

BILL AS TABLED

A BILL

entitled

TELECOMMUNICATIONS AMENDMENT ACT 2010

TABLE OF CONTENTS

1	Citation
2	Inserts new Part IVA
3	Amends section 40
4	Inserts sections 43A to 43C
5	Amends section 59
6	Transitional provision
7	Consequential amendment
8	Commencement

WHEREAS it is expedient to amend the Telecommunications Act 1986 to require Carriers providing public telecommunications services to assist the Police in carrying out electronic surveillance and in intercepting communications for law enforcement purposes;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Telecommunications Act 1986 (the "principal Act"), may be cited as the Telecommunications Amendment Act 2010.

Inserts new Part IVA

2 The principal Act is amended by inserting immediately after Part IV the following—

"PART IVA

COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT

Definitions

28C In this Part—

TELECOMMUNICATIONS AMENDMENT ACT 2010

“call-identifying information” means dialing or signalling information that identifies the origin, direction, destination or termination of each communication generated or received by a subscriber by means of any telecommunication apparatus, facility or service of a Carrier;

“commercial mobile service” means any mobile telecommunication service that is provided for profit and makes interconnected service available to the public or to such classes of eligible users as to be effectively available to a substantial portion of the public;

“electronic communication” means any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system, but does not include—

- (a) any oral communication;
- (b) any communication made through a tone-only paging device;
- (c) any communication from a tracking device; or
- (d) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds;

“facility” means any facility, telecommunication apparatus or other thing that is used for telecommunications or for any operation directly connected with telecommunications;

“mobile service” means a radio communication service carried on between mobile stations or receivers and land stations and by mobile stations communicating among themselves, and includes—

- (a) both one-way and two-way radio communication services; and
- (b) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation;

“pen register” means a device or process which records or decodes dialing, routing, addressing or signalling information (other than the contents of a communication) transmitted by an instrument or facility from which a wire or electronic communication is transmitted, but does not include—

- (a) any device or process used by a provider or customer of a wire or electronic communication service for billing or recording as an incident to billing, for communications services provided by such provider; or

TELECOMMUNICATIONS AMENDMENT ACT 2010

- (b) any device or process used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business;

“telecommunication support services” means a product, software, or service used by a Carrier for the internal signalling or switching functions of its telecommunications network;

“trap and trace device” means a device or process which captures the incoming electronic or other impulses which identify the originating number or other dialing, routing, addressing and signalling information (other than the contents of a communication) that is reasonably likely to identify the source of a wire or electronic communication.

Assistance capability requirements

28D (1) Subject to subsections (2) to (5), a Carrier shall ensure that its telecommunication apparatus, facilities and services that provide a customer or subscriber with the ability to originate, terminate or direct communications are capable of—

- (a) expeditiously isolating and enabling the Police, pursuant to a warrant issued by the Governor under section 62, to intercept, to the exclusion of any other communications, all wire and electronic communications carried by the Carrier within a telecommunication service area to or from telecommunication apparatus, facilities or services of a subscriber of such Carrier—
 - (i) concurrently with their transmission to or from the subscriber’s telecommunication apparatus, facility or service; or
 - (ii) at such later time as may be acceptable to the Police;
- (b) expeditiously isolating and enabling the Police, pursuant to a warrant issued by the Governor under section 62, to access call-identifying information that is reasonably available to the Carrier—
 - (i) before, during or immediately after the transmission of a wire or electronic communication (or at such later time as may be acceptable to the Police); and
 - (ii) in a manner that allows it to be associated with the communication to which it pertains;
- (c) delivering intercepted communications and call-identifying information to the Police, pursuant to a warrant issued by the Governor under section 62, in a format such that they may be transmitted by means of telecommunication apparatus, facilities,

TELECOMMUNICATIONS AMENDMENT ACT 2010

or services procured by the Police to a location other than the premises of the Carrier; and

(d) facilitating authorized communications interceptions and access to call-identifying information unobtrusively and with a minimum of interference with any subscriber's telecommunications service and in a manner that protects—

(i) the privacy and security of communications and call-identifying information not authorized to be intercepted; and

(ii) information regarding the interception by the Police of communications and Police access to call-identifying information.

