

**Reprint  
as at 1 October 2012**



**Telecommunications (Residual  
Provisions) Act 1987**

Public Act    1987 No 116  
Date of assent    1 July 1987  
Commencement    see section 1(2)

Telecommunications (Residual Provisions) Act 1987: repealed, on 1 October 2012, by section 341 of the Search and Surveillance Act 2012 (2012 No 24).

Act title: amended, on 20 December 2001, by section 159(3) of the Telecommunications Act 2001 (2001 No 103).

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**This Act is administered by the Ministry of Business, Innovation, and Employment.**

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**Title** *[Repealed]*

Title: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

*[Repealed]*

**1 Short Title and commencement**

- (1) This Act may be cited as the Telecommunications (Residual Provisions) Act 1987.
- (2) Except as provided in sections 2(3) and 7(2), this Act shall come into force on 1 January 1988.

Section 1(1): amended, on 20 December 2001, by section 159(4) of the Telecommunications Act 2001 (2001 No 103).

**1A Act to bind Crown**

This Act shall bind the Crown.

Section 1A: inserted, on 1 April 1989, by section 2(1) of the Telecommunications Amendment Act 1988 (1988 No 164).

**Part 1  
Telecommunications**

**2 Interpretation**

- (1) In this Part, unless the context otherwise requires,—  
**call associated data**, in relation to a telecommunication,—
  - (a) means dialling or signalling information—
    - (i) that is generated as a result of the making of the telecommunication (whether or not the telecommunication is sent or received successfully); and
    - (ii) that identifies the origin, direction, destination, or termination of the telecommunication; and

- (b) without limiting the generality of paragraph (a), includes any of the following information:
- (i) the number from which the telecommunication originates:
  - (ii) the number to which the telecommunication is sent:
  - (iii) if the telecommunication is diverted from one number to another number, those numbers:
  - (iv) the time at which the telecommunication is sent:
  - (v) the duration of the telecommunication:
  - (vi) if the telecommunication is generated from a mobile telephone, the point at which the telecommunication first enters a network; but

(c) does not include the content of the telecommunication  
**call data warrant** means a warrant issued under section 10B  
**Corporation** means Telecom Corporation of New Zealand Limited; and includes any subsidiary (within the meaning of section 5 of the Companies Act 1993) of that company

**line** means a wire or wires or a conductor of any other kind (including a fibre optic cable) used or intended to be used for the transmission or reception of signs, signals, impulses, writing, images, sounds, or intelligence of any nature by means of any electromagnetic system; and includes any pole, insulator, casing, fixture, tunnel, or other equipment or material used or intended to be used for supporting, enclosing, surrounding, or protecting any such wire or conductor; and also includes any part of a line

**network** means a system comprising telecommunication links to permit telecommunication

**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

**telecommunication** means the conveyance from one device to another of any sign, signal, impulse, writing, image, sound, instruction, information, or intelligence of any nature, whether for the information of any person using the device or not

**telephone analyser** means any device—

- (a) that can be connected to any part of a network, or to any line, apparatus, or equipment connected to any part of a network; and
- (b) that is designed to record or enable the recording of call associated data, but cannot record or monitor, or enable the recording or monitoring of, the content of any telecommunication.

(1A) *[Repealed]*

(2) *[Repealed]*

(3) *[Repealed]*

Section 2(1) **broadcasting**: repealed, on 20 December 2001, by section 159(2) of the Telecommunications Act 2001 (2001 No 103).

Section 2(1) **call associated data**: inserted, on 1 February 1998, by section 2 of the Telecommunications Amendment Act 1997 (1997 No 98).

Section 2(1) **call data warrant**: inserted, on 1 February 1998, by section 2 of the Telecommunications Amendment Act 1997 (1997 No 98).

Section 2(1) **content**: repealed, on 20 December 2001, by section 159(2) of the Telecommunications Act 2001 (2001 No 103).

Section 2(1) **Corporation**: substituted, on 28 March 1990, by section 2(1) of the Telecommunications Amendment Act 1990 (1990 No 21).

Section 2(1) **Corporation**: amended, on 1 July 1994, pursuant to section 5(2) of the Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

Section 2(1) **demarcation point**: repealed, on 1 April 1989, by section 3(1) of the Telecommunications Amendment Act 1988 (1988 No 164).

