

SRI LANKA TELECOMMUNICATIONS

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE TELECOMMUNICATIONS REGULATORY COMMISSION OF SRI LANKA ; FOR THE TRANSFER OF ALL PROPERTY,, RIGHTS AND LIABILITIES OF THE DEPARTMENT OF TELECOMMUNICATIONS TO THE CORPORATION MEMBER "SRI LANKA TELECOM " ESTABLISHED BY ORDER UNDER SECTION 2 OF THE STATE INDUSTRIAL CORPORATIONS ACT, NO. 49 OF 1957 ; FOR THE REPEAL OF THE TELECOMMUNICATIONS ORDINANCE (CHAPTER 192) ; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :
"

Act Nos,
25 of 1991
27 of 1996
39 of 2024

Short title and dates of operation. 1. This Act may be cited as the Sri Lanka Telecommunications Act, No. 25 of 1991 and the provisions of this Act other than the provisions of section 72 shall come into operation on the date on which this Act becomes an Act of Parliament. The provisions of section 72 shall come into operation on such date as the Minister may appoint by Order published in the Gazette.

PART I

ESTABLISHMENT AND CONSTITUTION OF THE TELECOMMUNICATIONS REGULATORY COMMISSION OF SRI LANKA

Establishment of the Telecommunication Regulatory Commission of Sri 2. (1) There shall be established a commission which shall be called the Telecommunications Regulatory commission of Sri Lanka (here in after referred to as the 'commission') which shall consist of the persons who are for the time being members of the commission under subsection (1) of section 3 of this Act.

Lanka. [4, 27 of 1996] (2) The commission shall by the name assigned to it by subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.'

Constitution of the commission. [5, 27 of 1996] **3.** (1) The commission shall consist of-
(a) the Secretary to the Ministry of the Minister, who shall be the chairman of the commission;
(b) the person for the time being holding office as the Director-General; and
(c) three members appointed by the minister from among persons who possess any recognized qualifications and have distinguished themselves in the field of law finance and management respectively (hereinafter referred to as 'appointed members').
(2) The provisions of the Schedule to this Act shall have effect in relation to the appointed members of the commission.

Quorum and meetings of the commission. [6, 27 of 1996] **3A.** (1) The quorum for a meeting of the commission shall be three members one of whom shall be the chairman of the commission.
(2) The chairman or in his absence Director-General shall preside at every meeting of the commission.
(3) All questions for decision at any meeting of the commission shall be decided by the vote of the majority of the members present at such meeting.
(4) Subject to the preceding provisions of this section, the commission may regulate the procedure in regard to the meetings of the commission and the transaction of business at such meetings.

Validity notwithstanding any defect. [6, 27 of 1996] **3B.** No Act, decision or proceeding of the commission shall be deemed to be invalid by reason only of the existence of any defect in the appointment of any member thereof,

Remuneration of the members of the commission. [6, 27 of 1996] **3C.** The members of the Commission may be remunerated out of the Fund of the Commission, in such manner and at such rates as may be determined by the Minister in charge of the subject of Finance.

Seal of the
commission.
[6, 27 of 1996]

3D. (1) The seal of the Commission-

(a) shall be determined and devised by the Commission and may be altered in such manner as may be determined by the commission ;

(b) shall be in the custody of such person as the commission may determine from time to time ; and

(c) shall not be affixed to any instrument or document except with the sanction of the commission who shall sign the instrument or document in token of their presence.

(2) The commission shall maintain a register of the instruments and documents to register of the instruments and documents to which the seal of the commission has been affixed.

General objects to
be achieved by the
Authority.
[2, 39 of 2024]

4. The Authority shall exercise its powers under this Act in a manner which it considers is best calculated to promote the national interest and in particular

(a) to ensure the provision of a reliable and efficient national and international telecommunication service in Sri Lanka (save in so far as the provision thereof is impracticable) such DM will satisfy all reasonable demands for such service including emergency services, public call box services, directory information services, maritime services and rural services as may be considered essential for the national well-being;

(b) without prejudice to the generality of paragraph (a), to secure that: every operator and provider: shall have and employ the necessary technical, financial and managerial resources to ensure the provision of the services specified in his licence;

(c) to protect and promote the interests of consumers, purchasers and other users and the public interest with respect to the charges for, and the quality and variety of telecommunication services provided and telecommunication apparatus supplied;

(d) to maintain and promote effective competition between persons engaged in commercial activities connected with telecommunication and promote efficiency and economy on the part of such persons;

(e) to promote the rapid and sustained development of telecommunication facilities both domestic and international;

(f) to ensure that operators and providers are able to carry out their obligations for providing a reliable and efficient service free

of undue delay, hindrance or impediment;

(g) to promote research into and the development and use of new techniques in telecommunications and related fields;

(h) to encourage the major users of telecommunication services whose places of business are outside Sri Lanka to establish places of business within Sri Lanka; and

(i) to promote the use of Sri Lanka for international transit services.

Powers, and duties of the Authority. 5. For the purpose of achieving the objects referred to in section 4, the Authority shall have the following powers, and duties:

[3, 39 of 2024]

[8, 27 of 1996]

(a) to ensure that the telecommunication services in the country are operated in a manner which will best serve and contribute to its overall economic and social development and advancement;

(b) to advise the Minister in the granting of licences to operators under this Act;

(c) to advise the government on matters relating to telecommunication including policies on tariffs, pricing and subsidies and legislative measures required for the provision of public telecommunication services;

(d) to pay due regard to the public interest and the convenience and wishes of the general public as regards the telecommunication services provided by an operator and a provider;

(e) to comply with such general policy directions as may be given from time to time by the Minister regarding the performance of the duties and exercise of the powers of the Authority, and furnish such information as may be required by him in accordance with the provisions of section 67;

(f) to take such regulatory measures as may be prescribed to comply with any general or special directions that may be given to it from time to time by the Government of Sri Lanka in the interest of national security, public order and the defence of the country;

(g) to direct any operator and provider to comply with requirements laid down by the International Telecommunications Union and other relevant International Organisations in respect of both equipment and technical standards;

(h) to ensure compliance by operators and providers with

international or other obligations entered into by the Government of Sri Lanka in relation to telecommunication;

(i) to assist any Ministry where requested, in the conduct of negotiations to establish agreements with the international Telecommunication union, other foreign telecommunication operators and international telecommunication organizations, regarding standards and procedures for the establishment of a telecommunication system;

(j) where so required at the request of the Minister or of any other relevant Ministry, to represent the Government in international conferences or international and foreign bodies concerned with telecommunication;

(k) to approve or determine in consultation with the Minister, under section 6A the tariffs or methods for approving or determining such tariffs, taking into account government policy and the requirements of the operators and providers in respect of the telecommunication services provided by the operators and providers: provided that the tariff rates, call charges and other charges in force immediately prior to the transfer date shall continue in force and shall be deemed to be the tariffs specified under this Act, until revised or amended under the provisions of this Act;

(l) to approve interconnection charges and charges for calls between licensed interconnected telecommunication systems where operators of those systems are able to agree on such charges, and to determine such charges where operators are unable to agree;

(m) to require operators and providers to adopt such accounting systems as may be approved by the Authority;

(n) to require any operator to submit to it transmission plans, signalling plans, switching and numbering plans and to approve or modify such plans as well as to publish and ensure compliance with such plans;

(o) to specify technical standards and procedures for the provision of telecommunication services;

(p) to specify standards for the education and training of technical manpower in telecommunication;

(q) to approve types of telecommunication apparatus which may

be connected to a telecommunication system;

(r) to take such regulatory measures including the issue of directives as may be deemed necessary to monitor the quality of services provided by operators and providers and to ensure that these services conform to standards relating to quality of service specified by rules made under this Act;

(s) to promote, in co-operation with the operators or otherwise, research and development in telecommunication at universities and research, institutes in Sri Lanka;

(t) to establish such advisory bodies as may be deemed necessary for the purpose of advising it on any matter pertaining to the exercise, performance and discharge of the powers, functions and duties of the Authority under this Act;

(u) to negotiate with any public corporation or other person, for the prevention of any obstruction or interference with a radio beam or any communication facility or for the removal of any such obstruction or interference;

(v) to ensure the conservation and proper utilisation of the radio frequency spectrum by operators and other organisations and individuals who need to use radio frequencies;

(w) to make and enforce compliance with rules to minimise electro-magnetic disturbances produced by electrical apparatus and all unauthorized radio frequency emissions;

(wa) to carry out market analysis in the provision of telecommunication services in order to examine the dynamics of a particular market to understand the level of competition in it;

(wb) to intervene to prevent the emergence or abuse of significant market power;

(wc) to take regulatory measures in order to promote fair competition and to eliminate anti-competitive practices;

(wd) to take such measures or issue such directives, which the Commission considers as appropriate and necessary for the achievement of social policy objectives for the sector, such as universal availability of specified minimum level of service; and

(x) to do all such other acts which may be incidental or conducive to, the attainment of the objects of the Authority or the exercise or discharge of its powers and duties under this Act;

Authority to
conduct
examinations to
maintain technical
standards.
[9, 27 of 1996]

6. (1) In the exercise and discharge of its powers and functions under this Act, the Authority may conduct prescribed technical examinations for the purpose of establishing and maintaining such technical standards as may be deemed necessary for the purpose of providing an adequate and efficient telecommunication service.
- (2) In giving effect to the provisions of subsection (1), the Authority may appoint boards of examiners for the purpose of conducting examinations.
- (3) The fees to be charged from candidates presenting themselves for examinations shall be as prescribed.

Commission to
approve or
determine tariff.
[4, 39 of 2024]

- 6A.** (1) The Commission shall approve or determine tariffs based on the following principles:-
 - (a) tariffs shall be non-discriminatory; and
 - (b) tariffs shall be oriented towards cost, in general cross subsidies shall be eliminated.
- (2) An operator or provider may propose tariffs or adjustments to tariffs subject to paragraphs (a) and (b) of subsection (1).
- (3) Where an operator or a provider proposes tariffs or adjustment of tariffs, the Commission may approve or reject such tariffs or adjustment of tariffs subject to subsection (1), taking into consideration -
 - (a) the government policy and industry requirements; and
 - (b) the facilities or services provided by the operator or provider to the particular class of users or in a particular area:Provided however, the Commission may partially approve a proposed tariff or an adjustment to tariffs proposed by an operator or a provider or grant such approval subject to such conditions imposed by the Commission.
- (4) The Commission may determine to forbear any tariff of any service in whole or a part of such tariff, subject to such conditions or without conditions.
- (5) The Commission may, in consultation with the Minister, by way of rules make provision for a special tariff plan which shall include manner of setting, reviewing, publishing and approving adjustments of tariff generally or for any particular

telecommunication service provided by an operator or a provider.

(6) An operator or a provider shall not provide any telecommunication service without obtaining approval to a tariff plan from the Commission under this section.

(7) Every operator or provider who contravenes the provisions of subsection (6) commits an offence and shall be liable on conviction by a Magistrate to a fine not exceeding ten million rupees or to an imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.

Power of Authority 7. The Authority may

to require
information and to
inspect.

[5, 39 of 2024]

[10, 27 of 1996]

(a) for the purpose of enabling the Authority to ascertain the financial viability and true condition of the affairs of an operator or the provider, as the case may be, by notice in writing require such operator or the provider, as the case may be to furnish to the Authority within such period as may be specified in the notice-

(i) all books and accounts of such operator or the provider, as the case may be deemed necessary by the Authority for inspection ; and

(ii) all such information, whether technical, financial or otherwise as may be required by the Authority for the aforesaid purposes:

Provided however that the Authority shall treat as confidential all information furnished to the Authority by the operator in compliance with any such requirement;

(b) for the purpose of exercising, performing and discharging its powers, functions or duties under this Act by notice in writing require any person

(i) to furnish to the Authority within such time and at such place as may be specified in the notice any document specified or described in the notice which is in his custody or control;

(ii) to produce for inspection any book, return, account or record in his possession or control:

Provided however that a person referred to in this paragraph shall not be compelled for any such purpose to produce any document which he could not be compelled to produce in any civil proceedings before a court.

Annual reports and audited statement of accounts of operator. [6, 39 of 2024]

8. As soon as may be after the end of its financial year, every operator and provider shall prepare a report giving a true and fair account of its activities, and of its income and expenditure during the year together with an audited statement of accounts for that financial year and shall forward such report and statement of account to the Authority.