(2) This section does not authorize the Police—

(a) to require any specific design of telecommunication apparatus, facilities, services, features, or system configurations to be adopted by any Carrier or provider of telecommunication support services; or

(b) to prohibit the adoption of any telecommunication apparatus, facility, service or feature by any Carrier or provider of telecommunication support services.

(3) The requirements of subsection (1) do not apply to telecommunication apparatus, facilities and services that support the transport or switching of communications for private networks or for the sole purpose of interconnecting Carriers.

(4) In emergency circumstances, a Carrier at its discretion may comply with subsection (1)(c) by allowing monitoring at its premises if that is the only means of accomplishing the interception or access.

(5) A Carrier that—

(a) provides a commercial mobile service offering a feature or service which allows subscribers to redirect, hand off or assign their wire or electronic communications to another service area or another Carrier or to utilize facilities in another service area or of another Carrier; and

(b) had been providing assistance for the interception of wire or electronic communications or access to call-identifying information pursuant to a warrant issued by the Governor under section 62, but no longer has access to the content of such communications or call-identifying information within the service area in which interception has been occurring as a result of the subscriber's use of such a feature or service,

shall ensure that information is made available to the Police (before, during or immediately after the transfer of such communications) identifying the provider of

a wire or electronic communication service that has acquired access to the communications.

Capacity requirements

28E (1) The Minister shall, after consulting with the Minister responsible for public safety, publish in the Gazette a notice of —

- (a) the actual number of communication interceptions, pen registers and trap and trace devices, representing a portion of the maximum capacity set forth under paragraph (b), that the Minister responsible for public safety estimates the Police may conduct and use simultaneously by the date that is three years after the date of publication of the notice; and
- (b) the maximum capacity required to accommodate all of the communication interceptions, pen registers and trap and trace devices that the Minister responsible for public safety estimates the Police may conduct and use simultaneously after the date that is three years after the date of publication of the notice.

(2) Within one year after the publication of a notice under subsection (1), a Carrier shall ensure that its systems are capable of accommodating simultaneously the number of interceptions, pen registers and trap and trace devices set forth in the notice under subsection (1)(a).

(3) Within three years after the publication of a notice under subsection (1), a Carrier shall ensure that it can accommodate expeditiously any increase in the actual number of communication interceptions, pen registers and trap and trace devices that the Police may seek to conduct and use, up to the maximum capacity requirement set forth in the notice under subsection (1)(b).

(4) The Minister may from time to time, after consulting with the Minister responsible for public safety, vary the maximum capacity requirement issued under subsection (1)(b) and the Minister shall publish a notice of any such variance in the Gazette.

(5) Section 6 of the Statutory Instruments Act 1977 does not apply to a notice issued under this section.

Exemptions from capacity requirements

28F (1) The Minister, after consulting with the Minister responsible for public safety, may issue a directive to a Carrier exempting it from meeting its obligations under sections 28E(2) and (3) and directing the Carrier to accommodate such reduced number of interceptions, pen registers and trap and trace devices as are specified in the directive, within the time referred to in those sections.

(2) A directive issued to a particular Carrier under this section is not a statutory instrument and need not be published in the Gazette but the directive shall have no legal effect until it is delivered to the Carrier.

Cooperation of providers of telecommunication support services

28G (1) A Carrier shall consult, as necessary, in a timely fashion with providers of telecommunication support services for the purpose of ensuring that current and planned telecommunication apparatus, facilities and services comply with the requirements referred to in sections 28D and 28E(2) and (3).

