

Number 34 of 1996.

## TELECOMMUNICATIONS (MISCELLANEOUS PROVISIONS) ACT, 1996.

AN ACT TO MAKE PROVISION FOR THE ESTABLISHMENT OF THE OFFICE OF DIRECTOR OF TELECOMMUNICATIONS REGULATION, FOR THE TRANSFER OF FUNCTIONS FROM THE MINISTER TO THE DIRECTOR, FOR THE IMPOSITION OF A LEVY ON PROVIDERS OF TELECOMMUNICATIONS SERVICES, AND FOR THE REGULATION OF TARIFFS FOR CERTAIN TELECOMMUNICATIONS SERVICES, TO AMEND THE POSTAL AND TELECOMMUNICATIONS SERVICES ACT, 1983, AND TO PROVIDE FOR RELATED MATTERS.

[10th December, 1996]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

### Interpretation.

**1.**—(1) In this Act, except where the context otherwise requires—

"the company" means Bord Telecom Éireann;

"the Director" means the Director of Telecommunications Regulation appointed under this Act;

"functions" includes powers and duties;

"the Minister" means the Minister for Transport, Energy and Communications;

"records" includes information stored electronically;

"the Principal Act" means the Postal and Telecommunications Services Act, 1983.

(2) A reference in this Act to a section, subsection or a Schedule is a reference to a section of, or subsection of, or Schedule to this Act, unless it is indicated that reference to some other Act is intended.

(3) A reference in this Act to any enactment, unless the context otherwise requires, shall be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment including this Act.

(4) A reference to the performance of functions includes, with respect to powers and duties, a reference to the exercise of powers and the carrying out of duties.

### Director of Telecommunications Regulations.

**2.**—(1) There shall stand established the office of Director of Telecommunications Regulation and the holder of that office shall be known as the Director of Telecommunications Regulation.

(2) The provisions of this Act shall have effect in relation to the office of the Director.

### Functions of Director.

**3.**—(1) Subject to *subsection (4)*, the functions of the Director shall be the functions transferred from the Minister to the Director under *section 4* and otherwise conferred by this Act.

(2) The Director may do all such acts or other things as are necessary or expedient for the purpose of the exercise of his or her functions.

(3) The Director shall provide such information and assistance as may be required by the Minister in respect of any matters relating to proceedings pending at the time of coming into operation of this section to which the Minister is a party.

(4) The Minister may, after consultation with the Director, by order under this section, transfer to the Director such additional functions as the Minister considers appropriate being functions that are incidental, supplemental or consequential to the functions conferred on the

Director by this Act or any enactment mentioned in the *Second Schedule*.

(5) The Director shall, as soon as practicable after the coming into operation of this section, publish a plan to be known as a "Radio Frequency Plan" comprised of a set of tables indicating frequency allocations in the radio spectrum by the Director at the date of the publication of the plan.

(6) The Director shall revise and re-publish the plan from time to time.

(7) The Minister may, following consultation with the Director, issue directions in writing requiring the Director—

(a) to comply with policy decisions of a general kind made by the Minister in relation to the allocation and use of the radio frequency spectrum;

(b) to comply with decisions made by the Minister and specified to be necessary to enable the State to discharge its obligations as a member of an international organisation or as a party to an international agreement.

(8) The Director shall, in formulating, revising and implementing the Radio Frequency Plan, comply with any direction given by the Minister under *subsection (7)*.

(9) The Minister shall have regard to principles of good frequency management in giving directions under this section.

#### Transfer of functions from Minister to Director.

4.—(1) The administration and business in connection with the exercise, performance or execution of any of the functions transferred by *subsection (2)* are hereby transferred to the Director.

(2) Subject to *subsection (8)*, there are hereby transferred to the Director the functions vested in the Minister by or under—

(a) each of the provisions mentioned in *column (3)* of *Part I* of the *Second Schedule* of the Acts mentioned in *column (2)* of that Part opposite the mention of that provision, and

(b) each of the statutory instruments mentioned in *Part II* of the *Second Schedule*.