Section 2(1) **existing works**: repealed, on 20 December 2001, by section 159(2) of the Telecommunications Act 2001 (2001 No 103).

Section 2(1) **fixed radio station**: repealed, on 20 December 2001, by section 159(2) of the Telecommunications Act 2001 (2001 No 103).

Section 2(1) **local authority**: repealed, on 20 December 2001, by section 159(2) of the Telecommunications Act 2001 (2001 No 103).

Section 2(1) **Minister**: repealed, on 20 December 2001, by section 159(2) of the Telecommunications Act 2001 (2001 No 103).

Section 2(1) **network**: amended, on 1 April 1989, by section 3(3) of the Telecommunications Amendment Act 1988 (1988 No 164).

Section 2(1) **network operator**: substituted, on 27 September 2001, by section 6 of the Telecommunications Amendment Act 2001 (2001 No 80).

Section 2(1) **PABX**: repealed, on 1 April 1989, by section 3(1) of the Telecommunications Amendment Act 1988 (1988 No 164).

Section 2(1) **person**: repealed, on 1 April 1989, by section 3(1) of the Telecommunications Amendment Act 1988 (1988 No 164).

Section 2(1) **price**: repealed, on 20 December 2001, by section 159(2) of the Telecommunications Act 2001 (2001 No 103).

Section 2(1) **radio apparatus**: repealed, on 20 December 2001, by section 159(2) of the Telecommunications Act 2001 (2001 No 103).

Section 2(1) **radio frequency**: repealed, on 20 December 2001, by section 159(2) of the Telecommunications Act 2001 (2001 No 103).

Section 2(1) **radiocommunication**: repealed, on 20 December 2001, by section 159(2) of the Telecommunications Act 2001 (2001 No 103).

Section 2(1) **registered operator**: repealed, on 20 December 2001, by section 159(2) of the Telecommunications Act 2001 (2001 No 103).

Section 2(1) **road**: repealed, on 20 December 2001, by section 159(2) of the Telecommunications Act 2001 (2001 No 103).

Section 2(1) **telecommunication link**: repealed, on 20 December 2001, by section 159(2) of the Telecommunications Act 2001 (2001 No 103).

Section 2(1) **telephone analyser**: inserted, on 1 February 1998, by section 2 of the Telecommunications Amendment Act 1997 (1997 No 98).

Section 2(1) **telephone station**: repealed, on 20 December 2001, by section 159(2) of the Telecommunications Act 2001 (2001 No 103).

Section 2(1) **telex station**: repealed, on 1 April 1989, by section 3(1) of the Telecommunications Amendment Act 1988 (1988 No 164).

Section 2(1) **works**: repealed, on 20 December 2001, by section 159(2) of the Telecommunications Act 2001 (2001 No 103).

Section 2(1A): repealed, on 20 December 2001, by section 159(2) of the Telecommunications Act 2001 (2001 No 103).

Section 2(2): repealed, on 20 December 2001, by section 159(2) of the Telecommunications Act 2001 (2001 No 103).

Section 2(3): repealed, on 20 December 2001, by section 159(2) of the Telecommunications Act 2001 (2001 No 103).

## **2A Declaration of person as network operator**

*[Repealed]*

Section 2A: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

*Network*  
*[Repealed]*

Heading: repealed, on 1 April 1989, pursuant to section 159(1) of the Telecommunications Act 2001 (2001 No 103).

## **3 Protection of network**

*[Repealed]*

Section 3: repealed, on 1 April 1989, by section 5 of the Telecommunications Amendment Act 1988 (1988 No 164).

**4 Telecommunication links***[Repealed]*

Section 4: repealed, on 1 April 1989, by section 6 of the Telecommunications Amendment Act 1988 (1988 No 164).

**5 Regulations***[Repealed]*

Section 5: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**5A Offences in relation to regulations made under section 5***[Repealed]*

Section 5A: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**5B Registered operators providing international telecommunication services***[Repealed]*

Section 5B: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**5C Regulations***[Repealed]*

Section 5C: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**5D Information to chief executive of the Ministry of Economic Development***[Repealed]*

Section 5D: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**5E Offences***[Repealed]*

Section 5E: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**6 Interference with network**

*[Repealed]*

Section 6: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**7 Transitional provisions relating to customer equipment**

*[Repealed]*

Section 7: repealed, on 1 April 1989, by section 9 of the Telecommunications Amendment Act 1988 (1988 No 164).

