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Ordinance on Telecommunications Installations (TIO)

of 14 June 2002 (Status as of 1 January 2015)

Please note: this translation does not yet include the amendments of 13.06.2016

The Swiss Federal Council,

based on Articles 21a paragraph 2, 31 paragraph 1, 32, 32a, 33 paragraph 2, 34 paragraph 1^{ter}, 59 paragraph 3, 62 and 64 paragraph 2 of the Telecommunications Act of 30 April 1997 (TCA),¹ and the Federal Act of 6 October 1995² on Technical Barriers to Trade (TBTA),³ *ordains:*

Chapter 1 General Aspects

Art. 1 Subject

This Ordinance relates to:

- a. the procedure applicable to the offering, placing on the market and putting into service of telecommunications installations as defined in Article 3 let. d TCA;
- b. the recognition of testing laboratories and conformity assessment bodies that evaluate conformity;
- c. the inspection of telecommunications installations.

Art. 2 Definitions

¹ In this Act:

- a. *radiocommunications equipment* means one or more transmitters or receivers or a combination of transmitters and receivers, including ancillary apparatus, or a relevant component (module), required to transmit or receive information by radio waves or for certain purposes pertaining to radio-astronomy, on any given site;

RO 2002 2086

¹ SR 784.10

² SR 946.51

³ Amended by No I of the Ordinance of 9 March 2007 (RO 2007 995).

- b. *line-connected equipment* means any telecommunications installations or relevant components (modules) by which information are transmitted by wire or employed for that purpose;
- c. *Telecommunications terminal equipment* means any equipment or relevant component (module) that is intended to be connected directly or indirectly by any means whatsoever to interfaces of telecommunications networks used wholly or partly for the provision of telecommunications services (Article 3 let. b TCA);
- d. *interface*
 - 1. means a termination point of a telecommunications network used wholly or partly for the provision of telecommunications services, i.e. a physical connection point by which users obtain access to such a network (telecommunications network interface used wholly or partly for the provision of telecommunications services), as well as its technical specifications, or
 - 2. an interface specifying the radio path between radiocommunications equipment (air interface), as well as its technical specifications;
- e. *offering* means any conduct intended to place telecommunications installations on the market by exhibiting them on commercial premises, presenting them at exhibitions, in brochures, catalogues, electronic media or in any other way;
- f. *placing on the market* means the transfer or delivery of telecommunications installations with or without payment;
- g. *putting into service* means the initial installation and operation of a telecommunications installation, irrespective of whether the transmission or reception of information is performed successfully by the user;
- h. *installation* means putting telecommunications installations into a working condition, and especially repairing them;
- i. *operation* means the use of telecommunications installations irrespective of whether the transmission or reception of information is performed successfully.

² Putting telecommunications installations into service is regarded as placing on the market if this has not already been done in accordance with para. 1 letter f.

³ A component, a sub-assembly or software intended for integration by the user into a telecommunications installation and able to affect the conformity of the said installation with the essential requirements is regarded as a telecommunications installation.⁴

⁴ Telecommunications installation assembly kits, containing the components and the instructions necessary for their assembly are regarded as telecommunications installations.

⁴ Amended by No I of the Ordinance of 19 Jan. 2005 (RO 2005 677).

⁵ Occupying one or more frequencies to block or interfere with telecommunications or broadcasting is deemed equivalent to transmitting information.⁵

Art. 3 Interfaces

¹ The Federal Office of Communications (OFCOM⁶) shall determine the technical regulations applicable to interfaces and publishes the list thereof in the form of an ordinance.

² It shall determine the location of interfaces, taking international practice into account.

Art. 4 Technical standards

¹ OFCOM may instruct independent Swiss standards organisations to draw up technical standards.

² The technical standards designated in accordance with Article 31 paragraph 2 letter a, TCA shall be published in the Official Federal Gazette with titles and references⁷.

Art. 5 Equipment class

¹ Taking international practice into account, OFCOM shall determine the equipment classes and the equipment belonging to them; it shall draw up a list thereof⁸.

² A class includes types of equipment considered to be similar and the interfaces for which this equipment is intended. Equipment may belong to more than one equipment class.

Art. 5a⁹ Line-connected telecommunications installations with PLC technology

In order to avoid interference, OFCOM may issue technical and administrative regulations on the installation and operation of line-connected telecommunications installations which use the power network, including domestic installations, for the transmission of data (powerline communication [PLC]).

⁵ Inserted by No I of the Ordinance of 31 Oct. 2012, in force since 1 Jan. 2013 (AS 2012 6561).

⁶ Designation in accordance with No I of the Ordinance of 4 Nov. 2009, in force since 1 Jan. 2010 (AS 2009 5837). This amendment has been made throughout the text.

⁷ The list of titles of standards and their text can be obtained from the Swiss Information Centre for Technical Rules (switec), Mühlebachstrasse 54, 8008 Zurich, or from ASUT, Klösterlistutz 8, 3013 Bern..

⁸ This list may be obtained from the Federal Office of Communications, 44, rue de l'Avenir, case postale, 2501 Bienne.

⁹ Inserted by No I of the Ordinance of 4 Nov. 2009, in force since 1 Jan. 2010 (AS 2009 5837). Amended by No I of the Ordinance of 31 Oct. 2012, in force since 1 Jan. 2013 (AS 2012 6561).

Chapter 2 Offering and Placing on the Market of new Telecommunications Installations

Section 1 Conformity

Art. 6 Conditions for offering and placing on the market

¹ Telecommunications installations may be offered or placed on the market only if they meet the essential requirements mentioned in Article 7 and the other relevant provisions of this Ordinance.

² Their conformity with the said requirements must be proved, subject to Article 16, by means of the conformity assessment procedures specified in Articles 13 and 14.