(3) Anything commenced before the commencement of this section by or under the authority of the Minister may, in so far as it relates to functions transferred by this section, be carried on or completed on or after such commencement by the Director.

(4) Where, immediately before the commencement of this section, any legal proceedings are pending to which the Minister is the plaintiff or the prosecutor and the proceedings have reference to functions transferred by this section to the Director, the name of the Director shall, in so far as the proceedings relate to any functions transferred by this section, be substituted in those proceedings for that of the Minister, or added in those proceedings as may be appropriate, and those proceedings shall not abate by reason of such substitution.

(5) Where, immediately before the commencement of this section, any legal proceedings are pending to which the Minister is a defendant and the proceedings have reference to any functions transferred to the Director by this section, the Director shall not be substituted for the Minister in those proceedings notwithstanding the transfer of functions under this Act.

(6) Every document (including any certificate or licence) granted or made in the exercise of a function transferred by this section shall, if and in so far as it was operative immediately before the commencement of this section, have effect on and after the commencement as if it had been granted or made by the Director.

(7) References to the Minister, other than in *subsection (6)* of *section 7*, in an Act or an instrument (including a licence made thereunder) relating to any functions transferred by this section to the Director shall be construed, on and after the commencement of this section, as references to the Director.

(8) Regulations shall not be made by the Director under section 6 of the Wireless

Telegraphy Act, 1926, other than with the consent of the Minister.

(9) The Minister may from time to time specify public service requirements and those requirements so specified shall be published in the *Iris Oifigiúil*.

(10) Notwithstanding section 111 (2B) (e) (inserted by the European Communities (Mobile and Personal Communications) Regulations, 1996 (S.I. No. 123 of 1996)), of The Principal Act, any licence (within the meaning of the said section) granted by the Director shall include the public service requirements published by the Minister under *subsection (9)*.

(11) In this section "public service requirements" includes requirements relating to conditions of permanence, availability and quality of the service in accordance with Article 3 of Commission Directive 90/388/EEC on competition in the market for telecommunications services<sup>1</sup>(1).

#### Staff and other resources.

**5.**—The Minister shall make available to the Director, on a request being made by the Director, such staff, premises, equipment, services and other resources as the Minister may determine from time to time in consultation with the Minister for Finance.

#### Levies and fees.

**6.**—(1) For the purpose of meeting expenses properly incurred by the Director in the discharge of his or her functions under this Act, and for the purpose of enabling the Minister to pay contributions or other membership charges to international telecommunications organisations, the Director may make an order (in this Act referred to as a levy order) imposing a levy on providers of telecommunications services.

(2) Whenever a levy order is made there shall be paid to the Director by each provider of telecommunications services such amount as shall be appropriate having regard to the terms of the levy order.

(3) A levy order may be amended or revoked by the Director.

(4) All fees and levies that may be collected under the provisions of any enactments, mentioned in the *Second Schedule*, shall be collected by, and, subject to *subsection (5)*, may be retained by, the Director.

(5) The Minister may, with the consent of the Minister for Finance, direct the Director to pay into the Central Fund or the growing produce thereof such sum as he or she may specify being a sum that represents the amount by which the aggregate sum received by the Director in each financial year exceeds the aggregate costs incurred in the administration of his or her office in that year.

(6) The Public Offices Fees Act, 1879, shall not apply in respect of fees payable to the Director pursuant to this Act.

#### Tariff regulation.

**7.**—(1) In this section—

"basket of telecommunications services" means any telecommunications service or a grouping of such services as prescribed by order made from time to time by the Minister in accordance with this Act for the purpose of regulating charges for those services;

"price cap" means an overall limit on the annual percentage change in charges that can be imposed for any basket of telecommunications services, provided by any provider of telecommunications services, which is calculated in accordance with the following formula:

"overall limit" = (Δ CPI) — X, where:

"(Δ CPI)" means the annual percentage change in the CPI;

"CPI" means the consumer price index number as compiled by the Central Statistics

Office;

"X" means the adjustment specified by the Minister;

"telecommunications service" includes—

(a) any communication service or combination of such services of any kind, whether delivered by wire, radio, fibre optics or any other means, and

(b) all connections, equipment, facilities, apparatus or other delivery or receipt mechanisms within a connected system or network or individually operated to furnish such services or the making available of such connections, equipment, facilities, apparatus or other delivery or receipt mechanisms individually or collectively.

