



Number 5 of 1999

**POSTAL AND TELECOMMUNICATIONS SERVICES
(AMENDMENT) ACT, 1999**

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[No. 5.] *Postal and Telecommunications* [1999.]
 Services (Amendment) Act, 1999.

Acts Referred to

Broadcasting and Wireless Telegraphy Act, 1988	1988, No. 19
Companies Act, 1963	1963, No. 33
Ethics in Public Office Act, 1995	1995, No. 22
Interception of Postal Packets and Telecommunications Messages (Regulation) Act, 1993	1993, No. 10
Ombudsman Act, 1980	1980, No. 26
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Prompt Payment of Accounts Act, 1997	1997, No. 31
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Number 5 of 1999

**POSTAL AND TELECOMMUNICATIONS SERVICES
(AMENDMENT) ACT, 1999**

AN ACT TO AMEND AND EXTEND THE POSTAL AND TELECOMMUNICATIONS SERVICES ACT, 1983, AND THE TELECOMMUNICATIONS (MISCELLANEOUS PROVISIONS) ACT, 1996, TO REPEAL CERTAIN PROVISIONS OF THOSE ACTS AND TO PROVIDE FOR RELATED MATTERS. [7th April, 1999]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

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

“Act of 1983” means the Postal and Telecommunications Services Act, 1983;

“Act of 1996” means the Telecommunications (Miscellaneous Provisions) Act, 1996;

“company” means Bord Telecom Éireann p.l.c.;

“Minister” means the Minister for Public Enterprise.

(2) In this Act—

- (a) a reference to a section or Schedule is to a section of or Schedule to this Act, unless it is indicated that reference to some other provision is intended,
- (b) a reference to a subsection is to a subsection of the provision in which the reference occurs unless it is indicated that a reference to some other provision is intended, and
- (c) a reference to any other enactment is to that enactment as amended by or under any other enactment, including this Act.

2.—Section 8(2) of the Act of 1996 is hereby amended by the insertion after paragraph (a) of the following paragraph:

Amendment of
section 8 of Act of
1996.

[No. 5.] *Postal and Telecommunications Services (Amendment) Act, 1999.* [1999.]

S.2 “(aa) The Minister may not dispose of any shares in the company other than as provided for in subsection (3)(a) without the general principles of the sale being laid before and approved by Dáil Éireann.”.

Repeals. **3.—**(1) The enactments mentioned in *column (2)* of the *First Schedule* are hereby repealed to the extent mentioned in *column (3)* of that Schedule.

(2) The enactments mentioned in *column (2)* of the *Second Schedule* are hereby repealed to the extent mentioned in *column (3)* of that Schedule in so far as they apply to the company.

Schemes under sections 46 and 90 of the Postal and Telecommunications Services Act, 1983.

4.—(1) Notwithstanding the repeal by this Act of subsections (1), (2), (3), (6) and (7) of section 46 of the Act of 1983, in so far as those provisions apply to the company, a scheme prepared, submitted and carried out in accordance with that section, in respect of the company, shall continue in force and may be amended or revoked in accordance with the articles of association of the company.

(2) Notwithstanding the repeal by this Act of section 90 of the Act of 1983, in so far as that provision applies to the company, a scheme made under that section shall continue in force and, subject to any enactment or provision of law, may be amended or revoked by the company.

Amendment of section 46 of the Postal and Telecommunications Services Act, 1983.

5.—Section 46 of the Act of 1983 is hereby amended—

(a) by the substitution for subsection (4) of the following subsections:

“(4) Every scheme under this section shall provide for not less favourable conditions in respect of persons who are or were members of the staff of the postal company and who, immediately before the vesting day, were members of the staff of the Department of Posts and Telegraphs than those to which they were entitled immediately before the vesting day.

(4A) Every scheme for the granting of pensions, gratuities and other allowances on retirement or death to or in respect of—

(a) persons who are or were members of the staff of the telecommunications company and who, immediately before the vesting day, were members of the staff of the Department of Posts and Telegraphs, or

(b) those 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,

shall provide for not less favourable conditions in respect of those persons than those to which they were entitled immediately before the vesting day.”.

and

(b) in subsection (5), by the substitution for “who, immediately before the vesting day, were members of the staff of the

[1999.] *Postal and Telecommunications Services (Amendment) Act, 1999.* [No. 5.]

Department of Posts and Telegraphs” of “referred to in subsections (4) and (4A)” and the subsection as so amended is set out in the Table to this paragraph. S.5

TABLE

(5) Disbursement of pensions, gratuities and other allowances which may be granted to or in respect of persons referred to in subsections (4) and (4A) shall not be on less favourable conditions than would apply if the benefits referred to had continued to be paid out of moneys provided by the Oireachtas.

6.—(1) The Worker Participation (State Enterprises) Acts, 1977 to 1993, shall not apply to Bord Telecom Éireann p.l.c. Employee directors.