Authority to inquire into complaints. [7, 39 of 2024] [11, 27 of 1996]

9.(1) Where a subscriber to a telecommunication service or a member of the public makes a complaint to the Authority in relation to the telecommunication service provided by an operator or a provider, the Authority may make such investigation as it may deem necessary and shall cause such remedial measures to be taken as the circumstances if the case may require.

(2) In the course of any investigation under subsection (1), the Authority may direct such operator or provider to take such steps as appears to it to be necessary for the rectification of any cause or matter which gave rise to the complaint, and direct that financial redress be provided where appropriate.

(3) Every complaint made under subsection (1) shall be in writing and shall set out clearly the reasons therefor.

Resolution of disputes on anti competitive practices, etc. [8, 39 of 2024]

9A. (1) The Commission shall, on its own motion or on a complaint or request made to the Commission by any person with respect to-

(a) the existence or the construed existence of any anti-competitive practice;

(b) the acquisition, existence or construed existence of an abuse of a dominant position (significant market power) which may affect the conditions in one or more markets in which an operator or provider operates a telecommunication service;

(c) the creation or construed creation of a merger situation; or

(d) not having the right of access market network at fair, cost based and non-discriminatory terms and conditions,

carry out an investigation as in the manner it may deem necessary.

(2) The Commission shall give any operator or provider, who is the subject of an investigation commenced under subsection (1), an opportunity of being heard and of producing any documentary

evidence.

(3) Where upon investigation the Commission is satisfied that any one of the situations specified in paragraph (a), (b), (c), or (d) exists, but such situation does not operate or is not likely to operate against public interest, the Commission shall, by order made in that behalf, authorize the existence of such situation subject to such terms and conditions as it may consider necessary or expedient for the purpose of remedying or preventing the resulting adverse effects, if any, on other operators or providers in the market wherein any one of the situations specified in paragraph (a), (b), (c), or (d) exists.

(4) Where upon investigation the Commission finds that any one of the situations specified in paragraph (a), (b), (c), or (d) exists and such situation operates or is likely to operate against public interest, the Commission shall make an appropriate order abating the existence of any such situation and for the purpose of remedying or preventing the resulting adverse effects thereof.

(5) Where upon investigation, the Commission finds that any one of the situations specified in paragraph (a), (b), (c), or (d) exists, the Commission may, where necessary, issue an appropriate order other than the orders referred to in subsections (3) and (4) having regard to the provisions of subsection (2).

(6) Rules may be made in respect of the following:-

(a) to impose specific obligations on operators and providers with significant market power as may be defined by the Commission, with a view of promoting fair competition, preventing market distortions and safeguarding consumer interests; and

(b) to facilitate non-discriminatory access and to ensure equal opportunities to all operators and providers.

Authority sole
authority to
manage radio
frequency
spectrum.

[9, 39 of 2024]
[12, 27 of 1996]

10.(1) The Authority shall be the sole lawful body in Sri Lanka to manage and control the use of the radio frequency spectrum and incidental and restricted emissions, matters relating to the stationary satellite orbit and shall have the power where it deems necessary to withdraw or suspend its use or prohibit any such emission.

(1A) The Commission shall have the power to -

(a) divide and allocate any part of the radio frequency spectrum into number of bands based on the International

Telecommunication Union policies and guidelines or international best practices, in the best interest of the efficient management of the frequency spectrum and specify the service or purpose for which each band may be used;

(b) specify frequency channel plans; and

(c) assign the radio frequency or any band of radio frequencies to users of radio communication apparatus in the manner provided in section 22.

(1B) The Commission may issue to any person who intends to obtain a licence for any purpose specified under section 22, a frequency reservation permit for a period specified by the Commission on a payment of a fee subject to the right of cancellation and such other terms and conditions as may be determined by the Commission by rules made in that behalf.

(2) The Authority shall be the sole lawful authority to negotiate with the International Telecommunications Union or its affiliated bodies on all matters referred to in subsection (1).

Commission to be the sole authority on allocation of and use of numbers etc. [10, 39 of 2024]

10A. (1) The Commission shall be the sole authority vested with the power to manage the use of numbers, names, codes and identifiers.

(2) The Commission shall be responsible for promoting the efficient allocation of numbers, names, codes and identifiers under subsection (1).

(3) The Commission shall have the power to prepare, specify, publish, and administer the plans for the use of numbers, names, codes, and identifiers, including the power-

(a) to assign numbers, a block or blocks of numbers, codes, and names in accordance with respective plans;

(b) to grant approval to lease or sell the right to use a number, a block or blocks of numbers or codes;

(c) to amend the plans for numbering, names, codes and identifiers so prepared;

(d) to make rules-

(i) for specifying charges for using numbers, a block or blocks of numbers, codes and names so assigned;

(ii) relating to managing of numbers, names, codes, and identifiers in the respective plans; and

(iii) for determining conditions relating to the withdrawal of numbers, block or blocks of numbers, codes, and name assigned under this section; and

(e) to issue directions to any person to-

(i) submit information on the utilization of numbers, names, codes, and identifiers allocated under this section; and

(ii) adhere to the respective plan for the use of numbers, names, codes and identifiers.

(4) The Commission shall have the power to implement number portability and issue rules, guidelines and directions to operators for such implementation.

(5) The Commission may withdraw numbers, codes, a block or blocks of numbers, code or codes of numbers allocated under this section by giving prior notice in writing to the person to whom such allocation was made after affording an opportunity to such person to make representations.

Enforcement of
licence conditions.
[11, 39 of 2024]
[13, 27 of 1996]

11. (1) Where the Authority is satisfied that a person who is issued with a licence under section 17 or under section 17B is contravening or has contravened any of the conditions of his licence, the Authority may, subject to subsection (2), make an order for the purpose of securing compliance with that condition or may subject to subsection (3), revoke any such order.

(2) Before making an order under subsection (1) the Authority shall give notice

(a) stating that it proposes to make the order and setting out its effect;

(b) stating the relevant condition of the licence and the acts or omissions which, in its opinion, constitute or would constitute contraventions of it; and

(c) specifying the time (not being less than twenty eight days from the date of publication of the notice) within which representations or objections to the proposed order may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(3) Before revoking an order made under subsection (1), the

Authority shall give notice

(a) stating that it proposes to revoke the order and setting out its effect; and

(b) specifying the time (not being less than twenty-eight days from the date of publication of the notice) within which representations or objections to the proposed revocation may be made by any person interested in such revocation,

and shall consider any representations or objections which are duly made and not withdrawn.

(4) A notice under subsection (2) or subsection (3) shall be given by publication in such manner as the Authority considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by such notice and by sending a copy of the notice to the operator and provider affected by it.

(5) As soon as practicable after an order is made under subsection (1) or subsection (3), the Authority shall

(a) publish the order in such manner as it considers appropriate for the purpose of bringing the order to the attention of persons likely to be affected by it; and

(b) serve a copy of the order on the operator affected by it.

(6) Where a person issued with a licence under section 17 or under section 17B, fails to comply with an order issued under subsection (2), the Commission may by notice require such person to pay a penalty of an amount not exceeding one per centum of the annual turnover of the year immediately preceding the year concerned, accrued from the activity authorized by such licence.

(7) The Commission shall be responsible for the collection of a penalty imposed under this section and the money so collected shall be credited to the Fund of the Commission established under section 22F.

(8) If any person who has become liable to a penalty in terms of subsection (6) fails to pay such penalty, within such period as may be specified in such notice, the Commission may make an *ex parte* application to the Magistrate Court of the competent jurisdiction for an order requiring the payment of the penalty

recovered in a like manner as a fine imposed by such court notwithstanding such sum may exceed the amount of fine which that court may, in the exercise of its ordinary jurisdiction impose.

(9) Where a penalty is imposed under this section on a body of persons, then-

(a) if that body of persons is a body corporate, every person who at the time of non-compliance under subsection (6) was a director, and any other officer responsible for the management and control of that body corporate;

(b) if that body of persons is a firm, every partner of that firm; or

(c) if that body is not a body corporate, every person who at the time of non-compliance of requirements under subsection (6) was the officer responsible with management and control of that body,

shall be liable to pay such penalty, unless he proves that he had no knowledge of the failure to comply with the requirement under subsection (6) or that he exercised all due care and diligence to ensure the compliance therewith.

(10) A person who is aggrieved by the imposition of a penalty under this section, may appeal against such order to the High Court established by Article 154P of the Constitution.

(11) Any person who prefers an appeal under subsection (10) shall deposit in cash as a security such sum of money equal to the penalty imposed under subsection (6) before the registrar of the High Court.

Public hearing and 12.
procedure.

[14, 27 of 1996]

(1) on representation made to it or otherwise, the commission may, where it deems necessary in the public interest, that any matter relating to the exercise or proposed exercise of its powers, needs investigation or determination, of its own motion, hold a public hearing.

(2) The Authority shall, where the Minister so directs in the public interest, hold a public hearing in relation to any matter relating to telecommunication specified in such direction.

(3) For the purpose of holding a public hearing under subsection (1) or subsection (2), a committee of inquiry (hereinafter referred to as the 'committee') shall be constituted which shall consist of the chairman of the commission or any other officer nominated

by the said chairman who shall preside at any meeting of such committee, and two or more other officers to be reinitiated by the Authority for that purpose.

(4) The proceedings at any public hearing to be held by the committee under this section may be conducted in any manner not inconsistent with the principles of natural justice which to the committee may seem best adapted to elicit proof or information relating to the matter under investigation.

(5) The committee may require evidence or arguments to be presented in writing and may decide the matters upon which it will hear oral evidence or arguments.

(6) The committee may at a public hearing admit or reject any evidence adduced, whether oral or documentary and the provisions of the Evidence Ordinance relating to the admissibility of evidence shall not apply.

(7) Every person who gives evidence before the committee shall, in respect of such evidence, be entitled to all the privileges to which a witness giving evidence before a court of law is entitled in respect of evidence given by him before such court.

(8) The proceedings at a public hearing shall be open to the public and minutes thereof including a summary of the evidence given and a statement of all facts taken into consideration shall be kept by the member presiding at the hearing.

(9) The committee shall determine the periods that are reasonably necessary for the fair and adequate presentation of any matter which is the subject of public hearing under this section and may require those matters to be presented within the respective periods so determined.

(10) Any person who has been summoned or whose interests are likely to be affected by any matter before the committee may appear in person or by authorized representative.

(11) In the event of a difference of opinion among the members of the committee the decision of the majority shall be the decision of the committee.

(12) During or at the conclusion of a public hearing, the committee may

(a) make an order or award with reasons therefore relating to the matter before it or part thereof, or give a direction

with reasons therefor;

(b) dismiss any matter or part of a matter or refrain from further hearing or from determining the matter or part thereof, if it appears that the matter or part thereof is trivial or vexatious or that further proceedings are not necessary or desirable in the public interest;

(c) generally give all such directions and do all such things as are necessary or expedient for the expedient and just hearing and determination of any matter before it.

(13) Every order or award made and every direction in pursuance of paragraph (a) of subsection (12) shall be published in the Gazette, and a copy of every such order, award or direction shall be served on each party to the public hearing.

Power to summon 13.
persons to give
evidence.

(1) The committee shall have power to summon to attend at a public hearing held under section 12, any person who in the opinion of the committee, may be able to give evidence in relation to any matter before the committee or to produce any document, and may examine him on oath or affirmation. Any person so attending may be allowed reasonable expenses necessarily incurred by him in so attending,

(2) If any person summoned to appear before the committee

(a) fails without reasonable cause to appear at the time and place mentioned in the summons; or

(b) refuses without reasonable cause to be sworn or having been duly sworn, refuses or fails without reasonable cause to answer any question put to him by the committee or wilfully gives a false answer to any such question; or

(c) refuses or fails without reasonable cause to produce before the committee any documents which are in his possession and which he has been required to produce,

such person shall be guilty of the offence of contempt against or in disrespect of the ruling of the committee.

(3) Where the committee determines that a person has committed any offence of contempt referred to in subsection (2) against or in disrespect of its ruling, the committee may cause the member presiding to transmit to the Court of Appeal a certificate setting out its determination. Every such certificate shall be signed by

the member who presides at the public hearing.

(4) In any proceeding for the punishment of an offence of contempt which the Court of Appeal may think fit to take cognizance of, any document purporting to be a certificate signed and transmitted to that Court under subsection (3) shall

(a) be received in evidence and be deemed to be such a certificate without further proof unless the contrary be proved; and

(b) be prima facie evidence that the determination set out in the certificate was made by the committee and of the facts stated in the determination.

(5) Every offence of contempt committed against or in disrespect of the ruling of the committee at a public hearing held under section 12, shall be punishable by the Court of Appeal or any judge thereof in the same manner as if it were an offence of contempt committed against or in disrespect of the authority of that Court.

