

CHAPTER 521

TELECOMMUNICATIONS

Ordinance AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO TELEGRAPHY
 No. 50 of 1944, AND WIRELESS TELEGRAPHY,
Acts
 Nos. 7 of 1948,
 10 of 1970,
Law
 No. 17 of 1974,
Act
 No. 67 of 1979.

[1st May, 1945.]

PART 1

PRELIMINARY

Short title. **1.** This Ordinance may be cited as the
 Telecommunications Ordinance.

PART II

**REGULATION OF THE USE OF TELEGRAPHS
 AND WIRELESS TELEGRAPHS**

Licences for ***3.** Except under the authority of a
 telegraphs. licence of the prescribed description, issued
 under the provisions of this Ordinance, no
 person shall install, establish, maintain, or
 work or cause to be worked, any telegraph
 in any place in Sri Lanka, in any part of the
 territorial waters thereof, or in any ship or
 aircraft registered in Sri Lanka:

Provided that the requirements of the
 preceding provisions of this section as to a
 licence shall not apply to the establishment
 or conduct of telegraphic communications
 between separate portions of any ship or
 aircraft or building or between two or more
 places or points situated within the same
 curtilage and forming parts of the same
 property.

Licences for **4.** (1) Except under the authority of a
 wireless telegraph apparatus and complete
 wireless sets. licence of the prescribed description, issued
 under the provisions of this Ordinance, no
 person shall—

(a) import into Sri Lanka any wireless
 telegraph apparatus; or

(b) possess any complete wireless set for
 any purpose whatsoever; or

(c) possess any wireless telegraphy
 apparatus, other than a complete
 wireless set referred to in paragraph
 (b), for the purpose of sale in the
 course of his business in Sri Lanka
 or for the purpose of effecting
 repairs for fee or reward ; or

(d) in the course of his business in Sri
 Lanka, deal in, sell, offer for sale,
 or demonstrate or cause to be
 demonstrated with a view to a sale,
 any wireless telegraphy apparatus,
 or effect any repairs to any wireless
 telegraphy apparatus for fee or
 reward; or

(e) install, establish, maintain, or work
 or cause to be worked any complete
 wireless set or wireless telegraph in
 any premises or vehicle in Sri
 Lanka, in any part of the territorial
 waters thereof, or in any ship or
 aircraft registered in Sri Lanka :

Provided that the requirements of the
 preceding provisions of this subsection as to
 a licence shall not apply in the case of any
 person by reason only of his working a
 complete wireless set in any case where such
 set is covered by a licence issued under the
 provisions of this Ordinance and is worked
 by such person with the permission, express

* Section 2 is omitted, as it refers to dependencies of Ceylon.
 f See also section 11 of the Maritimes Zones Law.

or implied, or on the instructions, of the holder of the licence, and at the premises specified in the licence, being premises in the actual occupation of the holder of the licence at the time the set is so worked.

(2) If any wireless telegraphy apparatus or complete wireless set which is not covered by a licence issued for the purposes of subsection (1) is kept or stored in any building, land, vehicle, vessel or aircraft in Sri Lanka or in the territorial waters thereof, then, until the contrary is proved, such wireless telegraphy apparatus shall be deemed to be possessed with a view to sale in the course of his business or for effecting repairs for fee or reward, and such complete wireless set shall be deemed to be possessed, or to be worked, by the person who is the owner or who for the time being is in exclusive possession or in effective charge or control of the building, land, vehicle, vessel or aircraft, as the case may be.

Issue of licences.

5. (1) A licence may be issued for any one of the purposes or for any prescribed combination of the purposes for which a licence is required by section 3 or section 4.

(2) Every licence shall—

- (a) be in the prescribed form and under the hand of the telecommunication authority or an officer authorized by him in that behalf;
- (b) be issued on payment of the prescribed fee; and
- (c) be subject to the prescribed conditions and restrictions:

Provided that no fee shall be payable in respect of any licence issued for any of the aforesaid purposes which is declared by regulations made under this Ordinance to be a purpose for which a free licence may be issued.

(3) The telecommunication authority may refuse to issue any licence for which application is made. An appeal shall lie against such refusal to the Minister.

6. No person shall import, possess, install, work, sell or transfer any wireless telegraphy apparatus in contravention of the conditions and restrictions applying to his licence, or otherwise than in such manner as may be prescribed.

Restriction on sale or transfer of wireless telegraphy apparatus.

7. (1) If, on the occurrence of any public emergency or in the interest of the public safety and tranquillity, it is expedient or necessary that the transmission or reception of messages by telegraph or wireless telegraph should be the exclusive right or privilege of the Government, the President, after consulting the Minister, may, by Order published in the Gazette, direct the telecommunication authority or any other specified officer to take possession of, and to use for the purposes of the State, any telegraph or wireless telegraph established or installed in any place in Sri Lanka or in any ship in the territorial waters of Sri Lanka or in any vehicle or aircraft in or over Sri Lanka or the territorial waters thereof, and may by the same or any further Order provide for the assessment and payment of compensation to the owner of such telegraph or wireless telegraph for any damage that may have been caused thereto by or in the course of its use for the purpose of the State.

Power of Government to take possession of licensed telegraphs and wireless telegraphs.

(2) No action shall be instituted or maintained against the Government in respect of any loss or damage other than the damage specified in subsection (1).