(2) Subject to *subsection (3)*, the Minister may make an order specifying—

(a) a price cap in respect of one or more than one basket of telecommunications services, and

(b) any restrictions or adjustments that may apply to each such basket or baskets or to the price cap formula concerned.

(3) An order under this section shall not be made unless the Minister is of the opinion that—

(a) there is no competition in the market for the supply of the telecommunications services concerned, or

(b) the provider of the telecommunications services concerned holds a dominant position in the market for the supply of those services.

(4) For the purposes of this section, the Minister may request in writing a provider of telecommunications services to provide information to him or her about the services provided by that provider.

(5) On or after the expiration of a period ending two years after the making of an order by the Minister under this section, the Minister may direct the Director to re view the order and if such a direction is given and the Director sees fit he or she may modify the order.

(6) The Director may not make an order modifying an order made by the Minister under this section until the expiration of the period ending five years after the making of that order unless he or she has been directed to review such order by the Minister.

(7) Before making an order under this section the Director shall—

(a) inform each provider of telecommunications services to be affected by the order of the intention to make an order and of the right to make representations to the Director on the terms of the proposed order, and

(b) take into consideration any representations made by or on behalf of the provider, if received within two months of the date on which the Director informs the persons concerned of his or her intention to make an order.

(8) For the avoidance of doubt, where the value of a price cap is negative that value shall represent the minimum percentage reduction which shall take place in charges that can be imposed for any basket of telecommunications services provided by any provider of telecommunications services.

#### Issue of shares, etc.

**8.**—(1) Notwithstanding any provision of the Principal Act—

(a) the company may issue new shares and may divide shares into one or more classes and attach thereto respectively any preferential, deferred, qualified or special rights, privileges or conditions in accordance with the Companies Acts, 1963 to 1990;

- ( b ) subject to *subsection (2)*, the Minister or the Minister for Finance may buy, sell or otherwise transfer shares in the company.
- ( 2 ) ( a ) The aggregate shareholding of the Minister and the Minister for Finance in the company shall not be reduced to less than a majority of the issued share capital.
- ( b ) The Minister or the Minister for Finance may subscribe for further shares in the company to an amount not exceeding £100,000,000.
- ( c ) All moneys required by the Minister for Finance or by the Minister with the consent of the Minister for Finance to meet sums payable by those Ministers in accordance with this section shall be paid out of the Central Fund or the growing produce thereof.
- ( 3 ) ( a ) The company may issue shares as part of one or more than one employee shareholding scheme, subject to such terms and conditions as may be approved of by a majority of the shareholders of the company.
- ( b ) The Minister or the Minister for Finance may sell or otherwise transfer shares as part of one or more than one employee shareholding scheme, subject to such terms and conditions as may be approved of by a majority of the shareholders of the company.

#### Miscellaneous agreements.

- 9.**—(1) Subject to *subsection (2)*, the Minister with the consent of the Minister for Finance may either or both—
- ( a ) cause the company to enter into one or more agreements in connection with the sale and issue of equity in the company,
  - ( b ) enter into one or more agreements in connection with the sale and issue of equity in the company.
- (2) Any agreement entered into pursuant to *subsection (1)* may include—
- ( a ) provisions relating to—
    - (i) amendments to the memorandum and articles of association of the company,
    - (ii) directors,
    - (iii) shareholders,
    - (iv) voting rights,
    - (v) dividend policy,
    - (vi) investments,
    - (vii) representations, warranties and indemnities, and
    - (viii) restrictions on the alienability of shares;
  - and
  - ( b ) such other matters as the Minister with the consent of the Minister for Finance may from time to time consent to.
- (3) Section 60 of the Companies Act, 1963, shall not apply to any representation made or warranty or indemnity given by the company, or any financial obligations undertaken in relation thereto by the company, in connection with the sale or transfer by the Minister or the Minister for Finance or the issue by the company of shares in the company.