³ Telecommunications installations that are not subject to a conformity assessment procedure under this Ordinance are subject to the Ordinance of 9 April 1997¹⁰ on Low-Voltage Electrical Equipment and the Ordinance of 18 November 2009¹¹ on Electromagnetic Compatibility as far as the conditions of offering and placing on the market are concerned. Articles 4 and 22 - 25 of this Ordinance are reserved.¹²

⁴ Jammers and location identification and surveillance systems used in the interests of public safety and security by authorities are governed by Article 16a.¹³

Art. 7 Essential requirements

¹ Telecommunications installations must fulfil the following essential requirements:

- a. the protection of the health and safety of the user and any other person, including the safety requirements cited in Article 2 and Annex 1 of Directive 2006/95/EC of the European Parliament and of the Council of 12 December 2006¹⁴ on the harmonisation of the laws of Member States relating to electrical equipment designed for use within certain voltage limits, but with no voltage limit applying;
- b. the protection requirements with regard to electromagnetic compatibility contained in Article 5 and Annex 1 of Directive 2004/108/EC of the European Parliament and of the Council of 15 December 2004¹⁵ on the approximation of the laws of the Member States relating to electromagnetic compatibility and repealing Directive 89/336/EEC¹⁶.

¹⁰ SR 734.26

¹¹ SR 734.5

¹² Amended by Annex 3 No II 7 of the Ordinance of 18 Nov. 2009 on Electromagnetic Compatibility, in force since 1 Jan. 2010 (SR 734.5).

¹³ Inserted by No I of the Ordinance of 5 Dec. 2003 (RO 2003 4771). Amended by No I of the Ordinance of 9 March 2007 (RO 2007 995). Amended by No I of the Ordinance of 31 Oct. 2012, in force since 1 Jan. 2013 (AS 2012 6561)

¹⁴ ABL L 374 of 27.12.2006, p. 10. The text of this directive may be obtained from the Federal Office of Energy, Mombijoustrasse 74, 3003 Berne.

¹⁵ ABL L 390 of 31.12.2004, p.24. The text of this directive may be obtained from the Federal Office of Communications, 44, rue de l'Avenir, case postale, 2501 Bienne

¹⁶ Amended by No I of the Ordinance of 16 April 2008 (RO 2008 1903).

² The requirements mentioned in paragraph 1 letter b are not applicable to transmitting equipment for radio amateurs, unless they are commercially available.

³ In addition, radio equipment must be so constructed that it effectively uses the spectrum allocated to terrestrial or space radio communication and orbital resources so as to avoid harmful interference.

⁴ OFCOM shall determine the applicable additional requirements, as well as the telecommunications installations or equipment classes concerned, taking international practice into account. The additional requirements are the following:

- a. installations must be able to interact via networks with other equipment and to be connected to interfaces of the appropriate type throughout Switzerland;
- b. they may not harm the network or its functioning nor misuse network resources, thereby causing an unacceptable degradation of service;
- c. they must incorporate safeguards to ensure that the personal data and privacy of the users and of the subscribers are protected;
- d. they must support certain features ensuring avoidance of fraud;
- e. they must support certain features ensuring access to emergency services;
- f. they must support certain features in order to facilitate their use by users with a disability.

Art. 8 Compliance with essential requirements

¹ Telecommunications installations manufactured in accordance with the technical standards referred to in Article 31 para. 2 let. a TCA, are deemed to fulfil the essential requirements with regard to those aspects governed by that provision.

² Any person offering or placing telecommunications installations on the market which do not fully or only partially fulfil the technical standards referred to in Article 31 para. 2 let. a TCA, must be able to prove that, with regard to those aspects governed by that provision, they fulfil the essential requirements in some other way.

Art. 9 Notification of radio equipment

¹ Any person wishing to offer or place radiocommunications equipment on the market using frequency bands whose use is not harmonised at international level shall notify OFCOM of this intention. OFCOM shall draw up the list of radiocommunications equipment which need not be notified¹⁷.

² In particular, the notification shall include information on the radio characteristics of the equipment and, where applicable, the identification number of the conformity assessment body (Article 21). It shall be provided no less than four weeks in advance of the start of placing the radiocommunications equipment on the market.

¹⁷ This list may be obtained from the Federal Office of Communications, 44, rue de l'Avenir, case postale, 2501 Bienne.

³ If, on the basis of the information provided pursuant to para. 2, OFCOM finds that the radiocommunications equipment does not meet the requirements, it may take the measures laid down in Article 33 paragraph 3 TCA.

⁴ OFCOM shall issue the necessary administrative regulations.

Art. 10¹⁸ Declaration of conformity

¹ Any person offering or placing a telecommunications installation on the market must attach to it a declaration of conformity with the essential requirements. The person may choose to attach a declaration of conformity in its complete form in accordance with Article 10a or in its simplified form in accordance with Article 10b.¹⁹

² The declaration of conformity in its complete form is issued by the manufacturer or its representative established within Switzerland.

³ If the telecommunications installation is subject to several regulations requiring a declaration of conformity, a single full declaration is sufficient.

⁴ The declaration of conformity must be drawn up in one of the official languages of Switzerland or in English.

⁶ The manufacturer, its representative or, if neither of these two persons is established within Switzerland, the persons responsible for offering or placing the equipment on the market must be able to present a copy of the declaration of conformity in its complete form for a period of ten years from the day of manufacture of the telecommunications installation. In the case of series production, this period begins on the date of manufacture of the final example.

Art. 10a²⁰ Content of the declaration of conformity in its complete form

The declaration of conformity in its complete form shall include the following information in particular:

- a. the name and address of the manufacturer or its representative established within Switzerland;
- b. a description of the telecommunications installation enabling its identification;
- c. a reference to this Ordinance or to legislation recognised under an international agreement;
- d. the regulations, technical standards or other specifications applied with details of the relevant version;
- e. the date of the declaration;

¹⁸ Amended by No 1 of the Ordinance of 31 Oct. 2012, in force since 1 Jan. 2013 (AS 2012 6561).