Finality of orders made under sections 11 and 12 to be subject to appeal on a question of law.

14. (1) An order made by the Authority under section 11 and an order, award or direction made by the committee under section 12 shall, subject to subsection (2) be final.
- (2) An appeal shall lie by any person aggrieved from an order, award or direction made under section. 11 or 12 on a question of law, to the Court of Appeal.
- (3) An appeal under subsection (2), shall be by written petition and shall
- (a) be presented in triplicate to the Authority within thirty days after the date of the communication by which the order, award or direction was notified to the appellant ;
- (b) set forth the order, award or direction of the Authority or committee as the case may be and the question of law to be argued;
- (c) make any necessary party a respondent to such appeal; and
- (d) be accompanied by a fee of one thousand rupees.
- (4) Where a petition of appeal is presented to the Authority in the manner and within the time specified in subsection (3), he shall
- (a) transmit, or cause to be transmitted to the Court of

Appeal a copy of the petition together with the record of the proceedings in which the order, award or direction referred to in the petition was made or given

(b) issue, or cause to be issued notice of the appeal to the respondent named in the petition of appeal together with a copy of that petition ; and

(c) file or cause to be filed, of record a copy petition.

(5) The Court of Appeal may in determining such question of law confirm, vary or annul the order, award, or direction of the Authority or the committee, as the case may be, or may remit the case to the Authority or the committee with the decision of that Court on the question of law with such directions as may be deemed appropriate.

Evidence of documents.
[15, 27 of 1996]

15. A copy of any rule, order, award, direction or other document made by or in the custody of the Authority and, certified by it to be a true copy thereof, or an, order award or direction made by the committee certified by the member who presided at the meeting of such committee where such order, award or direction was made to be a true copy thereof, shall in any court be evidence of the rule, order, award, direction or other document without proof of the signature of the chairman of the commissioner or the member presiding at such meeting of the committee, as the case may be.

Contravention of an order, award or direction made under section 11 or 12.

16. Any person who without lawful authority contravenes or fails to comply with an order of the Authority under section 11 or an order, award or direction of the committee under section 12, shall be guilty of an offence and shall be liable on conviction after summary trial by a Magistrate to a fine not exceeding one hundred thousand rupees and, in the event that the offence is continued after conviction, an additional fine of not exceeding one thousand rupees in respect of every day the offence is continued after conviction.

PART II LICENSING

No person to operate telecommunication system without a licence.

17. (1) Subject to the provision of section 20, no person shall operate a telecommunication system in Sri Lanka except under the authority of a licence granted by the Minister in accordance with subsection (2).
(2) The Minister may grant the licence referred to in subsection (1) on

[12, 39 of 2024]
[16, 27 of 1996]

the recommendation of the Authority, provided he shall have the power to reject such recommendations for reasons assigned and grant a licence in his own discretion,

(3)

(a) Where the Authority consider it in the public interest to do so the Authority may give public notice in such manner as it deems appropriate of its intention to recommend to the Minister the grant of a licence.

(b) The notice referred to in paragraph (a) shall

(i) state that the Commission propose to recommend the grant of a licence to a particular person;

(ii) specify the time (not being less than twenty eight days from the date of publication of the notice) within which representations or objections with respect to the grant of the proposed licence may be made.

(c) A representation or objection duly made in response to such notice shall be considered by the Authority.

(4) Every application for a licence shall be in writing and shall be made to the Authority in such manner as may be required by the Authority.

(5) Before recommending the grant of a licence, the Authority shall satisfy itself that the applicant is capable of operating the telecommunication system for which licence is being applied for.

(6) A licence under subsection (2) of this section

(a) shall be issued on payment by the applicant of the licence fee;

(b) shall be in writing and unless previously revoked in terms of the provisions of section 17A, continue in force for such period as may be specified therein;

(c) shall set out the terms and conditions subject to which the licence is being granted;

(d) shall require the provision of such telecommunication services as are specified in the licence by means of such telecommunication system;

(e) may authorise the connection to any telecommunication system to which the licence relates of

(i) any other telecommunication system specified in the

licence; and

(ii) any apparatus so specified in the licence; and

(f) may authorise the provision by means of any telecommunication system to which the licence relates of any such telecommunication services as are specified in the licence.

(7) The terms and conditions referred to in paragraph (c) of subsection (6) may include

(a) such conditions (whether relating to the operating of the telecommunication system to which the licence relates or otherwise) as appear to the Minister to be requisite or expedient having regard to the provisions of section 4;

(b) conditions requiring the payment to the Authority on the grant of the licence or during the currency of the licence or both on the grant and during the currency of the licence such sum or sums of money as may be determined by the Authority to defray any expenses incurred by it in granting the licence;

(c) conditions requiring an operator to furnish to the Authority, in such manner and at such times as may be reasonably required by the Authority, such documents, accounts, estimates, returns or other information as the Authority may require for the performance of its duties under this Act;

(d) conditions prohibiting an operator from showing preference to, or from exercising discrimination against a particular person or persons of any class or description as respects any service provided, connection made or permission given;

(e) conditions requiring an operator to publish in such manner and at such times as are specified in the licence, a notice specifying the charges and other terms and conditions that are to be applicable to the services provided, connection made or permission given;

(f) conditions requiring an operator to ensure that an adequate and satisfactory information system which may include billing information, tariff information, directory services and directory inquiry services be made available to users:

(g) conditions requiring an operator

(i) to comply with directions given by the Authority in relation to the national transmission plan, signalling plan, switching plan, numbering plan, and the charging plan to

which an operator shall design and maintain his telecommunication network, and conditions requiring approval from the Authority in the event of any departure from any of the aforesaid plans;

(ii) to keep the Authority informed of the practices followed by him in the routing of national and international traffic; and

(iii) to ensure that compensation is paid to persons affected by the running of underground cables or overhead lines;

(h) conditions requiring an operator

(i) to comply with any direction given by the Authority as to such matters as are specified in the licence;

(ii) except with the consent of the Authority to do or refrain from doing such things as are required to be done or required not to be done under the licence;

(iii) to refer for determination by the Authority such questions arising under the licence as are specified in the licence;

(i) conditions requiring the connection to any telecommunication system to which the licence relates or permit the connection to any such system, of such other telecommunication systems and such apparatus as are specified in the licence.

(j) conditions requiring an operator to develop and publish a plan to restore service during emergencies;

(k) conditions specifying acceptable economic criteria in accordance with which the Authority shall approve tariff adjustments proposed by an operator.

(8) A licence granted under this section shall be published in such manner as the Authority may determine is best calculated to give publicity thereto.

(9) All sums paid as fees under this section for the issue of a licence shall be paid into the Fund of the commission established by section 22F of this Act.

(10) The Commission shall have the power to issue directions to any operator to whom a licence has been issued under this section to share the use, with another operator specified by the Commission any infrastructure owned or used by such operator including any radio

access network, subject to such terms and conditions specified by regulations made under this Act.

Revocation of a licence issued under section 17.
[13, 39 of 2024]

- 17A.**
- (1) A licence issued under section 17 may be revoked by the Minister assigning reasons therefor, on the breach of terms and conditions of the licence.
 - (2) The Minister shall by Order published in the Gazette specify the date of such revocation (not being a date earlier than thirty days from the date of publication of the Order) and the reasons for the revocation shall be informed to the relevant operator through the Commission fifteen days prior to the date of the revocation.
 - (3) The Order referred to in subsection (2) shall also specify the interim arrangement made for operating the telecommunication system in respect of which the licence was issued to the operator thereof has been revoked under this section.
 - (4) Where the Minister revokes a licence under section 17, the licensee may within a period of thirty days from the date of the communication to him the decision of the Minister appeal against such revocation to the Court of Appeal which may confirm or set aside the decision of the Minister.

Prohibition to engage in certain activities without a licence.
[13, 39 of 2024]

- 17B.**
- (1) A person shall not engage in the following activities except under the authority of a licence issued by the Commission in that behalf:-
 - (a) providing infrastructure services specified by rules, required for operating a telecommunication system;
 - (b) providing telecommunication services specified by rules; or
 - (c) providing cable landing station facilities.
 - (2) For the purpose of paragraph (c) of subsection (1), the facilities shall include submarine cables laid within the territorial waters of Sri Lanka.
 - (3) The charges for cable landing station facilities including access to the submarine cables shall be approved or determined by the Commission.
 - (4) A licence issued under subsection (1) shall be-
 - (a) in such form and on payment of such fee as may be

determined by the Commission; and

(b) required to conform to such technical standards as may be determined by the Commission from time to time by rules made under this Act.

(5) Any person who engages in any activity specified in paragraph (a) or (b) of subsection (1) without obtaining a licence under subsection (1), commits an offence under this Act.

(6) The Commission may, at any time revoke a licence granted under this section on the failure by the licensee to comply with the technical standards he was required to conform to.

(7) Where the Commission refuses an application for a licence under subsection (1) or revokes a licence under subsection (6), the applicant or the licensee, as the case may be, within a period of thirty days from the date of the communication to him the decision of the Commission may appeal against such refusal or revocation, as the case may be, to the Court of Appeal which may confirm or set aside the decision of the Commission.

(8) Rules shall be made under this Act to specify-

(a) the manner of making an application for a licence under subsection (1);

(b) requirements to be fulfilled by an applicant to make an application for each category of licence under subsection (1); and

(c) period of validity and the manner of renewal of a licence.

Modification of
licence granted
under sections 17
and 17B.

[14, 39 of 2024]

[17, 27 of 1996]

18.(1) The Authority may, subject to the provisions contained in subsection (6) of section 17, recommend to the Minister the modification of a licence granted under that section and on receipt of the concurrence of the Minister duly effect such modifications.

(2) Prior to recommending the modification of any condition of a licence to the Minister under subsection (1), the Authority may if it considers it in the public interest to do so, give public notice in like manner as is specified in paragraphs (a) and (b) of subsection (3) of section 17.

(3) The Authority shall consider any representation or objection duly made in response to such public notice.

(4) The Commission may modify any licence issued under section 17B if such modification is deemed necessary for the efficient

implementation of the provisions of this Act or any regulation or rule made thereunder.

Operator prohibited from allowing telecommunication system to be used by any person for business purposes.
[15, 39 of 2024]
[18, 27 of 1996]

- 18A.** (1) An operator shall not permit the use of the telecommunication system in respect of which a license is issued to such operator, by any other person, for the purpose of sending or receiving messages by such person by way of a business on the payment of a fee or reward, except with a provider licence issued by the Commission under section 17B.
- (2) Where a provider requests the operator to use the telecommunication system, the operator shall permit such provider to use such telecommunication system including wholesale services subject to the provisions of this Act.

Repealed by [15, 39 of 2024]

(4) An operator who acts in contravention of subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not less than one hundred thousand rupees.

Offence to operate telecommunication system without licence.

- 19.(1) A person who operates a telecommunication system in Sri Lanka without obtaining a licence under section 17, shall be guilty of an offence under this Act.
- (2) An operator shall be guilty of an offence under this Act if
- (a) there is connected to the telecommunication system in respect of which the licence is issued
- (i) any other telecommunication system which is not authorised by the licence to be so connected; or
- (ii) any telecommunication apparatus which is not authorised by the licence to be so connected; or
- (b) there are provided by means of the system any telecommunication services which are not authorised by the licence to be so provided.

Exemption from licensing &c.
[19, 27 of 1996]

20. (1) Notwithstanding the provisions contained in subsection (1) of section 17 and subject to subsections (2) and (3) of this section no licence shall be required
- (a) to operate a telecommunication system
- (i) where the only agency involved in the conveyance of things thereby conveyed is light and the things thereby conveyed are so conveyed as to be capable of

being received or perceived only by the eye ; or

(ii) which is not connected to another telecommunication system and where all the apparatus comprised therein is situated either-

(A) in premises of single ownership or tenancy and within a contiguous boundary, for sole use of the owner or tenant ; or

(B) in a vehicle, vessel, aircraft or hover craft or in two or more vehicles, vessels, aircrafts or hover crafts mechanically coupled together ; or

(iii) which is not connected to another telecommunication system and where a single individual runs such system and-

(A) all the apparatus comprised therein is under his control; and

(B) everything conveyed by it is conveyed solely for his own domestic purposes ; or

(b) for the connection of approved terminal apparatus to the public switched network of an operator ; or

(c) for a person who carries on a business to run a telecommunication system for the purposes of that business where that telecommunication system is not connected to another telecommunication system, and in respect of which the following conditions are satisfied, namely

(i) that no person other than the person carrying on the business is concerned in the control of the apparatus comprised in that system.