8. If, on the occurrence of any public emergency or in the interest of the public safety and tranquillity, it is expedient or necessary that the transmission and reception of messages by telegraph or wireless telegraph should be prohibited or be subject to supervision and control, the President, after consulting the Minister, may, by Order made either generally and published in the Gazette or specially in respect of the telegraphs or wireless telegraphs established or installed in any place in Sri Lanka or in any ship in the territorial waters of Sri Lanka or in any vehicle or aircraft in or over Sri Lanka or the territorial waters thereof—

Power of Government to prohibit or restrict the use of telegraphs and wireless telegraphs.

- (1) where prohibition is expedient or necessary, prohibit the transmission or reception of messages by

telegraph or wireless telegraph either generally or at any specified place or station or in any specified ship, vehicle or aircraft or by any specified telegraph or wireless telegraph or by any specified person or class of persons; or

- (2) where supervision and control are expedient or necessary—
 - (a) prescribe the conditions and restrictions subject to which messages may be transmitted or received by telegraph or wireless telegraph either generally or by the owner or person in charge of any specified telegraph or wireless telegraph; and
 - (b) make such provision as he may deem necessary for the interception or the censoring of all or any specified class or description of messages submitted for transmission by, or transmitted or received by, any telegraph or wireless telegraph.

Certificate signed by Minister to be evidence.

9. If any doubt arises as to the existence of a public emergency or whether any Order made under section 7 or section 8 is in the interest of the public safety and tranquillity, a certificate signed by the Minister shall be conclusive proof on the point.

Restriction on the use of telegraphs or wireless telegraphs.

10. No telegraph or wireless telegraph established or installed in any place in Sri Lanka, or in any ship in the territorial waters of Sri Lanka, or in any vehicle or aircraft in or over Sri Lanka or the territorial waters thereof, shall be used by any person for the transmission or reception of messages—

- (a) otherwise than in accordance with such Orders as may be made by the President under section 7 or section 8 or such regulations as may be made by the Minister under section 12 or such rules as may be made by the Minister under section 13 ; or
- (b) in contravention of the conditions or restrictions applying to the licence issued in respect of that telegraph or wireless telegraph.

11. (1) The telecommunication authority may at any time revoke and determine any licence granted for the purposes of section 3 or section 4, either on the breach of any of the conditions and restrictions contained therein or in the event of any default in the payment of any consideration payable thereunder or on the failure of the licensee to comply with any rule or regulation for the time being in force under the Ordinance or on such other ground as may be specified by regulation made under the Ordinance.

Power to revoke licences.

An appeal shall lie against such revocation to the Minister.

(2) The licensee shall not be entitled to the payment of any compensation or damages by reason of any such revocation or determination as aforesaid.

12. (1) The Minister may make all such regulations as may be necessary for carrying out or giving effect to the principles and provisions of this Ordinance.

Power to make regulations.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for all or any of the following purposes;—

- (a) prescribing the several purposes or combinations of the purposes set out in section 3 or section 4 for which licences may be issued, and the description of such licences ;
- (b) prescribing in respect of each such licence the form of the licence, the manner in which application for the licence is to be made, the terms, conditions and restrictions subject to which the licence may be issued, the duration of the licence, the fee payable on the issue and on the renewal of the licence, and the purposes for which a free licence may be issued;
- (c) prescribing the cases in which any person licensed under this Ordinance or any servant of such person shall be deemed to be a telecommunication officer for the purposes of this Ordinance;

- (d) prescribing the rates at which, the manner in which, and the conditions and restrictions subject to which, messages shall be transmitted;
 - (e) prescribing the precautions to be taken for preventing the improper interception or disclosure of messages;
 - (f) prescribing the period for which, and the conditions subject to which, telegrams and other documents belonging to or in the custody of telecommunication officers, shall be preserved;
 - (g) prescribing the fees to be charged for searching for or furnishing certified copies of messages and other documents in the custody of any telecommunication officer;
 - (h) prescribing the manner in which any wireless telegraphy apparatus may be sold or transferred by traders, dealers or repairers and by other persons;
 - (i) regulating the working or use of wireless telegraphy apparatus in any place in Sri Lanka at any time when an Order under section 7 or section 8 is not in force;
 - (j) prohibiting or regulating the working or use of any wireless telegraphy apparatus at any time when an Order under section 7 or section 8 is not in force,
 - (i) in any ship while it is in the territorial waters of Sri Lanka; or
 - (ii) in any aircraft, while it is in or over Sri Lanka or the territorial waters thereof;
 - (k) prescribing the examinations to be held and the form of the certificates of proficiency to be issued to operators of telegraphs or wireless telegraphs;
 - (l) ensuring the secrecy of any specified class or description of messages;
 - (m) regulating or controlling the use of electrical apparatus likely to cause electrical interference with the working or use of any telegraph or wireless telegraph;
 - (n) regulating and controlling the working or use of telegraphs and wireless telegraphs;
 - (o) prescribing any matter relating to telegraphs or wireless telegraphs which is required or authorized by this Ordinance to be prescribed ;
 - (p) prescribing the procedure to be followed in appeals under this Ordinance.
- (3) No regulation made under this section shall have effect until it is approved by Parliament and notification of such approval is published in the Gazette:
- Provided that in any case of urgency, the Minister may, by notification in the Gazette, declare that any regulation made by him shall, notwithstanding that such regulation may not have been approved by Parliament, come into force on such date as may be specified in the notification, and such regulation shall accordingly come into force on that date. Every regulation so declared to be in force shall forthwith be laid before Parliament, and if within forty days after the date on which the regulation is so laid, a resolution be passed by Parliament that such regulation be modified or annulled, the regulation shall thenceforth be deemed for all purposes to be modified or annulled accordingly, but without prejudice to anything done thereunder.
- 13.** (1) Notwithstanding anything contained in section 12, the Minister may, for the purpose of giving effect to the provisions of any international Telecommunication Convention and the regulations annexed thereto, or for the purpose of giving effect to any special arrangement between the Government of Sri Lanka and any territory outside Sri Lanka,