¹⁹ Amended by No 1 of the Ordinance of 5 Nov. 2014, in force since 1 Jan. 2015 (AS 2014 4169).

²⁰ Inserted by No 1 of the Ordinance of 31 Oct. 2012, in force since 1 Jan. 2013 (AS 2012 6561).

- f. the particulars of the person signing it, who must be authorised to sign the declaration.

Art. 10b²¹ Content of the declaration of conformity in its simplified form

¹ The declaration of conformity in its simplified form shall state that the telecommunications installation conforms with the provisions of this Ordinance or with legislation that is recognised by an international agreement.

² To this information must be added:

- a. the exact address at which a copy of the declaration of conformity under Article 10a may be obtained; or
- b. a copy of the declaration of conformity under Article 10a in its original language.

Art. 11 User information

¹ Any person offering or placing a telecommunications installation on the market must enclose with it information on its intended use, any restrictions on use and any telecommunications network interfaces to which it may be connected.

² Article 10 paragraph 5 applies *mutatis mutandis*.²²

³ OFCOM shall issue the necessary administrative regulations taking international practice into account.

Art. 12 Technical documentation

¹ In addition to the provisions for conformity assessment procedures (Annexes II to V), the person responsible for the offering and placing on the market of telecommunications installations must be able to present the technical documentation which provides evidence of conformity with the essential requirements.²³

² The technical documentation must contain the following information as a minimum:

- a. a general description of the telecommunications installation which is sufficient to identify it, preferably by providing photographs;
- b. design and production drawings together with lists of components, sub-assemblies, circuits, etc.;
- c. the descriptions and explanations needed for understanding the said drawings and lists and the functioning of the telecommunications installation;

²¹ Inserted by No I of the Ordinance of 31 Oct. 2012, in force since 1 Jan. 2013 (AS 2012 6561).

²² Amended by No I of the Ordinance of 5 Nov. 2014, in force since 1 Jan. 2015 (AS 2014 4169).

²³ Amended by No I of the Ordinance of 4 Nov. 2009, in force since 1 Jan. 2010 (AS 2009 5837).

- d. a list of the technical standards referred to in Article 31 paragraph 2 letter a TCA that are applied in their entirety or in part and a description and an explanation of the solutions adopted to fulfil the essential requirements of Article 7 when the standards referred to in Article 31 paragraph 2 letter a TCA have not been applied or do not exist;
- e. the results of the design calculations, tests which have been conducted, etc.;
- f. test reports.

³ It must be prepared in one of the official languages of Switzerland or in English; alternatively the information supplied for its evaluation must be provided in one of those languages.

⁴ Article 10 paragraph 5 applies *mutatis mutandis*.²⁴

Section 2 Applicable Assessment Procedures

Art. 13 Radio equipment

¹ Radio reception equipment is subject to one of the following procedures:

- a. the internal production control procedure (Annex II);
- b. the technical construction file procedure (Annex IV);
- c. the full quality assurance procedure (Annex V).

² Transmitting or transmitting-receiving radio equipment fulfilling the technical standards designated by OFCOM (Article 31 para. 2 letter a TCA) is subject to one of the following procedures:

- a. the internal production control procedure plus specific equipment test procedures (Annex III);
- b. the technical construction file procedure (Annex IV);
- c. the full quality assurance procedure (Annex V).

³ Transmitting or transmitting-receiving radio equipment not fulfilling the technical standards designated by OFCOM or fulfilling them only in part (Article 31 para. 2 letter a TCA) is subject to one of the following procedures:

- a. the technical construction file procedure (Annex IV);
- b. the full quality assurance procedure (Annex V).

⁴ With regard to the proof of its conformity with the essential requirements referred to in Article 7 paragraph 1 letter a, radio equipment may also be subject to the internal production control procedure (Annex II).

⁵ ...²⁵

²⁴ Amended by No I of the Ordinance of 5 Nov. 2014, in force since 1 Jan. 2015 (AS 2014 4169).

²⁵ Repealed by Annex 3 No II 7 of the Ordinance of 18 Nov. 2009 on Electromagnetic Compatibility, with effect from 1 Jan. 2010 (SR 734.5).

Art. 14 Line-connected telecommunications terminal equipment

¹ Line-connected telecommunications terminal equipment is subject to one of the following procedures:

- a. the internal production control procedure (Annex II);
- b. the technical construction file procedure (Annex IV);
- c. the total quality assurance procedure (Annex V).

² With regard to the proof of its conformity with the essential requirements referred to in Article 7 paragraph 1 letter a, line-connected telecommunications terminal equipment is also subject to the internal production control procedure (Annex II).

³ ...²⁶

Section 3 Test Laboratory and Conformity Assessment Body**Art. 15**

¹ Test laboratories and conformity assessment bodies that prepare reports or issue certificates must:

- a. be accredited in accordance with the Ordinance of 17 June 1996 on Accreditation and Appointment²⁷,
- b. be recognised in Switzerland by virtue of international agreements, or
- c. be otherwise qualified under Swiss law.

² Any person acting on the basis of documents issued by a body other than those referred to in paragraph 1 must credibly show that the test or assessment procedure and the qualifications of that body fulfil the Swiss requirements (Art. 18 para. 2 TBTA).

Section 4**Telecommunications Installations not subject to Conformity Assessment²⁸****Art. 16**

The following are exempted from the conformity assessment:²⁹

- a. telecommunications installations which are installed and operated solely for military purposes, for civil defence or other purposes involving exceptional

²⁶ Repealed by Annex 3 No II 7 of the Ordinance of 18 Nov. 2009 on Electromagnetic Compatibility, with effect from 1 Jan. 2010 (SR 734.5).

