



THE TELECOMMUNICATIONS (INTERNATIONAL SERVICES) REGULATIONS 1994

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 28th day of November 1994

Present:

THE RIGHT HON. D. C. MCKINNON PRESIDING IN COUNCIL

PURSUANT to section 5 of the Telecommunications Act 1987 (as substituted by section 7 of the Telecommunications Amendment Act 1988), Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Telecommunications (International Services) Regulations 1994.

(2) These regulations shall come into force on the 1st day of March 1995.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“The Act” means the Telecommunications Act 1987:

“Facilities”—

(a) Means any resource used for the purpose of providing telecommunications services; but

(b) Does not include any resource used for activities associated with the operation of a business that provides telecommunications services, such as marketing the business or billing customers:

“Leased circuit” means the whole or any part of the capacity of one or more telecommunications links provided by an overseas operator, being the whole or the part that is dedicated, pursuant to an agreement between a person in New Zealand and the overseas operator, to the use of a particular person:

“Overseas operator” means a person who operates, from a territory outside New Zealand, facilities for the purpose of providing telecommunications services:

“Public networks” means networks that support the provision of public switched telecommunications services:

“Public switched telecommunications services”—

(a) Means services that—

(i) Involve the transmission of voice or data or both; and

(ii) Are switched between members of the public; and

(iii) Are offered to members of the public at one or both ends of a telecommunications link; and

(b) Includes such services as public telephone services, public telex services, or public packet telecommunications services:

“Registered operator” means a person registered as an operator under these regulations:

“Secretary” means the Secretary of Commerce:

“Telecommunications link” means any line, radio frequency, or other medium used for telecommunications.

(2) Expressions not defined in these regulations but defined in the Act have, in these regulations, the meanings so defined.

3. Application of regulations—These regulations apply to any person who establishes, operates, or maintains facilities in New Zealand for the purpose of providing to other persons in New Zealand, pursuant to an agreement or arrangement between that person and an overseas operator,—

(a) Leased circuits that are connected both with public networks in New Zealand and with public networks in the territory of the overseas operator; or

(b) Public switched telecommunications services to or from territories outside New Zealand.

4. Application for registration—(1) Every person to whom these regulations apply shall apply to the Secretary for registration in accordance with these regulations.

(2) Every application under subclause (1) of this regulation (other than an application made pursuant to regulation 13 (3) of these regulations)—

(a) Shall be in a form approved by the Secretary; and

- (b) Shall contain or have appended to it such statements, reports, or agreements as the Secretary may require; and
- (c) Shall be accompanied by a fee of \$1,000.
- (3) An application under subclause (1) of this regulation may be made in respect of single or multiple telecommunications links.

5. Registration—(1) In determining whether or not to register a person who provides services of a kind described in regulation 3 (a) of these regulations, the Secretary shall have regard to—

- (a) The conditions for the reselling of leased circuits, or services based on leased circuits, in the overseas territory concerned, including conditions of any kind relating to the connection of leased circuits to public networks in the territory concerned; and
 - (b) The level of harm to the interests of users of international telecommunications services in New Zealand that may occur through the materialisation of a risk that the Secretary considers may arise from the use of leased circuits to terminate traffic in New Zealand.
- (2) The Secretary shall register any person who provides services of a kind described in regulation 3 (b) of these regulations.
- (3) The Secretary shall, as soon as practicable after a person has been registered in accordance with these regulations, cause notice of that registration to be published in the *Gazette*.

6. Conditions of registration—Every registered operator shall comply with the following conditions:

- (a) The registered operator shall comply with such international telecommunications agreements and conventions as the Secretary may from time to time specify;
- (b) The registered operator shall furnish to the Secretary such statements, reports, and agreements as the Secretary may from time to time require;
- (c) The registered operator shall pay to the Secretary all fees payable under these regulations.