(2) A provider of telecommunication support services shall, on a reasonably timely basis and at a reasonable charge, make available to Carriers using its telecommunication apparatus, facilities or services such features or modifications as are necessary to permit such Carriers to comply with the requirements of sections 28D and 28E(2) and (3).

No degradation of capabilities

28H A Carrier that meets, in whole or in part, a requirement referred to in sections 28D or 28E(2) or (3) in respect of telecommunication apparatus that the Carrier operates shall continue to so meet that requirement.

Maintaining capabilities in respect of new services

28I A Carrier that meets, in whole or in part, a requirement under sections 28D or 28E(2) or (3) in respect of telecommunication apparatus that the Carrier operates in connection with any of the Carrier's telecommunication services shall meet that requirement to the same extent in respect of any new service that the Carrier begins to provide using that telecommunication apparatus.

Beginning to operate telecommunication apparatus

28J (1) A Carrier that begins to operate any telecommunication apparatus for the purpose of providing telecommunication services shall meet the requirements under sections 28D and 28E(2) and (3), whether by means of the telecommunication apparatus itself or by any other means.

(2) Subsection (1) does not apply in respect of telecommunication apparatus that a Carrier acquires from another Carrier and operates in order to continue to provide the same telecommunication service to approximately the same users.

(3) Notwithstanding subsection (2), the acquiring Carrier shall continue to meet any requirement referred to in subsection (1) that the Carrier from whom the telecommunication apparatus was acquired was obligated to meet.

New software

28K (1) When a Carrier installs new software for any telecommunication apparatus that the Carrier operates, the Carrier shall meet the requirements under sections 28D and 28E(2) and (3) in respect of that telecommunication apparatus to the extent that the Carrier would be enabled to meet those requirements by the installation of the software in the form available from the software's manufacturer that would most increase the Carrier's ability to meet those requirements.

(2) Subsection (1) applies even if the form of the software in question would require the Carrier to acquire additional software licences or telecommunication facilities to achieve that increased ability.

Maximum capacity limit

28L A Carrier is not required, under sections 28H to 28J, to increase the Carrier's capability to enable simultaneous interceptions beyond the maximum capacity limit referred to in section 28E.

Order suspending obligations

28M (1) The Minister may, by order made on the application of a Carrier, suspend in whole or in part any obligation of the Carrier to meet a requirement under section 28D or 28E(2) or (3) that would arise from the operation of section 28I or 28J.

(2) Before making an order, the Minister shall take into account the public interest in national security and law enforcement and the commercial interests of the Carrier as well as any other matter that the Minister considers relevant.

(3) The Statutory Instruments Act 1977 does not apply to an order issued under subsection (1) in respect of an individual Carrier.

Ministerial directives

28N (1) The Minister may, at the request of the Minister responsible for public safety, if in the Minister's opinion it is necessary to do so, issue a directive to a Carrier requiring that Carrier—

- (a) to comply with any obligation under sections 28D and 28E(2) and (3) in a manner or within a time that the Minister specifies;
- (b) to comply, in a manner or within a time that the Minister specifies, with any confidentiality or security measures respecting interceptions that the Minister specifies; or
- (c) to meet a requirement under section 28D or 28E(2) or (3) in respect of telecommunication apparatus operated by the Carrier that the Carrier would not otherwise be required to meet.

(2) Section 6 of the Statutory Instruments Act 1977 does not apply to a directive issued under subsection (1).

Mandatory reporting — acquisition of telecommunication apparatus

28O (1) A Carrier that acquires telecommunication apparatus referred to in subsection 28J(2) shall, before using it in providing telecommunication services, submit to the Minister a report containing the following information—

- (a) the prescribed information concerning the extent to which the Carrier meets the requirements under sections 28D and 28E(2) and (3) in respect of the telecommunication apparatus; and

(b) any prescribed information relevant to the administration of this Act.

