



# Telecommunications Act 1984

## 1984 CHAPTER 12

### PART II

#### PROVISION OF TELECOMMUNICATION SERVICES

#### *[<sup>F1</sup>Appeals*

#### **[<sup>F1</sup>46B Appeals**

[<sup>F2</sup>(1) This section shall apply to the following decisions of the Secretary of State or the Director under this Part taken on or after 20th December 1999—

- (a) a decision to grant or refuse to grant a licence under section 7;
- (b) a decision to include within a licence on its grant particular provisions—
  - (i) describing the telecommunication systems authorised to be run under the licence;
  - (ii) describing the connections authorised to be made;
  - (iii) describing the telecommunication services authorised to be provided;
  - (iv) imposing a condition; or
  - (v) applying the telecommunications code to the licensee subject to such exceptions and conditions as may be included in the licence;
- (c) a decision with regard to the designation under section 9 of a telecommunication system as a public telecommunication system;
- (d) a decision with regard to the modification of any exception or condition included in a licence as mentioned in section 10(3);
- [<sup>F3</sup>(da) a decision with regard to the modification under section 12 of a condition of a licence granted under section 7 above to a particular person;]
- (e) a decision to exercise any power contained in a licence to give a direction or consent or to make any determination;
- (f) a decision with regard to the enforcement of conditions in a licence;
- (g) a decision to revoke a licence;
- (h) a decision with regard to approval of any person, apparatus or meter; and

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*Changes to legislation: There are currently no known outstanding effects for the Telecommunications Act 1984, Section 46B. (See end of Document for details)*

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- (j) any other decision (other than a decision made under sections 12 to 15) in respect of which the rights or interests of a person running or wishing to run a telecommunication system under a licence or making or wishing to make any connection or providing or wishing to provide any telecommunication service by means of a telecommunication system licensed under this Act are materially affected.
- (2) Subject to subsection (5) below, a person aggrieved by a decision to which this section applies may appeal against the decision on one or more of the following grounds—
- (a) that a material error as to the facts has been made;
  - (b) that there was a material procedural error;
  - (c) that an error of law has been made; or
  - (d) that there was some other material illegality, including unreasonableness or lack of proportionality.
- (3) In England and Wales and Northern Ireland, an appeal lies to the High Court, and in Scotland, an appeal lies to the Court of Session.
- (4) The court determining an appeal may—
- (a) dismiss the appeal; or
  - (b) quash the decision,
- and where the court quashes a decision it may refer the matter to the Secretary of State or the Director (as the case may be) with a direction to reconsider it and reach a decision in accordance with the findings of the court.
- (5) No appeal under this section shall be brought unless the leave of the court has been obtained.
- (6) An appeal under this section shall be brought—
- (a) in respect of a decision made under section 16, without unreasonable delay and in any event not later than 42 days from the date on which the Secretary of State or the Director made his decision; or
  - (b) in respect of any other decision to which this section applies, without unreasonable delay and in any event not later than three months from the date on which the Secretary of State or the Director made his decision, or within such other period as may be specified by rules of court.
- (7) The effect of a decision to which an appeal under this section relates shall not, except where the court so orders, be suspended in consequence of the bringing of the appeal.
- (8) Any proceedings under this section in the Court of Session shall be before the Lord Ordinary.]]

#### **Textual Amendments**

- F1** S. 46B and cross heading inserted (20.12.1999) by S.I. 1999/3180, **reg. 3(3)**
- F2** S. 46B repealed (25.7.2003 for specified purposes, 29.12.2003 otherwise) by **Communications Act 2003 (c. 21)**, ss. 406, 408, 411, **Sch. 19(1)** (with Sch. 18, Sch. 19(1) Note 1); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3**, Sch. 1 (with art. 11)
- F3** S. 46B(1)(da) inserted (25.7.2000) by 2000 c. 7, **s. 12** (with s. 14); S.I. 2000/1798, **art. 2**

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**Modifications etc. (not altering text)**

- C1** S. 46B applied (1.2.2003) by [The Electronic Communications \(Universal Service\) Regulations 2003 \(S.I. 2003/33\)](#), **reg. 6**
- C2** S. 46B applied (24.2.2003) by [The Electronic Communications \(Market Analysis\) Regulations 2003 \(S.I. 2003/330\)](#), **reg 11**

**Changes to legislation:**

There are currently no known outstanding effects for the Telecommunications Act 1984, Section 46B.