(ii) that sounds or visual images conveyed by that system, are not conveyed for the purpose of their being heard or seen by persons other than the person carrying on the business or any employees of his engaged in the conduct of that business ;

(iii) that messages conveyed by the system are conveyed only to the person carrying on the business, to any employee engaged by him on the conduct of that business or for reception or transmission* by telecommunication apparatus of such system used in

the course of the business and controlled by him ;

(iv) that, messages conveyed by the system, are not conveyed for the purpose of actuating or controlling machinery or apparatus used otherwise than in the course of that business ; and

(v) that nothing falling within the definition of the expression ' telecommunication system ' is conveyed by the system by way of rendering a telecommunication service to any person other than the person carrying on the business ; or

(d) for the use of telecommunication systems or telecommunication apparatus by the police, the armed forces and any other services directly employed by the State for national security in the performance of their official duties subject to the provisions of this Act:

Provided however, that they shall comply with such technical requirements as may be specified by the Authority ; or

(e) for the use of telecommunication systems or apparatus on board any warship or aircraft in the service of the State ;

(f) for the use of any telecommunication system or apparatus in any foreign civil aircraft registered outside Sri Lanka, if such system or apparatus and the members of the crew of the aircraft who use such system or apparatus have been specially licensed in accordance with the requirements of any international convention for the time being in force as to the installation or use of such system or apparatus in aircraft.

(2)

(a) Where a telecommunication system referred to in paragraph (c) of subsection (1) extends beyond the boundaries of an area corresponding to the premises occupied by the person operating the system every person who on the date of coming in to force of this section is operating such a system or on or after that date proposes to operate such a system shall, as a condition of operating that system

(i) obtain a licence from the Authority for the type of telecommunication system being operated, or proposed

to be operated, the location of the system and its boundaries ;

(ii) comply with any provision of this Act or any regulations or rules made thereunder in respect of such system.

(b) A person who operates a telecommunication system in contravention of the provisions of paragraph (a) shall be guilty of an offence under this Act and may be prohibited by the Authority from operating such a system.

(3)

(a) Where there is an agreement between a person who is operating a telecommunication system, as is referred to in paragraph (a) (iii) or (c) of subsection (1) of this section and an operator, for the interconnection of their telecommunication systems such persons shall prior to interconnection obtain a licence from the Authority for such interconnection.

(b) A person who fails to comply with the provisions of paragraph (a) shall be guilty of an offence under this Act and may be prohibited by the Authority from continuing to operate such system.

(4) An operator may if he so desires request the Authority to monitor an interconnection referred to the subsection (3) in the interests of operational efficiency and technical standards and the Authority shall where so requested take appropriate measures to comply with such request.

Interconnection of tele communication systems. [16, 39 of 2024] **20A.**

(1) The Commission may require an operator to enter into an agreement with another operator for the interconnection between their telecommunication systems, in the circumstances where the Commission deems that interconnection is necessary for the provision of efficient telecommunication service or for the public interest.

(2) It shall be the duty of the operators required by the Commission under subsection (1) to enter into an agreement for interconnection between their telecommunication systems, to provide access to the telecommunication systems, telecommunication services and telecommunication apparatus of each other.

(3) The terms and conditions to be incorporated in an interconnection agreement shall be negotiated in accordance with the terms and conditions of the respective licences issued to the operators to such interconnection agreement, and shall further provide for the following:-

(a) conditions of the interconnection agreement shall conform with the conditions of the respective licences issued to each operator who is a party to the interconnection agreement;

(b) consumers connected to the telecommunication system of one operator shall have access to the telecommunication system of other operator who is a party to the interconnection agreement;

(c) operators who are parties to the interconnection agreement shall maintain the same level of quality in their respective telecommunication systems;

(d) interconnection arrangement shall be efficient and fair and the parties to an interconnection agreement shall ensure that services are supplied on non-discriminatory basis with regard to capacity, interfaces and technical standards;

(e) the terms and conditions subject to which interconnected services are provided shall reflect internationally accepted best practices;

(f) interconnection services shall ensure effective and sustainable competition; and

(g) interconnection rates for services shall be cost oriented and be subject to the methodology determined by the Commission.

(4) The Commission may stipulate the terms and conditions to be incorporated in an interconnection agreement if necessary.

(5) If the Commission is satisfied that the parties to an interconnection agreement under this section have resorted to an anti-competitive practice in contravention of the respective licences issued under this Act or receives a complaint from a third party to that effect, the Commission shall, after giving reasonable notice to the parties to the interconnection agreement commence an investigation into the same.

(6) The Commission shall give the parties to the interconnection agreement, who is the subject of an investigation commenced under subsection (5), an opportunity of being heard and of producing any documentary evidence.

(7) Where upon investigation, the Commission is satisfied that an anti-competitive practice exists, the Commission may issue directions to the parties to the interconnection agreement to take such steps as the Commission deems it necessary to avoid such anti-competitive practice and make recommendations to amend the interconnection agreement to that effect.

(8) Where any operator fails to comply with the requirement imposed by the Commission under subsection (1), any other operator who seeks access to the telecommunication system, telecommunication services and telecommunication apparatus of such operator may inform the Commission in respect of such failure and the Commission shall, within thirty working days of the receipt of such information, determine, in consultation with both operators, the terms and conditions of the proposed interconnection agreement including the access to interconnection services and charges to be levied for such service.

(9) The determination made under subsection (8) by the Commission shall be binding on the operators proposed to be entered into an interconnection agreement under this section.

(10) Any operator who fails to comply with determination made under subsection (8) by the Commission commits an offence and shall be liable to a fine not exceeding ten million rupees and in the event of the offence being committed continuously, to an additional fine of three hundred thousand rupees for each day on which the offence is so committed after conviction.

(11) Any operator who is aggrieved by the determination under subsection (8), may appeal against such determination to the Court of Appeal within thirty days from the date of such determination.

(12) The Commission may make rules for -

- (a) stipulating the terms and conditions to be incorporated in an interconnection agreement;

(b) determining methodology relating to interconnection rates for services; and

(c) issuing guidelines and directions to the parties to the interconnection agreement to implement the interconnection agreement.

Control and regulation of the manufacture, import &c. of telecommunications apparatus.
[17, 39 of 2024]
[20, 27 of 1996]

21.(1) No person shall by way of trade, manufacture, import, export, sell, offer for sale, deal in transfer, hire, lease, demonstrate, maintain or repair, any telecommunication apparatus, except under the authority of a licence issued by the commission in such form as may be determined by the commission.

(2) Every licence issued by the Authority for any such purpose as referred to in subsection (1) shall

(a) be for such purpose or activity or for such combination of purposes or activities as are specified in subsection (1);

(b) be under the hand of the Authority or an officer authorised by him in that behalf;

(c) be on the payment of such fee as may be specified by the commission: and

(d) be subject to such conditions and restrictions as may be determined by the Authority,

(3) The Authority may at any time revoke and determine any licence granted under this section on the breach of any of the conditions and restrictions to which it is subject 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 regulations made under this Act relating to the same.

(4) where the Authority

(a) refuses an application made for a licence made under subsection (1); or

(b) revokes a licence under subsection (3),

the applicant or the licensee may within one month after the date of the communication to him of the decision of the Authority appeal against such refusal or revocation, as the case may be, to the Court of Appeal which may on such appeal confirm or set aside the decision of the Authority.

(5) Every person who contravenes the provisions of subsection (1)

shall be guilty of an offence under this Act and shall be liable on conviction to a fine not exceeding one million rupees or to an imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment and in the event of the offence being committed continuously, to a fine of one thousand five hundred rupees for each day on which the offence is so committed after conviction.

Licence for use of any radio frequency or radio frequency emitting apparatus.

[18, 39 of 2024]

[21, 27 of 1996]

22.(1) No person shall use any radio frequency or use or possess any radio frequency emitting apparatus in Sri Lanka or in any ship or aircraft registered in Sri Lanka; except under the authority of a licence issued by the commission for that purpose under subsection (2), Every application for a licence under this section shall be made to the commission in such form as may be determined by the commission.

(2) Every licence issued by the Authority for any such purpose as is referred to in subsection (1) shall

(a) be under the seal of the commission or any officer authorized by the commission in that behalf ;

(b) be issued on the payment of such fee as may be prescribed:

Provided that the commission may issue a licence under this subsection, to any-

(i) foreign diplomatic mission in Sri Lanka ;

(ii) an Agency of the United Nations ;

(iii) any other international agency or organization as may be determined by the commission from time to time; or

(iv) police, armed forces or other service directly employed in the state for national security, in the performance of their official duties,

without the payment of such fee ;;

(c) be subject to such conditions and restrictions as may be determined by the Authority which may include the prohibition of the use including the sealing of such radio frequency emitting apparatus in the event of the breach of any such conditions and restrictions.

(2A) A licence issued under subsection (1) shall specify the service or

services or purpose for which such radio frequency or radio frequency emitting apparatus are used and the period of the validity of such licence.

(3) The Commission shall have power to revoke any licence issued under subsection (1) on the breach of any condition or restriction to which it is subject to 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 regulation for the time being in force under this Act relating to the same.

(3A) In the overall planning and management of radio frequency spectrum, the Commission shall have power to-

(a) direct any person to whom a licence has been issued under subsection (1) to comply with and to implement new technologies for the efficient use of radio frequency spectrum in the public interest; and

(b) vary any radio frequency after giving written notice to the relevant person prior to a reasonable period of such variation and giving reasons therefor.

(3B) Any person who is aggrieved by the variation of the radio frequency referred to in paragraph (b) of subsection (3A) may appeal to the Commission within three weeks from the receipt of such notice referred to in that paragraph.

(3C) The Commission shall, after giving such aggrieved person a fair hearing on any objection to such variation communicate its decision to the person who made an appeal to the Commission within three weeks from the date of receipt of such appeal.

(3D) The Commission may consider payment of any compensation to the relevant person whose radio frequency has been varied under paragraph (b) of subsection (3A).

(4) Where the Authority

(a) refuses an application made for a licence: made under subsection (1) ; or

(b) revokes a licence under subsection (3),

the applicant or the licences may within one month after the date of the communication to him of the decision of the Authority appeal

against such refusal or revocation, as the case may be, to the court of Appeal which may on such appeal confirm or set aside the decision of the Authority.

(4A) Any person who is aggrieved by the decision referred to in subsection (3C) of this section may appeal to the Court of Appeal within one month from the date of communication of the decision of the Commission.

(4B) The Court of Appeal may grant any interim relief to such aggrieved person pending the final determination of the appeal.;

(5) Save as provided for in subsection (6), a person who uses any radio frequency in contravention of the provisions of subsection (1) shall be guilty of an offence under this Act.

(6) Notwithstanding the preceding provisions of this section, the Commission may, in the public interest and in order to promote the common use of any radio frequency exempt by rules made in that behalf, any person or class of persons from having to obtain a licence for the use or possession, establishment or installation of any radio frequency emitting apparatus either absolutely or subject to such terms, conditions and restrictions as may be imposed under such rules.

(7) The Commission may adopt the competition-based methodology in assigning radio frequencies and such methodology shall be promulgated by regulations made under this Act as and when required.

Licence for
performing cabling
work.

[19, 39 of 2024]

[22, 27 of 1996]

22A. (1) No person shall perform cabling work in any premises, over or under the land, roads or territorial waters of Sri Lanka, except under the authority of a license issued by the commission for that purpose under subsection (2). Every application for a licence under this section shall be made to the commission in such form as may be determined by the commission.

(2) A licence issued under subsection (1) shall be-

(a) in such form and on payment of such fee as may be determined by the commission ;

(b) subject to such terms and conditions as may be specified in such licence ; and

(c) required to conform to such technical standards as may be determined by the commission from time to time by rules made in that behalf.

(3) The Commission may, at any time revoke or suspend any licence granted under this section-

(a) on the breach of any term or condition of the licence by the licensee;

(b) on the failure by the licensee to pay the fee determined by the Commission under paragraph (a) of subsection (2);

(c) on the failure by the licensee to comply with the provisions of the Act or any regulation or rule made thereunder; or

(d) where such revocation or suspension is deemed to be necessary in the public interest or in the interest of national security.

(4) Where the commission refuses an application made for a licence under subsection (1) or revoke a licence issued under subsection (3), the applicant or the licensee as the case may be, within one month after the date of the communication to him of the decision of the commission, appeal against such refusal or revocation as the case may be, to the court of Appeal, within may confirm or set aside the decision of the commission.