**8 Offensive language and disturbing use of telephone**

*[Repealed]*

Section 8: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**8A Indecent or obscene telephone calls for pecuniary gain**

*[Repealed]*

Section 8A: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**9 Evidence**

*[Repealed]*

Section 9: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**10 Monitoring of telecommunications**

*[Repealed]*

Section 10: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

*Call data warrants*

Heading: inserted, on 1 February 1998, by section 4 of the Telecommunications Amendment Act 1997 (1997 No 98).

**10A Application for call data warrant**

- (1) Any constable or any Customs officer may apply to a District Court Judge for the issue of a call data warrant.
- (2) Any constable 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.

Section 10A: substituted, on 27 September 2001, by section 4 of the Telecommunications Amendment Act 2001 (2001 No 80).

Section 10A(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 10A(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

### **10B Issue of call data warrant**

- (1) On an application made under section 10A, a Judge may issue a warrant under this section if he or she is satisfied that there is reasonable ground for believing—

- (a) that an offence punishable by imprisonment has been, or is being, or is likely to be committed; and
- (b) that evidence relevant to the investigation of the offence will be obtained—
  - (i) by the use of a telephone analyser; or
  - (ii) from call associated data provided by a network operator.

- (2) A Judge may issue a warrant under this section—

- (a) in respect of a person who is suspected of having committed, or of committing, or of being likely to commit, the offence to which the warrant relates; or
- (b) in respect of someone other than the suspected offender, in any case where obtaining call associated data in respect of that person may lead to the identification of the suspected offender.

- (3) A warrant issued under this section must comply with the requirements of section 10I.

Section 10B: inserted, on 1 February 1998, by section 4 of the Telecommunications Amendment Act 1997 (1997 No 98).

Section 10B(1): amended, on 27 September 2001, by section 6 of the Telecommunications Amendment Act 2001 (2001 No 80).

Section 10B(2): amended, on 27 September 2001, by section 6 of the Telecommunications Amendment Act 2001 (2001 No 80).

**10C Effect of warrant**

- (1) A call data warrant authorises any constable or (as the case requires) any Customs officer to do the following things:
  - (a) to connect a telephone analyser, or to have a telephone analyser connected, to any part of a network, or to any line, apparatus, or equipment connected to any part of a network, that is used, or (where applicable) is suspected of being used, by the person named in the warrant:
  - (b) to monitor the telephone analyser, or to have the telephone analyser monitored:
  - (c) to require the network operator whose network is subject to the warrant to supply, to a constable or (as the case requires) a Customs officer, call associated data in respect of the person named in the warrant.
- (2) Where subsection (1)(c) applies, and for as long as the warrant remains in force, the network operator must supply the call associated data—
  - (a) at such intervals, or at such times; and
  - (b) in such manner, or in such form, or both,—as the constable or (as the case requires) the Customs officer requires.
- (3) Before requiring a network operator to supply call associated data under subsection (1)(c), the constable or (as the case requires) the Customs officer must consult with the network operator to ensure that compliance with the terms of the requirement will not unreasonably interfere with the normal operation of the operator's network.
- (4) Except as provided in section 10D, a call data warrant does not authorise any person to enter any premises or place without the consent of the owner or occupier of those premises or that place.

Section 10C: inserted, on 1 February 1998, by section 4 of the Telecommunications Amendment Act 1997 (1997 No 98).

Section 10C(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 10C(1)(c): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 10C(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 10C(3): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

**10D Network operator required to assist in execution of warrant**

A network operator that owns or operates a network that is subject to a call data warrant must provide such assistance as is necessary to enable any person who is authorised by the warrant to connect a telephone analyser—

- (a) to locate the part of the network to which the analyser is to be connected (including, where necessary, any relevant line, apparatus, or equipment); and
- (b) to connect the analyser in accordance with the warrant.

Section 10D: inserted, on 1 February 1998, by section 4 of the Telecommunications Amendment Act 1997 (1997 No 98).