Power to make rules as to conditions, restrictions and rates applicable to messages to or from foreign countries.

from time to time determine and adequately notify by means of rules made by him in that behalf and published in the Gazette—

- (a) the conditions and restrictions subject to which messages to or from any place beyond the limits of Sri Lanka or India shall be transmitted or received;
- (b) the rates at which such messages shall be transmitted;
- (c) the precautions to be taken for preventing the improper interception or disclosure of such messages;
- (d) the period for which and the conditions subject to which the originals of all such messages and all documents relating thereto which are in the custody of telecommunication officers shall be preserved ;
- (e) the fees to be charged for searching for or furnishing certified copies of such messages or of any documents relating thereto.

(2) Every rule made under subsection (1) shall, upon publication in the Gazette, be as valid and effectual as if it were herein enacted and shall prevail over any regulation under section 12 which purports to be applicable or would, if this subsection had not been enacted, have been applicable to the matter or purpose to which such rule relates.

Exemptions.

14. (1) Save as otherwise expressly provided, nothing contained in this Ordinance or in any Order, rule or regulation made thereunder, shall apply to or be deemed to affect—

- (a) the importation, purchase, installation or use of electrical apparatus for actuating machinery or for any purpose other than the transmission or reception of messages or other communications or signals; or

(b) the use of wireless telegraphy apparatus by the armed forces in the performance of their official duties; or

(c) the use of wireless telegraphy apparatus on board any man-of-war or aircraft in the service of any foreign State or Power.

(2) The requirements of this Ordinance as to licences shall not apply—

(a) to any telegraph or wireless telegraph imported, purchased, installed, established, maintained or worked or any apparatus used or intended to be used in connexion therewith, by or by order of the Director; or

(b) to any wireless telegraphy apparatus in any foreign civil aircraft, if such apparatus and the members of the crew of the aircraft who use such apparatus have been specially licensed in accordance with the requirements of the International Air Navigation Convention, 1919, or any other international convention for the time being in force as to the installation or use of such apparatus in aircraft.

(3) Nothing contained in any Order made under section 8 or in any regulation made under section 12 shall apply to the working or use of wireless telegraphy apparatus for the purpose of making or answering signals of distress.

PART III

ESTABLISHMENT AND MAINTENANCE OF GOVERNMENT TELEGRAPHS AND WIRELESS TELEGRAPHS

(A) POWER TO PLACE TELEGRAPH LINES AND POSTS

15. For the purposes of the establishment and maintenance of Government telegraphs and wireless telegraphs, the telecommunication authority may from time to time place and maintain a telegraph line under, over, along or across, and posts in or upon, any immovable

Power of telecommunication authority to place and maintain telegraph and wireless telegraph lines and posts,

property; and for that purpose it shall be lawful for any officer in the employ of Government in the Telecommunication Department, and for the servants, workmen, and labourers employed by or under such officer—

- (a) at all times on reasonable notice, and with all necessary vehicles and animals and other means, to enter upon any land and to put up thereon any posts which may be required for the support of any telegraph line; and
- (b) to fasten or attach to any tree growing on such land or to any building or thing thereon any bracket or other support for such line; and
- (c) to cut down any tree or branch which may in any way injure, or which is likely to injure, impede, or interfere with any telegraph line; and
- (d) severally to do and perform all other acts, matters and things necessary for the purposes of establishing, constructing, repairing, improving, examining, altering, or removing any telegraph or wireless telegraph, or in any way connected therewith, or for performing any act, matter or thing under the provisions of this Ordinance:

Provided that—

- (i) the telecommunication authority shall not exercise the powers conferred by this section except for the purposes of a telegraph or wireless telegraph established or maintained by the Government, or to be so established or maintained;
- (ii) the Government shall not acquire any right other than that of user only in the property under, over, along, across, in, or upon which the telecommunication authority

places any telegraph line or post;

- (iii) except as hereinafter provided the telecommunication authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority without the permission of the Mayor or Chairman of such local authority; and
- (iv) in the exercise of the powers conferred by this section the telecommunication authority shall do as little damage as possible, and when it has exercised those powers in respect of any property, shall pay reasonable compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers, provided that such persons shall make application for such compensation to the Director within thirty days after the damage was sustained.

(B) PROVISIONS APPLICABLE TO PROPERTY VESTED IN OR UNDER THE CONTROL OR MANAGEMENT OF LOCAL AUTHORITIES

16. The permission of the Mayor or Chairman of a local authority for the purposes of paragraph (iii) of the proviso to section 15 may be given subject to such reasonable conditions as that local authority thinks fit to impose as to the payment of any expenses to which that local authority will necessarily be put in consequence of the exercise of the powers conferred by that section, or as to the time or mode of execution of any work, or as to any other thing connected with or relating to any work undertaken by the telecommunication authority under those powers.

Power of local authority to give permission under paragraph (iii) of proviso to section 15, subject to conditions.

17. When under the foregoing provisions of this Ordinance a telegraph line or post has been placed by the telecommunication authority over, along, across, in, or upon any property vested in or

Power of local authority to require removal or alteration of telegraph line or post.

under the control or management of a local authority, and that local authority, having regard to circumstances which have arisen since the telegraph line or post was so placed, considers it expedient that it should be removed, or that its position should be altered, the Mayor or Chairman of the local authority may require the telecommunication authority to remove it or alter its position, as the case may be.

consequence of the telecommunication authority omitting to comply with a requisition made under section 17 or otherwise in respect of the exercise of the powers conferred by this Ordinance, the dispute shall be determined by the Minister, whose decision shall be final.

