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**1999 No. 3449**

**TELECOMMUNICATIONS**

**The Telecommunications (Interconnection) (Number  
Portability, etc.) Regulations 1999**

*Made - - - - - 23rd December 1999*

*Laid before Parliament 29th December 1999*

*Coming into force—*

*except for regulation 5 19th January 2000*

*regulation 5 1st March 2000*

The Secretary of State, being a Minister designated(a) in pursuance of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to telecommunications, in exercise of the powers conferred on him by that section, hereby makes the following Regulations:—

**PART I**

**PRELIMINARY**

**Citation and commencement**

**1.** These Regulations may be cited as the Telecommunications (Interconnection) (Number Portability, etc.) Regulations 1999 and shall come into force as follows:

- (a) except for regulation 5, these Regulations shall come into force on 19th January 2000;
- (b) regulation 5 shall come into force on 1st March 2000.

**Interpretation**

**2.—(1)** In these Regulations—

“the Act” means the Telecommunications Act 1984(c);

“the Amending Interconnection Directive” means Directive 98/61/EC of the European Parliament and of the Council amending the Interconnection Directive with regard to operator number portability and carrier pre-selection(d);

“the EEA Agreement” means the agreement on the European Economic Area signed at Oporto on 2 May 1992 as adjusted by the Protocol signed at Brussels on 17 March 1993(e);

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(a) S.I. 1996/266.

(b) 1972 c. 68.

(c) 1984 c. 12.

(d) OJL No. 268 03.10.98, p.37.

(e) OJL No. 1 03.01.94, p.3.

“the Interconnection Directive” means Directive 97/33/EC of the European Parliament and of the Council of 30 June 1997 on interconnection in telecommunications with regard to ensuring universal service and interoperability through application of the principles of Open Network Provision(a);

“the principal Regulations” means the Telecommunications (Interconnection) Regulations 1997 (b);

“the Standard Schedules Regulations” means the Telecommunications (Licence Modification) (Standard Schedules) Regulation 1999(c);

“Systemless Service Provider” means a person who provides publicly available telecommunication services but who does not run a telecommunications system within the meaning of Section 4 of the Act by means of which such services are provided.

(2) Any expression used in these Regulations which is also used in the Amending Interconnection Directive has the same meaning in these Regulations as it has in that Directive.

(3) Any other expression used in these Regulations which appears in Schedule 1 to the Standard Schedules Regulations has the same meaning in these Regulations as it has in that Schedule.

(4) Except where the context otherwise requires and subject to paragraphs (1) to (3), any expression used in these Regulations which is also used in the Act has the same meaning in these Regulations as it has in the Act.

## PART II

### AMENDMENTS TO THE PRINCIPAL REGULATIONS

#### Definitions

3. Regulation 2(2) of the principal Regulations is amended as follows:

(a) in the definition of “European Public Operator” before the word “Directive” there shall be inserted the word “Interconnection”;

(b) before the definition of “interconnection” there shall be inserted the following definition—

“‘geographic number’ means a number from the national numbering plan where part of its digit structure contains geographic significance used for routing calls to the physical location of the network termination point of the subscriber to whom the number has been assigned;”;

(c) after the definition of “interconnection” there shall be inserted the following definition—

“‘Integrated Services Digital Network’ (ISDN) means a network evolved from the telephony integrated digital network that provides for end-to-end digital connectivity to support a wide range of services, including voice and non-voice services, to which users have access by standard multipurpose customer interfaces;”;

(d) before the definition of “Universal service” there shall be inserted the following definition—

“‘subscriber’ means a person who is party to a contract with the provider of publicly available telecommunications services for the supply of such services.”.

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(a) OJL No. 199 26.07.97, p.32.

(b) S.I. 1997/2931.

(c) S.I. 1999/2450.

### **Responsibilities of the Secretary of State and the Director**

4.—(1) Regulation 6(3) of the principal Regulations is amended by the deletion of the words “the Director may intervene at any time, and shall do so on the request of either party, in order to make a direction” and the substitution of the words “the Director may make a direction at any time, and shall do so on the request of either party”.