²⁷ SR 946.512

²⁸ Amended by No I of the Ordinance of 16 April 2008 (RO 2008 1903).

²⁹ Amended by No I of the Ordinance of 16 April 2008 (RO 2008 1903).

- situations, in so far as they are not installed and operated in a common radio network with other bodies;
- b. radiocommunications equipment which is installed and operated solely for technical tests by virtue of a radiocommunications licence granted for that purpose;
 - c. radiocommunications equipment which is being demonstrated by virtue of a temporary radiocommunications licence granted solely for that purpose;
 - d. radiocommunications equipment installed and operated on frequencies below 9 kHz and above 3,000 GHz;
 - e.³⁰ radio installations for radio amateurs which are not commercially available;
 - e^{bis}.³¹ kits (Art. 2 para. 4) to be assembled by radio amateurs, regardless of whether they are commercially available or not;
 - e^{ter}.³² commercially available radio installations for radio amateurs which have been modified by an authorised radio amateur in accordance with Art. 33 para. 4 or 5 of the Ordinance of 9 March 2007³³ on Frequency Management and Radio Licences for his own use;
 - f. radiocommunications equipment installed temporarily and operated by persons with foreign domicile or registered office for a period of no more than three months:
 1. when its installation and operation are authorised by the State in question, and
 2. when its power and frequencies comply with the technical standards fixed by OFCOM;
 - g. radiotelephony or radio-navigation equipment which is installed and operated solely and permanently in aircraft for the purpose of coordinating air traffic and for the safe navigation of aircraft and which is recognised for that purpose by the Federal Office of Civil Aviation; the latter shall inform OFCOM of the recognised equipment;
 - g^{bis}.³⁴ radio receiving equipment used solely for reception of signals emitted by radio beacon stations and by navigation assistance satellites;
 - h. equipment used solely for the reception of radio and television programmes;
 - h^{bis}.³⁵ radio receiving equipment used solely for the reception of standard frequencies and time signals;

³⁰ Amended by No I of the Ordinance of 4 Nov. 2009, in force since 1 Jan. 2010 (AS 2009 5837).

³¹ Inserted by No I of the Ordinance of 4 Nov. 2009, in force since 1 Jan. 2010 (AS 2009 5837).

³² Inserted by No I of the Ordinance of 4 Nov. 2009, in force since 1 Jan. 2010 (AS 2009 5837).

³³ SR 784.102.1

³⁴ Inserted by No I of the Ordinance of 5 Dec. 2003 (RO 2003 4771).

³⁵ Inserted by No I of the Ordinance of 5 Dec. 2003 (RO 2003 4771). Amended by No I of the Ordinance of 31 Oct. 2012, in force since 1 Jan. 2013 (AS 2012 6561).

- i.³⁶ line-connected telecommunications terminal equipment installed and operated for a maximum of 18 months solely for technical test purposes;
- j.³⁷ line-connected telecommunications terminal equipment installed and operated solely within their buildings, parts of their buildings or on adjacent land by beneficiary institutions under Article 2 paragraph 1 letters a, b, d–f, i and k–l of the Host State Act of 22 June 2007³⁸ that enjoy privileges, immunities and facilities;
- k.³⁹ telecommunications installations for measurement and testing, either intended to detect and diagnose problems on commissioning, installation and operation of telecommunications installations or to establish their characteristics and verify their satisfactory operation, and installed and operated by persons specialised in telecommunications;
- l.⁴⁰ telecommunications installations according to Article 6 para. 4.

Section 5 Special Provisions

Art. 16a⁴¹ Offering and placing on the market of jammers and location identification and surveillance systems to safeguard public safety and security

¹ In derogation from Article 6 paragraph 1, the following installations must only meet the basic requirements laid down in Article 7 paragraph 1 letter a:

- a. jammers used by the police and prosecution authorities in the interests of public safety and security;
- b. location identification and surveillance systems used by public authorities in the interests of public safety and security.

² Such installations may only be offered and supplied to the designated authorities. They may only be operated by those authorities in accordance with Articles 49–55 RadLO⁴².

³ Any person offering or placing on the market such installations must first obtain authorisation from OFCOM. OFCOM regulates the terms and conditions of authorisation.

⁴ In the event of failure to comply with the terms and conditions of authorisation, OFCOM may revoke the authorisation without compensation.

³⁶ Amended by No I of the Ordinance of 31 Oct. 2012, in force since 1 Jan. 2013 (AS **2012** 6561).

³⁷ Amended by No I of the Ordinance of 31 Oct. 2012, in force since 1 Jan. 2013 (AS **2012** 6561).

³⁸ SR **192.12**

³⁹ Amended by No I of the Ordinance of 19 Jan. 2005 (RO **2005** 677).

⁴⁰ Inserted by No I of the Ordinance of 5 Dec. 2003 (RO **2003** 4771).

⁴¹ Inserted by No I of the Ordinance of 31 Oct. 2012, in force since 1 Jan. 2013 (AS **2012** 6561).

⁴² SR **784.102.1**

⁵ OFCOM shall provide the authorities under paragraph 1 with a list of persons who have received authorisation.

Art. 17 Restrictions

¹ The telecommunications installations referred to in Article 16 paragraph 1 letters b, c, f, i and j may neither be offered nor placed on the market.

^{1bis} and ^{1ter} ...⁴³

² Radio reception equipment intended for listening to public radio transmissions within the meaning of Article 179^{bis} of the Criminal Code⁴⁴ may be offered solely for this purpose.⁴⁵

³ ...⁴⁶

Art. 18 Exhibition and demonstration

¹ Any person exhibiting a telecommunications installation which does not fulfil the conditions required for placing it on the market must clearly indicate that the said installation is not in conformity with the regulations and that it may not be placed on the market.