**10E Failure to comply with call data warrant**

Every network operator commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 who,—

- (a) fails, without reasonable excuse, to comply with the requirements of section 10D; or
- (b) having been required under a call data warrant to supply call associated data,—
  - (i) fails, without reasonable excuse, to comply with that requirement (including any requirement imposed under section 10C(2)); or
  - (ii) knowingly supplies information that is false or misleading in purported compliance with that requirement.

Section 10E: inserted, on 1 February 1998, by section 4 of the Telecommunications Amendment Act 1997 (1997 No 98).

**10F Telephone analysers must comply with technical requirements**

- (1) A telephone analyser must not be connected under a call data warrant to any part of a network unless—
  - (a) the analyser is approved (or is of a kind approved) for connection to that network by the network operator that owns or operates the network; and

- (b) the analyser is connected to the network in the manner (if any) approved by that network operator.
- (2) A network operator may—
- (a) refuse to approve a telephone analyser or a kind of telephone analyser for the purposes of subsection (1)(a); or
  - (b) determine the manner in which telephone analysers are connected to the operator's network for the purposes of subsection (1)(b)—
- only if it is necessary, and only to the extent necessary, to prevent interference with or damage to the network.

Section 10F: inserted, on 1 February 1998, by section 4 of the Telecommunications Amendment Act 1997 (1997 No 98).

**10G Existence of call data warrant not to be disclosed**

- (1) A network operator whose network is, or has been, subject to a call data warrant must not disclose the existence or operation of the warrant to any person except—
- (a) the Commissioner of Police or a constable who is authorised by the Commissioner to receive the information; or
  - (b) the Comptroller of Customs or a Customs officer who is authorised by the Comptroller to receive the information; or
  - (c) an employee or agent of the network operator, for the purpose of ensuring compliance with the warrant; or
  - (d) a lawyer, for the purpose of obtaining legal advice or representation in relation to the warrant.
- (2) A person referred to in paragraph (a) or paragraph (b) of subsection (1) to whom disclosure of the existence or operation of a call data warrant has been made must not disclose the existence or operation of the warrant except to another person of the kind referred to in that subsection, for the purpose of the performance of the first-mentioned person's duties.
- (3) A person referred to in paragraph (c) of subsection (1) to whom disclosure of the existence or operation of a call data warrant has been made must not disclose the existence or operation of the warrant except to another person of the kind referred to in that subsection, for the purpose of ensuring that the warrant is

complied with or obtaining legal advice or representation in relation to the warrant.

- (4) A person referred to in paragraph (d) of subsection (1) to whom disclosure of the existence or operation of a call data warrant has been made must not disclose the existence or operation of the warrant except to a person of the kind referred to in that subsection, for the purpose of giving legal advice or making representations in relation to the warrant.
- (5) Nothing in subsections (1) to (4) prevents the disclosure of the existence or operation of a call data warrant—
  - (a) in connection with, or in the course of, proceedings before a court; or
  - (b) under section 10R; or
  - (c) by the Police or the New Zealand Customs Service, where disclosure is made in response to a request made under the Official Information Act 1982 or the Privacy Act 1993.

Compare: 1991 No 120 s 80

Section 10G: inserted, on 1 February 1998, by section 4 of the Telecommunications Amendment Act 1997 (1997 No 98).

Section 10G(1)(a): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

## 10H Offences

- (1) Every person commits an offence who knowingly contravenes any of subsections (1) to (4) of section 10G.
- (2) Every person who commits an offence against subsection (1) is liable on summary conviction,—
  - (a) in the case of an individual, to a fine not exceeding \$2,000;
  - (b) in the case of a body corporate, to a fine not exceeding \$5,000.
- (3) Every person commits an offence who discloses any information in contravention of any of subsections (1) to (4) of section 10G, in any case where that person—
  - (a) knows that the person is not legally authorised to disclose the information; and
  - (b) discloses the information either—

- (i) for the purpose of obtaining, directly or indirectly, an advantage or a pecuniary gain for that person or any other person; or
  - (ii) with intent to prejudice any investigation into the commission or possible commission of any offence.
- (4) Every person who commits an offence against subsection (3) is liable on summary conviction,—
  - (a) in the case of an individual, to imprisonment for a term not exceeding 6 months or a fine not exceeding \$5,000;
  - (b) in the case of a body corporate, to a fine not exceeding \$10,000.