(C) PROVISIONS APPLICABLE TO OTHER PROPERTY

Power to alter position of gas or water pipes or drains.

18. The telecommunication authority may, for the purpose of exercising the powers conferred upon it by this Ordinance in respect of any property vested in or under the control or management of a local authority, alter the position thereunder of any pipe (not being a main) for the supply of gas or water, or of any line, wire, or cable for the supply of electric power, or of any drain (not being a main drain):

Provided that—

- (i) when the telecommunication authority desires to alter the position of any such pipe, drain, line, wire, or cable, it shall give reasonable notice of its intention to do so specifying the time at which it will begin to do so, to the Mayor or Chairman of the local authority and when the pipe, drain, line, wire, or cable is not under the control of the local authority, to the person having actual control of the pipe, drain, line, wire or cable ;
- (ii) the Mayor or Chairman of a local authority or person receiving notice under paragraph (i) may send a person to superintend the work, and the telecommunication authority shall execute the work to the reasonable satisfaction of the person so sent.

Disputes between telecommunication authority and local authorities.

19. If any dispute arises between the telecommunication authority and a local authority in consequence of the Mayor or Chairman of the local authority refusing the permission referred to in paragraph (iii) of the proviso to section 15, or prescribing any condition under section 16, or in

20. (1) If any person resists or obstructs, or threatens or attempts to resist or obstruct, the exercise of the powers conferred on the telecommunication authority by section 15, he shall be deemed to have committed an offence under section 183 of the Penal Code.

Resistance, &c., to exercise of lawful powers of telecommunication authority.

(2) If any dispute arises concerning the sufficiency of the compensation to be paid under paragraph (iv) of the proviso to section 15, it shall, on application for that purpose by either of the disputing parties to the Primary Court within the jurisdiction of which the property is situate, be summarily determined by that court.

(3) If any dispute arises as to the persons entitled to receive compensation or as to the proportions in which the persons interested are entitled to share in it, the telecommunication authority may pay into the Primary Court within the Jurisdiction of which the property is situate such amount as he deems sufficient, or where all the disputing parties have in writing admitted the amount tendered to be sufficient, or the amount has been determined under subsection (2), the amount so admitted or tendered ; and the court, after giving notice to the parties and hearing such of them as desire to be heard, shall summarily determine the persons entitled to receive the compensation, or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(4) The cost of all legal proceedings under this section shall be determined by the Primary Court. The telecommunication authority shall not be liable to pay any costs unless there is a dispute concerning the sufficiency of the compensation to be paid under paragraph (iv) of the proviso to

section 15, and in such case the telecommunication authority shall be liable to pay costs should the amount of compensation determined by the Primary Court be more than the amount deemed sufficient by the telecommunication authority, unless the court shall be of opinion that the claim of the applicant was so extravagant, or that he was so negligent in putting his claim before the telecommunication authority, that some deduction from his costs should be made, or that he should pay part of the costs of the telecommunication authority.

(5) The Primary Court to which any dispute is referred under the preceding provisions of this section may determine such dispute notwithstanding any limitations imposed on the jurisdiction of a Primary Court by any other law.

(6) Every determination of a Primary Court under this section shall be final;

Provided that nothing in this subsection shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telecommunication authority from the person who has received such compensation.

Right to request removal or alteration of telegraph line or post.

21. (1) Where, under the provisions of this Ordinance, a telegraph line or post has been placed by the telecommunication authority under, over, along, across, in, or upon any property, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or Convenient that the telegraph line or post should be removed to any other part of that property or to a higher or lower level or altered in form, he may require the telecommunication authority to remove or alter the line or post accordingly:

Provided that, if compensation has been paid to such person under paragraph (iv) of the proviso to section 15, he shall, when making the requisition, tender to the telecommunication authority an amount sufficient to defray the expenses of the removal or alteration,

(2) If the telecommunication authority omits to comply with the requisition within a reasonable time, the person making it may apply to the Primary Court within the jurisdiction of which the property is situate to order the removal or alteration.

(3) A Primary Court receiving an application under subsection (2) may in its discretion reject such application or make an order, absolutely or subject to conditions, for the removal of the telegraph line or post to any other part of the property or to a higher or lower level, or for the alteration of its form. Every order so made shall be final.

(D) PROVISIONS APPLICABLE TO ALL PROPERTY

22. In any case where a telegraph line has been placed under, over, along, or across any immovable property, no person who, subsequent to the date on which such telegraph line has been so placed, plants any tree or shrub which may be likely in the future to injure, impede, or interfere with such telegraph line, shall be entitled to receive any compensation should such tree or shrub or any branch thereof be cut down under the provisions of section 15.

Planting of trees or shrubs likely to injure telegraph line.

23. Every telegraph line or post placed before the passing of this Ordinance under, over, along, across, in, or upon any property for the purposes of a telegraph or wireless telegraph established or maintained by the Government, shall be deemed to have been placed in the exercise of the powers conferred by, and after observance of all the requirements of, this Ordinance.

Provisions of Ordinance extended to telegraph lines and posts established before coming into operation of Ordinance.

(E) STAMPS

24. (1) The Minister with the approval of the President shall cause stamps to be provided of such kinds and denoting such values as he may think necessary for the purposes of this Ordinance and of the rules and regulations made thereunder.

Stamps.

