frequency Allocation Table” means the table where the spectrum plan for Mauritius is detailed;

“Minister” means –

- (a) the Minister to whom responsibility for the subject of Information and Communication Technologies Authority is assigned; but
- (b) in relation to sections 12, 34, 35 and 36, the Minister to whom responsibility for the subject of information technology and telecommunications is assigned;

“radio spectrum” means the portion of the electromagnetic spectrum which is below 3,000 gigahertz;

“telecommunication equipment” means an electronic device intended for the purpose of telecommunication;

4. Section 3 of principal Act amended

Section 3 of the principal Act is amended by repealing subsection (2) and replacing it by the following subsection –

(2) The Minister may, on such terms and conditions as he may determine, exempt any Government department, statutory corporation, non-governmental organisation, or foreign governmental or foreign non-governmental agency acting pursuant to such international Convention or treaty as may be prescribed and to which both Mauritius and the government of that agency are signatories, from compliance with this Act in the interests of the sovereignty of the State, national security or public order.

5. Section 5 of principal Act repealed and replaced

Section 5 of the principal Act is repealed and replaced by the following section –

5. ICT Board

(1) There shall be an Information and Communication Technologies Board to be known as the ICT Board.

(2) The ICT Board shall be responsible for the administration and management of the Authority.

(3) The ICT Board shall consist of –

- (a) a Chairperson, to be appointed by the Prime Minister, after consultation with the Leader of the Opposition;
- (b) the Secretary for Home Affairs or his representative;
- (c) a representative of the Ministry responsible for the subject of finance;
- (d) a representative of the Ministry responsible for the subject of information technology and telecommunications;
- (e) a representative of the Attorney-General's Office;
- (f) 4 other members, to be appointed by the Minister.

(4) The members referred to in subsection (3)(a) and (f) shall –

- (a) be persons having sufficient knowledge and experience in the field of information and communication technologies, computer science, broadcasting and telecommunication law, business and finance, internet or electronic commerce.
- (b) hold office on such terms and conditions as the Prime Minister may determine.

(5) Any appointment made under the repealed section 5 shall, at the commencement of this section, lapse.

6. Section 6 of principal Act amended

Section 6 of the principal Act is amended, in subsection (2), by deleting the word "Four" and replacing it by the word "Five".

7. Section 7 of principal Act amended

Section 7 of the principal Act is amended –

(a) in subsection (1), by repealing paragraph (d) and replacing it by the following paragraph –

(d) acts contrary to this Act.

(b) by repealing subsection (2).

8. Section 18 of principal Act amended

Section 18 of the principal Act is amended, in subsection (2) –

(a) in paragraph (b), by deleting the word "The" and replacing it by the words "Subject to paragraph (c), the";

(b) by adding the following new paragraph –

(c) The Multiplex Operator shall be exempt from payment of any fee referred to in paragraph (b) for the broadcast, through transmission stations operated by it, of the proceedings of the National Assembly under any access agreement between the Multiplex Operator and the National Assembly.

9. Part V of principal Act repealed

Part V of the principal Act is repealed.

10. Section 32 of principal Act amended

Section 32 of the principal Act is amended –

(a) in subsection (4), by deleting the words "the contents or substance of a message" and replacing them by the words "a message or any information relating to a message";

(b) in subsection (6) –

- (i) in paragraph (a), by deleting the words “, withhold or disclose to the police, an information or communication message including a telecommunication message” and replacing them by the words “ or withhold a message, or disclose to the police a message or any information relating to a message”;
 - (ii) in paragraph (b)(i), by inserting, after the words “satisfied that”, the words “the message or”;
- (c) by adding the following new subsection –
- (7) In this section –
 - “information and communication message” means a message passing over an information and communication network, including telecommunication network;
 - “message” includes an information and communication message.

11. New section 45A inserted in principal Act

The principal Act is amended by inserting, after section 45, the following new section –

45A. Execution of documents

No deed or document relating to financial matters shall be executed or signed by or on behalf of the Authority unless it is signed by –

- (a) the Chairperson or, in his absence, any other member designated by the Board; and
- (b) the Executive Director or, in his absence, any other employee designated by the Executive Director.

12. Section 46 of principal Act amended

Section 46 of the principal Act is amended –

- (a) by inserting, after paragraph (g), the following new paragraph –

- (ga) uses telecommunication equipment to send, deliver or show a message which is obscene, indecent, abusive, threatening, false or misleading, or is likely to cause distress or anxiety;
- (b) in paragraph (h), by inserting, after the word “uses”, the words “, in any manner other than that specified in paragraph (ga),”;
- (c) by inserting, after paragraph (k), the following new paragraph –
 - (ka) wilfully tampers or causes to be tampered the International Mobile Station Equipment (IMEI) of any mobile device;
- (d) by inserting, after paragraph (n), the following new paragraph –
 - (na) knowingly provides information which is false or fabricated;

13. Section 48 of principal Act amended

Section 48 of the principal Act is amended, in subsection (2)(d), by deleting the figure “10,000” and replacing it by the figure “50,000”.

14. Consequential amendment

(1) The Independent Broadcasting Authority Act is amended, in section 18 –

- (a) by numbering the existing provision as subsection (1);
- (b) in the newly numbered subsection (1), by deleting the word “No” and replacing it by the words “Subject to subsection (2), no”;
- (c) by adding the following new subsection –

(2) Subsection (1) shall not apply to the National Assembly for the broadcast of its proceedings.

(2) The National Assembly (Privileges, Immunities and Powers Act) is amended by inserting, after section 3, the following new section –

3A. Immunity from broadcasting proceedings of Assembly

No civil or criminal proceedings shall be instituted against any person for broadcasting the proceedings of the Assembly.

15. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.