#### Employee directors.

- 10.**—(1) Notwithstanding anything contained in the Worker Participation (State Enterprises) Acts, 1977 and 1988, or any other Act, where an order is made under section 23 (1) of the Worker

Participation (State Enterprises) Act, 1977, fixing the appropriate number, within the meaning of section 23 (2) of that Act, in relation to the company, the appropriate number specified in any such order shall not exceed one third of the number that the Minister is otherwise entitled to appoint under the articles of association of the company.

(2) Notwithstanding anything contained in the Worker Participation (State Enterprises) Acts, 1977 and 1988, or any order or warrant made thereunder, or any other Act, the 1996 election as regards the company shall be deferred by one year (or such shorter period as may be specified by the Minister by order) and subsequent elections shall be held each fourth year thereafter.

(3) Not later than the holding of an election pursuant to *subsection (2)*, and notwithstanding anything contained in the Worker Participation (State Enterprises) Acts, 1977 and 1988, or any order or warrant made thereunder, or any other Act, the term of office of such directors of the company appointed under the Worker Participation (State Enterprises) Acts, 1977 and 1988, shall expire on such date as the Minister may by order specify so as to ensure that the number of directors remaining appointed under those Acts shall be the number specified in an order made under section 23 (1) of the Worker Participation (State Enterprises) Act, 1977.

(4) Where one or more employee shareholding schemes have been established pursuant to *section 8 (3)*, the members of such scheme or schemes, as the case may be, may nominate to the Minister, for appointment to be a director of the company—

(a) a shareholder under any such scheme, or

(b) any other person who is a former employee of the company.

(5) The Minister shall appoint the person nominated under *subsection (4)* to be a director of the company and the person so appointed shall, notwithstanding anything contained in the Worker Participation (State Enterprises) Acts, 1977 and 1988, be deemed to be appointed as a director of the company for the purposes of those Acts.

(6) Notwithstanding the articles of association of the company, the persons who are to serve as alternate directors to the directors appointed under *subsection (5)* and under section 15 of the Worker Participation (State Enterprises) Act, 1977, shall be appointed by the Minister and shall, subject to *subsection (7)*, have the same term of office as a director appointed under the Worker Participation (State Enterprises) Acts, 1977 and 1988.

(7) Notwithstanding anything contained in the Worker Participation (State Enterprises) Acts, 1977 and 1988, or any order or warrant made thereunder or any other Act, where an appointment is made under *subsection (5)*—

(a) the term of office of such director of the company appointed under the Worker Participation (State Enterprises) Acts, 1977 and 1988, shall expire on such date as the Minister may by order specify so as to ensure that the number of directors remaining appointed under those Acts shall be the number specified in an order made under section 23(1) of the Worker Participation (State Enterprises) Act, 1977, and

(b) the term of office of such alternate director of the company appointed under *subsection (6)* shall expire on such date as the Minister may by order specify and the Minister shall thereupon appoint as an alternate director the director whose term of office has expired under *paragraph (a)*.

(8) In making an appointment under *subsection (6)*, the Minister shall have regard to the results of the poll, if any, conducted at the last preceding election pursuant to the Worker Participation (State Enterprises) Acts, 1977 and 1988.

(9) Without prejudice to any other rights conferred by the articles of association on an alternate director, a person appointed by the Minister under *subsection (6)* as an alternate director may attend and participate in meetings of the directors of the company but shall not vote except when the director to whom he or she is an alternate is not present.

(10) A person appointed by the Minister under *subsection (6)* shall have the same duties and liabilities and enjoy the same exemptions from liabilities as a director of the company.

(11) In this section "former employee" means a person who was entitled, at any time, to vote at a poll in the company held pursuant to the Worker Participation (State Enterprises) Acts, 1977 and 1988 or The Principal Act.