² Any person wishing to install and operate, for demonstration purposes, line-connected telecommunications terminal equipment which does not fulfil the conditions required for the placing it on the market, by connecting it to a telecommunication services provider's network, must obtain the latter's consent.

³ Any person wishing to install and operate, for demonstration purposes, radio equipment which does not fulfil the conditions for the placing on the market must obtain the necessary licence (Art. 37 of the Ordinance of 9 March 2007⁴⁷ on Frequency Management and Radio Licences),⁴⁸

⁴ This is without prejudice to Article 18 of the Ordinance of 9 April 1997 on Low-Voltage Electrical Equipment⁴⁹.

Art. 19⁵⁰ Offering radio equipment whose operation is restricted or banned

Any offer of radio equipment the operation of which is subject to restrictions or is prohibited, if made without the physical presence of a sample, in particular on the

⁴³ Inserted by No I of the Ordinance of 9 March 2007 (RO **2007** 995). Repealed by No I of the Ordinance of 31 Oct. 2012, with effect from 1 Jan. 2013 (AS **2012** 6561)

⁴⁴ **SR 311.0**

⁴⁵ Amended by No I of the Ordinance of 7 Dec. 2007 on Frequency Management and Radio Licences (RO **2007** 995).

⁴⁶ Repealed by No I of the Ordinance of 16 April 2008 (RO **2008** 1903).

⁴⁷ **SR 784.102.1**

⁴⁸ Amended by No I of the Ordinance of 4 Nov. 2009, in force since 1 Jan. 2010 (AS **2009** 5837).

⁴⁹ **SR 734.26**

⁵⁰ Amended by No I of the Ordinance of 5 Nov. 2014, in force since 1 Jan. 2015 (AS **2014** 4169).

Internet or in brochures, must make clear reference to the restrictions or to the prohibition.

Section 2a:⁵¹ Putting Telecommunications Installations into Service

Art. 19a

¹ When putting telecommunications installations into service, the manufacturer's instructions must be respected.

² If a service provider puts a telecommunications installation into service, he must respect the recognised technical regulations.

Chapter 3 Offering, Placing on the Market, Putting into Service and Operation of Second-hand Telecommunications Installations⁵²

Art. 20 Offering and placing on the market of second-hand telecommunications installations⁵³

¹ Second-hand telecommunications installations may be offered and placed on the market only if they comply with the regulations that were in force when they were first offered or placed on the market.⁵⁴

² Second-hand telecommunications installations in which components which are important for their function have been modified shall be subject to the same provisions as new installations.

³ Any person who offers and places a second-hand telecommunications installation on the market must provide the buyer with information on any restrictions on use that applied to the installation at the time of its purchase.⁵⁵

⁴ Article 19 applies mutatis mutandis.⁵⁶

⁵¹ Inserted by No I of the Ordinance of 5 Nov. 2014, in force since 1 Jan. 2015 (AS 2014 4169).

⁵² Amended by No I of the Ordinance of 9 March 2007 (RO 2007 995).

⁵³ Inserted by No I of the Ordinance of 9 March 2007 (RO 2007 995).

⁵⁴ Amended by No I of the Ordinance of 9 March 2007 (RO 2007 995).

⁵⁵ Inserted by No I of the Ordinance of 31 Oct. 2012, in force since 1 Jan. 2013 (AS 2012 6561).

⁵⁶ Inserted by No I of the Ordinance of 31 Oct. 2012, in force since 1 Jan. 2013 (AS 2012 6561).

Art. 20^{a57} Putting into service and operation of second-hand telecommunications installations

If the applicable technical standards or regulations are substantially amended, OFCOM shall if necessary issue technical and administrative regulations on the putting into service and operation of second-hand telecommunications installations.

Chapter 4 Marking (Labelling)

Art. 21

¹ Any telecommunications installation that is offered, placed on the market, installed or operated must be permanently marked with the following easily readable particulars:

- a. the model;
- b. the name of the manufacturer or the person responsible for placing it on the market;
- c. the batch or serial number;
- d. where applicable, the installation class identifier (Art. 5);
- e.⁵⁸ the conformity mark.

² Telecommunications installations which have not been the subject of:

- a. an internal production control procedure (Annex II), or
- b. an internal production control plus specific tests procedure (Annex III), insofar as the technical standards mentioned in Article 4 paragraph 2 define the essential radio test suites

must also bear the identification number of the body responsible for assessing conformity.

³ The identification number shall be located on the telecommunications installation itself. It must be clearly visible, easily readable and not be removable.

⁴ OFCOM may recognise foreign identification numbers or other particulars concerning the agency responsible for the conformity assessment. These numbers and particulars shall replace the identification numbers referred to in para. 2.

^{4bis} OFCOM shall define the conformity marking.⁵⁹

⁵ The particulars referred to in paragraphs 1 and 2 must be affixed by the manufacturer, its representative or the person responsible for offering the equipment or placing the equipment on the market.

⁵⁷ Inserted by No I of the Ordinance of 9 March 2007 (AS **2007** 995). Amended by No I of the Ordinance of 4 Nov. 2009, in force since 1 Jan. 2010 (AS **2009** 5837).

⁵⁸ Inserted by No I of the Ordinance of 16 April 2008 (RO **2008** 1903).

⁵⁹ Inserted by No I of the Ordinance of 16 April 2008 (RO **2008** 1903).

⁶ In exceptional cases, OFCOM may ensure the marking of the equipment in a different manner.

⁷ It may issue the necessary administrative regulations.

Chapter 5 Inspection

Art. 22 Principles

¹ OFCOM shall check whether the telecommunications installations offered, placed on the market, installed and operated comply with the provisions of this Ordinance and with its regulations (Art. 33 para. 1 TCA). For the inspection of electrical safety aspects (Art. 7 para. 1 let. a), it shall call upon the Federal Inspectorate for Heavy Current Installations.