(2) A Carrier shall, at the request of the Minister, submit a report or further report in the form and manner, and within the period, that the Minister specifies containing the information referred to in paragraphs (1)(a) and (b) and any additional related information that the Minister specifies.

(3) Every report submitted under this section must include a written statement certifying—

- (a) that it does not contain any untrue statements or omissions of material facts;
- (b) that it fairly presents the Carrier's operations at the time of submission
- (c) that the signatory has taken steps to ensure the report's accuracy and undertakes—
 - (i) to correct any material error that is detected in the report after its submission; and
 - (ii) to submit a revised report to the Minister as soon as possible, with another similar written statement accompanying it.

(4) The statement must be signed—

- (a) if the Carrier is a corporation, by one of its officers or directors; and
- (b) in any other case, by an individual who is an owner of the Carrier or by an officer or a director of a corporation that is an owner of the Carrier.

Exemption order

28P (1) The Minister may, after consultation with the Minister responsible for public safety, by order, exempt any class of Carrier from all or part of the obligations under sections 28D, 28E(2) and (3), 28H to 28J, 28O or under any regulation made for the purposes of any of those sections.

(2) Before making an order under subsection (1) the Minister shall take into consideration—

- (a) whether compliance with the assistance capability requirements is reasonably achievable through application of technology available within the compliance period;
- (b) the extent to which the exemption would adversely affect national security or law enforcement;
- (c) whether the Carriers can comply with the obligations from which they would be exempted;

- (d) whether the costs of compliance with those obligations would have an unreasonable adverse effect on the business of the Carrier; and
 - (e) whether compliance with those obligations would unreasonably impair the provision of telecommunication services to the public or the competitiveness of Bermuda's telecommunications industry.
- (3) An order under this section shall be subject to such conditions as the Minister may impose and shall extend for no longer than the earlier of—
- (a) the date determined by the Minister as necessary for the Carrier to comply with the assistance capability requirements; or
 - (b) the date that is two years after the date on which the order was granted.
- (4) An order made under this section shall be subject to the negative resolution procedure.

Extension of compliance date for telecommunication apparatus, facilities and services

28Q (1) A Carrier proposing to install or deploy, or having installed or deployed, any telecommunication apparatus, facility or service prior to the date that this section comes into operation may petition the Minister for one or more extensions of the deadline for complying with the requirements under section 28D.

(2) The Minister may, after consultation with the Minister responsible for public safety, grant an extension if the Minister determines that compliance with the requirements under section 28D is not reasonably achievable through application of technology available within the compliance period.

- (3) An extension under this subsection shall extend for no longer than the earlier of—
- (a) the date determined by the Minister as necessary for the Carrier to comply with the assistance capability requirements; or
 - (b) the date that is two years after the date on which the extension is granted.

Enforcement orders

28R (1) The Supreme Court, on application by the Attorney-General, may issue an enforcement order—

- (a) directing a Carrier to comply with any of the requirements of any of sections 28D, 28E(2) and (3) and 28H to 28K forthwith; or
- (b) directing a provider of telecommunication support services to the Carrier to furnish forthwith any modifications necessary for the Carrier to comply with the requirements of section 28D or 28E(2) or (3).

TELECOMMUNICATIONS AMENDMENT ACT 2010

(2) The Supreme Court may only issue an order under subsection (1) if it finds that—

- (a) the Carrier has failed to comply with any of sections 28D, 28E(2) or (3) or 28H to 28K;
- (b) alternative technologies or capabilities or the facilities of another Carrier are not reasonably available to the Police for implementing the interception of communications or access to call-identifying information; and
- (c) compliance with the requirements of this Part is reasonably achievable through the application of available technology to the telecommunication apparatus, facility or service at issue or would have been reasonably achievable if timely action had been taken.