(2) The supply, sale and use of stamps provided under subsection (1) shall be subject to such rules as may be made by the Minister in that behalf.

(3) All stamps provided under subsection (1) shall be deemed to be stamps issued by the Government for the purposes of revenue within the meaning of the Penal Code.

(F) LIABILITY OF GOVERNMENT

Government not responsible for loss or damage.

25. The Government shall not be responsible for any loss or damage which may occur in consequence of any telecommunication officer failing in his duty with respect to the receipt, transmission, or delivery of any message ; and no such officer shall be responsible for any such loss or damage unless he caused such loss or damage fraudulently or by his wilful act or default.

(G) LIABILITY FOR DAMAGE

Liability for damage to telegraph line.

26. (1) Every person who, by himself or by his agent, does any act which causes damage to any telegraph line, cable, or post maintained by the Government, shall be liable to pay the Director such expenses as the Director may incur in repairing the said damage.

(2) If any person who is liable in any sum of money under subsection (1) does not pay that sum of money within such period as may be notified in that behalf to that person in writing by the Director, the Director may issue a certificate containing particulars of that sum of money and the name and last known place of business or residence of that person to a Magistrate having jurisdiction in the division in which such place is situate. The Magistrate shall thereupon summon that person before him to show cause why further proceedings for the recovery of the sum of money should not be taken against him, and in default of sufficient cause being shown, the sum of money shall be deemed to be a fine imposed by a sentence of the Magistrate on such person for an offence punishable with fine only or not punishable with imprisonment, and the provisions of subsection (1) of section 291 (except paragraphs (a), (d) and (i) thereof) of the Code of Criminal Procedure Act, relating to default of payment of a fine imposed for such an offence shall thereupon apply, and the Magistrate may make any direction which,

by the provisions of that subsection, he could have made at the time of imposing such sentence:

Provided that nothing in this section shall authorize or require the Magistrate in any proceeding thereunder to consider, examine, or decide the correctness of the statement in the certificate regarding the sum of money due.

PART IV

OFFENCES, PENALTIES AND LEGAL PROCEEDINGS

27. (1) Every person who in contravention of this Ordinance or any Order, rule or regulation made thereunder—

Penalty for establishing a station or working an apparatus without a licence.

- (a) imports into Sri Lanka any wireless telegraphy apparatus; or
- (b) possesses any complete wireless set for any purpose whatsoever; or
- (c) possesses any wireless telegraphy apparatus, other than a complete wireless set referred to in paragraph (b), for the purpose of sale in the course of his business in Sri Lanka or for the purpose of effecting repairs for fee or reward ; or
- (d) in the course of his business in Sri Lanka, deals in, sells, offers for sale, or demonstrates or causes to be demonstrated with a view to a sale, any wireless telegraphy apparatus, or effects any repairs to any wireless telegraphy apparatus for fee or reward ; or
- (e) installs, establishes, maintains or works or causes to be worked any telegraph or complete wireless set or wireless telegraph in any premises or vehicle in Sri Lanka, in any part of the territorial waters thereof, or in any ship or aircraft registered in Sri Lanka,

shall be guilty of an offence, punishable with a fine not exceeding one thousand rupees, and with a further fine not

exceeding five hundred rupees for every week during which such offence continues, and, in default of payment of any such fine, with imprisonment of either description for a term not exceeding six months, and the apparatus or installation in respect of which any such offence is committed shall be liable to confiscation:

Provided, however, that where the offence consists of the breach of any condition relating to possession or of possession without a licence duly issued in that behalf, the offence shall be punishable with a fine not exceeding two hundred and fifty rupees, and, in default of payment of any such fine, with imprisonment of either description for a term not exceeding six weeks, and the apparatus or installation in respect of which any such offence is committed shall be liable to confiscation;

Provided further that where the offence consists of the breach of any regulation or condition relating to a licence by a servant of the person to whom the licence was issued, the offence shall be punishable with a fine not exceeding two hundred and fifty rupees, and, in default of payment of any such fine, with imprisonment of either description for a term not exceeding six months.

(2) Upon the confiscation of any apparatus or installation under subsection (1) it shall be deemed for all purposes to be the property of the telecommunication authority.

(3) No prosecution for an offence under this section shall be instituted except by, or except with the written consent of, the telecommunication authority.

Magistrate to grant search warrant in certain cases.

28. (1) If a Magistrate is satisfied by information on oath that there is reasonable ground for believing that, in contravention of the provisions of this Ordinance, or any Order, rule or regulation made thereunder, a telegraph or a complete wireless set or wireless telegraph has been installed, or established, or is maintained or worked, or that any wireless telegraphy apparatus has been imported, sold, or offered for sale, or is held in possession with a view to sale or to effecting repairs for fee or reward, or that

a complete wireless set is held in possession for any purpose whatsoever, in any place or in any vehicle or on board any ship or aircraft within his jurisdiction, such Magistrate may grant a search warrant to any police officer authorizing that officer to enter and inspect the place, vehicle, ship, or aircraft, and to seize any apparatus which appears to that officer to be used or intended to be used for telegraphy or wireless telegraphy or any wireless telegraphy apparatus which appears to him to have been imported, sold, offered for sale or held in possession for the aforesaid purposes.