Compare: 1991 No 120 s 81; 1996 No 9 s 22(5), (6)

Section 10H: inserted, on 1 February 1998, by section 4 of the Telecommunications Amendment Act 1997 (1997 No 98).

#### **10I Form and content of warrant**

- (1) A call data warrant must be in the prescribed form.
- (2) A call data warrant must be directed—
  - (a) to constables generally; or
  - (b) to Customs officers generally.
- (3) A call data warrant must contain the following particulars:
  - (a) the offence or offences in respect of which the warrant is issued;
  - (b) the kind of telecommunication in respect of which call associated data is authorised to be obtained;
  - (c) the name and address of the person in respect of whom call associated data is authorised to be obtained;
  - (d) if known, the telephone number to which the warrant relates;
  - (e) if that telephone number is not known, the premises or place in respect of which a telephone analyser may be used, being premises or a place used or suspected of being used, by the person to whom the warrant relates, for the purposes of, or for any purpose relating to, an offence in respect of which the warrant is issued;
  - (f) the period for which the warrant is to be in force.

Section 10I: inserted, on 1 February 1998, by section 4 of the Telecommunications Amendment Act 1997 (1997 No 98).

Section 10I(2)(a): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

### **10J Duration of warrant**

Unless renewed under section 10K, a call data warrant expires at the end of the period (not exceeding 30 days) specified in the warrant.

Section 10J: inserted, on 1 February 1998, by section 4 of the Telecommunications Amendment Act 1997 (1997 No 98).

### **10K Renewal of warrant**

- (1) Any constable 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.
- (2) An application for the renewal of a call data warrant must be in writing and on oath.
- (3) On an application made under this section, a Judge may renew a call data warrant if he or she is satisfied that the circumstances specified in section 10B(1) still apply.
- (4) A call data warrant may be renewed under this section for a period of not more than 30 days.
- (5) The period for which a call data warrant is renewed must be endorsed on the warrant, and (unless renewed again) the warrant expires at the end of that period.
- (6) A call data warrant may be renewed 1 or more times under this section.

Section 10K: inserted, on 1 February 1998, by section 4 of the Telecommunications Amendment Act 1997 (1997 No 98).

Section 10K(1): substituted, on 27 September 2001, by section 6 of the Telecommunications Amendment Act 2001 (2001 No 80).

Section 10K(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 10K(1A): inserted, on 27 September 2001, by section 6 of the Telecommunications Amendment Act 2001 (2001 No 80).

Section 10K(3): amended, on 27 September 2001, by section 6 of the Telecommunications Amendment Act 2001 (2001 No 80).

**10L Security of applications for warrants**

- (1) As soon as a Judge has determined an application for a call data warrant or for the renewal of a call data warrant, all documents relating to the application (except the warrant itself) must be dealt with in accordance with subsection (2).
- (2) Where this section applies, the Registrar of the relevant court must—
  - (a) place the documents in a packet; and
  - (b) seal the packet; and
  - (c) keep the packet in safe custody, subject to sections 10M to 10Q.

Compare: 1961 No 43 s 312H(1); 1987 No 167 s 4

Section 10L: inserted, on 1 February 1998, by section 4 of the Telecommunications Amendment Act 1997 (1997 No 98).

Section 10L(1): amended, on 27 September 2001, by section 6 of the Telecommunications Amendment Act 2001 (2001 No 80).

Section 10L(2): amended, on 27 September 2001, by section 6 of the Telecommunications Amendment Act 2001 (2001 No 80).

**10M Restriction on production of documents relating to application**

- (1) Regardless of any enactment or rule of law or any rules of court entitling any party to any proceedings to demand the production of any documents, no such party is entitled to demand the production of any documents held in safe custody under section 10L.
- (2) Subsection (1) is subject to sections 10N to 10Q.

Compare: 1961 No 43 s 312H(2); 1987 No 167 s 4

Section 10M: inserted, on 1 February 1998, by section 4 of the Telecommunications Amendment Act 1997 (1997 No 98).