(2) Regulations 6(6) and (7) and 10(2) are amended by the deletion of the word “published” and the substitution of the words “made available”.

(3) Regulation 6(11) is amended by the substitution of the letter “(e)” for the letter “(f)”.

### **Data protection**

5. Regulation 7(5) of the principal Regulations is amended by the deletion of the words “relevant regulatory provisions on the protection of data including the protection of personal data” and the substitution of the words “section 101 of the Act, the Data Protection Act 1998(a) and the Telecommunications (Data Protection and Privacy) Regulations 1999”(b).

### **Numbering**

6. Regulation 11(1) of the principal Regulations is amended by substituting for sub-paragraph (1)(c) the following sub-paragraph—

“(c) encourage the earliest possible introduction of operator number portability whereby subscribers who so request can retain their numbers on the fixed public telephone network and the ISDN independent of the organisation providing service, in the case of geographic numbers at a specific location and in the case of other than geographic numbers at any location.”.

### **Collocation and facility sharing**

7. Regulation 10(1) of the principal Regulations is amended by the insertion after the words “use of property” of the words “in accordance with sections 34 to 40 of, and paragraphs 2 to 7 of Schedule 2 to, the Act.”.

### **Number portability—Systemless Service Providers**

8.—(1) A Systemless Service Provider shall provide Number Portability on reasonable terms to any of its Subscribers who notify it in writing that they require it to provide them with Number Portability.

(2) A Systemless Service Provider shall provide Portability in relation to any request for Portability made to it by an Operator or a Service Provider (other than Mobile Portability or Paging Portability) on reasonable terms, in accordance with the Functional Specification and as though the number portability condition set out in Schedule 7 to the principal Regulations applied to it.

(3) Without prejudice to any right which a subscriber may have, by virtue of this regulation or otherwise, to bring civil proceedings in respect of any contravention or apprehended contravention of the duty referred to in this regulation, compliance shall be enforceable by the Director by civil proceedings for an injunction or interdict or any other appropriate relief.

### **Modification of licences to include the number portability condition**

9.—(1) The definitions set out in Part I of Schedule 1 hereto shall be inserted in the appropriate places in alphabetical order or replace the existing definitions (as the case may be) in paragraph 1 of Part I of Schedule 1 to the Standard Schedules Regulations.

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(a) 1998 c. 29.

(b) S.I. 1999/2093.

(2) The condition set out in Part II of Schedule 1 hereto shall be inserted as a new condition 28 in place of the existing condition 28 in Part 2 of Schedule 1 to the Standard Schedules Regulations and the reference to condition 28.7 in condition 64.10 in Schedule 2 to the Standard Schedules Regulations shall be replaced by reference to condition 28.5.

(3) Regulation 13 of the principal Regulations is amended by the insertion at the end of that regulation as follows:

“(4) Each licence which, other than by virtue of incorporation of the Standard Schedules, contains a condition entitled “Number Portability” or “Fixed Number Portability” in respect of a fixed telecommunications service is hereby modified by the substitution of new definitions set out in Part I of Schedule 7 to these Regulations for the definitions of the same terms contained in the licence and the substitution of the new number portability condition set out in Part II of Schedule 7 to these Regulations for the condition entitled “Number Portability” or “Fixed Number Portability.”

(4) There shall be added as Schedule 7 to the principal Regulations the Schedule set out in Schedule 2 hereto.

### **EEA Agreement**

**10.** Consequent upon the extension of the Interconnection Directive to the European Economic Area by Decision no. 7/99 of the EEA Joint Committee<sup>(a)</sup> the references to “Member State” in the definitions of “European Public Operator” and “special rights” and in Regulation 6(1)(d) and (9) of the principal Regulations shall be interpreted as including a contracting party to the EEA Agreement.

