

THE RADIO AND TELEGRAPH CONTROL ACT

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SCHEDULE

THE RADIO AND TELEGRAPH CONTROL ACT

Acts
20 of 1972,
9 of 1977,
1 of 2000
S. 74.

[1st June, 1973.]

1. This Act may be cited as the Radio and Telegraph Control Act.

Short title.

2. In this Act, unless the context otherwise requires—

Interpre-
tation.

“Advisory Committee” means the Radio and Telegraph Control Advisory Committee established under section 3;

“functions” includes duties and powers;

“harmful interference” means any emission, radiation or induction which endangers the functioning of a radionavigation or other safety service, or seriously degrades, obstructs or repeatedly interrupts a radiocommunication service operating lawfully;

“hertz” means one cycle per second;

“inspector” means an inspector designated under section 11;

“megahertz” means one million cycles per second;

“mobile service” means a service of radiocommunication between mobile and fixed stations or between mobile stations;

“mobile station” means a station in the mobile service intended to be used while in motion or during halts at unspecified points;

“radio” means the use of radio waves;

“radio waves” means electromagnetic waves of fre-

quencies lower than three million megahertz, propagated in space without artificial guide;

“safety service” means any radiocommunication service used permanently or temporarily for the safeguarding of human life and property;

“special licence” means a licence issued under section 6;

“spurious emissions” means emission on a frequency or frequencies outside the necessary band, the level of which may be reduced without affecting the corresponding transmission of information, and includes harmonic emissions, parasitic emissions and intermodulation products but excludes emissions in the immediate vicinity of the necessary band which are a result of the modulation process for the transmission of information;

“station” means one or more transmitters or receivers, or a combination of transmitters and receivers, including the equipment necessary at one location for carrying on a radiocommunication service each station being classified by the service in which it operates permanently or temporarily.

Establishment of Advisory Committee.

3.—(1) There shall be established for the purposes of this Act a body to be called the Radio and Telegraph Control Advisory Committee (hereinafter referred to as the “Advisory Committee”).

Schedule.

(2) The provisions of the Schedule shall have effect as to the constitution of the Advisory Committee and otherwise in relation thereto.

4. The functions of the Advisory Committee shall be to advise the Minister on any matters connected with radio and telegraph control referred to them by the Minister for advice, and to hold enquiries and obtain statements from interested parties in connection with any matter on which their advice has been sought.

Functions
of Advisory
Committee.

5.—(1) No person shall within the Island or its territorial waters establish, maintain or use any radio station or apparatus without first obtaining a licence for the purpose, issued pursuant to regulations made under section 8:

Unlicensed
radio
apparatus
prohibited.

Provided that the provisions of this section shall not apply to—

- (a) the holder of a licence granted under the Broadcasting and Radio Rediffusion Act in accordance with the provisions of that Act;
- (b) any mobile station of foreign registry temporarily in or over the Island which is covered by a valid licence in the country in which it is registered;
- (c) radio and telegraph equipment designed and used only for reception of news broadcasts transmitted by news agencies and intended for reception by their subscribers; or
- (d) the establishment, installation or use of such radio station or apparatus as may from time to time be exempted by the Minister by regulations, which exemption may be absolute or subject to such terms and limitations as the Minister may prescribe.

(2) Every licence issued pursuant to regulations made under section 8 shall specify the equipment to which it relates and shall be for such period, contain such terms, and

be subject to such conditions as may be specified in the licence and in any regulations as may for the time being be in force in relation to that type of licence.

Minister
may grant
special
licences.
9/1977
S. 2 (a).

6.—(1) Notwithstanding the provisions of section 5, the Minister may grant to any applicant a special licence whether exclusive or non-exclusive, to establish, maintain or use any radio station or apparatus, for such period and on such terms and conditions as the Minister may determine, so, however, that the holder of a special licence granted under this section shall conform to any regulations for the time being in force in relation thereto.

9/1977
S. 2 (b).

(2) The Minister with the written consent of the holder of a special licence granted under this section, may at any time during the continuance in force of such licence, modify or amend it in such manner and in such respects as he may deem proper.