(2) Notwithstanding *subsection (1)* and the repeal by this Act of section 10 of the Act of 1996, the term of office of any employee director appointed in accordance with the Worker Participation (State Enterprises) Acts, 1977 to 1993, or of any director or alternate director appointed under the said section 10 and serving upon the commencement of this section shall continue until such date as may be specified by the Minister.

7.—(1) A reference to the company or to Bord Telecom Éireann, as the case may be, in section 13 of the Post Office (Amendment) Act, 1951, sections 52(2), 96(d), 98, 99 and 110 of the Act of 1983, section 7 of the Broadcasting and Wireless Telegraphy Act, 1988, and in the Interception of Postal Packets and Telecommunications Messages (Regulation) Act, 1993 shall be construed as a reference to “a licensed operator”. Application to all licensed operators of certain provisions.

(2) Section 110 of the Act of 1983 shall, in respect of the company and a licensed operator, apply only for the purposes of section 98 of the Act of 1983 and the Interception of Postal Packets and Telecommunications Messages (Regulation) Act, 1993.

(3) In this section “licensed operator” means the company or any person licensed under subsection (2) or (3) of section 111 of the Act of 1983.

8.—Money required by the Minister to meet sums payable by the Minister in respect of the sale of shares of the company shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of the moneys provided by the Oireachtas. Expenses.

9.—Section 9 of the Act of 1996 is hereby amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) Subject to subsection (2), the Minister with the consent of the Minister for Finance may enter into one or more agreements in connection with the sale or issue of equity in the company or enter into one or more agreements in connection with both the sale and issue of equity in the company.”,

(b) in subsection (2)(b), after “from time to time consent to” by the insertion of “, including customary provisions contained in an underwriting agreement”, and

(c) by the substitution for subsection (3) of the following subsections:

Amendment of section 9 of the Telecommunications (Miscellaneous Provisions) Act, 1996.

[No. 5.] *Postal and Telecommunications Services (Amendment) Act, 1999.* [1999.]

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“(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 subsidiary thereof (within the meaning of section 155(1) of the Companies Act, 1963), or any financial obligations undertaken in relation thereto by the company, in connection with the issue by the company or the sale or transfer by any shareholder of shares in the company pursuant to an agreement under subsection (1) entered into by the Minister, with the consent of the Minister for Finance.

(4) Notwithstanding subsection (13)(b) of section 60 of the Companies Act, 1963, section 60 of that Act shall not apply to the provision, whether directly or indirectly, by the company or any subsidiary thereof (within the meaning of section 155(1) of the Companies Act, 1963) of money or a financial arrangement including a loan, guarantee, the provision of security or otherwise in connection with the purchase of, or subscription for, shares in the company by an employee share ownership trust established by the company, or the transfer thereto of such shares, irrespective of whether or not all or a portion of such shares are pledged as security or otherwise to any third party.”.

Non-application of certain Acts.

10.—The Ombudsman Act, 1980, the Ethics in Public Office Act, 1995, the Prompt Payment of Accounts Act, 1997, and section 521 of the Taxes Consolidation Act, 1997, shall not apply to the company.

Short title, commencement and collective citation.

11.—(1) This Act may be cited as the Postal and Telecommunications Services (Amendment) Act, 1999.

(2) This Act shall come into operation on such day or days as, by order 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) The Postal and Telecommunications Services Acts, 1983 and 1984, sections 4, 5 and 7 and, in so far as they relate to that section, section 1 and this section may be cited together as the Postal and Telecommunications Services Acts, 1983 to 1999.

FIRST SCHEDULE

Section 3(1).

Number and Year (1)	Short Title of Act (2)	Extent of Repeal (3)
No. 24 of 1983.	Postal and Telecommunications Services Act, 1983.	<p>In section 3, the words “or by the telecommunications company under section 98”.</p> <p>In section 5(1), the words “or the telecommunications company, as the case may require”.</p> <p>Section 5(3) and (5).</p> <p>Section 10(1)(b).</p> <p>Section 19(2).</p> <p>Section 27(1)(c).</p> <p>Section 40(4).</p> <p>Section 88(3).</p> <p>Section 90.</p> <p>Section 91.</p> <p>Section 92.</p> <p>In section 95(4) the words “by the company”.</p> <p>Section 98(3).</p>
No. 34 of 1996.	Telecommunications (Miscellaneous Provisions) Act, 1996.	<p>Section 8(1)(a).</p> <p>Section 8(2)(a).</p> <p>Section 8(3).</p> <p>Section 10.</p>

[No. 5.] *Postal and Telecommunications Services (Amendment) Act, 1999.* [1999.]

Section 3(2).

SECOND SCHEDULE

Number and Year (1)	Short Title of Act (2)	Extent of Repeal (3)
No. 24 of 1983.	Postal and Telecommunications Services Act, 1983.	Section 8(2). Section 10(2). Section 11. Section 19(3). Section 22. Section 24. Section 27. Section 28. Section 30. Section 32. Section 33. Section 37. Section 38. Section 39(3). Section 46(1), (2), (3), (6), (7), (9) and (11). Section 51.