(5) The prohibition imposed under sub-section (1) shall not operate in regard to persons who are employed by a licence holder under this section, in performing cabling work, and who carries out such work under the supervision of the licence holder.

(6) Rules may be made under this section-

(a) specifying the type of premises in or on which a licensee may perform cabling work ; and

(b) specifying the manner in which a licensee may supervise the work of any persons employed by him to perform by him to perform cabling work,

Responsibility of
the Commission to
protect submarine
cables.

[20, 39 of 2024]

22AA.

(1) The Commission shall, with the assistance of the Sri Lanka Navy, the Department of Coast Guard and Sri Lanka Police, monitor, manage and protect the submarine cables laid within the territorial waters of Sri Lanka connected with the provision of any telecommunication service under this Act, subject to the advice of the National Submarine Cable Protection Committee established under subsection (2) of this section.

(2) There shall be established a committee called and known

as the National Submarine Cable Protection Committee (in this section and section 22AB referred to as the 'Committee') consisting of the following members:-

- (a) the Director-General of the Commission who shall be the Chairman of the Committee;
 - (b) an officer of the Sri Lanka Navy nominated by the Commander of the Navy;
 - (c) a Coast Guard Officer of the Coast Guard Department nominated by the Director-General of such Department;
 - (d) a police officer of the police force nominated by the Inspector General of Police;
 - (e) an officer of the Customs nominated by the Director-General of Customs appointed under section 2 of the Customs Ordinance (Chapter 235);
 - (f) an officer not below the rank of Senior Assistant Secretary to the Ministry of the Minister assigned the subject of the Fisheries and Aquatic Resources nominated by the Secretary to such Ministry;
 - (g) an officer of the Marine Environment Protection Authority established by the Marine Pollution Prevention Act, No. 35 of 2008 nominated by the General Manager of such Authority;
 - (h) an officer of the Central Environmental Authority established by the National Environmental Act, No. 47 of 1980, nominated by the Director-General of such Authority;
 - (i) the providers issued with licences under paragraph (C) of subsection (1) of section 17B to operate a cable landing station; and
 - (j) an officer nominated by the Director-General of Merchant Shipping appointed under section 3 of the Merchant Shipping Act, No. 52 of 1971.
- (3) The Committee shall have the following powers and functions:-
- (a) to advise the Commission in the monitoring, management and protection of the submarine cables laid within the territorial waters of Sri Lanka connected with

the provision of any telecommunication service under this Act;

(b) to make recommendations to the Minister in formulations of policies regarding protection and resilience of submarine cables and submarine cable landing stations; and

(c) to exercise or discharge any other powers or functions as may be prescribed.

Protection zone to **22AB.**
be declared by the
President.
[20, 39 of 2024]

- (1) The President may, by proclamation published in the Gazette, on the recommendations made by the Minister, declare any zone of the sea adjacent to the territorial waters including exclusive economic zones, to be the protection zone (hereinafter referred to as the 'protection zone') in relation to a submarine cable and submarine cable landing station.
- (2) The Minister shall, prior to making recommendations under subsection (1), obtain the recommendations of the Committee in respect of such matter.
- (3) Where any operator requests the Minister to declare any zone as a protection zone under subsection (1), the Minister shall obtain the recommendations of the Committee and submit his recommendations to the President.
- (4) Where the President refuses to declare such zone as a protection zone, the Minister shall cause to be informed of such decision to the relevant operator.
- (5) An operator who is aggrieved by the decision of the President may appeal to the Minister within forty five days from the date of such decision.
- (6) The Minister shall, in consultation with the Committee, make his recommendations on the appeal to the President, and the President may make decision on the appeal within forty five days from the date of receipt such appeal. The decision of the President made under this subsection shall be final and conclusive.
- (7) A proclamation made under subsection (1), may be revoked or varied by the President in like manner.

PART IIA

Director-General of Telecommunications.
[23, 27 of 1996]

22B.

- (1) The Minister shall appoint a person to be the Director-General of Telecommunications (in this Act referred to as the 'Director-General') who shall be the chief Executive officer of the Commission, The conditions of employment, including remuneration of the Director-General shall be determined by the Minister.
- (2) The Director-General shall, subject to the General direction and control of the commission, be charged with the direction of the affairs and transactions of the commission, the exercise and performance of its powers and duties and the administration and control of the employees of the commission.
- (3) The Director-General may, with the approval of the commission, whenever he considers it necessary to do so, delegate to any employee of the commission, any power or duty conferred or imposed upon him by this Act, and such employee shall exercise and perform such power or duty subject to the general or special directions of the Director-General.
- (4) The Minister may remove from office the Director-General appointed under subsection (1).

Staff of the commission.
[23, 27 of 1996]

22C.

- (1) The commission may, subject to the provisions of this Act-
 - (a) appoint such officers and servants as it considers necessary for the exercise or performance of the powers and duties of the commission and dismiss and exercise disciplinary control over such officers and servants ;
 - (b) fix the rates at which such officers and servants shall be remunerated ;
 - (c) determine the terms and conditions of service of such officers and servants ; and
 - (d) establish and regulate provident funds or schemes for the benefit of such officers and servants and make contributions to any such funds from the Fund of commission,
- (2) The commission may make rules in respect of all or any of the matters referred to in subsection (1).

Appointment of officers in the public service to the staff of the commission.
[23, 27 of 1996]

- 22D.** (1) At the request of the commission, any officer in the public service other than a public officer to whom section 65B or section 65C applies, may, with the consent of that officer and the secretary to the Ministry of the Minister in charge of the subject of public Administration, be temporarily appointed to the staff of the commissioner for such period as may be determined by the commission with like consent, or be permanently appointed to such staff,
- (2) Where any officer in the public service is temporarily appointed to the staff of the commission under subsection (1), the provisions of subsection (2) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall, mutatis mutandis, apply to and in relation to, such officer.
- (3) Where any officer in the public service is permanently appointed to the staff of the commission under subsection (1), the provisions of subsection (3) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall, mutatis mutandis, apply to and in relation to, such officer.
- (4) Where the commission employs any person who has agreed to serve the Government for a service to the commission by that person, shall be regarded as service to the Government for the purpose of discharging the obligations of such agreement.

Appointed of officers and servants of public corporations to the staff of the commission.
[23, 27 of 1996]

- 22E.** (1) At the request of the commission any officer or servant of a public corporation may, with the consent of such officer or servant and the governing board of such corporation, be temporarily appointed to the staff of the commission for such period as may be determined by the commission with like consent or with the like consent permanently appointed to the staff of the commission on such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by the commission and the governing board of such corporation.
- (2) Where any persons is appointed, whether temporarily or permanently under subsection (1) to the staff of the commission, he shall be other subject to the same disciplinary control as any other member of the staff.

Fund of the commission.

- 22F.** (1) The commission shall have its own Fund.
- (2) There shall be paid into the Fund-

[21, 39 of 2024]

[23, 27 of 1996]

(a) all such sums of money as may be voted upon from the to time by parliament for the use of the commission.

(b) all sums of money as may be paid as fee under sections 17,21 and 22 of this Act ;

(c) the proceeds of cess imposed under section 22G;

(ca) all such sums of money collected as penalty imposed by the Commission under section 11; and

(d) all such sums of money as may be received by the commission by way of donations, gifts or grants from any source whatsoever, whether in or outside Sri Lanka.

(3) There shall be paid out of the Fund of the Commission all such sums of money as may be required to defray any expenditure incurred by the commission in the exercise and performance of its powers and duties.

Levy of cess on annual turnover.

[22, 39 of 2024]

[23, 27 of 1996]

22G. (1) There shall be charged, levied and paid a cess, at such rates as may be determined by the Minister from time to time with the concurrence of the Minister in charge of the subject of Finance , by order published in the concurrence of the Minister in charge of the subject of Finance, by order published in the Gazette, on the annual turnover of the operator or the provider.

(2) The amount of cess imposed under this section may be varied or rescinded by a like order.

(3) Every Order made by the Minister under this section shall come into force on the date of its publication in the Gazette or on such later date as may be specified therein, and shall be brought before parliament for approval within four months of the date of its publication. Any such order which is not so approved shall be deemed to be revoked from the date of its disapproval, but without prejudice to the validity of anything previously done thereunder.

(4) The cess imposed under this section shall be in addition to any other tax or cess levied under any other written law.

Financial Year.

[23, 27 of 1996]

22H.

The financial year of the commission shall be the calendar year.

Audit of accounts.

[23, 27 of 1996]

22J.

(1) The commission shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all others transactions of the commission.

(2) The provisions of Article 154 of the constitution relating to the audit of the accounts of public corporations shall apply to the audit of the accounts of the commission.

PART IIC

IMPOSITION OF SURCHARGE ON LICENCE FEE AND CESS

Commission to impose surcharge on the default of payment of any licence fee or cess under this Act.
[23, 39 of 2024]

22K. (1) Where any operator, provider or licensee, who has been issued with a licence under section 17, 17B, 21 or 22, as the case be, has failed to pay any fee required to be paid in terms of those sections on or before the date specified by the Commission to make such payment, or an operator or provider who has failed to pay any cess required to be paid by an order made under section 22G, on or before the due date specified in the licence issued under section 17 or 17B, such operator, provider or licensee, as the case may be, shall be liable to pay a surcharge on the amount in default, at the rate of ten per centum of the default amount for the first month and additional two per centum per each subsequent month.

(2) The Commission shall issue a notice to each person in respect of whom the surcharge is to be imposed specifying the following details:-

- (a) the reasons for surcharging;
- (b) the amount in default and the surcharge decided thereon;
- (c) the action contemplated for its recovery;
- (d) the date on or before which the amount specified under paragraph (b) is to be paid; and
- (e) the details of the manner in which payment shall be made.

Proceedings for recovery before a Magistrate.
[23, 39 of 2024]

22L. (1) Where any sum to be charged under section 22K has not been paid within the time specified in the notice under subsection (2) of section 22K and where the Commission is satisfied that immediate action is necessary for the recovery of such sum, the Commission may issue a certificate containing particulars of such sum to be recovered and the name and last known place of employment or residence of the person liable to pay such sum, to the Magistrate Court of the competent jurisdiction.

(2)

- (a) The Magistrate shall thereupon summon such person who is

liable to pay the amount in default, to show cause as to why further proceedings for the recovery of the sum to be recovered shall not be taken against him.

(b) Where the person who is liable to pay the amount in default fails to show sufficient cause, the sum to be recovered shall be deemed to be a fine imposed by a sentence of the Magistrate on such person who is liable to pay the amount in default for an offence punishable with fine only and not punishable with imprisonment.

(3) The certificate issued by the Commission shall be conclusive proof that the sum to be recovered has been duly assessed and is in default in any proceeding before the Magistrate under subsection (1).

(4) The provisions of Chapter XXIV of the Code of Criminal Procedure Act, No. 15 of 1979, shall mutatis mutandis apply in relation to the default of payment of a fine, and in addition the Magistrate may make any direction which, he could have made at the time of imposing such sentence.

PART III

TRANSFER OF PROPERTY, RIGHTS AND LIABILITIES IF THE DEPARTMENT OF TELECOMMUNICATIONS

Vesting of property of
Telecommunications
Department in the
Corporation named
Sri Lanka Telecom.

23. (1) On such day as the Minister by Order published in the Gazette appoint (in this Act referred to as the 'transfer date') all the property rights and liabilities (other than those excluded by the agreement referred to in subsection (2) to which the Department of Telecommunication was entitled or subject immediately before the transfer date shall vest in the Corporation named ' Sri Lanka Telecom ' (hereinafter referred to as ' the Corporation') established by an incorporation Order made under section 2 of the State Industrial Corporations Act, No. 49 of 1957 and published in Gazette No. 596/11 of February 6, 1990.

(2) At any time before the transfer date the Minister and the Corporation may agree in writing as to the property rights and liabilities which shall remain with the Department of Telecommunications after that date.