(3) Upon issuing an order under subsection (1), the Supreme Court shall specify a reasonable time and conditions for complying with its order, considering—

- (a) the good faith efforts of the Carrier or provider of telecommunication support services to comply in a timely manner;
- (b) any effect on the ability of the Carrier or provider of telecommunication support services to continue to do business;
- (c) the degree of culpability of the Carrier or provider of telecommunication support services or their delay in making efforts to comply; and
- (d) such other matters as justice may require.

Civil penalty

28S (1) Where an order is issued under section 28R against a Carrier or a provider of telecommunication support services, the Supreme Court may impose a civil penalty of up to \$10,000 per day for each day—

- (a) after the order is issued that the Carrier or provider of telecommunication support services is in contravention of it; or
- (b) after such future date as the Court may specify that the Carrier or provider of telecommunication support services is in contravention of the order.

(2) In determining whether to impose a civil penalty and its amount, the Supreme Court shall take into account—

- (a) the nature, circumstances, and extent of the contravention and degree of culpability of the Carrier or provider of telecommunication support services;

TELECOMMUNICATIONS AMENDMENT ACT 2010

- (b) the ability of the Carrier or provider of telecommunication support services to pay and any effect the penalty may have on their ability to continue to do business;
- (c) the good faith efforts of the Carrier or provider to comply in a timely manner and the length of any delay in undertaking efforts to comply; and
- (d) such other matters as justice may require.

Record keeping requirements

28T (1) A Carrier shall keep—

- (a) accurate records of subscriber information and changes to that information as they arise; and
- (b) a separate database containing the names and addresses of all subscribers to which the Carrier provides telecommunication services, the type of services provided and, where applicable, information concerning the communication device used by the subscriber.

(2) The Carrier shall, on demand by an inspector designated under section 18, provide access to the subscriber records and database referred to in subsection (1).

(3) For the purposes of inspecting the subscriber records and database, an inspector shall have all the powers, and a Carrier shall have all the duties, referred to in sections 18(2) to (4).

(4) A Carrier shall keep information entered on subscriber records or the subscriber database available for inspection for a period of at least one year after the date on which the information was entered or modified.

Provision of subscriber information to Police

28U (1) A Carrier shall extract from the database referred to in section 28T, and provide to the Police, a database containing the prescribed subscriber information.

(2) If there is any change in the subscriber information or records maintained by the Carrier under section 28T, the Carrier shall immediately—

- (a) update the database referred to in subsection (1); and
- (b) provide the updated information to the Police.”.

Amends section 40

3 Section 40 of the principal Act is amended in paragraph (a) by deleting the words “or 22(3)” and substituting the words “, 22(3), or 28N”.

TELECOMMUNICATIONS AMENDMENT ACT 2010

Inserts sections 43A to 43C

4 The principal Act is further amended by inserting after section 43 the following—

“Contravention of section 28O an offence

43A A Carrier that fails to comply with the reporting requirements of section 28O commits an offence and is liable on summary conviction to a fine of \$5,000 per day for each day that the Carrier fails to comply.

Contravention of section 28T an offence

43B A Carrier that fails to comply with the record keeping requirements of section 28T commits an offence and is liable on summary conviction—

- (a) in the case of a failure to comply with subsection (1) to a fine of \$5,000 per day for each day that the Carrier fails to comply; and
- (b) in the case of a failure to comply with subsection (2) to a fine of \$25,000.

Contravention of section 28U an offence

43C A Carrier that fails to comply with the requirements of section 28U(1) or (2) commits an offence and is liable on summary conviction to a fine of \$5,000 per day for each day that the Carrier fails to comply.”.