(2) If a Magistrate is satisfied by information on oath that there is reasonable ground for believing that, in contravention of the provisions of this Ordinance or any rule or regulation made thereunder, any action has been taken or is likely to be taken in any place, vehicle, ship or aircraft within his jurisdiction, for the unlawful interception or the unlawful recording of a telephone conversation between any two persons or for the unlawful communication of such telephone conversation between such persons to a third person, such Magistrate may grant a search warrant to any police officer authorizing that officer to enter and inspect such place, vehicle, ship or aircraft and to seize any apparatus of any of the following descriptions ;—

- (a) any unauthorized cables and any unauthorized telephone connections;
- (b) any unauthorized wire connections to existing telephone apparatus, wires and cables of the Government;
- (c) any unauthorized apparatus for interception or recording of telephone conversations at any point on the telecommunication system-

29. Every person who, knowing or having reason to believe that a telegraph or wireless telegraph has been installed or established or is maintained or worked in contravention of this Ordinance, or any Order, rule or regulation made thereunder—

- (a) transmits or receives any message by such telegraph or wireless telegraph, or

[§ 2, 10 of 1970.]

Penalty for using, &c., telegraph or wireless telegraph established, &c., without or contrary to the conditions of a licence.

TELECOMMUNICATIONS

[Cap.521

- (b) performs any service incidental thereto, or
- (c) delivers any message for transmission by such telegraph or wireless telegraph, or
- (d) accepts delivery of any message sent thereby,

shall be guilty of an offence punishable with a fine not exceeding fifty rupees, and, in default of payment of any such fine, with imprisonment of either description for a term not exceeding three months.

Penalty for intruding into a telegraph office or obstructing telecommunication officer.

30. Every person who—

- (a) without permission of a competent authority, enters the signal room of a telegraph office of the Government or of a person licensed under this Ordinance ; or
- (b) enters a fenced enclosure round such a telegraph office in contravention of any regulation or notice prohibiting such entry ; or
- (c) refuses to quit such room or enclosure on being requested to do so by any officer or servant employed therein; or
- (d) wilfully obstructs or impedes any such officer or servant in the performance of his duty,

shall be guilty of an offence punishable with a fine not exceeding one hundred rupees, and, in default of payment of any such fine, with imprisonment of either description for a term not exceeding three months.

Penalty for intrusion, &c., with intent to learn contents of message.

31. Every person who does any of the acts mentioned in section 30 with the intention of unlawfully learning the contents of any message, or of committing any offence punishable under this Ordinance, shall be guilty of an offence punishable with imprisonment of either description for a term not exceeding six months in addition to the fine prescribed by section 30.

32. (1) Every person who, with the intention of—

- (a) preventing or obstructing the transmission or delivery of any message; or
- (b) intercepting or acquainting himself with the contents of any message; or
- (c) transmitting any message which he has no authority to transmit; or

committing mischief,

damages, removes, tampers with, or touches any battery, machinery, telegraph line, post or other thing whatsoever being part of or used in or about any telegraph or wireless telegraph or in the working thereof, shall be guilty of an offence punishable with a fine not exceeding five hundred rupees or with imprisonment of either description for a term not exceeding three years, or with both such fine and such imprisonment.

(2) Every person who climbs up a telegraph post or attaches anything to any telegraph line, post or other apparatus without authority, shall be guilty of an offence punishable with a fine not exceeding fifty rupees.

33. (1) Every holder of a licence under this Ordinance and every telecommunication officer or other person having official duties connected with any office used as a telegraph office, who—

- (a) wilfully secretes, makes away with, or alters, any message which he has received for transmission or delivery; or
- (b) wilfully, and otherwise than in obedience to an order of the President or of an officer specially authorized by the President to make the order, omits to transmit, or intercepts, or detains any message or any part thereof; or
- (c) otherwise than in pursuance of his official duty or in obedience to the direction of a competent court,

Penalty for intentionally damaging or tampering with telegraph or wireless telegraph.

Penalty for altering, detaining, or divulging contents of message.

discloses the contents or any part of the contents of any message to any person not entitled to receive such message; or

- (d) divulges the purport of any telegraphic or wireless telegraphic signal to any person not entitled to become acquainted therewith; or
- (e) makes any use whatsoever of any message, (other than time signals, musical or other programmes and messages for general reception) received by means of any wireless telegraphy apparatus; or
- (f) causes or permits any person not employed in the office, or otherwise entitled so to do, to become acquainted with the contents or any part of the contents of any message,

shall be guilty of an offence punishable with a fine not exceeding five hundred rupees or with imprisonment of either description for a term not exceeding three years, or with both such fine and such imprisonment.

(2) Notwithstanding anything contained in subsection (1), every person who, without the general or specific consent of the claimants to the copyright in any message transmitted for general reception, reproduces or publishes or causes to be reproduced or published in the press or disseminates or causes to be disseminated by other similar means such copyright message, shall be guilty of an offence punishable with a fine not exceeding five hundred rupees or with imprisonment of either description for a term not exceeding three years, or with both such fine and such imprisonment.

(3) Nothing contained in this section shall preclude a licensee from permitting any person to listen to any message broadcast for general reception.

Transmission of unpaid messages prohibited.

34. Every telecommunication officer, or other person having official duties connected with any office used as a telegraph office, who transmits or causes to be transmitted by telegraph or wireless telegraph or delivers or causes to be delivered any message on which the charge

prescribed by the Government or by a person licensed under this Ordinance, as the case may be, has not been paid, thereby intending to defraud the Government or that person, shall be guilty of an offence punishable with a fine not exceeding five hundred rupees or with imprisonment of either description for a term not exceeding three years, or with both such fine and such imprisonment.

35. Every telecommunication officer, or other person having official duties connected with any office used as a telegraph office, who is guilty of any act of drunkenness, carelessness, or other misconduct whereby the correct transmission or the delivery of any message is impeded or delayed, and every telecommunication officer who delays or loiters in the transmission or delivery of any message, shall be guilty of an offence punishable with a fine not exceeding one hundred rupees or with imprisonment of either description for a term not exceeding three months, or with both such fine and such imprisonment.