- Transfer and vesting of contracts, rights &c.
24. Except as otherwise excluded by the agreement referred to in subsection (2) of section 23, with effect from the transfer date
- (a) all contracts, leases or tenancy agreements entered into by, with or for the Department of Telecommunications and subsisting on the day immediately preceding the transfer date shall be deemed with effect from that date to be contracts, leases or tenancy agreements entered into by, with or for the Corporation;
 - (b) all interests, rights, easements, obligations, debts and liabilities of the Department of Telecommunications subsisting on the day immediately preceding the transfer date shall with effect from that date be deemed to be the interests, rights, easements, obligations, debts and liabilities of the Corporation;
 - (c) all installations, plant and equipment and other property installed and maintained or are in the process of being installed and maintained by the Department of Telecommunications and all matters and things of whatever description acquired or used to maintain or supply the telecommunication service of the Department of Telecommunications subsisting on the day immediately preceding the transfer date shall be transferred to and be vested in the Corporation with effect from that date;
 - (d) the Corporation shall have the right to recover or receive any moneys that on the day immediately before the transfer date were due and owing to the government in respect of, or for or on account of the telecommunication system transferred under this Act to the Corporation or that would after the transfer date have become due to the Government if such transfer had not taken place.
- Transfer to give absolute title to the Corporation of immovable property.
25. Notwithstanding anything in any other written law to the contrary, the vesting of any immovable property or any interest therein by virtue of section 23 shall be deemed for all purposes to give absolute title to the Corporation to all such immovable property or any interest therein without further proof or any requirement for registration
- Third party rights not to be prejudiced.
26. The transfer to the Corporation of all the property, rights and liabilities of the Department of Telecommunications other than those excluded by the agreement referred to in subsection (2), of section 23 shall not in any way be deemed to affect prejudicially the rights of a third party to any contract or agreement subsisting between such third

party and the Department of Telecommunications on the day immediately preceding the transfer date and every such contract or agreement shall be valid and enforceable for, or against the Corporation after the transfer date as though every reference in every such contract or agreement to the Department of Telecommunications were a reference to the Corporation.

Repealed 27.
[24, 27 of 1996]

PART IV
EMPLOYMENT IN THE CORPORATION OF PUBLIC
OFFICERS OF THE DEPARTMENT OF
TELECOMMUNICATIONS

Notice required to be given by public officers of the Department of Telecommunications before the transfer date.

28. Notwithstanding the provisions contained in the State Industrial Corporations Act, No. 49 of 1957, the following provisions shall, apply in relation to the employment in the Corporation of public officers of the Department of Telecommunications

(a) every public officer of the Department of Telecommunications not being any such officer in a transferable service of the Government, other than an officer in the Sri Lanka Engineering Service shall, before the transfer date, give notice in writing to the Director of Telecommunications that such officer intends, on the transfer date,

(i) to continue in office as a public officer of the Department ;

(ii) to retire from the public service and become an employee of the Corporation if, being a pensionable officer of the Department of Telecommunications he would on that date have had not less than ten years' pensionable service; or

(iii) to leave the public service and become an employee of the Corporation if, being a pensionable officer of the Department of Telecommunication he would on that date have less than years pensionable service; or

(iv) to leave the public service and become an employee of the Corporation if he is a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance; or

(v) to both retire or leave the public service and not become an employee of the Corporation;

(b) a notice given to the Director of Telecommunications before the transfer date by a public officer of the department under paragraph (a), shall be final.

Effect of not giving 29.
notice under
section 28 (a) or
giving notice under
section 28 (a) (i).

(1) Any public officer of the Department of Telecommunications who does not give the notice required under sub-paragraphs (ii), (iii), (iv) or (v) of paragraph (a) of section 28 before the transfer date, or gives such notice under sub-paragraph (i) of paragraph

(a) of that section, shall continue in office as a public officer of the Department of Telecommunications on and after that date

(2) A public officer referred to in subsection (1) so long as he continues in such office, shall perform, the work for and on behalf of the Corporation in his capacity as such officer and be eligible to the same conditions of service as he was entitled to while doing work for the Department of Telecommunications in his capacity as such officer and shall be subject to such disciplinary control as any other public officer.

(3) Where any public officer of the Department of Telecommunications continues in office as such officer on and after the transfer date performing work for and on behalf of the Corporation in his capacity as such officer, the Corporation shall pay out of the funds of the Corporation to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund, such sum not exceeding such, amount as may be determined by the Minister in charge of the subject of Finance as sufficient to cover the salary, and other expenses including pension or provident fund contributions, payable by the Government in respect of such officer.

Effect of notice
given under
subparagraphs (ii)
to (v) of paragraph
(a) of section 28.

30.(1) Any public officer of the Department of Telecommunications who gives notice under sub-paragraph (ii) or (iii) or (iv) or (v) of paragraph (a) of section 28 before the transfer date shall-

(a) Where such notice is given by him under subparagraph (ii) of that paragraph, become an employee of the Corporation from and after the transfer date and shall, subject to the provisions of section 31 be eligible for such a pension under the Minutes on Pensions as would have been awarded to him had he retired from the public service on the ground of abolition of office on that

date; or

(b) where such notice is given by him under subparagraph (iii) of that paragraph, become an employee of the Corporation from and after the transfer date and shall be deemed to have left the public service on that date and shall, subject to the provisions of section 31 be eligible for such an award under the Minutes on Pensions as would have been awarded to him if he had left the public service on the ground of abolition of office; or

(c) where such notice is given by him under subparagraph (iv) of that paragraph, become an employee of the Corporation from and after the transfer date and shall be deemed for the purposes of the Public Service Provident Fund to have left the service of the Government upon the determination of a contract with the consent of the Government otherwise than by dismissal on that date ; or

(d) where such notice is given by him under subparagraph (v) of that paragraph, and

(i) if he is a public officer of the class or description referred to in sub-paragraph (ii) of that paragraph, be deemed to have retired from the public service on the transfer date and shall be eligible for such pension under the Minutes on Pensions as would have been awarded to him had he retired from the public service on the ground of abolition of office on that date ;

(ii) if he is a public officer of the class or description referred to in sub-paragraph (iii) of that paragraph, be deemed to have left the public service on the transfer date and shall be eligible for such an award under the Minutes on Pension as would have been awarded to him if he had left the public service on the ground of abolition or office on that date ; or

(iii) if he is a public officer of the class or description referred to in subparagraph (iv) of that paragraph, be deemed for the purposes of the Public Service Provident Fund Ordinance to have left the service of the Government upon the determination of a contract with the consent of the Government otherwise than by dismissal on that date.

(2) In the event of any conflict or inconsistency between the provisions of subsection (1) of this section and subsection (1) of

section 29, and any other provisions of this Act, the provisions of those subsections shall to the extent of such conflict or inconsistency prevail over such other provisions.

Special provisions applicable to certain employees of the Corporation.

31. The following provisions shall apply to and in relation to any employee of the Corporation who became such an employee on the transfer date by date of the operation of the provisions of section 30

(a) such employee shall be employed by the Corporation on such terms and conditions as may be agreed upon by such employee and the Corporation: Provided however, that such terms and conditions shall not be less favourable than the terms and conditions on which such employee was previously employed in the Department of Telecommunications;

(b) if on the transfer date, such employee was a public officer of the Department of Telecommunications holding a post declared to be pensionable and who had less than ten and not less than eight years' pensionable service, then

(i) he shall be deemed, for the purposes only of the Minutes on Pensions, to be holding the post in the Department of Telecommunications that he held on the transfer date until such period of time as, when added to his pensionable service under the Government, makes an aggregate of ten years pensionable service (service under the Corporation being counted as pensionable service under the Government for the computation of such aggregate);

(ii) in respect of him the Corporation shall pay out of the funds of the Corporation to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund for every complete month of the period of service during which he is deemed for the purposes of the Minutes on Pensions to be holding the post in the Department of Telecommunications that he held on the transfer date, such sum as may be determined by the Minister in charge of the subject of Finance; and

(iii) at the end of the period referred to in subparagraph (i) he shall be deemed to have retired from the public service and shall be eligible for such pension under the Minutes on Pensions as would have been awarded to him had he

retired from the public service on the ground of abolition of office on the termination of such period;

(c) notwithstanding the provisions of section 30 and the preceding provisions of this section, and anything to the contrary in any other written law where a public officer of the Department of Telecommunications becomes an employee of the Corporation by virtue of the operation of the provisions of section 30

(i) if such officer is eligible for a pension on the transfer date or later and elects to draw his full pension, he shall not be paid such pension during the period of his employment with the Corporation;

(ii) if such officer is eligible for a pension and elects to draw a gratuity in partial computation of one-fourth part of his pension in accordance with the provisions of section 2A (1) (i) of the Minutes on Pensions

(a) such gratuity shall not be paid to him but shall be credited to his account in an approved provident fund of the Corporation

(b) the remaining- three-fourth part of the pension payable to him under the said Minutes shall not be paid to him during the period of his employment with the Corporation

(c) for the purpose of computation of the period of 'ten years from the date of his retirement' referred to in section 2A (1) (ii) of the said Minutes, the date of his retirement shall be deemed to be the last date of his employment with the Corporation;

(iii) if such officer is eligible for a gratuity and not a pension under the Minutes on Pensions, such gratuity shall not be paid to him but shall be credited to his account in an approved provident fund of the Corporation; and

(iv) if such officer is eligible for the receipt of any sum of money under the Public Service Provident Fund Ordinance, such sum shall not be paid to him but shall be credited to his account in an approved provident fund of the Corporation.

applicable to certain persons who continue as public officers in the Department of Telecommunications on and after the transfer date while performing the work for and on behalf of the Corporation in their capacity as such officers.

- (1) Any person who on and after the transfer date continues in office as a public officer of the Department of Telecommunications performing work for and on behalf of the Corporation in his capacity as such officer may at any time with his consent be appointed to the staff of the Corporation.
- (2) Where any public officer is appointed to the staff of the Corporation under subsection (1), the provisions of subsection
- (3) of section 13 of the Transport Board Law, No. 19 of 1978, shall, mutatis mutandis, apply to and in relation to him.

PART V

RIGHT TO USE STATE OR PRIVATE PROPERTY FOR THE INSTALLATION AND MAINTENANCE OF TELECOMMUNICATION SERVICES

Power of the operator or provider to place and maintain telecommunication lines and posts.
[24, 39 of 2024]

- 33.** (1) For the purpose of providing telecommunication service by means of the telecommunication system he is licensed to operator or provider, the operator or provider or any person authorised by him in writing may, from time to time, place and maintain a telecommunication line under, over, along or across, and posts in, or upon, any immovable property and for that purpose it shall be lawful for any officer in the employ of the operator or provider, and, for the servants, workmen, and labourers employed by or under such officer-

(a) at all times on reasonable notice, and with a] necessary vehicles, machinery, tools and other means, to enter upon any land and to put up thereon any posts which may be required for the support of any telecommunication line ; and

(b) to fasten or attach to any tree growing on such land or to any building or structure 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 telecommunication line; and

(d) severally to do and perform all other acts, matters and things necessary for the purpose of establishing, constructing, repairing,

improving, examining, altering, or removing any telecommunication line, or in any way connected therewith, or for performing any act. matter or thing under the provisions of this Act:

Provided that-

(i) an operator or provider shall not exercise the powers conferred by this section except with the written consent of the owner of the property under, over, along, across, in or upon which any telecommunication line is placed :

(ii) an operator or provider shall not exercise the powers conferred by this section except for the purposes of a telecommunication service provided or to be provided by the operator or provider ;

(iii) an operator or provider shall not acquire any right other than that of user only in the property under, over, along, across, in or upon which any telecommunication line or post is played, by reason of such exercise;

(iv) except as hereinafter provided an operator or provider or person authorised by him in writing shall not exercise those powers in respect of any property vested in or under thy control or management of any local authority or public corporation without the permission of the Mayor or Chairman of such local authority or the Board of Directors or management of such public corporation, as the case may be ; and

(v) an operator or provider shall do as little damage as possible to the property, and shall pay reasonable compensation to all persona interested for any damage or loss sustained by them by reason of the exercise of the powers under this section on application being made for that purpose to the operator or provider within thirty days after the damage or loss was sustained.

(2) Nothing contained in paragraph (v) of the proviso to subsection (1), shall preclude any person who suffers any loss or damage by reason of the exercise by an operator or provider of the powers conferred upon him under subsection (1), from instituting an action against such operator or provider for compensation.

(3) If, any dispute arises concerning the sufficiency of the compensation to be paid under paragraph (v) of the proviso to subsection (1), such dispute shall, on application made by way of

summary procedure for that purpose by either of the disputing parties to the District Court within the jurisdiction of which the property is situate, be summarily determined by that court.

(4) 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, an operator or provider may pay into the District Court within the jurisdiction of which the property is situate such amount as is deemed sufficient or where all the disputing parties have in writing admitted the amount rendered to be sufficient or the amount has been determined under subsection (3), the amount so admitted or determined 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.