Amends section 59

5 Section 59 of the principal Act is amended—

(a) by inserting immediately after subsection (3) the following—

“(3A) The Minister may, after consultation with the Minister responsible for public safety, make regulations for the carrying out of the purposes and provisions of Part IVA and in particular, without prejudice to the generality of the foregoing, respecting the obligations of Carriers under that Part including—

- (a) the requirements referred to in sections 28D and 28E(2) and (3) and the obligations to be performed by Carriers under those sections;
- (b) the time, manner and form in which an intercepted communication must be provided to the Police;
- (c) the information to be provided in reports required under section 28O and the time, manner and form for providing that information; and
- (d) the content of the subscriber information to be contained in the database referred to in section 28U and the time, manner and form in which it must be provided to the Police;”;

TELECOMMUNICATIONS AMENDMENT ACT 2010

(b) in paragraph (4) by replacing all the words after the word “exceed—” with the following—

“(a) in the case of regulations made under subsection (3A), a fine of \$10,000; and

(b) in any other case, a fine of \$2,000 or imprisonment for a term of twelve months, or to both.”.

Transitional provision

6 (1) Until such time as regulations are made under section 59(3A)(d) and published in the Gazette, a Carrier shall provide to the Police, on demand from an officer above the rank of inspector, any information in the Carrier’s possession concerning a subscriber’s name, address, telephone number and information concerning the communication device used by the subscriber.

(2) A police officer may only make a demand under subsection (1) in performing a duty of the police service, including any duty related to the enforcement of the laws of Bermuda or a foreign jurisdiction.

Consequential amendment

7 The Fifth Schedule of the Customs Tariff Act 1970 is amended by inserting immediately after CPC 4183 the following—

“Description	Electronic surveillance equipment
CPC	4184
Duty Rate	0%
Eligible Beneficiary	Carriers providing public telecommunications services to whom a licence, permit or certificate has been issued under the Telecommunications Act 1986.
Qualifying Goods	Telecommunications equipment, apparatus and machinery.
End-Use Conditions / Restrictions	<p>1. Goods must be imported and used for the purposes of law enforcement.</p> <p>2. Goods must be required by the Carrier to assist the Bermuda Police Service in carrying out electronic surveillance and intercepting electronic communications.</p> <p>3. The Director of Telecommunications shall certify that the goods are eligible for this relief.</p>
Specific Controls / Diversion”	

TELECOMMUNICATIONS AMENDMENT ACT 2010

Commencement

- 8 (1) This Act, or any provision of this Act, shall come into operation—
- (a) in respect of Carriers other than Information Service provider of telecommunication support services, on a day or days appointed by the Minister by notice in the Gazette; and
 - (b) in respect of Information Service Providers, on a day or days appointed by the Minister by notice in the Gazette, that is later than the day or days appointed under paragraph (a).
- (2) In this section “Information Service Provider” means a Carrier that offers a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, including—
- (a) a service that permits a customer to retrieve stored information from, or file information for storage in, information storage facilities;
 - (b) software-based services that enable the sharing of data, images, sound, writing, or other information among computing devices controlled by the senders or recipients of the messages; and
 - (c) electronic publishing,
- but does not include a Carrier that offers such capability only for its internal management, control, or the operation of its telecommunications network.

TELECOMMUNICATIONS AMENDMENT BILL 2010

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Telecommunications Act 1986 to require all Carriers providing public telecommunication services to purchase and install on their telecommunications systems telecommunication apparatus to assist the Police in carrying out electronic surveillance and intercepting communications for law enforcement purposes. Similar requirements are in place in the United States under the Communications Assistance for Law Enforcement Act of 1994 and are currently before the Canadian Parliament in Bill C-47, entitled “An Act regulating telecommunications facilities to support investigations”.

Clause 1 provides for a short title for the Bill.

Clause 2 amends the Act by inserting a new Part requiring Carriers to provide communications assistance to the Police.