### Amendment of Principal Act.

**11.**—The Principal Act is hereby amended by—

- ( a ) the insertion in section 46 (1) after "as it may think fit" of or in respect of such persons who were members of the staff of the Department of Posts and Telegraphs and who retired or died before the vesting day as the Minister for Finance may specify" and the subsection as so amended is set out in the Table to this paragraph;

#### TABLE

(1) Each company shall prepare and submit to the Minister a scheme or schemes for the granting of pensions, gratuities and other allowances on retirement or death to or in respect of such members of the staff of the company as it may think fit, or in respect of such persons who were members of the staff of the Department of Posts and Telegraphs and who retired or died before the vesting day as the Minister for Finance may specify.

- ( b ) the insertion in section 46 (9) before "The Minister" of "Notwithstanding the provisions of any other enactment or obligation of law" and the insertion after "Telegraphs," of "or who were members of the staff of the Department of Posts and Telegraphs and who retired or died before the vesting day" and the subsection as so amended is set out in the Table to this paragraph;

#### TABLE

(9) Notwithstanding the provisions of any other enactment or obligation of law the Minister for Finance shall make such contribution as may, with his consent, be specified in a scheme or schemes under this section towards the pensions, gratuities and other allowances related to reckonable service given before the vesting day which may be granted to or in respect of persons who, immediately before that day, were members of the staff of the Department of Posts and Telegraphs, or who were members of the staff of the Department of Posts and Telegraphs and who retired or died before the vesting day and such scheme or schemes shall, with the like consent, fix the manner and times of the payment of such contribution.

- ( c ) the insertion in section 90 (1) of "and the *Telecommunications (Miscellaneous Provisions) Act, 1996*," after "this Act", and the subsection as so amended, other than paragraphs (a) and (b) is set out in the Table to this paragraph.

#### TABLE

(1) Subject to this Act and the Telecommunications (Miscellaneous Provisions) Act, 1996, the company may make, as respects any of the telecommunications services provided by it, a scheme providing for—

### Authorised officers.

**12.**—(1) The Director may appoint persons to be authorised officers for the purposes of this section.

(2) A person appointed under *subsection (1)* shall, on his or her appointment, be furnished by the Director with a certificate of his or her appointment and when exercising a power conferred by *subsection (3)* shall, if requested by any person thereby affected, produce such certificate to that person for inspection.

(3) For the purposes of obtaining any information necessary for the exercise by the Director of his or her functions under this Act, an authorised officer may—

- ( a ) enter at any time the premises of a provider of telecommunications services for the purpose of exercising any powers conferred on him or her by this section,  
( b ) require any provider of telecommunications services to produce to him or her any



books, documents or records relating to the provision of telecommunications services which are in such provider's power or control and to give to him or her such information as he or she may reasonably require in relation to any entries in such books, documents or records,

- (c) inspect or take extracts from any such books, documents and records,
- (d) require a provider of telecommunications services mentioned in *paragraph (a)* to give to the authorised officer any information which the authorised officer may reasonably require with regard to the provision of telecommunications services,
- (e) make such inspections, tests and measurements of machinery, apparatus and other equipment on the premises as he or she considers appropriate.

### Offences.

**13.**—(1) A person who—

- (a) fails to pay a levy imposed under *section 6*,
- (b) fails to comply with an order made by the Minister under *section 7 (2)*,
- (c) fails to comply with a request made by the Minister under *section 7 (4)*,
- (d) obstructs or impedes an authorised officer in the exercise of a power conferred by *section 12 (3)*, or
- (e) fails to comply with a requirement under *section 12 (3)*,

shall be guilty of an offence under this section.

(2) A person who has been found guilty of an offence under this section shall—

- (a) be liable on summary conviction, to a fine not exceeding £1,500 (together with, in the case of a continuing offence, a fine not exceeding £100 for every day on which the offence is continued and not exceeding in total an amount which, when added to any other fine under this subsection in relation to the offence concerned, equals £1,500), or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment, or
- (b) be liable on conviction on indictment, to a fine not exceeding £50,000 (together with, in the case of a continuing offence, a fine not exceeding £5,000 for every day on which the offence is continued), or to imprisonment for a term not exceeding two years, or to both such fine and such imprisonment.

(3) Where an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any person, being a director, manager, secretary or other similar officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(4) Summary proceedings for an offence under this Act may be brought and prosecuted by the Director.