(5) The cost of all legal proceedings under this section shall be determined by the District Court. An operator shall not be liable to pay any costs unless there is a dispute concerning the sufficiency of the compensation to be paid under paragraph (v) of the proviso to subsection (1), and in such case the operator or provider shall be liable to pay costs should the amount of compensation determined by the District Court be more than the amount deemed sufficient by the operator or provider, 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 said operator or provider, that some deduction from his costs should be made, or that he should pay part of the costs of the said operator or provider.

(6) Nothing in this section shall affect the right of any person to recover the whole or any part of any compensation paid by the operator or provider from the person who has received such compensation.

Authority to procure written consent for use of immovable property for the operator or provider.
[24, 39 of 2024]

34. (1) Where an owner of any immovable property fails or refuses to grant to the operator or provider the written consent referred to in paragraph (i) of the proviso to subsection (1) of section 33, the operator or provider may report such fact to the Authority.
- (2) Where a report under subsection (1) is made to the Authority, and the Authority after due inquiry is satisfied of the reasonableness of the requirements of the operator or provider, he may take such steps as it deems reasonably necessary to

procure the said, written consent for the use of the said property for and on behalf of the operator or provider.

Power of local authority or public corporation to give permission under paragraph (iv) of the proviso to section 33 subject to conditions.

[24, 39 of 2024]

35. (1) The Mayor or Chairman of a local authority or the Board of Directors or the management of a public corporation may having, regard to the provisions of paragraph (iv) of the proviso to section 33, permit, an operator or provider to exercise all or any of the powers under that section subject to payment to the local authority or public corporation of a fee for the use of the property and to conditions relating to the time or mode of execution of any work or for any other thing connected with or relating to any work undertaken by an operator or provider under that section.
- (2) Where any sum of money is payable to a local Authority or a public corporation under subsection (1), or where compensation is payable under subsection (2) of section 37 and an operator or provider disputes such payment or compensation as excessive or unreasonable taking into account: all the circumstances, then, and in every such case the matter so in dispute shall be referred to the Authority for determination and the Authority shall determine the same.
- (3) A party aggrieved by the determination of the Authority under subsection (2) may refer the dispute to two arbitrators, one to be appointed by each party, and such arbitrators shall before entering on the arbitration select an umpire, and the decision of such arbitrators where they are agreed or in the case of a difference of opinion among the arbitrators, the decision of the umpire, shall be final.

"Sharing of infrastructure facilities or resources

[25, 39 of 2024]

- 35A. (1) It shall be the duty of the Mayor or Chairman of a local authority or the Board of Directors or the Management of a public corporation or other body, to assist any operator or provider, on the request made by such operator or provider, subject to the provisions of this Act, for sharing any infrastructure facility or resource owned or possessed by such local authority, public corporation or body and specified by rules made under this Act, for the purpose of providing a telecommunication service by means of a telecommunication system such operator is licensed to operate or, providing other service or facilities or resources such provider is licensed to

provide, under this Act.

(2) Rules shall be made under this Act to regulate the implementation of the provisions of this section.

Sharing of facilities or resources by operators.
[25, 39 of 2024]

- 35B.**
- (1) The Commission may, in the public interest, direct in writing to any operator to coordinate and cooperate with another operator to share the use of any facility or resource including radio access network owned or used by such operator.
 - (2) Prior to issuing the direction under subsection (1), the Commission shall provide reasonable opportunity for both such operators to make representations, in order to facilitate the sharing of such facility or resource in an efficient manner.
 - (3) The Commission shall make rules to regulate the implementation of the provisions of this section.

Power of local authority or public corporation to require removal or alteration of telecommunication line or post.
[26, 39 of 2024]

36. Where under the preceding provisions of this Act a telecommunication line or post has been placed by the operator or provider or the person authorized by him in writing, over, along, across, in or upon any property vested in or under the control or management of a local authority or public corporation, and that local authority or public corporation, having regard to circumstances which have arisen since the telecommunication line or post was so placed, considers it essential and necessary that it should be removed, or that its position should be altered, the Mayor or Chairman of the local authority or the Board of Directors or the management of the public corporation, as the case may be, may request the operator or provider to remove it or alter its position and subject section 38 the operator or provider shall comply with such request.

Power to alter position of gas or water pipes or drains.
[26, 39 of 2024]

- 37.
- (1) The operator or provider may for the purpose of exercising the powers conferred upon it by this Act in respect of any property vested in or under the control or management of a local authority or public corporation 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 main drain) subject to the permission of the local authority or public corporation, as the may be.
 - (2) The Mayor or Chairman of a local authority or the Board of Directors or the management of the public corporation, may send

a person to superintend any work carried out by the operator or provider in the exercise of those powers and the operator or provider shall execute the work to the reasonable satisfaction of the person so sent and shall pay reasonable compensation in the event of any damage caused by the exercise of its powers.

Disputes between operator or provider and local authority or public corporation.
[27, 39 of 2024]

38.(1) In the event of a dispute between the operator or provider and the Mayor or Chairman of a local authority or the Board of Directors or management of a public corporation as the case may be, resulting from-

(a) the refusal of permission, referred to in paragraph (iv) of the proviso to section 33 by the Mayor or Chairman of the local authority or the Board of Directors or management of a public corporation, or

(b) any request made by a local authority or public corporation, under section 35A or section 36

the matter in dispute shall be referred to the Authority for determination.

(2) A party to the dispute who is dissatisfied with the determination of the Authority under paragraph (a) or (b) of subsection (1) may within one month after the date of the communication to such party of that determination appeal therefrom to the Secretary to the Ministry of the Minister whose decision on any such determination shall be final.

Resistance, & c. to exercise of lawful powers of the operator or provider.
[28, 39 of 2024]

39. Any person who without reasonable cause resists or obstructs, or threatens or attempts to resist or obstruct, the operator or provider or any person authorized by him in writing, in the exercise of. The powers conferred on such operator or provider or person under section 33 he shall be guilty of an offence under this Act:

Provided however that no person shall be guilty of an offence under this section by reason only of the fact that such person being an owner refuses to give his written consent required under paragraph (i) of the proviso to subsection (1) of section 33.

Right to request removal or alteration of telecommunication line or post.
[28, 39 of 2024]

40.(1) Where, under the provisions of this Act, a telecommunication line or post has been placed by an operator or provider, under, over, along, across, in, or upon any property, and any person entitled to do an desires to deal with that property in such a manner as to render it necessary or convenient that the telecommunication 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 request the operator or provider to remove or alter the line or not accordingly:

Provided that, if compensation has been paid to such person under paragraph (v) of the proviso to subsection (1) of section 33 he shall, when making the request, tender to the operator or provider an amount sufficient to defray the expenses of the removal or alteration.

(2) If an operator or provider fails to comply with, the request within a reasonable time, the person making it may appeal to the Authority in writing requesting the Authority to require the operator or provider to remove or alter the line or post.

(3) Where after any such, appeal as is referred to in sub section (2) the person making the request has failed to procure the removal or alteration of the line or post he may apply by way of summary procedure to the District Court within the jurisdiction of which the property is situate for an order requiring such removal or alteration.

(4) A District Court on receiving an application under subsection (3) may in its discretion reject such application or make an order, absolutely or subject to conditions; for the removal of the telecommunication line or post to any other part of the property or to a higher or lower level, or for the alteration of its form.

Planting at trees or shrubs likely to injure telecommunication line.

41. In any case where a telecommunication line has been placed under, over, along, or across any immovable property no person who, subsequent to the date on which such telecommunication line has been so placed plants any tree or shrub which may be likely in the future to injure, impede or interfere with such telecommunication 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 33.

Provisions of this Act extended to telecommunication lines and posts placed before coming into operation of this Act

42. Every telecommunication line or post placed before the coming into operation of this section under, over, along, across, in, or upon any property for the purposes of telecommunications established or maintained by the Government, shall be deemed to have been so placed in the exercise of the powers conferred by and after observance of all the requirements of, this Act.

PART VI
OFFENCES AND PENALTIES

- Trail of offences. 43. (1) Every person who contravenes or fails to comply with any provision of this Act or any regulation or rule made thereunder or with any requirement imposed thereunder or with any order, award or direction given thereunder shall be guilty of an offence.
- (2) All offences under subsection (1) shall be triable summarily by the Magistrate's Court.
- Offences under section 19 and section 22. [29, 39 of 2024] 44. (1) Every person guilty of an offence under subsection (1) of section 19 and section 22 shall be liable on conviction by a Magistrate to a fine not less than fifty thousand rupees and not exceeding ten million rupees or to an imprisonment of either description for a term not less than six months and not exceeding three years or to both such fine and imprisonment and in the event of the offence being committed continuously, to a fine of two thousand rupees for each day on which the offence is so committed after conviction.
- (1A) In addition to the penalty imposed under subsection (1), the Magistrate may make an order to confiscate all telecommunication apparatus used in the commission of the offence under subsection (1) of section 19.
- (1B) Every person guilty of an offence under subsection (5) of section 17B shall be liable on conviction by a Magistrate to a fine not exceeding five million rupees or to an imprisonment of either description for a term not exceeding three years or to both such fine and imprisonment and in the event of the offence being committed continuously, to a fine of ten thousand rupees for each day on which the offence is so committed after conviction.
- (2) Every person guilty of an offence under subsection (2) of section 19 shall be liable on conviction to a fine not less than ten thousand rupees and not exceeding twenty thousand rupees or to imprisonment of either description for a term not less than three months and not exceeding six months or to both such fine and such imprisonment.
- Penalty for transmitting or receiving messages &c. 45. Every person who, knowing or having reason to believe that a telecommunication service is being provided in contravention of this Act or of any regulations or rules made thereunder-
- (a) transmits or receives any message by such telecommunication service; or

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

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand rupees and in default of payment of such fine to imprisonment of either description for a term not exceeding three months.

Fraudulent use of telecommunication service. 46. Every person who dishonestly obtain telecommunication service provided by an operator with intent to avoid payment of any charge applicable provision of that service, shall be guilty of an and shall be liable on conviction to a line not exceeding twenty thousand rupees and in default of payment of such fine to imprisonment of either description for a term not exceeding six months.

"Interference, etc. to tele communication system. [30, 39 of 2024] 46A. Every person who willfully interferes with, disrupts or disturbs any telecommunication system in respect of which a licence has been issued under section 17 or any radio frequency emitting apparatus in respect of which a licence has been issued under section 22 commits an offence and shall on conviction by a Magistrate be liable to a fine not exceeding five million rupees.

Deceiving or misleading persons using a tele communication system. [30, 39 of 2024] 46B. Every person who, with the intention of misrepresenting, deceiving or misleading any other person omits, changes or modifies the calling party number or introduces any other calling party number other than his own number commits an offence and shall on conviction by a Magistrate be liable to a fine not exceeding ten million rupees and to imprisonment of either description for a term not less than one year and not exceeding three years or to both such fine and imprisonment.

Providing false information as to the identity of user to obtain tele communication service. [30, 39 of 2024] 46C. Every person who, willfully provides false information as to the identity of user to obtain telecommunication service commits an offence and shall on conviction be liable to a fine not less than one hundred thousand rupees and not exceeding one million rupees and to imprisonment of either description for a term not less than one year and not exceeding three years or to both such fine and imprisonment.

Penalty for intentionally damaging or tampering with telecommunication installation.
[31, 39 of 2024]

47. Every person who, with the intention of-

- (a) preventing or obstructing the transmission or delivery of any message, telecommunication service or data; or
- (b) interrupting or acquainting himself with the contents of, any message or data; or
- (c) transmitting any message or data which he has no authority to transmit; or
- (d) committing mischief or any act of vandalism,

damages, removes or tampers with any submarine cable, submarine cable landing station or telecommunication installation line, post or other thing whatever being part of or used in or about any telecommunication system or submarine cable in the provision of any service within Sri Lanka or outside the exclusive economic zone of Sri Lanka, by means thereof commits an offence and shall be liable on conviction to a fine not exceeding one hundred million rupees or to imprisonment of either description for a term not exceeding ten years or to both such fine and such imprisonment.

Penalty for tendering false or fabricated message to any telecommunication officer &c.

48. Every person who transmits or causes to be transmitted or tenders or causes to be tendered to any telecommunication officer or to any person having official duties in connection with a telecommunication service for transmission by telecommunication or for delivery, a message which he knows to be false or fabricated, shall be guilty of an offence and shall be liable on conviction to a one not exceeding twenty thousand rupees or to imprisonment of either description for a term not exceeding three years or to 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 exhausted under this section.

Offences by telecommunication officer &c.

