



Telecommunications Amendment Act 2001

Public Act 2001 No 80
Date of assent 26 September 2001
Commencement see section 2

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Schedule
Consequential amendments to principal Act

The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Telecommunications Amendment Act 2001.
- (2) In this Act, the Telecommunications Act 1987 is called “the principal Act”.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 New section 2A substituted

The principal Act is amended by repealing section 2A, and substituting the following section:

“2A Declaration of person as network operator

- (1) The purpose of this section is to facilitate entry into and competition in telecommunication markets.

- “(2) A person may apply to the Minister to be declared a network operator for the purposes of this Act or any provisions of this Act.
- “(3) The Minister must declare an applicant to be a network operator for the purposes of this Act or any provisions of this Act if the Minister is satisfied that a declaration is necessary to enable the applicant to commence or carry on a business of providing—
- “(a) facilities for telecommunication between 10 or more other persons that enable at least 10 of those persons to communicate with each other; or
 - “(b) facilities for broadcasting to 500 or more other persons that enable programmes to be transmitted along a line or lines to each of those persons.
- “(4) The Minister must revoke a declaration made under subsection (3) if the Minister is satisfied that a network operator has ceased to provide the facilities listed in that subsection.
- “(5) A declaration under subsection (3) is made or revoked by notice in the *Gazette*.
- “(6) A notice in the *Gazette* under this section is a regulation for the purposes of the Regulations (Disallowance) Act 1989, but not for the purposes of the Acts and Regulations Publication Act 1989.”

4 New section 10A substituted

The principal Act is amended by repealing section 10A, and substituting the following section:

“10A Application for call data warrant

- “(1) Any member of the police or any Customs officer may apply to a District Court Judge for the issue of a call data warrant.
- “(2) Any member of the police may apply to a Judge of the High Court for the issue of a call data warrant if the application is made together with an application to a Judge of the High Court for the issue of an interception warrant under the Crimes Act 1961 or the Misuse of Drugs Amendment Act 1978.
- “(3) An application under this section must be made in writing and on oath.”

5 Transitional provision for Orders in Council made under old section 2A

- (1) Despite section 3, every declaration made by Order in Council under section 2A of the principal Act (as it read immediately before the commencement of section 3 of this Act) continues in force and has full effect.
- (2) The Governor-General may, by Order in Council made on the recommendation of the Minister, revoke a declaration made under section 2A(3) of the principal Act (as it read immediately before the commencement of section 3 of this Act).
- (3) The Minister must make a recommendation under subsection (2) if the Minister is satisfied that the network operator has ceased to provide—
 - (a) facilities for telecommunication between 10 or more other persons that enable at least 10 of those persons to communicate with each other; or
 - (b) facilities for broadcasting to 500 or more other persons that enable programmes to be transmitted along a line or lines to each of those persons.

6 Consequential amendments to principal Act

The principal Act is amended in the manner set out in the Schedule.

Schedule

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Consequential amendments to principal Act

Section 2

Repeal the definition of **network operator** in subsection (1) and substitute:

“**network operator** means the Corporation and any person declared under section 2A to be a network operator for the purposes of this Act or any provision of this Act”.

Section 10B

Omit from subsections (1) and (2) the words “District Court”.

Section 10K

Repeal subsection (1) and substitute:

“(1) Any member of the police or any Customs officer may apply for the renewal of a call data warrant that has not expired.

“(1A) The application must be made—

“(a) to a District Court Judge if the warrant was issued by a District Court Judge; and

“(b) to a Judge of the High Court if the warrant was issued by a Judge of the High Court.”

Omit from subsection (3) the words “District Court”.

Section 10L

Omit from subsection (1) the words “District Court”.

Omit from subsection (2) the words “District Court” and substitute the word “court”.

Section 10N

Omit from subsection (3) the words “District Court Judge” and substitute the words “Judge of that court”.

Section 10O

Omit from subsections (1) and (3) the words “District Court”.

Section 10P

Omit from subsection (1) the words “to a District Court Judge”.

Omit from subsection (2) the words “District Court”.

Add:

“(3) The Judge to whom the judicial officer must refer a matter under subsection (2) is—

“(a) a District Court Judge if the document relates to a call data warrant that was issued by a District Court Judge; and

Section 10P—continued

“(b) a Judge of the High Court if the document relates to a call data warrant that was issued by a Judge of the High Court.”

Legislative history

20 September 2001	Divided from Statutes Amendment Bill (Bill 97–2), third reading
26 September 2001	Royal assent

This Act is administered in the Ministry of Economic Development.