**10N Application for production of documents**

- (1) Any party to any proceedings who requires the production of any document held in safe custody under section 10L must (except in a case to which section 10P applies) apply in writing to the Registrar who holds the document.
- (2) On receiving notification under subsection (1), the Registrar must, without delay, notify—

- (a) the senior constable in the district, in any case where the document is or relates to an application for a call data warrant sought by a Police employee;
  - (b) the senior Customs officer in the district, in any case where the document is or relates to an application for a call data warrant sought by a Customs officer.
- (3) If, within 3 days after notice is given under subsection (2), the officer to whom the notice is given notifies the Registrar in writing that the officer intends to oppose the production of the document, the Registrar must refer the application for production to a Judge of that court.
- (4) Where the officer does not notify his or her opposition to the Registrar within the period specified in subsection (3), the Registrar must produce the document to the party applying for production.

Compare: 1961 No 43 s 312H(3)–(5); 1987 No 167 s 4

Section 10N: inserted, on 1 February 1998, by section 4 of the Telecommunications Amendment Act 1997 (1997 No 98).

Section 10N(2)(a): amended, on 1 October 2008, pursuant to section 116(a)(iv) of the Policing Act 2008 (2008 No 72).

Section 10N(2)(a): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

Section 10N(3): amended, on 27 September 2001, by section 6 of the Telecommunications Amendment Act 2001 (2001 No 80).

### **100 Application referred to Judge**

- (1) If, under section 10N(3), a Registrar refers an application for production to a Judge, the application must be dealt with in accordance with this section.
- (2) Both the person applying for production of the document and the Police employee or Customs officer opposing production must be given an opportunity to be heard.
- (3) If the Judge is satisfied that information in any document whose production is sought identifies, or is likely to lead to the identification of,—
- (a) a person who gave information to the Police, or to the New Zealand Customs Service; or
  - (b) any Police employee, or any Customs officer, whose identity was concealed for the purpose of any relevant investigation and has not been subsequently revealed,—

the Judge may, if the Judge believes it in the public interest to do so, order that the whole or any specified part of the document not be produced.

- (4) If the Judge does not make an order under subsection (3), the Judge must order the production of the document to the party requesting it.

Compare: 1961 No 43 s 312H(6)–(8); 1987 No 167 s 4

Section 10O: inserted, on 1 February 1998, by section 4 of the Telecommunications Amendment Act 1997 (1997 No 98).

Section 10O(1): amended, on 27 September 2001, by section 6 of the Telecommunications Amendment Act 2001 (2001 No 80).

Section 10O(2): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

Section 10O(3): amended, on 27 September 2001, by section 6 of the Telecommunications Amendment Act 2001 (2001 No 80).

Section 10O(3)(b): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

## **10P Request for production made in course of proceedings**

- (1) If—
- (a) a request for the production of any document kept in safe custody under section 10L is made in the course of any proceedings presided over by a District Court Judge or a Judge of the High Court; and
  - (b) the request is opposed,—
- that Judge must adjudicate on the matter as if it had been referred under section 10N(3), and section 10O applies accordingly with any necessary modifications.
- (2) If—
- (a) a request for the production of any document kept in safe custody under section 10L is made in the course of any other proceedings; and
  - (b) the request is opposed,—
- the presiding judicial officer must, without delay, refer the matter to a Judge for adjudication under section 10O.
- (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

- (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.

Compare: 1961 No 43 s 312H(9)–(10); 1987 No 167 s 4

Section 10P: inserted, on 1 February 1998, by section 4 of the Telecommunications Amendment Act 1997 (1997 No 98).

Section 10P(1): amended, on 27 September 2001, by section 6 of the Telecommunications Amendment Act 2001 (2001 No 80).

Section 10P(2): amended, on 27 September 2001, by section 6 of the Telecommunications Amendment Act 2001 (2001 No 80).

Section 10P(3): added, on 27 September 2001, by section 6 of the Telecommunications Amendment Act 2001 (2001 No 80).

#### **10Q Judge entitled to inspect any relevant document**

Regardless of anything in any of sections 10L to 10P, any Judge who is presiding over any proceedings in which the issue of a call data warrant is in issue is entitled to inspect any relevant document held under section 10L.

Compare: 1961 No 43 s 312H(11); 1987 No 167 s 4

Section 10Q: inserted, on 1 February 1998, by section 4 of the Telecommunications Amendment Act 1997 (1997 No 98).