Penalty for misconduct of a telecommunication officer.

36. Every person who transmits or causes to be transmitted or tenders or causes to be tendered to any telecommunication officer for transmission by telegraph or wireless telegraph or for delivery a message which he knows to be false or fabricated, shall be guilty of an offence punishable with a fine not exceeding five hundred rupees or with imprisonment of either description for a term not exceeding three years, or with both such fine and such imprisonment. The burden of proving that he did not know any message to be false or fabricated shall lie on the person charged under this section.

Penalty for sending false or fabricated message.

37. Every person who by himself or by his agent or servant tenders for transmission at any telegraph office any message of an indecent, obscene, seditious, scurrilous, threatening, or grossly offensive character, shall be guilty of an offence punishable with a fine not exceeding one hundred rupees or with imprisonment of either description for a term not exceeding six months, or with both such fine and such imprisonment.

Penalty for tendering obscene or indecent or seditious message.

TELECOMMUNICATIONS

[Cap. 521

Penalty for causing annoyance by telephone calls and for unlawfully listening in to telephone conversations. [§ 3,10 of 1970.]

38. (1) Every person who persistently makes telephone calls without reasonable excuse and for the purpose of causing annoyance or inconvenience to any telecommunication officer or any other person, shall be guilty of an offence, and shall, upon conviction after summary trial by a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding one year, or to both such fine and such imprisonment.

(2) It shall be lawful for a telecommunication officer to interrupt a call of the nature referred to in subsection (1) or to refuse to allow such a call to be made.

[§ 3.10 of 1970.]

(3) Every person who unlawfully and wilfully listens in to a telephone conversation between two other persons shall be guilty of an offence and shall, upon conviction after summary trial by a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding two years, or to both such fine and such imprisonment.

Penalty for retaining message delivered by mistake.

39. Every person who fraudulently retains, or wilfully secretes, or makes away with or detains, a message which ought to have been delivered to some other person, or, being required by a telecommunication officer to deliver up any such message, neglects or refuses to do so, shall be guilty of an offence punishable with a fine not exceeding five hundred rupees or with imprisonment of either description for a term not exceeding two years, or with both such fine and such imprisonment.

Bribery.

40. Every telecommunication officer shall be deemed to be a public servant within the meaning of sections 158, 159, 160, 161 and 162 of the Penal Code; and in the definition of "legal remuneration" contained in the said section 158 the word "Government" shall be deemed to include any person licensed under this Ordinance by whom any such telecommunication officer is employed.

Penalty for negligently injuring telegraph line.

41. Every person who, rashly or negligently, or without lawful excuse, the burden of proving which shall lie on him, does any act which causes or is likely to

cause damage or injury to any telegraph line, cable, or post, or hinder or delay the transmission of any message by any telegraph or wireless telegraph, shall be guilty of an offence punishable with a fine not exceeding fifty rupees, and, in default of payment of such fine, with imprisonment of either description for a term not exceeding three months.

42. Whoever attempts to commit any offence punishable under this Ordinance shall be guilty of an offence and shall be punishable with the punishment herein provided for the offence.

Penalty for attempting to commit offences.

42A. (1) Whoever has in his possession, custody or control any telegraph wire and is unable to establish that such telegraph wire has been acquired lawfully, shall be guilty of an offence under this Ordinance.

Offences relating to telegraph wire. [§ 2, Law 17 of 1974.]

"Telegraph wire" for the purposes of this section means any copper wire the gauge of which as measured in terms of pounds per mile is between four and three hundred.

[§ 2,67 of 1979.]

(2) A certificate purporting to be under the hand of the Superintending Telecommunication Engineer certifying that any telegraph wire in question is of the description referred to in subsection (1) shall be admissible in a court of law and shall be prima facie proof of the truth of the statements made therein.

42B. Any person who—

- (a) attempts to commit or does any act preparatory to the commission of, or
- (b) aids or abets another person to commit, or
- (c) conspires with another person, in the commission of,

Attempts to commit offence under section 42A. [§ 2, Law 17 of 1974.]

an offence under section 42A shall himself be guilty of that offence under this Ordinance.

42C. (1) Every person who is guilty of an offence under section 42A or 42B shall be punished with imprisonment for a term not exceeding three years or with a fine not exceeding two thousand rupees or with both such imprisonment and such fine.

Penalty. [§2, Law 17 of

[§ 3, 67 of 1979.]

(2) The court may on the conviction of any person for any offence under section 42A or 42B, in addition to any other penalty that it shall impose under subsection (1), make order declaring that any vehicle used in or in connexion with the commission of the offence, shall be forfeited to the Republic.

or regulation made thereunder is due is refused or returned as aforesaid, or if the addressee is dead or cannot be found, then the sender shall be bound to pay the sum so due.

General penalties.

43. Where no penalty is specially provided for the breach of any rule or regulation made under this Ordinance, whoever commits any breach of such rule or regulation shall be guilty of an offence, and shall, upon conviction after summary trial by a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding one year, or to both such fine and such imprisonment.

47. If any person refuses to pay any sum due from him under this Ordinance or any rule or regulation made thereunder in respect of any message, the sum so due may, on application made by a telecommunication officer authorized in that behalf by the written order of the telecommunication authority, be recovered for the use of the State from the person so refusing as if it were a fine imposed under this Ordinance by any Magistrate having jurisdiction where that person may for the time being be resident; and the telecommunication authority may further direct that any other message, not being on State service, addressed to that person shall be withheld from him until the sum so due is paid or recovered as aforesaid.