- Section 28C provides definitions for the new Part IVA.
- Section 28D sets out the assistance capabilities required for a Carrier’s telecommunication apparatus, facilities or services, including the capability to enable the Police, pursuant to a warrant under the hand of the Governor, to—
 - intercept wire and electronic communications;
 - access call-identifying information;
 - receive the information from the Carrier using Police telecommunication apparatus on Police premises; and
 - collect the information unobtrusively and with a minimum of interference.
- Section 28E requires the Minister to publish a notice in the Gazette of the interim capacity requirements required of Carriers to accommodate electronic surveillance for a period of 3 years after the notice and the maximum capacity requirements after the 3 year period. The section would impose a duty on Carriers to comply with the interim requirements within a year after publication of the notice and with the maximum capacity requirements once the 3 year period elapses.
- Section 28F gives the Minister the power to issue directives exempting a Carrier from meeting the requirements of sections 28E(2) and (3) and setting reduced requirements for actual interceptions and maximum capacity requirements.
- Section 28G requires providers of telecommunication support services to make available to Carriers using their telecommunication apparatus features or modifications necessary to permit the Carriers to comply with the assistance capability and capacity requirements of Part IVA.

TELECOMMUNICATIONS AMENDMENT BILL 2010

- Section 28H requires Carriers to continue to meet assistance capabilities that they already meet in respect to their telecommunication apparatus, facilities or services.
- Section 28I requires Carriers to meet, in relation to new services, the requirements that they already meet in respect of telecommunication apparatus used for existing services.
- Section 28J requires Carriers to meet the capability and capacity requirements of Part IVA in respect to new telecommunication apparatus that they begin to operate except where a Carrier acquires the apparatus from another Carrier in order to maintain a service offered by that Carrier.
- Section 28K requires Carriers to meet the capability and capacity requirements of Part IVA in respect of telecommunication apparatus in relation to new software that they install for that apparatus.
- Section 28L limits the requirements to increase a Carrier's capability for simultaneous interceptions to the maximum capacity limit established pursuant to section 28E.
- Section 28M empowers the Minister to suspend some of the obligations of Carriers under sections 28D and 28E(2) and (3).
- Section 28N empowers the Minister to issue directives to Carriers requiring them to comply with specific obligations under Part IVA.
- Section 28O requires Carriers to submit reports to the Minister concerning the extent to which they are meeting their obligations under Part IVA.
- Section 28P empowers the Minister to exempt Carriers or classes of Carriers from specific obligations under Part IVA or under the regulations made in respect to that Part.
- Section 28Q allows the Minister to extend the date by which a Carrier must comply with the assistance capability requirements imposed under Part IVA if available technology does not permit compliance within the required period.
- Section 28R empowers the Supreme Court, on application by the Attorney-General, to make an enforcement order directing a Carrier or a provider of telecommunication support services to comply with their obligations under Part IVA.
- Section 28S permits the Supreme Court to impose a civil penalty of up to \$10,000 per day for breach of an enforcement order issued under section 28R.
- Section 28T requires Carriers to keep records and a database of subscriber information and to make the information available to inspectors on demand.
- Section 28U requires Carriers to extract a database of customer names, addresses and phone numbers from their subscriber information and to provide it to the Police.

TELECOMMUNICATIONS AMENDMENT BILL 2010

Clause 3 amends section 40 of the Act to make non-compliance with a Ministerial directive issued under section 28N a summary conviction offence.

Clause 4 creates summary conviction offences and penalties for contravention of the reporting obligations of section 28O, the record keeping requirements of section 28T or the requirement to provide subscriber information to the Police under section 28U.

Clause 5 amends section 59 to give the Minister the power to make regulations respecting the obligations of Carriers under Part IVA and the penalties that may be imposed for contravention of those regulations.

Clause 6 provides authority for the Police to demand subscriber information from Carriers on the coming into operation of the Bill, until such time as the Minister makes regulations setting out the specifics of subscriber information required to be disclosed by Carriers.

Clause 7 makes a consequential amendment to the Customs Tariff Act 1970 to allow duty-free entry for electronic surveillance equipment imported by or on behalf of Carriers that assist the Police in law enforcement, as required by this Bill.

Clause 8 provides for the coming into operation of the Act. It enables the Minister to set a later date for the coming into operation of the Act, or any of its provisions, in respect of information service providers.