² For this purpose, it shall carry out spot checks. It shall carry out inspections if there is reason to believe that a telecommunications installation does not comply with the provisions of this Ordinance and those of OFCOM. It is also authorised to inspect telecommunications installations after a licence application has been filed provided the applicant and the operator of the installation for the purpose of the application are one and the same.

³ It may ask the Federal Customs Administration to provide information on imports of telecommunications installations over a specific period.

⁴ The Ordinance of 2 May 1990 on the protection of works⁶⁰ remains reserved as regards military telecommunications installations.

Art. 23 Inspection methods

¹ As part of inspection operations, OFCOM shall be authorised to demand from the person responsible for offering the installations or placing the installations on the market any necessary documents and information which may prove that the telecommunications installations comply with the provisions of this Ordinance and its regulations, to demand the delivery, without charge, of the necessary telecommunications installations in order to test them or have them tested by a laboratory mentioned in Article 15.⁶¹

² During the inspections, the user must provide the documents in his possession relating to the telecommunications installation and the information enabling identification of the person responsible for offering the installation and placing the installation on the market.

³ OFCOM may have the installations inspected by a laboratory mentioned in Article 15:

⁶⁰ SR 510.518.1

⁶¹ Amended by No I of the Ordinance of 9 March 2007 (RO 2007 995).

- a. if the person responsible for offering the installation or placing it on the market has been unable to provide all or some of the requested documents and information within the period fixed by OFCOM;
- b. if it considers that the telecommunications installations do not meet the regulations in force;
- c. if it considers that a declaration of conformity or any other certificate presented does not apply to the installation;
- d. if the declaration of conformity does not clearly show that the telecommunications installation fulfils the requirements;
- e. if the person responsible for offering the installation or placing it on the market requests it.⁶²

⁴ ...⁶³

⁵ The cost of the inspections shall be borne by the person responsible for offering the telecommunications installations or placing the telecommunications installations on the market:

- a. if he has been unable to provide all or some of the requested documents and information within the period fixed by OFCOM; or
- b. if tests show that the telecommunications installations do not fulfil the requirements.

⁶ Before having tests of the installations conducted by a laboratory mentioned in Article 15, OFCOM shall hear the opinion of the person responsible for offering the installations or placing them on the market.⁶⁴

Art. 24⁶⁵ Measures

¹ If the inspections or monitoring show that the provisions of this Ordinance or OFCOM's regulations have been infringed, OFCOM may, after hearing the opinion of the person responsible for offering, placing on the market or operating the telecommunications installations, order the measures provided for in Article 33 paragraph 3 TCA. It may publish notice of the measures or make such notice accessible online.

² Article 19 paragraph 7 TBA applies.

³ OFCOM may inform the public of the technical non-conformity of a telecommunications installation, in particular where it is not possible to identify every person responsible for its placing on the market or when such persons are too numerous. For this purpose it may publish the following information on the Internet or in another form:

- a. the measures taken;

⁶² Amended by No I of the Ordinance of 9 March 2007 (RO 2007 995).

⁶³ Repealed by No I of the Ordinance of 9 March 2007 (RO 2007 995).

⁶⁴ Amended by No I of the Ordinance of 9 March 2007 (RO 2007 995).

⁶⁵ Amended by No I of the Ordinance of 31 Oct. 2012, in force since 1 Jan. 2013 (AS 2012 6561).

- b. how to use the telecommunications installation lawfully;
- c. the marked and other information that enable it to be identified, such as the manufacturer, brand and model;
- d.⁶⁶ photographs of the telecommunications installation and its packaging;
- e. the date of the ruling on non-conformity.

Art. 25 Interference

¹ OFCOM may at any time have access to telecommunications installations which interfere with telecommunications or broadcasting and take the measures provided for in Article 34 TCA.

² In addition, Articles 22 and 23 also apply *mutatis mutandis*.

Chapter 6 Transitional Provisions

Section 1 Telecommunications Installations

Art. 26⁶⁷

¹ The following second-hand installations may, unless there are substantial modifications to the applicable technical standards, continue to be offered and placed on the market:

- a. telecommunications installations approved by virtue of the Ordinance of 25 March 1992 on subscribers' equipment⁶⁸;
- b. broadcast and retransmission equipment authorised by the PTT Company⁶⁹ by virtue of the Ordinance of 16 March 1992 on Radio and Television⁷⁰;
- c. telecommunications installations approved by virtue of the Ordinance of 6 October 1997⁷¹ on Telecommunications Installations;
- d. Telecommunications installations that conform to the essential requirements contained in Article 5 of Directive 98/13/EC of the European Parliament and of the Council of 12 February 1998⁷² relating to telecommunications terminal equipment and satellite earth station equipment, including the mutual recognition of their conformity and that have undergone before 1 May 2000 a conformity assessment procedure.

⁶⁶ Amended by No I of the Ordinance of 5 Nov. 2014, in force since 1 Jan. 2015 (AS 2014 4169).

⁶⁷ Amended by No I of the Ordinance of 9 March 2007 (RO 2007 995).

⁶⁸ [RO 1992 901, 1993 2551, 1995 5241. RO 1997 2853 Art. 34 para. 1]

⁶⁹ Now "Swisscom AG".

⁷⁰ [RO 1992 680 2516, 1993 3357, 1994 3083, 1995 1406, 1996 2243 No I 67, 1997 152. RO 1997 2903 Art. 57]

⁷¹ [RO 1997 2853, 1999 370, 2000 1058 3012, RO 2002 2086 Art. 32]

⁷² OJ L 74 of 12.3.1998, p. 1. The text of this directive may be obtained from The Federal Office of Communications, 44, rue de l'Avenir, case postale, 2501 Bienne.

