TELECOMMUNICATIONS (AMENDMENT) BILL 2021

(NO. 3 OF 2021)
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BILL

Entitled

AN ACT TO AMEND THE TELECOMMUNICATIONS ACT 2009.

ENACTED BY THE NATIONAL PARLIAMENT OF SOLOMON ISLANDS.
TELECOMMUNICATIONS (AMENDMENT) BILL 2021

Table of provisions

Part 1  PRELIMINARY MATTERS .................................  1

1  Short title .................................  1
2  Commencement .........................  1
3  Telecommunications Act 2009 amended .................................  1

Part 2  AMENDMENT.............................................  1

4  New Part 11A .............................................  1
   “PART 11A  SIM-CARDS” .............................................  1
   78A  Definitions for Part 11A .........................  1
   78B  Register of SIM-cards .........................  2
   78C  No sale of SIM-card except in accordance with section 78D or 78F  3
   78D  Sale of SIM-card to person aged 18 years or older .........................  3
   78E  Valid ID for purchase of SIM-card under section 78D .........................  4
   78F  Sale of SIM-card to person aged 15 to 18 years .........................  6
   78G  Valid ID for purchase of SIM-card under section 78F .........................  7
   78H  Content of valid ID that is a letter .........................  8
   78I  Loss of SIM-card .........................  9
   78J  Offence of providing false or misleading information .........................  9
   78K  Confidential information .........................  9
TELECOMMUNICATIONS (AMENDMENT) BILL 2021

Part 1 PRELIMINARY MATTERS

1 Short title

This Act may be cited as the Telecommunications (Amendment) Act 2021.

2 Commencement

This Act commences on the day appointed by the Minister by notice in the Gazette.

3 Telecommunications Act 2009 amended

This Act amends the Telecommunications Act 2009 (No.20 of 2009) ("Principal Act").

Part 2 AMENDMENT

4 New Part 11A

The Principal Act is amended by inserting after section 78:

"PART 11A SIM-CARDS"

78A Definitions for Part 11A

In this Part:

"agent" means an agent of a service provider;

"caregiver" of a person referred to in section 78F, means a person with whom the person resides and who takes primary responsibility for meeting the daily care and needs of the person (whether or not they are related);

"letter" means a letter that complies with the requirements specified in section 78H;
"parent", of a person referred to in section 78F, means:

(a) the person's biological mother or adoptive mother by an adoption order under the Adoption Act 2004; or

(b) the person's biological father or adoptive father by an adoption order under the Adoption Act 2004; or

(c) a person who has been appointed to be the guardian of the person by a court order; or

(d) a person to whom custody of the person is given in custom; or

(e) a person to whom custody of the child has been granted by court order; or

(f) a caregiver of a person referred to in section 78F.

"register" means a register of SIM-cards kept and maintained by a service provider under section 78B;

"sell a SIM-card", to a person, includes issuing the SIM-card to the person;

"SIM-card" means the subscriber identity module smart card containing the personal identification details and telephone number associated with the card, encoded network identification details and other data;

"valid ID" means a document that provides evidence of a person's identity and age.

78B Register of SIM-cards

(1) A service-provider must establish a register for recording the information specified in sections 78D(d) and 78F(d) about SIM-cards sold by and on behalf of the service provider.

(2) The register must be in an electronic form.

(3) The service provider and every agent of the service provider (wherever located in Solomon Islands) must be able to enter in the register, at the point of sale for each sale of a SIM-card by or on behalf of the service provider, the information specified in sections
78D(d) and 78F(d).

(4) The information entered in the register under subsection (3) must be kept in the register for at least 5 years.

78C  No sale of SIM-card except in accordance with section 78D or 78F

(1) A service provider or agent must not sell a SIM-card to a person unless:

(a) the person has attained at least 18 years of age and the sale is made in accordance with section 78D; or

(b) the person has attained at least 15 years of age, but is under 18 years of age, and the sale is made in accordance with section 78F.

(2) A service provider or agent must not sell a SIM-card to a person who has not attained the age of 15 years.

(3) If a service provider or agent contravenes subsection (1) or (2), each of the following persons commits an offence:

(a) the service provider;

(b) if the SIM-card is sold by an agent, the agent.

Maximum penalty: 500 000 penalty units or 10 years imprisonment or both.

78D  Sale of SIM-card to person aged 18 years or older

(1) A service provider or agent must not sell a SIM-card to a person who has attained at least 18 years of age unless:

(a) the person provides the service provider or agent with the person’s name, address and age; and

(b) the person presents to the service provider or agent a valid ID in accordance with section 78E; and

(c) the service provider or agent examines the valid ID and is satisfied that the ID proves the person’s identity and age; and
(d) the service provider or agent enters the following information into the register:

(i) the name and address of the person;

(ii) the type of valid ID the person presents to the service provider or agent and the additional following information (as appropriate):

(A) the identification number of the valid ID and the date of expiry of the ID;

(B) for a statutory declaration, the name of the Commissioner for Oaths who made the declaration and the date the declaration was made;

(C) for a letter, the name and status of the person the letter is from and the date the letter is signed;

(iii) the telephone number and personal identification number stored on the SIM-card.

