

Bill No. 15 of 2004

TELECOMMUNICATIONS (AMENDMENT) BILL, 2004

(Published on 30th July, 2004)

MEMORANDUM

A draft of the above Bill, which it is intended to present to the National Assembly, is set out below.

The object of the Bill is to amend the Telecommunications Act as follows, in —

- (a) clause 2, by separating the position of Chief Executive Officer of the Authority from that of the Chairperson of the Board;
- (b) in clause 3, by providing for the submission, by the Authority, of 5 year strategic plans and annual plans to the Minister;
- (c) in clause 4, by giving the Minister the power to determine the use of surplus funds and properties that accrue to the Authority;
- (d) in clause 5, by giving the Minister the power to make regulations, on the recommendation of the Board;
- (e) in clause 6, by giving the Minister the power to set licensing fees, which are currently prescribed by the Authority;
- (f) in clause 7, by providing for all decisions on the licensing of fixed line and cellular telephone services to be approved by the Minister.

L. B. SEBETELA,
*Minister for Communications, Science
and Technology.*

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Amendment of section 4 of Cap. 72:03
3. Insertion of section 9A in the Act
4. Amendment of section 10 of the Act
5. Amendment of section 26 of the Act
6. Amendment of section 27 of the Act
7. Amendment of section 29 of the Act
8. Amendment of section 30 of the Act

A Bill
—entitled—

An Act to amend the Telecommunications Act

Date of Assent:

Date of Commencement:

ENACTED by the Parliament of Botswana.

Short title

1. This Act may be cited as the Telecommunications (Amendment) Act, 2004.

Amendment of
section 4 of
Cap. 72:03

2. The Telecommunications Act (hereinafter referred to as "the Act") is amended in section 4 thereof, by substituting, for subsections (1) and (2) thereof, the following new subsections —

"(1) The powers and functions of the Authority shall be exercised by a Board consisting of five members, appointed by the Minister from amongst persons whom the Minister considers qualified by reason of their experience or expertise in —

- (a) information and communication technology;
- (b) law;
- (c) consumer protection;
- (d) financial accounting;
- (e) economics; or
- (f) general business management.

(2) The Minister shall appoint the Chairperson of the Board, while the Vice Chairperson shall be appointed by the members of the Board from among their number."

Insertion of
section 9A in
the ACT

3. The Act is amended by inserting, immediately after section 9 thereof the following new section —

“Strategic
and annual
plans

9A. (1) The Authority shall submit five year strategic plans to the Minister outlining —

- (a) the goals of the Authority,
- (b) the objectives of the Authority,
- (c) the budget of the Authority; and
- (d) any other matter which the Minister may direct, for that five year period.

(2) The Authority shall, at least three months before the beginning of each financial year, submit an annual plan to the Minister, for the Minister's approval, outlining —

- (a) the goals of the Authority,
- (b) the objectives of the Authority,
- (c) the budget of the Authority; and
- (d) any other matter which the Minister may direct, for that financial year."

Amendment
of section 10
of the Act

4. Section 10 of the Act is amended —

(a) in subsection (1) thereof, by substituting for the word "Authority" which appears in paragraph (b) thereof, the word "Minister";

(b) by substituting for subsection (2) thereof, the following new sub-section —

"(2) The Authority shall use the funds acquired under subsection (1) to meet the costs incurred for its operations and shall use any surplus funds and any properties that accrue to the Authority, in such manner as the Minister may approve."

5. Section 26 of the Act is amended by substituting, therefore, the following new section —

"Regulations 26. The Minister, may make regulations prescribing any matter required by this Act to be prescribed, and for the better carrying into effect of the purposes and provisions of the Act."

Amendment
of section 26
of the Act

6. Section 27 of the Act is amended by substituting, for subsection (1) thereof, the following new subsection —

"(1) No person shall provide a telecommunication service (including cellular telephony services, packet switched data services, paging services and voice over-internet services) unless he has been granted a licence by the Authority to do so."

Amendment
of section 27
of the Act

7. Section 29 of the Act is amended by substituting, therefor, the following new section —

"Applications for licences 29. An application for a licence under this Act shall be made to the Authority in such form and accompanied by such fee, as the Minister may on the recommendation of the Board, prescribe."

Amendment
of section 29
of the Act
Amendment
of section 30
of the Act

8. Section 30 of the Act is amended by substituting, therefore, the following new section —

"Assessment of licence applications by Authority 30. (1) In assessing applications for any licence under this Part, and in making a decision as to whether it ought to grant a licence or renew a licence under this Act, the Authority shall be guided by the following general principles, namely, whether —

- (a) the grant or renewal of the licence will facilitate the performance of the general functions of the Authority as set out in section 17;
- (b) the grant or renewal of the licence will bring any benefits to the national economy and to the consumers of telecommunication services in Botswana;
- (c) the applicant can provide the services in respect of which the licence application or renewal application is made, in a safe and sustainable manner.

(2) The Authority shall seek the approval of the Minister on all decisions made in relation to applications for fixed line telephony licences and cellular telephony licences."