#### **10R Reports to Parliament on call data warrants**

- (1) The Commissioner of Police must include in every annual report prepared by the Commissioner for the purposes of section 101 of the Policing Act 2008 the following information in respect of the period under review:
- (a) the number of applications made by constables for call data warrants:
  - (b) the number of applications made under section 10K by constables for renewals of call data warrants:
  - (c) the number of applications referred to in each of paragraphs (a) and (b) that were granted, and the number that were refused:
  - (d) the average duration of call data warrants (including renewals) issued to constables.
- (2) The Comptroller of Customs must include in his or her annual report under section 43 of the Public Finance Act 1989 the following information in respect of the period under review:

- (a) the number of applications made by Customs officers for call data warrants:
- (b) the number of applications made under section 10K by Customs officers for renewals of call data warrants:
- (c) the number of applications referred to in each of paragraphs (a) and (b) that were granted, and the number that were refused:
- (d) the average duration of call data warrants (including renewals) issued to Customs officers.

Section 10R: inserted, on 1 February 1998, by section 4 of the Telecommunications Amendment Act 1997 (1997 No 98).

Section 10R(1): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

Section 10R(1)(a): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 10R(1)(b): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 10R(1)(d): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 10R(2): amended, on 25 January 2005, by section 37(1) of the Public Finance Amendment Act 2004 (2004 No 113).

## **10S Regulations**

The Governor-General may from time to time, by Order in Council, make regulations prescribing the form of call data warrants.

Section 10S: inserted, on 1 February 1998, by section 4 of the Telecommunications Amendment Act 1997 (1997 No 98).

### *Powers of network operators* *[Repealed]*

Heading: repealed, on 20 December 2001, pursuant to section 159(1) of the Telecommunications Act 2001 (2001 No 103).

## **11 Rights of entry in respect of lines**

*[Repealed]*

Section 11: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**12 Rights of entry in respect of existing works and existing lines***[Repealed]*

Section 12: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**13 Removal of trees, etc***[Repealed]*

Section 13: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**14 Removal of trees, etc, in emergency***[Repealed]*

Section 14: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**15 Construction or repairing of lines on roads***[Repealed]*

Section 15: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**15A Notice to be given before alteration to lines or works on road***[Repealed]*

Section 15A: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**15B Offence for failure to comply with section 15 or section 15A***[Repealed]*

Section 15B: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**15C Appeals in relation to conditions imposed***[Repealed]*

Section 15C: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**15D Determination of appeals**

*[Repealed]*

Section 15D: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**16 Alteration to line on road**

*[Repealed]*

Section 16: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**17 Lines not to interfere with public traffic**

*[Repealed]*

Section 17: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**18 Telephone cabinets, etc**

*[Repealed]*

Section 18: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**19 Compensation for injurious affection**

*[Repealed]*

Section 19: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**20 Protection of existing works and lines**

*[Repealed]*

Section 20: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**Part 1A  
Enforcement and remedies**

*[Repealed]*

Part 1A: repealed, on 20 December 2001, pursuant to section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**20A Jurisdiction of High Court***[Repealed]*

Section 20A: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**20B Jurisdiction of District Courts***[Repealed]*

Section 20B: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**20C Injunctions may be granted by court for contravention of section 6***[Repealed]*

Section 20C: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**20D Actions for damages for contravention of section 6***[Repealed]*

Section 20D: repealed, on 20 December 2001, by section 159(1) of the Telecommunications Act 2001 (2001 No 103).

**Part 2  
Licensing and regulation of radio  
apparatus***[Repealed]*

Part 2: repealed, on 19 December 1989, by section 139(1) of the Radiocommunications Act 1989 (1989 No 148).

**20E Objects of this Part***[Repealed]*

Section 20E: repealed, on 19 December 1989, by section 139(1) of the Radiocommunications Act 1989 (1989 No 148).

**21 Interpretation***[Repealed]*

Section 21: repealed, on 19 December 1989, by section 139(1) of the Radiocommunications Act 1989 (1989 No 148).

**22 Part to bind Crown**

*[Repealed]*

Section 22: repealed, on 1 April 1989, by section 2(2) of the Telecommunications Amendment Act 1988 (1988 No 164).

**23 Licensing of radio apparatus**

*[Repealed]*

Section 23: repealed, on 19 December 1989, by section 139(1) of the Radio-communications Act 1989 (1989 No 148).