² Telecommunications installations not subject to a conformity assessment may continue to be installed and operated if they fulfil all of the following conditions:

- a. they were not subject to the Ordinance of 25 March 1992 on subscribers' equipment;
- b. they must have undergone a conformity assessment procedure according to the Ordinance of 6 October 1997 on Telecommunications Installations, and
- c. they were installed and operated before 1 January 1998 or correspond in every respect to the model of a series installed and operated before 1 January 1998.

³ The installations referred to in paragraph 2 may not be offered and placed on the market without undergoing a conformity assessment procedure.

⁴ If important economic reasons so require, OFCOM may authorise the replacement of the installations referred to in paragraph 2 by identical installations which have not been subject to a new conformity assessment procedure.

⁵ If a substantial modification is made to the applicable technical standards, OFCOM shall if necessary issue technical and administrative regulations concerning the second-hand telecommunications installations put into service or operated.

⁶ Radio reception equipment and radio equipment for radio amateurs which did not undergo a conformity assessment procedure before 1 May 2001 may continue to be installed and operated without undergoing a new conformity assessment procedure. It may not be offered and placed on the market without a conformity assessment.

⁷ ...⁷³

⁸ The declaration of conformity may be issued until 30 June 2013 without reference to this Ordinance or to legislation recognised under an international agreement (Art. 10a let. c).⁷⁴

Section 2: ...

Art. 27–29⁷⁵

⁷³ Inserted by No I of the Ordinance of 16 April 2008 (AS **2008** 1903). Repealed by No I of the Ordinance of 31 Oct. 2012, with effect from 1 Jan. 2013 (AS **2012** 6561).

⁷⁴ Inserted by No I of the Ordinance of 31 Oct. 2012, in force since 1 Jan. 2013 (AS **2012** 6561).

⁷⁵ Repealed by No I of the Ordinance of 9 March 2007, with effect from 1 April 2007 (RO **2007** 995).

Section 3 Conformity Assessment by OFCOM

Art. 30

¹ In the absence of a conformity assessment body in accordance with Article 15 paragraph 1 letters a and c, OFCOM shall be authorised to act as the conformity assessment body in the procedures of production control plus specific tests (Annex III), the technical construction file (Annex IV) and full quality assurance (Annex V). OFCOM shall establish the transitional conditions in conjunction with the State Secretariat for Economic Affairs.

² OFCOM shall issue a full quality assurance certificate (Annex V) if the applicant proves:

- a. that it holds an ISO 9001 quality assurance certificate from a conformity assessment body recognised in Switzerland;
- b. that it satisfies the conditions stipulated by the full quality assurance procedure (Annex V).

Chapter 7 Final Provisions

Art. 31 Implementation

¹ OFCOM shall implement this Ordinance.

² It is authorised to conclude international agreements pertaining to technical and administrative matters relating to this Ordinance.

Art. 32 Repeal of current legislation

The Ordinance of 6 October 1997 on Telecommunications Installations⁷⁶ is repealed.

Art. 33 Commencement

This Ordinance comes into force on 1 July 2002.

⁷⁶ [RO 1997 2853, 1999 370, 2000 1058 3012]

List of procedures

- Annex II Internal production control procedure
- Annex III Internal production control plus specific tests procedure
- Annex IV Technical construction file procedure
- Annex V Full quality assurance procedure

Annex II
(Article 13, 14 and 21)

Internal production control

- 1 Internal production control is the procedure whereby the manufacturer or his authorised representative established within Switzerland, who meets the obligations laid down in point 2, ensures and declares that the telecommunications installations satisfy the requirements of this Ordinance that apply to them.
The manufacturer or his authorised representative established within Switzerland draws up a written declaration of conformity.
- 2 The manufacturer must draw up the technical documentation described in Article 12 paragraph 2 of this Ordinance.
- 3 The technical documentation must enable the conformity of the equipment with the corresponding requirements of this Ordinance to be assessed. It must cover the design, manufacture and operation of the telecommunications installation.
- 4 The manufacturer shall take all necessary measures so that the production process ensures conformity of the telecommunications installations with the technical documentation referred to in Article 12 paragraph 2 and with the requirements of this Ordinance that are applicable to them.

*Annex III*⁷⁷
(Article 13, 21 and 30)

Internal production control plus specific tests procedure

- 1 The procedure of internal production control plus specific tests consists of the procedure described in Annex II, plus the following provisions.
- 2 For each equipment type, all essential radio test suites must be carried out by the manufacturer or on his behalf. The choice of the test suites that are considered to be essential is the responsibility of a conformity assessment body chosen by the manufacturer except where they are defined in the technical standards. The conformity assessment body must take due account of previous decisions made by conformity assessment bodies.
- 3 The manufacturer or his authorised representative established within Switzerland or the person responsible for placing the telecommunications installations on the market must declare that these tests have been carried out and that the telecommunications installation complies with the essential requirements, and must affix the identification number of the conformity assessment body during the manufacturing process.

⁷⁷ Revised in accordance with No I of the Ordinance of 5 Dec. 2003 (RO **2003** 4771).

Annex IV
(Article 13, 14 and 30)

Technical construction file procedure

- 1 The technical construction file procedure comprises
 - for radio equipment, the procedure described in Annex III, plus the following additional regulations;
 - for line-connected telecommunication terminal equipment, the procedure described in Annex II, plus the following additional regulations;
- 2 The technical documentation described in Article 12 para. 2 of this Ordinance and, where applicable, the declaration of conformity to specific radio test suites referred to in point 3 of Annex III form a technical construction file.
- 3 The manufacturer, his authorised representative established within Switzerland or the person responsible for placing the telecommunications installation on the market, must present the file to one or more conformity assessment bodies; each of these bodies must be informed of the other bodies to which the file has been submitted.
- 4 The conformity assessment body reviews the file and, if it is considered that it has not been properly demonstrated that the essential requirements have been met, it may issue an opinion to the manufacturer, his authorised representative or the person responsible for placing the telecommunications installation on the market, and it informs the other conformity assessment bodies to which the file has been submitted accordingly. This opinion is given within four weeks of receipt of the file by the conformity assessment body. On receipt of this opinion, or at the end of the four-week period, the telecommunications installation may be placed on the market, subject to Article 33 para. 3 TCA.
- 5 The manufacturer, his authorised representative established within Switzerland or the person responsible for placing the telecommunications installation on the market must keep the file for inspection for a period ending at least ten years after the last telecommunications installation has been manufactured.