Procedure for recovery of charges.

[§ 4, 10 of 1970.]

Trial of offences.

44. Offences under this Ordinance which by reason of the amount of the penalties with which they are punishable are not within the summary jurisdiction of a Magistrate's Court, may be tried by the High Court;

48. In every proceeding for the recovery of any sum alleged to be due under this Ordinance or any rule or regulation made thereunder in respect of a message—

Proof of refusal, &c., of message.

Provided that if the Attorney-General certifies that any such offence may be tried by a Magistrate's Court, it shall be competent for such court to take cognizance of the offence, and to award in respect thereof so much of the punishment assigned thereto as Magistrates' Courts are empowered by law to award.

(a) the production of a statement signed by a telecommunication officer that the message has been refused, or that the addressee is dead or cannot be found, shall be prima facie evidence of the fact so stated ; and

(b) the person from whom the message purports to have come shall, until the contrary is proved, be deemed to be the sender thereof.

PART V

SUPPLEMENTARY PROVISIONS

Liability of addressee to pay charges.

45. The addressee of any message, on which any sum chargeable under this Ordinance or any rule or regulation made thereunder is due, shall, unless he forthwith returns it unopened, be bound to pay the sum so chargeable on his accepting delivery of the message.

49. The production of a statement signed by a telecommunication officer that any sum specified in such statement is due in respect of any message to the telecommunication authority of Sri Lanka or to the telecommunication authority of any foreign country shall be prima facie evidence that the sum specified as aforesaid is so due.

Proof of sum due.

Liability of sender to pay charges.

46. If any message on which any sum chargeable under this Ordinance or any rule

Interpretation.

50. In this Ordinance, unless the context otherwise requires—

" complete wireless set" means any apparatus, which, in the opinion of the telecommunication authority, is capable in itself of transmitting and receiving wireless signals or of transmitting or receiving wireless signals with or without the addition of aerials, valves, power supply, telephones, loud-speakers, or equivalent devices;

" Director " means the person for the time being holding the office of Director of Telecommunications;

" local authority" includes Municipal Councils, Urban Councils, Town Councils and Village Councils;

" message " means a communication of any nature whatsoever sent by telegraph and wireless telegraph or by telegraph or wireless telegraph, or given to a telegraph officer to be sent by telegraph and wireless telegraph or by telegraph or wireless telegraph or to be delivered and includes any signal or combination of signals used for the broadcasting of music, conversations, speeches, lectures, stage performances, writing, facsimiles, images or pictures and the like;

" person or persons " includes any limited liability company or corporation, and any local authority;

" post" means a post, pole, bracket, standard, stay, strut, or other contrivance for carrying, suspending, or supporting a telegraph line;

" prescribed " means prescribed by rules or regulations made under this Ordinance;

" telecommunication " means the making, transmitting or receiving by means of electricity or magnetism or any mechanism, of any telegraphic or

telephonic or other communication of signs, signals, writing, facsimiles, images, pictures, or sounds of any kind with or without the use of wires or other continuous electrical conductors between the transmitting and the receiving apparatus and includes any system or process of electrical signalling;

" telecommunication authority" means the Director of Telecommunications, and includes any officer empowered by him to perform all or any of the functions of the telecommunication authority under this Ordinance or the rules and regulations made thereunder;

" telecommunication officer " means any person employed either permanently or temporarily in connexion with a telegraph or wireless telegraph established, maintained or worked—

(a) by the Government; or

(b) by a person licensed under this Ordinance or by such of the persons or classes of persons licensed under this Ordinance as may be prescribed, other than a person licensed to receive messages by means of wireless telegraphy or to transmit and receive messages for experimental purposes;

" telegraph " means an electric, magnetic, or mechanical telegraph, including appliances, wires and apparatus or any combination thereof for making and transmitting or receiving telegraphic, telephonic or other communications, writing, facsimiles, images, pictures or sounds by means of electricity or magnetism or any mechanism or by any agency of a like nature, with the aid of wires or other continuous electrical conductors connecting the points from and at which the messages or other communications are sent and received, and includes the telephone;

" telegraph line " means a wire or wires used for the purpose of a telegraph or a wireless telegraph, with any casing, coating, tube, or pipe enclosing the same, and any appliances and apparatus connected therewith for the purpose of fixing, insulating, protecting, or earthing the same;

" telegraph office " means any place at which a telegraph or wireless telegraph is installed and worked and includes any place at which any work incidental to or connected with the acceptance, transmission or delivery of messages is carried on;

" telegraphy " means the working or use of a telegraph;

" wireless telegraphy " means any system of communication by wireless telegraph;

" wireless telegraph " means a telegraph, worked without the aid of any wire or other continuous electrical conductor connecting the points from and at which the messages or

other communications are sent and received ;

" wireless telegraphy apparatus " means any apparatus, appliance, instrument or material used or capable of use in wireless communication, and includes any article which in the opinion of the telecommunication authority is a wireless telegraphy apparatus, but does not include any such apparatus, appliance, instrument or material commonly used for other electrical purposes, unless it has been specially designed or adapted for wireless communication or forms part of some apparatus, appliance, instrument or material specially designed or adapted for such purpose, nor any article which in the opinion of the telecommunication authority is not a wireless telegraphy apparatus;

" working a wireless telegraph " shall include the reception of messages by means of wires connected to a complete wireless set or to wireless telegraphy apparatus used for the purpose of relaying messages received.