



TELECOMMUNICATIONS (AMENDMENT) ACT
2021

(NO. 3 OF 2021)





TELECOMMUNICATIONS (AMENDMENT) ACT 2021

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PASSED by the National Parliament this 5th day of October 2021.

(This printed impression has been carefully compared by me with the Bill passed by Parliament and found by me to be a true and correct copy of the Bill)

A handwritten signature in black ink, appearing to read "David Kusilifu".

David Kusilifu
Clerk to National Parliament

ASSENTED to in Her Majesty's name and on Her Majesty's behalf this seventh day of December 2021.

A handwritten signature in black ink, appearing to read "Sir David Vunagi".

Sir David Vunagi
Governor-General

Date of Commencement: see section 2.

AN ACT TO AMEND THE TELECOMMUNICATIONS ACT 2009.

ENACTED BY THE NATIONAL PARLIAMENT OF SOLOMON ISLANDS.

TELECOMMUNICATIONS (AMENDMENT) ACT 2021

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TELECOMMUNICATIONS (AMENDMENT) ACT 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 that sells SIM-cards on behalf of the 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 78J;

"organisation" means:

- (a) a body incorporated under a law in force in Solomon Islands or another country; or
- (b) a statutory corporation; or
- (c) a corporation sole; or
- (d) a Ministry or other government department; or
- (e) a provincial government or the Honiara City Council;

"organisation's authorised officer" means the officer or employee of an organisation authorised by the organisation to purchase a SIM-card on behalf of the organisation;

"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 or a person referred to in section 78F.

"register" means a register of SIM-cards kept and maintained by a service provider under section 788;

"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.

788 Register of SIM-cards

- (1) A service provider must establish a register for recording the information specified in sections 780(1)(d), 78F(1)(d) and 78H(1)(e) about SIM-cards sold by and on behalf of the service provider.
- (2) The register must be in 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 780(1)(d), 78F(1)(d) and 78(H)(1)(e).
- (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, 78F or 78H

- (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 780; 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; or
 - (c) the person is an organisation and the sale is made in accordance with section 78H.
- (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: for a natural person, 50 000 penalty units or 5 years imprisonment or both.

for a body corporate, 500 000 penalty units.

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 education 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 or agent;

- (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 or agent;
- (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 or agent;
- (v) a letter from the 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 or agent;
- (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 or agent 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 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 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;
 - (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 or agent;
 - (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 or agent;
 - (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 or agent;

- (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 or agent.

78H Sale of SIM-card to organisation

- (1) A service provider or agent must not sell a SIM-card to an organisation unless:
 - (a) the SIM-card is sold to a person who:
 - (i) has attained at least 18 years of age; and
 - (ii) is the organisation's authorised person; and
 - (b) the organisation's authorised person provides the service provider or agent with:
 - (i) the organisation's name, address and telephone number; and
 - (ii) the organisation's authorised person's name, position and work address and telephone number; and
 - (c) the organisation's authorised person presents to the service provider or agent valid IDs; and
 - (d) the service provider or agent examines the valid IDs and is satisfied that the valid IDs prove the organisation's and the organisation's authorised person's identities; and
 - (e) the service provider or agent enters the following information into the register:
 - (i) the name, address and telephone number of the organisation;

- (ii) the name, position and contact work address and telephone number of the organisation's authorised person;
 - (iii) the type of valid IDs the authorised person presents to the service provider;
 - (iv) 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 authorised person whose name, position and contact details the service provider enters in the register under subsection (1)(e).

781 Valid ID for purchase of SIM-card under section 78H

- (1) The organisation's authorised person must present to the service provider or agent:
- (a) a valid ID for the organisation; and
 - (b) a valid ID for the organisation's authorised person.
- (2) A valid ID for the organisation is:
- (a) a certified copy of the certificate of registration or incorporation issued at the place of incorporation; or
 - (b) a certified copy of the body's constitution; or
 - (c) the document establishing the organisation.
- (3) A valid ID for the organisation's authorised person is:
- (a) a work identification card that has the authorised person's photographic image, name and position in the organisation; or
 - (b) other documentation signed by the human resources manager of the organisation providing the person's position in the organisation, together with 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 driver's licence issue under *the Road Transport Act (Cap.131)*;
- (iii) a Solomon Islands National Provident Fund ID card;
- (iv) a passport that has not expired;
- (v) 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.

78J 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.

78K 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.

78L 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: 50 000 penalty units or 5 years imprisonment or both.

- (2) In this section:

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

78M 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) in the course of performing functions or carrying out duties in good faith in accordance with this Part; or

- (iii) in accordance with a written law in force in Solomon Islands; or
 - (iv) in connection with any proceedings by which a court may make an order that authorizes disclosure of the confidential information; or
 - (v) in accordance with an order of a court referred to in subparagraph (iv); or
- (b) the information is otherwise available to the public.

Maximum penalty: 50 000 penalty units or 5 years imprisonment or both.

78N Registration of SIM-cards purchased before commencement

- (1) In this section:

"commencement" means the date on which this Act commences;

"existing SIM-card" means a SIM-card that:

- (a) was purchased before the commencement; and
- (b) is active after the commencement.

- (2) Before the expiry of 2 years after the commencement:

- (a) the person or organisation which purchased an existing SIM-card must present to the service provider or agent the information specified in section 780(1)(d); 78F(1)(d) or 78H(1)(e) (as the case requires); and
- (b) the service provider or agent must record the information in the register."

5 Section 72 amended

Section 72 of the Principal Act is amended by inserting "and Part 11A" after "section 29".

Honiara, Solomon Islands
Printed under the authority of the
Solomon Islands Government

Printed by Provincial Press