*Annex I*⁷⁸
(Article 13, 14 and 30)

Full quality assurance procedure

- 1 Full quality assurance is the procedure by which the manufacturer that satisfies the obligations of point 2 ensures and declares that the telecommunications installations satisfy the requirements of this Ordinance that apply to them. The manufacturer or his authorised representative established within Switzerland draws up a written declaration of conformity.
- 2 The manufacturer must operate an approved quality system for design, manufacture and final inspection and testing of the telecommunications installations as specified in point 3 and must be subject to surveillance as specified in point 4.
- 3 Quality assurance system
- 3.1 The manufacturer must file an application for the assessment of his quality assurance system with a conformity assessment body of his choice.

The application must include:

- all relevant information for the telecommunications installations planned,
- the quality system's documentation (point 3.2).

- 3.2 The quality system must ensure the conformity of the telecommunications installations with the requirements of this Ordinance that apply to them.

All the elements, requirements and provisions adopted by the manufacturer must be documented in a systematic and orderly manner in the form of written measures, procedures and instructions. This quality system documentation must ensure a common understanding of the quality policies and procedures such as quality programmes, plans, manuals and records.

It must contain in particular an adequate description of:

- the quality objectives and the organisational structure, responsibilities and powers of the management with regard to design and quality of the telecommunications installations,
- the regulations, technical standards or other specifications that will be applied and, where the standards referred to in Article 31 para. 2 letter a TCA will not be applied in full, a description of the solutions adopted to meet the essential requirements,
- the design control and design verification techniques, processes and systematic actions that will be used when designing the telecommunications installations pertaining to the installation category covered,
- the corresponding manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used,

⁷⁸ Revised in accordance with No II of the Ordinance of 5 Dec. 2003 (RO 2003 4771).

- the examinations and tests that will be carried out before, during and after manufacture, and the frequency with which they will be carried out, as well as the results of the tests carried out before manufacture where appropriate,
 - the means by which it is ensured that the tests and examination facilities fulfil the relevant requirements for the performance of the necessary tests,
 - the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.,
 - the means for monitoring the achievement of the required design and product quality and the effective operation of the quality system.
- 3.3 The conformity assessment body assesses the quality assurance system to determine whether it satisfies the requirements specified in point 3.2. It presumes compliance with these requirements in the case of quality systems that implement the relevant standard⁷⁹.

The conformity assessment body must assess in particular whether the quality control system ensures conformity of the telecommunications installations with the requirements of the Ordinance in the light of the relevant documentation supplied in respect of points 3.1 and 3.2 including, where relevant, test results supplied by the manufacturer.

The auditing team must have at least one member experienced as an assessor in the product technology concerned. The evaluation procedure must include a visit to the manufacturer for an evaluation on site.

The decision is notified to the manufacturer. The notification must contain the conclusions of the examination, the decision and its justification.

- 3.4 The manufacturer undertakes to fulfil the obligations arising out of the quality system as approved and to ensure that it always operates properly and efficiently.

The manufacturer or his authorised representative established within Switzerland must keep the conformity assessment body that has approved the quality system informed of any intended updating of the said system.

The conformity assessment body evaluates the modifications proposed and decides whether the amended quality system still satisfies the requirements referred to in point 3.2 or whether a reassessment is required.

It must notify its decision to the manufacturer. The notification must contain the conclusions of the examination, the decision and its justification.

- 4 Surveillance under the responsibility of the conformity assessment body
- 4.1 The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.

⁷⁹ This standard (EN ISO 9001) will be completed to take into account the specific characteristics of telecommunications equipment.

- 4.2 The manufacturer must allow the notified body access for inspection purposes to the locations of design, manufacture, inspection and testing, and storage and must provide it with all necessary information, in particular:
 - the quality system documentation,
 - the quality records as stipulated by the design part of the quality system, such as results of analyses, calculations, tests, etc.,
 - the quality records as stipulated by the manufacturing part of the quality system, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.,
- 4.3 The conformity assessment body must carry out periodic audits to make sure that the manufacturer maintains and applies the quality system and must provide an audit report to the manufacturer.
- 4.4 Additionally, the conformity assessment body may pay unannounced visits to the manufacturer. At the time of such visits, the conformity assessment body may carry out tests or have them carried out in order to check the proper functioning of the quality system where necessary. It must provide the manufacturer with a visit report and, if a test has been carried out, with a test report.
- 5 The manufacturer or his authorised representative established within Switzerland must, for a period ending at least ten years after the last telecommunications installation has been manufactured, retain for the authorities:
 - the documentation referred to in point 3.2,
 - the documentation concerning the updating referred to in point 3.4 para. 2,
 - the decisions and reports from the conformity assessment body which are referred to in point 3.3, final paragraph, 3.4, final paragraph and in points 4.3 and 4.4.

When neither the manufacturer nor his authorised representative is established within Switzerland, this obligation rests on the person responsible for placing the telecommunications installation on the market.

- 6 Each conformity assessment body must make available to the other conformity assessment bodies the relevant information concerning quality system approvals, including references to the equipment concerned, issued and withdrawn.
- 7 The documentation and correspondence pertaining to full quality assurance procedures must be drawn up in one of the official languages of Switzerland or in English.