(2) The service provider or agent must only issue the SIM-card to the person whose name and address the service provider or agent enters in the register under subsection (1)(d).

78E Valid ID for purchase of SIM-card under section 78D

A valid ID which a person may present to a service provider or agent under section 78D to be able to purchase a SIM-card is:

(a) any one of the following:

(i) an identification card with a photographic image referred to in section 51(1)(b) of the Electoral Act 2018 that has been issued for not more than 5 years;

(ii) a current student ID with a photographic image that is issued by a tertiary educational institution established in the Solomon Islands;

(iii) a current driver's licence issued under the Road Transport Act (Cap 131);
(iv) a Solomon Islands National Provident Fund ID card;

(v) a passport that has not expired;

(vi) a current original passport or ID photograph that:

(A) has on the back of it a certificate as being true proof of identity that is signed and dated by a Commissioner for Oaths; and

(B) is accompanied by a statutory declaration by the same Commissioner for Oaths certifying that the person is the person in the photograph and that the Commissioner for Oaths completed the certificate of proof of identity on the back of the photograph; or

(b) any two of the following:

(i) a letter from the person’s employer that is signed and dated by the employer not more than 6 months before the letter is presented to the service provider;

(ii) a letter from the principal of the secondary school attended by the person that is signed and dated by the principal not more than 6 months before the letter is presented to the service provider;

(iii) a current student ID with a photographic image that is issued by a secondary school established in Solomon Islands;

(iv) a letter from a provincial government officer, who holds a position that is level 6 or above, that is signed and dated by the officer not more than 6 months before the letter is presented to the service provider;

(v) a letter from a constituency project officer, or constituency development officer, that is signed and dated by the officer not more than 6 months before the letter is presented to the service provider;

(vi) a copy of the particulars of the person’s birth recorded in the register of births and deaths kept under the Births and Deaths (Registration) Act (Cap. 168) that is certified by
the Registrar as being true proof of the particulars;

(vii) the person's baptism certificate;

(viii) a letter from a minister of religion registered under section 2 of the Births, Marriages and Deaths Registration Act (Cap. 169) that is signed and dated by the minister not more than 6 months before the letter is presented to the service provider or agent;

(ix) a letter from a member or the clerk of the local court the jurisdiction of which includes the locality where the person resides that is signed and dated by the member or clerk not more than 6 months before the letter is presented to the service provider or agent.

78F Sale of SiM-card to person aged 15 to 18 years

(1) A service provider or agent must not sell a SiM-card to a person who has attained at least 15 years of age, but is under 18 years of age, unless:

(a) the person provides the service provider or agent with the person’s name, address and age; and

(b) the person presents to the service provider or agent a valid ID; and

(c) the service provider or agent examines the ID and is satisfied that the ID proves the person’s identity and age; and

(d) the service provider or agent enters the following information into the register:

(i) the name and address of the person;

(ii) the type of valid ID the person presents to the service provider and the following additional information (as appropriate):

(A) the identification number of the ID and the date of expiry of the ID;

(B) for a statutory declaration, the name of the
Commissioner for Oaths who made the declaration and the date the declaration was made;

(C) for a letter, the name and status of the person the letter is from and the date the letter is signed;

(iii) the number stored on the SIM-card that identifies and authenticates the mobile device into which the SIM-card is inserted.

(2) The service provider or agent must only issue the SIM card to the person whose name and address the service provider enters in the register under subsection (1)(d).

78G Valid ID for purchase of SIM-card under section 78F

A valid ID which a person can present to a service provider or agent under section 78F to be able to purchase a SIM card is:

(a) a letter from one or both of the person’s parents that is signed and dated not more than 3 months before the letter is presented to the service provider or agent and any one of the following:

(i) a passport that has not expired;

(ii) a current original passport or ID photograph that:

(A) has on the back of it a certificate as being true proof of identity that is signed and dated by a Commissioner for Oaths; and

(B) is accompanied by a statutory declaration by the same Commissioner for Oaths certifying that the person is the person in the photograph and that the Commissioner for Oaths, completed the certificate of proof of identity on the back of the photograph; or

(iii) a current student ID with a photographic image that is issued by the secondary school established in Solomon Islands the person is attending; or

(b) a letter from one or both of the parents that is signed and dated not more than 3 months before the letter is presented to the service provider or agent and any two of the following:
(i) a letter from the principal of the secondary school the person is attending, that is signed and dated by the principal not more than 6 months before the letter is presented to the service provider or agent;