(5) Notwithstanding section 10 (4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this Act may be brought within 12 months from the date of the offence.

### Repeals.

**14.**—(1) The enactments mentioned in *column (2)* of Part I of the *Third Schedule* are hereby repealed to the extent mentioned in *column (3)* of that Schedule.

(2) The enactment mentioned in *column (2)* of *Part II* of the *Third Schedule* is hereby repealed to the extent mentioned in *column (3)* of that Schedule in so far as it applies to the



company.

#### Laying of orders.

**15.**—Every order made under this Act (other than an order made under *section 7* or under *section 17 (2)*) shall, as soon as may be after it is made, be laid before each of the Houses of the Oireachtas and if a resolution annulling the order is passed by either such House within the next subsequent 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything done thereunder.

#### Expenses.

**16.**—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

#### Short title and commencement.

**17.**—(1) This Act may be cited as the Telecommunications (Miscellaneous Provisions) Act, 1996.

(2) Subject to *subsection (3)*, this Act shall come into operation on such day or days as, by order or orders of the Minister under this section, may be appointed therefor either generally or with reference to any particular purpose or provision, and different days may also be appointed for different purposes and different provisions of this Act.

(3) This Act shall come into operation 90 days following its passing unless an order or orders has or have been made under *subsection (2)*.

### FIRST SCHEDULE

#### OFFICE OF DIRECTOR OF TELECOMMUNICATIONS REGULATION

1 The Director shall be a position in the Civil Service and shall be appointed by the Minister with the consent of the Minister for Finance.

2 A person appointed to be the Director shall hold office for such period not to exceed six years as the Minister shall determine on such terms and conditions consistent with this Act as the Minister, with the consent of the Minister for Finance, may determine and he or she shall be eligible for re-appointment.

3 The first appointment to be made under this Act shall be made on or before the commencement of *section 4*.

4 The Director may—

(a) at any time resign his or her office by letter addressed to the Secretary to the Government and the resignation shall take effect from the date of receipt of the letter,

(b) be at any time removed from office by the Minister if, in the opinion of the Minister, he or she has become incapable through ill-health of effectively performing his or her functions or has committed stated misbehaviour.

5 If the Director is removed from office under *paragraph 4*, the Minister shall cause to be laid before each House of the Oireachtas a statement of the reasons for the removal.

6 The Director shall be a body corporate with perpetual succession and power to sue and be sued in its corporate name.

7 The Director shall not hold any other office or employment in respect of which emoluments are payable.

8 A person who has held the office of Director shall not, for a period of eighteen months following his or her resignation, removal or retirement from the office of Director, hold any

office or employment or act as a consultant where he or she may be liable to use or disclose information acquired by him or her in the exercise of the functions of the Director.

9 Notwithstanding *paragraph 8*, a person who has held the office of Director may hold any office or engage in any employment in the Civil Service or act as a consultant to any Minister of the Government.

10 The Director shall be independent in the exercise of his or her functions.

11 The Minister may delegate to the Director the powers exercisable by him or her under the Civil Service Commissioners Act, 1956, and the Civil Service Regulation Acts, 1956 and 1958, as the appropriate authority in relation to members of the staff of the Director and so long as the delegation remains in force—

(a) those powers shall, in lieu of being exercisable by the Minister, be exercisable by the Director, and

(b) the Director shall, in lieu of the Minister, for the purposes of this Act be the appropriate authority in relation to members of the staff of the Director.

12 The Director may—

(a) with the consent of the Minister for Finance, determine the number of staff to be appointed to the office of the Director, and

(b) appoint to be members of his or her staff such persons as he or she may determine from time to time.

13 The Director shall—

(a) keep in such form as may be approved of by the Minister, with the consent of the Minister for Finance, all proper and usual accounts of all moneys received or expended by him or her,

(b) submit the accounts kept in pursuance of *subparagraph (a)* in respect of each year to the Comptroller and Auditor General in the following year (not later than a date specified by the Minister) for audit, and

(c) as soon as may be after the audit, present to the Minister a copy of those accounts, or of such extracts from those accounts as the Minister may specify, together with the report of the Comptroller and Auditor General on the accounts, and the Minister shall cause copies of the documents so presented to be laid before each House of the Oireachtas.