Offence to
act con-
trary to
sections
5 and 6.

7.—(1) Every person who establishes, maintains or uses any radio station or apparatus in contravention of section 5 or 6 shall be guilty of an offence, and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one thousand dollars and in default of payment, to imprisonment for a term not exceeding twelve months.

(2) For the purposes of this Act, a person shall be deemed to maintain in or upon any premises, vehicle, vessel or aircraft of which he is in control or is the owner, any radio station or apparatus found in or upon such premises, vehicle, vessel or aircraft, as the case may be, whether such station or apparatus is in a working condition or not.

(3) In any legal proceedings for contravention of any of the provisions of section 5 or 6, the burden of proving the existence of a valid licence in respect of any radio station or apparatus, as the case may be, shall be upon the person charged.

8.—(1) The Minister may make regulations for the proper carrying out of the provisions and purposes of this Act, and in particular but without prejudice to the generality of the foregoing, may make regulations—

Minister
may make
regulations.

- (a) classifying the various types of radio station, and prescribing the nature of the service to be rendered and the frequencies which may be used by each class of station;
- (b) prescribing the minimum performance specifications for equipment which may be used in each class of station, with particular reference to the power output, necessary bandwidth, frequency stability and spurious emissions, and prohibiting the manufacture and importation of radio transmitters and radiomicrophones which do not conform to the technical specifications prescribed in respect of such radio apparatus;
- (c) respecting the grant, revocation or suspension of licences, the various types of licences which may be issued, the manner in which they may be applied for, their respective forms, the period of their validity, and the delegation of the functions in respect of such licences;
- (d) specifying the qualifications to be held by operators of the various types of station, the classes of certificates of proficiency which may be issued to such operators and providing for the holding of examinations to determine the competence of such operators;
- (e) prescribing fees to be paid in respect of licences and examinations and the manner in which such fees may be paid;
- (f) in respect of watches, if any, to be maintained at the various classes of station;

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- (g) providing for the inspection of radio stations;
- (h) providing for the persons authorized in that behalf to be notified of the characteristics of all radio stations to which this Act applies;
- (i) prohibiting or regulating the sale or use of any apparatus or machinery causing or capable of causing harmful interference to radio reception;
- (j) preserving the secrecy of radiocommunications not intended for public reception;
- (k) requiring users of radio stations or apparatus to observe the provisions of any International Treaty or Convention or any bilateral or regional agreements relating to telecommunications to which the Government is a party, and providing penalties or for the suspension or revocation of licences for failure to observe those provisions;
- (l) in relation to the control or use by Government of any radio station or apparatus during a state of emergency;
- (m) providing for the operation of foreign registered or licensed mobile stations while in or over Jamaica or its territorial waters;
- (n) in relation to mobile stations licensed in Jamaica which are not for the time being in or over Jamaica or its territorial waters;
- (o) in respect of the licensing of persons wishing to maintain or repair radio transmitting apparatus and the qualifications to be held by such persons;
- (p) regulating the sale and demonstration of radio transmitting apparatus;
- (q) providing for the dismantling or confiscation of any radio station or apparatus;

(r) as respects the holding of enquiries by the Advisory Committee;

(s) prescribing any other matter or anything which may be, or is required by this Act to be prescribed.

(2) Regulations made under this section shall be subject to negative resolution.

9. Every person (hereinafter referred to as a dealer) who, by way of his trade or business, hires, sells, exchanges or deals in any radio station or apparatus save under the terms of a valid licence issued to him for that purpose under this Act, shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one thousand dollars and in default of payment to imprisonment for a term not exceeding six months.

Dealer to have licence:

10.—(1) Any person other than a dealer, who sells, exchanges or otherwise disposes of, any radio station or apparatus the establishment, maintenance or use of which requires a licence under this Act, shall within fourteen days of such sale, exchange or disposal, as the case may be, notify the person authorized by the Minister in that behalf of the transaction, giving such particulars in respect thereof as may be required by such person.

Sale by private persons.

(2) Any person as aforesaid who fails to notify the authorized person of a transaction in accordance with subsection (1), shall be guilty of an offence, and shall be liable on summary conviction before a Resident Magistrate, to a fine not exceeding one thousand dollars and in default of payment to imprisonment for a term not exceeding three months.