7. Additional conditions—(1) The Secretary may at any time impose on any registered operator, for such period as the Secretary thinks fit, one or both of the following conditions:

- (a) A condition that the registered operator shall ensure that any agreement or arrangement between the registered operator and an overseas operator, being an overseas operator specified by the Secretary, provides for the registered operator to pay a fee for terminating traffic to the overseas operator, which fee shall be at a rate, and in accordance with a method, fixed by the Secretary;
- (b) A condition that the registered operator shall ensure that any agreement or arrangement between the registered operator and an overseas operator, being an overseas operator specified by the Secretary, provides for the registered operator's share of total traffic to New Zealand from that overseas operator to be in a similar proportion to that registered operator's share of total traffic from New Zealand to that overseas operator.

(2) In determining whether or not to impose one or both of the conditions described in subclause (1) of this regulation, the Secretary shall have regard to—

- (a) The desirability of promoting a competitive market in international telecommunications services in New Zealand; and
- (b) The interests of users of such services in New Zealand.

8. Revocation of registration—Where the Secretary is satisfied—

- (a) That a person who is a registered operator has not complied with one or more of the conditions of registration to which that registered operator is subject; or
 - (b) That, in the case of services of a kind described in regulation 3 (a) of these regulations, the circumstances to which the Secretary was required to have regard in determining whether or not to register that person as a registered operator have changed to such an extent that continued registration is no longer appropriate,—
- the Secretary may revoke the registration of that person under these regulations.

9. Fees in respect of registration—(1) Every registered operator (other than a registered operator to whom regulation 13 (4) or (5) of these regulations applies) shall pay a fee of \$10,000 on registration under these regulations.

(2) Every registered operator shall thereafter pay an annual registration fee of \$10,000.

- (3) The fees payable under this regulation shall be paid to the Secretary.

10. Goods and services tax included—The fees payable under these regulations are inclusive of any goods and services tax payable under the Goods and Services Tax Act 1985.

11. Disclosure—The Secretary may disclose to any registered operator any statements, reports, or agreements provided under regulation 4 (2) (b) or regulation 6 (b) or regulation 13 (3) (b) of these regulations.

12. Revocations—The following regulations are hereby revoked:

- (a) The Telecommunications (International Services) Regulations 1989*;
- (b) The Telecommunications (International Services) Regulations 1989, Amendment No. 1†.

13. Transitional provisions—(1) Every person registered under the Telecommunications (International Services) Regulations 1989 at the commencement of these regulations shall, unless that person's registration is sooner revoked, be deemed to be registered under these regulations until the close of the 30th day of April 1995.

(2) Every person to whom subclause (1) of this regulation applies shall, on or before the close of the 30th day of April 1995, apply under regulation 4 (1) of these regulations for registration in accordance with these regulations.

(3) Every application under regulation 4 (1) of these regulations which is made, on or before the close of the 30th day of April 1995, by a person to whom subclause (1) of this regulation applies—

- (a) Shall be in a form approved by the Secretary; and

(b) Shall contain or have appended to it such statements, reports, or agreements as the Secretary may require.

(4) Subject to subclause (5) of this regulation, the fee payable on registration under these regulations by a person to whom subclause (1) of this regulation applies shall be an amount calculated by deducting from the amount of \$10,000 the amount paid by that person under the Telecommunications (International Services) Regulations 1989 in respect of the period from the 1st day of May 1995.

(5) Where the amount paid, by a person to whom subclause (1) of this regulation applies, under the Telecommunications (International Services) Regulations 1989 in respect of the period from the 1st day of May 1995 exceeds the amount of \$10,000, no fee shall be payable on registration under these regulations by that person for the period of 1 year, and the amount of the excess shall be credited against the payment of any fee under regulation 9 (2) of these regulations for any year after that year.

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 March 1995, replace the Telecommunications (International Services) Regulations 1989.

These regulations provide for the registration of persons who establish, operate, or maintain facilities in New Zealand for the purpose of providing to other persons in New Zealand, pursuant to agreements or arrangements between the first-mentioned persons and overseas operators, telecommunication services to or from territories outside New Zealand. Registered operators must comply with the conditions specified in *regulation 6*. The Secretary of Commerce may, in addition, impose on a registered operator one or both of the conditions specified in *regulation 7*.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 1 December 1994.

These regulations are administered in the Ministry of Commerce.