14 The Director may perform such of his or her functions as he or she may deem proper through or by any officer of the Minister or any officer of the Director, as the case may require.

15 The Director shall designate a member of his or her staff as Deputy-Director who shall assume all of the functions of the Director during periods of unavailability of the Director and carry out those functions with the authority of the Director.

16 The Director shall in each year make a report to the Minister concerning the performance of his or her functions in the previous year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas as soon as may be thereafter.

17 (a) Where the Director is—

(i) nominated as a member of Seanad Éireann,

(ii) elected as a member of either House of the Oireachtas or the European Parliament or becomes a member of a local authority, or

(iii) regarded pursuant to section 15 (inserted by the European Parliament Elections Act, 1993) of the European Assembly Elections Act, 1977, as having been elected to such Parliament to fill a vacancy,

he or she shall thereupon cease to be the Director.

(b) A person who is for the time being—

- (i) entitled under the standing orders of either House of the Oireachtas to sit therein,
  - (ii) a member of the European Parliament, or
  - (iii) entitled under the standing orders of a local authority to sit therein,
- shall, while he or she is so entitled or is such a member, be disqualified from holding the office of Director.
- ( c ) Where a person who holds the office of Director is nominated as a candidate for election to either House of the Oireachtas, the European Parliament or a local authority, he or she shall thereupon cease to hold the office of Director.

## SECOND SCHEDULE

### TRANSFER OF FUNCTIONS FROM MINISTER TO DIRECTOR PART I ACTS UNDER WHICH FUNCTIONS ARE TRANSFERRED

Number and Year (1)	Short Title (2)	Section (3)
No. 45 of 1926.	Wireless Telegraphy Act, 1926, as amended by: — the Broadcasting Authority Act, 1960 (No. 10 of 1960); — the Wireless Telegraphy Act, 1972 (No. 5 of 1972); — the Broadcasting Authority (Amendment) Act, 1976 (No. 37 of 1976); — the Broadcasting and Wireless Telegraphy Act, 1988 (No. 19 of 1988);  — the Broadcasting Act, 1990 (No. 24 of 1990)	Section 3,  section 5 (except as regards licences in respect of television sets),  section 6 (except as regards licences in respect of television sets),  section 7 (except as regards television sets),  section 8 (except as regards television sets),  section 9 (except as regards aircraft), section 10A,  section 12, section 13 (except as regards offences under section 3 in respect of television sets).
No. 10 of 1960.	Broadcasting Authority Act, 1960.	Section 16 (3) (a).
No. 5 of 1972.	Wireless Telegraphy Act, 1972.	Sections 5, 7, 8.
No. 24 of 1983.	Postal and Telecommunications Services Act, 1983, as amended by: — the European Communities (Telecommunications Services) Regulations, 1992 (S.I. No. 45 of	Section 5 (6) (functions of the Minister in so far as they relate to the company), sections 88 (3) (b), 111 (2), 111 (2A), 111 (2B), 111 (3), 111 (4), 111 (6), 111 7 (a), (b), (c), (e).

	1992); — the European Communities (Mobile and Personal Communications) Regulations, 1996 (S.I. No. 123 of 1996).	
No. 19 of 1988.	Broadcasting and Wireless Telegraphy Act, 1988.	Sections 3, 6, 7, 9, 13, 14.
No. 20 of 1988.	Radio and Television Act, 1988.	Subsections (3) and (5) of section 4, subsections (2) and (3) of section 5, section 7.
No. 24 of 1990.	Broadcasting Act, 1990.	Sections 9, 12, 16, 17.
No. 29 of 1993.	Irish Aviation Authority Act, 1993.	Section 70.
	<i>Telecommunications (Miscellaneous Provisions) Act, 1996</i>	<i>Section 7 other than subsection (5).</i>