(ii) a letter from a minister of religion registered under section 2 of the *Births, Marriages and Deaths Registration Act* (Cap. 169) that is signed and dated by the minister not more than 6 months before the letter is presented to the service provider;

(iii) a letter from a member or the clerk of the local court, the jurisdiction of which includes the locality where the person resides that is signed and dated by the member or clerk not more than 6 months before the letter is presented to the service provider;

(iv) a letter from a constituency project officer or the constituency development officer that is signed and dated by the officer not more than 6 months before the letter is presented to the service provider;

(v) a copy of the particulars of the person's birth recorded in the register of births and deaths kept under the *Births and Deaths (Registration) Act* (Cap. 168), that is certified by the Registrar as being true proof of the particulars;

(vi) the person's baptism certificate;

(vii) a letter from a provincial government officer, who holds a position that is level 6 or above, that is signed and dated by the officer not more than 6 months before the letter is presented to the service provider.

78H Content of valid ID that is a letter

A valid ID that is a letter must:

(a) state the name, address and occupation, position or office of the writer of the letter; and

(b) state the capacity in which the writer is writing the letter (for example parent, minister of a church, employer, principal of a school); and
(c) state the writer's relationship with the person whose identity and age is being verified by the letter; and

(d) state that the writer knows that person personally and for how long; and

(e) be signed and dated by the writer; and

(f) if the writer has an official stamp, the stamp must be impressed onto the letter.

78I Loss of SIM-card

If a person loses the person's SIM-card (including if the person loses his or her mobile phone), the person must as soon as practicable:

(a) report the loss at the nearest police station; and

(b) report the loss to the service provider or agent and request the service provider to deactivate the SIM-card.

78J Offence of providing false or misleading information

(1) A person commits an offence if the person:

(a) provides false or misleading information to a service provider or agent for the purpose of the person or another person purchasing a SIM-card; and

(b) the person knows or ought to have known that the information is false or misleading.

Maximum penalty: 500 000 penalty units or 10 years imprisonment or both.

(2) In this section:

"misleading information" means information that is misleading in a material particular or because of the omission of a material particular.

78K Confidential information

(1) The information recorded in a register is confidential.

(2) A valid ID is confidential.
(3) A service provider or agent, or an employee or consultant of a service provider or agent, commits an offence if the provider, agent employee or consultant engages in conduct that results in the disclosure of the confidential information.

(4) Subsection (3) does not apply if:

(a) the disclosure is made:

(i) with the written consent of the person to whom the information relates; or

(ii) for performing functions or carrying out duties in accordance with this Act; or

(iii) for legal proceedings arising out of the operation of this Act; or

(b) the information is otherwise available to the public.

Maximum penalty: 500 000 penalty units or 10 years imprisonment or both.”.
OBJECT

The object of the Bill is to amend the Telecommunications Act 2009 to ensure that all SIM-cards are registered.

It establishes the minimum age for purchasing SIM-cards (15) and requires persons to provide valid ID when purchasing the SIM-cards from the service providers or their agents.

The service providers and agents will be responsible for establishing an electronic registry for recording accurate information to identify the purchasers.

CONTENT

Clause 1 and 2 provides for the short title of the Act and the commencement date of the Act. The commencement date is the day appointed by the Minister.

Clause 4 provides for the amendment of the Telecommunications Act 2009 by inserting a new Part 11A dealing with SIM-cards.

Part 11A has the following provisions:

Section 78A provides a dictionary of the specialist terms that are used in this new Part.

Section 78B requires the establishment of registers for recording the information of the purchaser.

Section 78C makes sure that the service provider or its agent only sells a SIM-card to a person if they comply with the requirements set out under this new Part.

Section 78D provides for the sale of SIM-cards to persons who are 18 years or older. The provisions under this section sets out the information the service provider or agent must record.

Section 78E lists down the relevant valid IDs that a person must present to the service provider or the agent when purchasing a SIM-card.
Section 78F provides for the sale of SIM-cards to a person that has attained at least 15 years old but under 18 years old. The provisions under this section sets out the relevant information that the service provider or agent must record.

Section 78G lists down the relevant valid IDs that a person who is at least 15 but not 18 years old must present to the service provider or its agent in order to purchase a SIM-card under section 78F.

Section 78H specifies what a valid ID that is a letter must contain.

Section 78I explains what a person must do when and if they lose their SIM-card.

Section 78J creates offences for providing misleading information to a service provider or its agents.

Section 78K provides for the confidentiality of all information that is provided by a person when purchasing a SIM-card and it creates offences for the disclosure of any confidential information unless the disclosure is provided for under the section.

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HON. PETER SHANEL AGOVAKA

MINISTER FOR COMMUNICATION AND AVIATION