

COMMONWEALTH OF DOMINICA

STATUTORY RULES AND ORDERS NO. 9 OF 2002

REGULATIONS

MADE by the Minister under Section 74 of the Telecommunications Act, 2000 (Act No. 8 of 2000).

(Gazetted April 18, 2002).

1. These Regulations may be cited as the -

Short title.

**TELECOMMUNICATIONS
(CONFIDENTIALITY IN NETWORKS
AND SERVICES) REGULATIONS 2002.**

2. These Regulations shall come into force on the date of publication in the *Gazette*.

Commencement.

3. In the Regulations -

Interpretation.

“Act” means the Telecommunications Act, 2000.

8 of 2000.

“authorised request” means a request received from the recipient of a transmission;

“subscriber personal information” means information of a personal nature relating to a telecommunications subscriber that discloses the address, marital status, financial status, occupation or other identifying information that is unrelated or incidental to the provision of telecommunications services;

“subscriber proprietary network information” means information that relates to the quantity, technical configuration, type, destination, and amount of use of a telecommunications service subscribed to by any subscriber of a telecommunications provider, and that is made available to the

telecommunications provider by the subscriber solely, by virtue of the customer-provider relationship;

PART II

INTERCEPTION MONITORING STOPPAGE

Activation of intercepted communication.

4. A telecommunications provider shall ensure that any interception of communications within its network is not capable of being activated unless authorised by the receiver of a transmission, or in accordance with a Court order.

Strict measures of control.

5. A telecommunications provider shall appoint one or two senior employees or officers with the responsibility for ensuring that the interception of communications cannot be activated unless authorised by the receiver or in accordance with a Court order.

Court order.

6. A telecommunications provider shall not implement any interception of transmissions over a public telecommunications network or telecommunications apparatus unless the telecommunications provider receives a Court order authorising law enforcement officials to intercept transmissions over the public telecommunications network or apparatus.

Officials to act within strict guidelines.

7. A telecommunications provider shall ensure that any employee or officer that it appoints pursuant to Regulation 6 only effects interceptions that are authorised by a person who has made an authorised request or when authorised by a Court order to a law enforcement official.

Employee to execute agreement.

8. (1) An employee of a telecommunications provider who is designated and authorised to receive and implement interception orders, or certifications, shall execute a non-disclosure agreement which shall be kept as part of that employee's permanent records.

(2) The terms of the agreement referred to in subregulation (1) shall survive any reassignment of the employee to other duties, or the termination or departure of the employee from the employment of the telecommunications provider.

9. (1) A telecommunications provider shall report to law enforcement officials without delay any act:

Report of improper activities.

(a) of unlawful electronic surveillance that has occurred on its premises; and

(b) which compromises the duty to report once the provider becomes aware.

(2) A telecommunications provider shall report to law enforcement officials without delay any transmission which is intercepted and appears likely to threaten the national security or is contrary to public order.

10. (1) Where there are reasonable grounds to suspect that an employee of a telecommunications provider is about to engage or may have engaged in illegal surveillance activity, that employee shall be reassigned to other duties or suspended pending the outcome of an investigation.

Employee's suspension of duties ending investigation.

(2) An employee who has been reassigned or suspended shall not be allowed to have access to any equipment whereby proper investigations may be compromised.

11. (1) A telecommunications provider shall maintain accurate, complete and secure records of any interception of communications.

Accurate records of interception.

(2) Records of any interception of communication shall include the:

(a) Court order;

(b) identity of the law enforcement officer who presented the Court Order;

- (c) name and signature of the telecommunications provider's employee responsible for overseeing the interception of the communications;
- (d) start date and time of the interception;
- (e) telephone and circuit identification number or numbers involved; and
- (f) telegraphic, facsimile, telephonic or any other such type of communication.

(3) The records of interception shall be compiled either contemporaneously, or within a reasonable period of time following the initiation of the interception of the communications and such period shall not exceed 90 days.

(4) A telecommunications provider shall maintain a record of all intercepted communications for a period of 6 years.

Reporting obligations to Commission.

12. (1) A telecommunications provider shall report to the Commission on a quarterly basis any -

- (a) compromises or suspected compromises of interceptions; and
- (b) violation of its security policies and procedures.

(2) A telecommunications provider shall be obligated to report to the Commission without delay any violation or compromise relating to subscriber's:

- (a) personal information; or
- (b) proprietary network information.

No acceptance of dangerous transmission.

13. A telecommunications provider shall not accept any form of transmission which appears likely to threaten the national security or is contrary to public order in Dominica.

PART III

NON-INTERCEPTION OF TRANSMISSIONS
BY MEMBERS OF THE PUBLIC

14. Any member of the public, including a radio amateur using radio equipment or modified equipment, shall not intercept or interrupt any message transmitted over a public telecommunications network or telecommunications apparatus.

No interception by members of public.

15. Where there are reasonable grounds to suspect that a member of the public is about to or is in the process of engaging in illegal surveillance activity, the telecommunications provider or any concerned party shall report the activity to law enforcement officials without delay.

Reporting obligation on illegal activity.

16. A telecommunications provider shall be obliged to report to the Commission and law enforcement officials without delay any act of unlawful electronic surveillance that has occurred on its premises by an unauthorised member of the public.

Reporting obligation on actual illegal activity.

PART IV

CONFIDENTIALITY IN
RESPECT OF SUBSCRIBER

17. A telecommunications provider, shall establish policies and procedures to facilitate the strictest supervision and control of its employees or officers who have or might have access to subscriber personal information or subscriber proprietary network information.

Strict control measures.

18. (1) An employee of a telecommunications provider who has access to subscriber personal information or subscriber proprietary network information shall execute a non-disclosure agreement which shall be kept as part of that employee's permanent records.

Employee to execute agreement.

(2) The terms of the agreement referred to in subregulation (1) shall survive any reassignment of the employee to other duties or the termination or departure of the employee from the employment of the telecommunications provider.

Confidentiality of subscriber.

19. The subscriber's personal information or subscriber's proprietary network information is confidential information, and shall not be disclosed by an employee or officer of a telecommunications provider without the consent of the subscriber or pursuant to a Court Order.

Permission to be first obtained.

20. A telecommunications provider or publisher of subscribers' lists or directories must first obtain the consent of a subscriber before listing the subscriber's personal information in a telephone directory.

Grounds for disclosure of proprietary network information.

21. A telecommunications provider may use or disclose subscriber proprietary network information only if it is necessary to -

- (a) protect users of those services and other telecommunications providers from fraudulent, abusive, unlawful use of, or subscription to such services; or
- (b) provide the telecommunications services to which the proprietary customer has subscribed.

Made this 26th day of March, 2002.

REGINALD AUSTRIE
*Minister for Communication,
Works & Housing.*

DOMINICA