**24 Licensing of supply of radio apparatus**

*[Repealed]*

Section 24: repealed, on 19 December 1989, by section 139(1) of the Radio-communications Act 1989 (1989 No 148).

**25 Radiocommunication within territorial limits**

*[Repealed]*

Section 25: repealed, on 19 December 1989, by section 139(1) of the Radio-communications Act 1989 (1989 No 148).

**26 Powers to obtain documents and radio apparatus**

*[Repealed]*

Section 26: repealed, on 19 December 1989, by section 139(1) of the Radio-communications Act 1989 (1989 No 148).

**27 Penalties**

*[Repealed]*

Section 27: repealed, on 19 December 1989, by section 139(1) of the Radio-communications Act 1989 (1989 No 148).

**28 Delegation of powers by Secretary**

*[Repealed]*

Section 28: repealed, on 19 December 1989, by section 139(1) of the Radio-communications Act 1989 (1989 No 148).

**29 Proceedings privileged**

*[Repealed]*

Section 29: repealed, on 19 December 1989, by section 139(1) of the Radio-communications Act 1989 (1989 No 148).

**30 Regulations**

*[Repealed]*

Section 30: repealed, on 19 December 1989, by section 139(1) of the Radiocommunications Act 1989 (1989 No 148).

**31 Repeal**

*[Repealed]*

Section 31: repealed, on 19 December 1989, by section 139(1) of the Radiocommunications Act 1989 (1989 No 148).

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**Schedule**

s 30(3)

**Regulations deemed to have been made  
pursuant to section 30(1)**

*[Repealed]*

Schedule: repealed, on 19 December 1989, by section 139(1) of the Radiocommunications Act 1989 (1989 No 148).

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## Telecommunications Act 2001

Public Act 2001 No 103  
Date of assent 19 December 2001  
Commencement see section 2

### 1 Title

This Act is the Telecommunications Act 2001.

## Part 1 Preliminary

### Subpart 1—General

### 2 Commencement

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

### 3 Purpose

- (1) The main purpose of this Act is to regulate the supply of telecommunications services.
- (2) To avoid doubt, nothing in subsection (1) or in any other provision of this Act limits the Resource Management Act 1991.

## Part 5 Miscellaneous

### 160 Transitional provision for declarations made under section 2A of 1987 Act

- (1) Despite the repeal of section 2A of the 1987 Act by section 159, every declaration made under section 2A of the 1987 Act and in force immediately before the commencement of this Act continues in force and has full effect until the declaration is revoked,—
  - (a) in the case of a declaration made by Order in Council, by the Governor-General by Order in Council made on the recommendation of the Minister; or
  - (b) in the case of a declaration made by the Minister, by the Minister by notice in the *Gazette*.

- (2) The Minister must make a recommendation under subsection (1)(a) or revoke a declaration under subsection (1)(b) (as the case may be) 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.
- (3) A notice in the *Gazette* under subsection (1)(b) 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.

**161 Transitional provision relating to repeal of section 5C of 1987 Act**

Despite any enactment or rule of law, any requirements under Part 2 or regulation 7 of the Telecommunications (Information Disclosure) Regulations 1999 (SR 1999/383) with which Telecom had to comply before the repeal of section 5C of the 1987 Act cease to have effect as if those regulations had not been made.

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## **Contents**

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## **Notes**

### **1 *General***

This is a reprint of the Telecommunications (Residual Provisions) Act 1987. The reprint incorporates all the amendments to the Act as at 1 October 2012, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

### **2 *Status of reprints***

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

### **3 *How reprints are prepared***

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

#### **4 Changes made under section 17C of the Acts and Regulations Publication Act 1989**

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5 *List of amendments incorporated in this reprint  
(most recent first)***

Search and Surveillance Act 2012 (2012 No 24): section 341

Policing Act 2008 (2008 No 72): sections 116(a)(ii), (iv), 130(1)

Public Finance Amendment Act 2004 (2004 No 113): section 37(1)

Telecommunications Act 2001 (2001 No 103): section 159

Telecommunications Amendment Act 2001 (2001 No 80)

Telecommunications Amendment Act 1997 (1997 No 98)

Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16):  
section 5(2)

Telecommunications Amendment Act 1990 (1990 No 21)

Radiocommunications Act 1989 (1989 No 148): section 139(1)

Telecommunications Amendment Act 1988 (1988 No 164)