*Patricia Hewitt*  
Minister of State  
for Small Business and E-Commerce,  
Department of Trade and Industry

23rd December 1999

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(a) Not yet published in the Official Journal.

## SCHEDULE 1

Regulation 9(1) and (2)

## INSERTIONS INTO STANDARD SCHEDULES REGULATIONS

## PART I

## New definitions

“Donor Operator” means an Operator or Service Provider whose customer number(s) are in the process of being, or have been passed or ported to a Recipient Operator;

“Mobile Portability” means Portability relating to Numbers allocated for use with Mobile Radio Telecommunication Services;

“Non-Geographic Portability” means Portability relating to Numbers allocated in accordance with the rules for the allocation of Number Ranges other than Geographic Number Ranges as provided for in the National Numbering Conventions but excluding Portability relating to Numbers allocated for use with Mobile Radio Telecommunications Services and Radiopaging Services;

“Number Portability” means a facility whereby Subscribers who so request can retain their number on a Fixed Public Telephone System and the integrated services digital network (ISDN), independent of the organisation providing the service at the Network Termination Point of a Subscriber at a specific location in the case of Geographic Portability or at any location in the case of Non-Geographic Portability;

“Paging Portability” means Portability relating to Numbers allocated for use with Radiopaging Services;

“Portability” means any facility which may be provided by the Licensee to an Operator or to a Service Provider enabling any Subscriber who requests Number Portability to continue to be provided with any telecommunication service by reference to the same Number irrespective of the identity of the person providing such a service;

“Radiopaging Service” means telecommunication services consisting in the conveyance of Messages by means of Wireless Telegraphy where every message, apart from simple acknowledgement, is ultimately transmitted from a Station for Wireless Telegraphy comprised in the Applicable Systems run by the Licensee to a Station for Wireless Telegraphy or Wireless Telegraphy Apparatus that is not comprised in those Applicable Systems;

“Recipient Operator” is an Operator or Service Provider to whom customer number(s) are in the process of being, or have been passed or ported from a Donor Operator;

“System Set-up Costs” means costs of the Donor Operator incurred—

- (a) in the course of making network and system modifications, configuration and reconfiguration, including adapting or replacing software;
- (b) in the course of testing functionality within the Applicable System and in conjunction with any Recipient Operator’s systems;

anywhere within the licensed area thereby establishing the technical and administrative capability to provide Portability”.

## PART II

## New Condition

Condition 28

**NUMBER PORTABILITY**

28.1 The Licensee shall provide Number Portability on reasonable terms to any of its Subscribers who notify the Licensee in writing that they require it to provide them with Number Portability.

28.2 Pursuant to a request for Portability made to it by an Operator or a Service Provider, the Licensee shall provide Portability (other than Mobile Portability or Paging Portability) in relation to that request on reasonable terms in accordance with the Functional Specification and with the following provisions provided that any charges for provision of such Portability shall be made by the Licensee in accordance with the following principles:

- (a) subject always to the requirement of reasonableness, charges shall be based, unless the charges made by British Telecommunications plc for the provision of telecommunication services under Condition 69 of its Licence granted under section 7 of the Act shall be incremental costs, in which case the basis for charges shall be incremental costs, on the fully allocated costs of providing Portability unless the Donor and Recipient Operator shall have agreed another basis for charges, or the Director shall have determined, following an application by either of them, that another basis for charges should be used;
- (b) the Donor Operator shall make no charge in relation to any System Set-Up Costs;

- (c) subject to sub-paragraph 28.2 (b), the Recipient Operator shall pay charges based on the reasonable costs incurred by the Donor Operator in providing Portability with respect to each Number which, subject to sub-paragraph 28.2 (d) may be paid by way of specific elements of the provision of the facility;

28.3 Where a request for Portability referred to in paragraph 28.2 has been given, the Licensee or the Operator requesting Portability may refer in writing to the Director for his determination any question as to the reasonableness of:

- (a) the request for the provision of Portability, taking into account the technical and operational characteristics of the Licensee's Applicable Systems and, if relevant, those of the applicable systems of the Operator requesting Portability;
- (b) the costs incurred in providing Portability (other than Mobile Portability or Paging Portability);
- (c) the categorisation of costs;
- (d) the proposed use or use of a higher cost method in proposing to implement or implementing any aspect of Portability (other than Mobile Portability or Paging Portability) where a lower cost method could or ought to have been used;
- (e) the charges to be made for providing Portability (other than Mobile Portability or Paging Portability);
- (f) the basis for calculating such charges.