11.—(1) The Minister may from time to time designate any public officer by name or by the title of his office to be an inspector for the purposes of this Act.

Designation of inspectors.

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(2) An inspector may at any reasonable time enter any premises, vehicle, vessel or aircraft where he reasonably believes any radio station or apparatus may be found, for the purpose of making such inspection or examination as in his opinion may assist in the enforcement of the provisions of this Act, and may seize and detain for such time as may be prescribed and subject to such conditions as may be prescribed, any article by means of or in relation to which he reasonably believes any provision of this Act has been contravened.

(3) An inspector shall be furnished by the Minister with a certificate of designation and on entering any premises, vehicle, vessel or aircraft pursuant to subsection (2), shall, if required to do so, produce the certificate to the person in charge of the premises, vehicle, vessel or aircraft, as the case may be.

(4) The owner or person in charge of any premises, vehicle, vessel or aircraft entered by an inspector pursuant to subsection (2) and every person found therein shall give the inspector all reasonable assistance in their power and furnish him with such information as he may reasonably require and any person who obstructs, hinders or prevents any such inspector from entering as aforesaid shall be guilty of an offence under this Act, and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one thousand dollars and in default of payment to imprisonment for a term not exceeding twelve months.

(5) Any article seized pursuant to this Act may at the option of the inspector, be stored or kept in the premises, vehicle, vessel or aircraft where it was seized, or may on his direction be removed to any other place which he considers satisfactory for the purpose.

(6) Notwithstanding anything to the contrary an inspector shall release any article seized by him pursuant

to subsection (2) when all the provisions of this Act with respect thereto have been complied with.

12.—(1) Where a Justice of the Peace is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act has been or is being committed, and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, vessel or aircraft so specified, he may grant a search warrant authorizing an inspector designated under section 11 and named in the warrant, with or without a constable, to enter, at any time within one month from the date of the warrant, the premises specified in the information or, as the case may be, the vehicle, vessel or aircraft so specified and to search the premises, or, as the case may be, the vehicle, vessel or aircraft, and to examine and test any apparatus found therein.

Entry and
search of
premises

(2) A warrant granted pursuant to subsection (1) may authorize the inspector named therein to seize any radio or telegraph station or apparatus found in any premises, vehicle, vessel or aircraft specified in the warrant and in respect of which any offence under this Act has been or is being committed.

(3) Any person who obstructs, hinders, or prevents any inspector authorized pursuant to subsection (1) from entering as aforesaid shall be guilty of an offence under this Act and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one thousand dollars and in default of payment to imprisonment for a term not exceeding twelve months.

13. Any person who—

(a) by means of radio sends or attempts to send, any message which to his knowledge, is false or misleading and is, to his knowledge, likely

Misleading
messages
and inter-
ception and
disclosure of
messages.

RADIO AND TELEGRAPH CONTROL

to prejudice the efficiency of any safety service or endanger the safety of any person or of any vessel, aircraft or vehicle, and, in particular, any message which, to his knowledge, falsely suggests that a vessel or aircraft is in distress or in need of assistance or is not in distress or not in need of assistance; or

- (b) otherwise than by authority of the Minister or in the course of his duty as a servant of the Government, either—
 - (i) uses any radio station or apparatus with intent to obtain information as to the content, sender or addressee of any message (whether sent by means of radio or otherwise) which neither the person using the apparatus nor any person on whose behalf he is acting, is authorized by the Minister to receive; or
 - (ii) except in the course of legal proceedings or for the purpose of any report thereof, discloses any information as to the content, sender or addressee of any such message, being information which would not have come to his knowledge but for the use of that apparatus by him or by another person,

shall be guilty of an offence under this Act, and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one thousand dollars and in default of payment to imprisonment for a term not exceeding six months.

Harmful interference.

14. Any person who uses any apparatus for the purpose of causing harmful interference to any radio service shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding

one thousand dollars and in default of payment to imprisonment for a term not exceeding six months.