## PART II

### STATUTORY INSTRUMENTS UNDER WHICH FUNCTIONS ARE TRANSFERRED

Number and Year (1)	Title of Instrument (2)
S.I. No. 330 of 1937.	Wireless Telegraphy (Experimenter's Licence) Regulations, 1937.
S.I. No. 320 of 1949.	Wireless Telegraphy (Business Radio Licence) Regulations, 1949.
S.I. No. 67 of 1974 and S.I. No. 82 of 1988	Wireless Telegraphy (Wired Broadcast Relay Licence) Regulations, 1974 as amended by the Wireless Telegraphy (Wired Broadcast Relay Licence) (Amendment) Regulations, 1988
S.I. No. 170 of 1979.	European Communities (Radio Interference from Electrical Household Appliances, Portable Tools and Similar Equipment) Regulations, 1979.
S.I. No. 171 of 1979.	European Communities (Radio Interference from Fluorescent Lighting Luminaires) Regulations, 1979.
S.I. No. 8 of 1982.	Wireless Telegraphy. (Personal Radio Licence) Regulations, 1982.
S.I. No. 83 of 1988.	Wireless Telegraphy (Community Repeater Licence) Regulations, 1988.
S.I. No. 39 of 1989.	Wireless Telegraphy (Television Programme Retransmission) Regulations, 1989.
S.I. No. 252 of 1991.	Wireless Telegraphy (Television Programme Retransmission and Relay) Regulations, 1991.
S.I. No. 45 of 1992.	European Communities (Telecommunications Services) Regulations, 1992.
S.I. No. 319 of 1992.	Wireless Telegraphy (Radio Link Licence) Regulations, 1992.

S.I. No. 328 of 1994.	European Communities (Application of Open Network Provision to Leased Lines) Regulations, 1994.
S.I. No. 398 of 1994.	European Communities (Telecommunications Services) (Appeals) Regulations, 1994.
S.I. No. 123 of 1996.	European Communities (Mobile and Personal Communications) Regulations, 1996.

### THIRD SCHEDULE

#### REPEALS PART I

Number and Year (1)	Title of Act (2)	Extent of Repeal (3)
No. 45 of 1926.	Wireless Telegraphy Act, 1926	Section 6 (3) (except as regards licences in respect of television sets).
No. 24 of 1983.	Postal and Telecommunications Services Act, 1983.	Sections 10 (3) (b), 15 (1), 20 (2), 31 (1) (b), 46 (10), 89, 90 (2).
No. 10 of 1985.	Finance Act, 1985.	Section 68.

#### PART II

Number and Year (1)	Title of Act (2)	Extent of Repeal (3)
No. 24 of 1983.	Postal and Telecommunications Services Act, 1983.	Sections 10 (3) (c) and (d), 16 (1) and 2) (a), (b), (c), (d), (f), 17, 19 (4), 21, 23, 25, 31 (3), 36 and 110 (5) in so far as they apply to the company.

#### ACTS REFERRED TO

Broadcasting Act, 1990	1990, No. 24
Broadcasting and Wireless Telegraphy Act, 1988	1988, No. 19
Broadcasting Authority Act, 1960	1960, No. 10
Broadcasting Authority (Amendment) Act, 1976	1976, No. 37
Civil Service Commissioners Act, 1956	1956, No. 45
Civil Service Regulation Acts, 1956 and 1958	
Companies Act, 1963	1963, No. 33
Companies Acts, 1963 to 1990	
European Assembly Elections Act, 1977	1977, No. 30
European Parliament Elections Act, 1993	1993, No. 30
Finance Act, 1985	1985, No. 10
Irish Aviation Authority Act, 1993	1993, No. 29
Petty Sessions (Ireland) Act, 1851	14 & 15 Vict., c. 93
Postal and Telecommunications Services Act, 1983	1983, No. 24

Public Offices Fees Act, 1879	1879, c. 58
Radio and Television Act, 1988	1988, No. 20
Wireless Telegraphy Act, 1926	1926, No. 45
Wireless Telegraphy Act, 1972	1972, No. 5
Worker Participation (State Enterprises) Act, 1977	1977, No. 6
Worker Participation (State Enterprises) Acts, 1977 and 1988	

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<sup>1</sup>1. O.J. No. L192/10 24.7.90