28.4 Before making any determination under paragraph 28.3 the Director shall consult with the Licensee and the relevant Operator and with Interested Parties and take into account any representations made by them.

28.5 If requested in writing by the Director, the Licensee shall provide to the Director a record of each number in relation to which it is providing Portability (other than Mobile Portability or Paging Portability), specifying the relevant Operator or Service Provider in each case.

## SCHEDULE 2

Regulation 9(4)

### NEW SCHEDULE 7 TO THE TELECOMMUNICATIONS (INTERCONNECTION) REGULATIONS 1997

#### "Schedule 7

#### PART I

#### New definitions

"Donor Operator" means an Operator or Service Provider whose customer numbers(s) are in the process of being, or have been passed or ported to a Recipient Operator;

"Mobile Portability" means Portability relating to Numbers allocated for use with Mobile Radio Telecommunication Services;

"Non-Geographic Portability" means Portability relating to Numbers allocated in accordance with the rules for the allocation of Number Ranges other than Geographic Number Ranges as provided for in the National Numbering Conventions but excluding Portability relating to Numbers allocated for use with Mobile Radio Telecommunications Services and Radiopaging Services;

"Number Portability" means a facility whereby Subscribers who so request can retain their number on a Fixed Public Telephone System and the integrated services digital network (ISDN), independent of the organisation providing the service at the Network Termination Point of a Subscriber at a specific location in the case of Geographic Portability or at any location in the case of Non-Geographic Portability;

"Paging Portability" means Portability relating to Numbers allocated for use with Radio Paging Services;

"Portability" means any facility which may be provided by the Licensee to an Operator or to a Service Provider enabling any Subscriber who requests Number Portability to continue to be provided with any telecommunication service by reference to the same Number irrespective of the identity of the person providing such a service;

"Radiopaging Service" means telecommunication services consisting in the conveyance of Messages by means of Wireless Telegraphy where every message, apart from simple acknowledgement, is ultimately transmitted from a Station for Wireless Telegraphy comprised in the Applicable Systems run by the Licensee to a Station for Wireless Telegraphy or Wireless Telegraphy Apparatus that is not comprised in those Applicable Systems;

"Recipient Operator" is an Operator or Service Provider to whom customer number(s) are in the process of being, or have been passed or ported from a Donor Operator;

“System Set-up Costs” means costs of the Donor Operator incurred—

- (a) in the course of making network and system modifications, configuration and reconfiguration, including adapting or replacing software;
- (b) in the course of testing functionality within the Applicable System and in conjunction with any Recipient Operator’s systems;

anywhere within the licensed area thereby establishing the technical and administrative capability to provide Portability.”

## PART II New Condition

### NUMBER PORTABILITY

0.1 The Licensee shall provide Number Portability on reasonable terms to any of its Subscribers who notify the Licensee in writing that they require it to provide them with Number Portability;

0.2 Pursuant to a request for Portability made to it by an Operator or a Service Provider, the Licensee shall provide Portability (other than Mobile Portability or Paging Portability) in relation to that request on reasonable terms in accordance with the Functional Specification and with the following provisions provided that any charges for provision of such Portability shall be made by the Licensee in accordance with the following principles:

- (a) subject always to the requirement of reasonableness, charges shall be based, unless the charges made by British Telecommunications plc for the provision of telecommunication services under Condition 69 of its Licence granted under section 7 of the Act shall be incremental costs, in which case the basis for charges shall be incremental costs, on the fully allocated costs of providing Portability unless the Donor and Recipient Operator shall have agreed another basis for charges, or the Director shall have determined, following an application by either of them, that another basis for charges should be used;
- (b) the Donor Operator shall make no charge in relation to any System Set-Up Costs;
- (c) subject to sub-paragraph 0.2 (b), the Recipient Operator shall pay charges based on the reasonable costs incurred by the Donor Operator in providing Portability with respect to each Number which, subject to sub-paragraph 0.2 (d) may be paid by way of specific elements of the provision of the facility;
- (d) the Donor Operator shall make no specific charge based on Additional Conveyance Costs: and

0.3 Where a request for Portability referred to in paragraph 0.2 has been given, the Licensee or the Operator requesting Portability may refer in writing to the Director for his determination any question as to the reasonableness of:

- (a) the request for the provision of Portability, taking into account the technical and operational characteristics of the Licensee’s Applicable Systems and, if relevant, those of the applicable systems of the Operator requesting Portability.
- (b) the costs incurred in providing Portability (other than Mobile Portability or Paging Portability);
- (c) the categorisation of costs;
- (d) the proposed use or use of a higher cost method in proposing to implement or implementing any aspect of Portability (other than Mobile Portability or Paging Portability) where a lower cost method could or ought to have been used;
- (e) the charges to be made for providing Portability (other than Mobile Portability or Paging Portability);
- (f) the basis for calculating such charges.

0.4 Before making any determination under paragraph 0.3 the Director shall consult with the Licensee and the relevant Operator and with Interested Parties and take into account any representations made by them.

0.5 If requested in writing by the Director, the Licensee shall provide to the Director a record of each Number in relation to which it is providing Portability (other than Mobile Portability or Paging Portability), specifying the relevant Operator or Service Provider in each case.”

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Telecommunications (Interconnection) Regulations 1997 and the Telecommunications (Licence Modification) (Standard Schedules) Regulations 1999 in respect of the number portability conditions contained in the licences granted under section 7 of the Telecommunications Act 1984 for the running of public telecommunications systems and also impose the number portability obligations in these Regulations on systemless service providers.

These Regulations implement the number portability provisions of Directive 98/61/EC of the European Parliament and the Council with regard to operator number portability and carrier pre-selection (O.J. No. L268 3.10.98 p.37) amending Directive 97/61/EC of the European Parliament and the Council with regard to operator number portability and carrier pre-selection (O.J. No. L199 26.07.97 p.32).

Part I of the Regulations contains general provisions. In particular, regulation 2 relates to the interpretation of the Regulations and defines “the principal Regulations” as being the Telecommunications (Interconnection) Regulations 1997 and the “Standard Schedules Regulations” as being the Telecommunications (Licence Modification) (Standard Schedules) Regulations 1999.

Part II relates to amendments to the principal Regulations. Regulation 6 modifies the principal Regulations by placing an obligation on the Secretary of State and the Director General to ensure, in exercising their functions under the Telecommunications Act 1984 (particularly concerning licensing), that the provisions of the Directive concerning number portability are complied with. Regulation 8 ensures that Systemless Service Providers, that is those telephone operators that do not operate under a Telecommunications Act licence, comply with the number portability requirements contained in the Directive. Regulation 9 modifies all licences containing the current fixed number portability condition by substituting a new licence condition in Schedule 1 to these Regulations, which is inserted in the Standard Schedules Regulations in the appropriate place, and by amending those licences which do not incorporate the Standard Schedules. Regulation 10 relates to enforcement of Regulation 8 through civil proceedings by the Director General of Telecommunications. Regulation 11 take in certain licences account of extension of the Interconnection Directive to the European Economic Area.

A regulatory impact assessment is available and can be obtained from Communications and Information Industries Directorate, Department of Trade and Industry, 151 Buckingham Palace Road, London SW1W 9SS. Copies have been placed in the libraries of both Houses of Parliament.

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