15. Where a person has been convicted of an offence under this Act, the court may order in addition to any other penalty, that any article by means of or in relation to which the offence in respect of which he was convicted was committed, be forfeited, and upon such order being made, such article shall be forfeited and may be sold or otherwise disposed of as the Minister may direct.

Disposal of article seized

16.—(1) Where it appears expedient to the Government by reason of the existence of a state of emergency so to do, the Government may assume control of, use, or prohibit the use of, any radio station or apparatus for such time as the Government thinks necessary in the particular circumstances.

Government may assume control of, use or prohibit use of station or apparatus

(2) The person owning or controlling any station or apparatus of which control has been assumed by the Government pursuant to subsection (1) shall give up possession thereof, and the operators and other persons employed therein shall, during the time of such possession, diligently and faithfully obey such orders, and transmit and receive such signals, calls and radiograms as they are required to transmit and receive by any person duly authorized in that behalf by the Government.

(3) The Government shall compensate reasonably the person owning or controlling any station or apparatus of which control was assumed and use was made pursuant to this section, and where agreement cannot be reached between the parties concerned as respects the compensation to be paid the matter shall be referred by the Government to arbitration.

17. Notwithstanding anything contained herein, the provisions of this Act shall not apply to radio and television receiving sets primarily designed to receive transmissions intended for direct reception by the general public.

Exemption.

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SCHEDULE

(Section 3)

Constitu-
tion of
Advisory
Committee

1 The Advisory Committee shall consist of such number of persons, not being less than three nor more than five as the Minister may from time to time appoint, who are in the opinion of the Minister, qualified by technical training in the field of radiotechnology and have practical experience in frequency management and the utilization of the radio frequency spectrum and are thoroughly familiar with local economic conditions and telecommunication problems

Tenure of
office of
members

2. (1) The appointment of a member of the Advisory Committee shall, subject to the provisions of this Schedule, be for a period not exceeding three years, and such member shall be eligible for reappointment.

(2) The Minister may at any time revoke the appointment of any member of the Advisory Committee

Temporary
appoint-
ments

3 The Minister may appoint any person qualified in accordance with paragraph 1 to act temporarily in the place of any member of the Advisory Committee in the case of the absence or inability to act of such member.

Chairman

4. The Minister shall appoint one of the members of the Advisory Committee to be chairman thereof.

Resigna-
tions

5. (1) Any member of the Advisory Committee other than the chairman may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument, such member shall cease to be a member of the Advisory Committee.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt by the Minister of such instrument.

Filling of
vacancies

6. If any vacancy occurs in the membership of the Advisory Committee, such vacancy shall be filled by the appointment of another member and in making such appointment, the Minister shall have regard to the provisions of paragraph 1.

Publication
of member-
ship

7. The names of all members of the Advisory Committee as first constituted and every change in the membership thereof shall be published in the *Gazette*

Procedure
and
meetings

8 (1) The Advisory Committee shall meet at such times as may be necessary or expedient for the transaction of their business and such meetings shall be held at such places and times as the Advisory Committee may determine

(2) The chairman may at any time call a special meeting of the Advisory Committee and shall call a special meeting within fourteen days of the receipt of a written requisition for that purpose addressed to him by any two members of the Advisory Committee.

(3) The chairman shall preside at meetings of the Advisory Committee, and in the case of the absence of the chairman from a meeting, the members present and constituting a quorum shall elect one of their number to preside at that meeting.

(4) The quorum of the Advisory Committee shall be two or such greater number as may be fixed by the Committee.

(5) The decision of the Advisory Committee shall be by a majority of votes, and in addition to an original vote the chairman or other person presiding at a meeting shall have a casting vote in any case in which the voting is equal.

(6) Minutes in proper form of each meeting of the Advisory Committee shall be kept.

(7) The validity of the proceedings of the Advisory Committee shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of any member thereof.

9. There shall be paid to the chairman and other members of the Advisory Committee such remuneration, whether by way of honorarium, salary or fees, and such allowances as the Minister may determine. Remuneration of members.

10. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Committee in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act. Protection of members of the Committee.

11. The office of chairman or member of the Advisory Committee shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica. Office of member not public office.