49. Every telecommunication officer, or any person having official duties in connection with a telecommunication service, who

- (a) wilfully destroys, secretes, alters or otherwise than in the course of his duty, intentionally modifies or interferes with the contents of any message which he has received for transmission or delivery; or
- (b) wilfully, and otherwise than in obedience to any authority empowered to do so under this Act, omits to transmit, or intercepts or detains any message; or

(c) otherwise than in pursuance of his official duty or as directed by court discloses the contents or any part of the contents of any message to any person other than the person to whom the message is addressed,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment

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

50. Every person who

(a) without the permission of the telecommunication officer in charge, enters a telecommunication office in charge, enters office ; or

(b) enters a fenced enclosure round such telecommunication office in contravention of any regulation or notice prohibiting such entry ; or

(c) refuses to quit such office 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 servants in the performance of his duty,

shall be guilty of an offence under this Act and shall be liable on conviction to a fine not exceeding five thousand rupees, and in default of payment of 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.

51.

Every person who does any of the acts mentioned in section 50 with the intention of unlawfully learning the contents of any message or of committing any offence punishable under this Act shall be guilty of an offence and shall be liable on conviction to imprisonment of either description or a term not exceeding six months in addition to the fine prescribed by section 50.

Penalty for intrusion into the contents of a message &c.

52.

Every person who without lawful authority intrudes

(a) into the contents of a message or its usage information by electronic or other means; or

(b) with the intention of interfering with any message or its usage information; or

(c) with the intention of unlawfully learning the contents of any

message or its usage information; or

(d) with the intention of committing any offence punishable under this Act,

shall be guilty of an offence and shall be liable on conviction to a fine not less than twenty thousand rupees and not exceeding one hundred thousand rupees or to imprisonment of either description to a term not exceeding two years or to both such fine and such imprisonment.

For the purpose of this section and section 54 'usage information' means information relating to the identity of calling subscriber, called subscriber, date and time of originating of message and the type of message.

Wilful interception of telecommunication transmission. 53. Every person who wilfully seeks to intercept and improperly acquaint himself with the contents of any telecommunication transmission not intended for general reception shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding ten thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and such imprisonment.

Interception and disclosure of contents of message by telecommunication officer. 54.(1) Subject to the provisions contained in subsection (3) every telecommunication officer or any person having official duties in connection with a telecommunication system who otherwise than in the course of his duty.

(a) intentionally intercepts a message sent by means of that system or its usage information; or

(b) disclose any person the contents of a message sent by means of that system which he had intentionally intercepted,

shall be guilty of an offence.

(2) Subject to the provisions contained in subsection(3) every telecommunication officer or any person having official duties in connection with the running of a telecommunication system who otherwise than in the course of his duty intentionally discloses to any person the contents of any statement of account specifying the telecommunication services provided to any other person by means of that system, shall be guilty of an offence.

(3) The provisions of paragraph (a) of subsection (1) shall not apply to anything done in obedience to any direction given under

the hand of the Minister under this Act, and paragraph (b) of that subsection and subsection (2) shall not apply to any disclosure in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings.

(4) Every officer or person guilty of an offence under this section shall be liable on conviction to a fine not exceeding ten thousand rupees, or imprisonment of either description for a term not exceeding six months.

Penalty for attaching anything to telecommunication line, &c.

55. Every person who climbs up a telecommunication post or attaches anything to any telecommunication line, post or other apparatus without lawful authority, shall be guilty of an offence and shall be liable on conviction to fine not exceeding ten thousand rupees

Transmission of unpaid message prohibited.

56. Every telecommunication officer, or other person having official duties connected with any office used as a telecommunication office, who with the intention of defrauding the operator transmits or causes to be transmitted by telecommunication or delivers or causes to be delivered any message on which the charge prescribed by the Authority has not been paid, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand rupees or to imprisonment of either description for a term not exceeding three years, or to both such fine and such imprisonment.

Penalty for misconduct of a telecommunication officer.

57. Every telecommunication officer, or other person having official duties connected with a telecommunication service who is guilty of any act of drunkard ness, or of being under the influence of drugs not medically prescribed or of carelessness, or other misconduct whereby the correct transmission or the delivery of any message is impeded or delayed, and every such officer who delays or defaults in the transmission or delivery of any message shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding three months or to both such fine and such imprisonment.

Penalty for tendering obscene or indecent or sedition message.

58. Every person who by himself or by his agent or servant tenders for transmission at any telecommunication office any message of an indecent, obscene, seditious, scurrilous, threatening or grossly offensive character, shall be guilty of an offence and shall be liable

on conviction to a fine not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding six months, or to both such fine and such imprisonment

Penalty for causing **59.** (1) Every person who -

annoyance by
telephone calls.
[32, 39 of 2024]

(a) persistently makes telephone calls, or sends or transmits messages using a telephone; or

(b) publishes, sends or transmits telephone numbers of other subscribers,

without reasonable excuse for the purpose of causing annoyance, inconvenience or needless anxiety to any telecommunication officer or any person, commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand rupees and in default of payment of such fine, to imprisonment of either description for a term not exceeding six months.'; and

(2) It shall be lawful for a telecommunication officer to intercept, monitor, trace or record a call of the description referred to in subsection (1) or to refuse to allow such call to be made or proceed to disconnect the telephone connection through which such call was made.

(3) Every person who unlawfully and wilfully listens into a telephone conversation between two other persons shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding two years or to both such fine and such imprisonment.

False information, **59A.** Any person who knowingly -
etc.

[33, 39 of 2024]

(a) gives or causes to be given any false or misleading information relating to the commission of any offence under this Act; or

(b) gives or causes to be given to the Commission or any other officer appointed to assist the Commission false or misleading information,

commits an offence and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding one hundred thousand rupees or in the default of the payment of such fine to an imprisonment for a term not exceeding six months.

Penalty for

60. Every person who fraudulently retains, or wilfully secretes, or

retaining message delivered by mistake.

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 any such message, neglects or refuses to do so, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding two years, or to both such fine and such imprisonment

Offence relating to telecommunication wire.

61.(1) Whoever has in his possession, custody or control any telecommunication wire and is unable to establish that such wire has been acquired lawfully shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand rupees or to imprisonment of either description for a term not exceeding three years or to both such fine and such imprisonment.

'telecommunication wire' for the purpose of this section means all conductors metallic and non-metallic used for purposes of telecommunications.

(2) A certificate purporting to be under the hand of an officer authorised in writing by the Authority, certifying that any telecommunication 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.

(3) 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,

an offence under subsection (1), shall himself be guilty of that offence and shall be liable on conviction to the same punishment as is specified for a person convicted of an offence under subsection (1).

Penalty for attempting to commit offences.

62. Whoever attempts to commit any offence punishable under this Act shall be guilty of an offence and shall be liable on conviction to the punishment herein provided for the offence.

General penalties.

63. Every person guilty of an offence for which no penalty is specially provided by this Act, shall be liable on conviction to a one not exceeding five thousand rupees, and, in default of payment of such line, to imprisonment of either description for a term not exceeding

three months.

Offences committed by body of persons.

64. Where an offence under this Act or any regulations or rules made thereunder is committed by a body of persons, then

(a) if that body of persons is a body corporate, every person who at the time of commission of the offence was a Director, General Manager, Secretary or other similar officer of that body ; or

(b) if that body is not a body corporate, every person who at the time of commission of the offence was the President, Manager, Secretary or other similar officer of that body,

shall be deemed to be guilty of that offence unless he proves that such offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence.

Magistrate to grant search warrant and seize, and forfeit, the telecommunication apparatus.
[34, 39 of 2024]

65. (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 Act, or any regulation or rule made thereunder, any telecommunication apparatus has been installed, or established, or is maintained or worked, or that any telecommunication apparatus has been imported, sold, or offered for sale 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 authorising 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 any telecommunication and which appears to him to have been imported, sold or offered for sale for the aforesaid purposes.

(2) Any telecommunication apparatus seized under the provisions of subsection (1) may upon the conviction of the owner or other person in control of such apparatus for an offence under this Act, by order of the Magistrate be forfeited to the State.

(3) Where any person is convicted of an offence under this Act, the Magistrate may make order that any telecommunication apparatus used in or in connection with, the commission of that offence be forfeited to the State.

(4) Any telecommunication apparatus forfeited by an order of the Magistrate, shall vest absolutely in the State upon the making of such order.

(5) Such vesting shall take effect-

(a) if no appeal is preferred after the expiration of the period within which an appeal against the order for forfeiture may be preferred to a High Court established by Article 154P of the Constitution or the Supreme Court; or

(b) where an appeal has been preferred against the order of forfeiture, to a High Court established by Article 154P of the Constitution or to the Supreme Court, upon the determination of such appeal, either confirming the order of forfeiture or setting aside the appeal.

PART IV

Commission to exercise and perform powers and duties of the Authority formerly exercised and performed by the director-General of telecommunications.
[25, 27 of 1996]

65A. Where on or before the appointed date-

(a) the Authority has exercised discharged and performed any power, function or duty under section 27(a) of the principal enactment, as repealed by section 24 of this Act, such power, function or duty shall for all purposes be deemed to have been exercised discharged and performed with effect from the appointed date, by the Commission ; and

Notice required to be given by public officers in the service of the Authority before the relevant date.
[25, 27 of 1996]

65B. (1) The provisions of this section shall apply to every public officer who was in the service of the Authority not being any such officer in a transferable service of the Government, on the day immediately preceding the date of appointed date.

(2) Every public officer to whom subsection (1) applies and who holds a post declared to be pensionable under the Minutes on persons shall, not less than two weeks before such date as may be determined by the Minister by order published in the Gazette (hereinafter in this section referred to as the 'relevant date'), give notice in writing to the Commission that such public officer, intends on that date.

(a) to continue in office as a public officer or

(b) to retire from the public service and become an employee of the commission if, being a pensionable officer he would on that date have had not less than ten years pensionable service ;

or

(c) to leave the public service and become an employee of the Commission if being a pensionable officer he would on that date have less than ten years pensionable service ; or

(d) to leave the public service and become an employee of the Commission if, he is a contributor to the public service Provident Fund established under the Public Service Provident Fund Ordinance ; or

(e) to both retire and leave the public service and not become an employee of the Commission.

(3) A notice given to the Commission before the relevant date by a public officer of the Authority under subsection (2), shall be final.

(4) Any public officer who was in the service of the Authority and who does not give the notice required under paragraphs (b), (c), (d), or (e) of subsection (2) before the relevant date, or gives such notice under paragraph (a) of subsection (2), shall continue in office as a public officer on and after that date.

(5) A public officer referred to in subsection (2) so long as he continues in such office, shall perform the work for and on behalf of the Commission in his capacity as such officer, and he eligible to the same conditions of service as he was entitled to while doing work for the Authority in his capacity as such officer, and shall be subject to such disciplinary control as any other public officer.

(6) Where any public officer who was a the service of the Authority continues in office as such officer on and after the relevant date performing work for and on behalf of the Commission in his capacity as such officer the Commission shall pay out of the Fund of the Commission to the Deputy Secretary to the credited to the Consolidated Fund, such sum not exceeding such amount as may be determined by the Minister in charge of the subject of Finance as is sufficient to cover the salary, and other expenses including pension or provident Fund contributions, payable by the Government in respect of such officer.

(7) Any public officer who was in the service of the Authority and who give notice under paragraph (b) or (d) or (e) of subsection (2) before the relevant date shall

(a) Where such notice is given by him under paragraph (b) of that subsection, becomes an employee the Commission from and after the relevant date, and shall be deemed to have retired

from the public service on that date, and shall be eligible for such a pension under the Minutes on pensions as would have been awarded to him had he retired from the Public Service of the ground of abolition of office on that date ; or

(b) where such notice is given by him under paragraph (c) of that subsection, becomes an employee of the Commission from and after the relevant date, and shall be deemed to have left the public service on the date on which he completes ten years of pensionable service provided for in paragraph (b) of subsection (9), and shall be eligible for such an award under the Minutes on Pensions as would have been awarded to him and he retired from the public service on the ground of abolition of office, on the termination of such period of pensionable service ; or

(c) Where such notice is given by him under paragraph (d), of that subsection, becomes an employee of the Commission from and after the relevant date, and shall be deemed for the purposes of Public Service Provident Fund to have left the service of the Government upon the determination of a contract with the consent of the Government otherwise than by dismissal on that date ; or

(d) Where such notice is given by him under paragraph (e) of that subsection, and

(i) if he is a public officer of the class or description referred to in paragraph (b) of that subsection, be deemed to have retired from the public service on the relevant date, and shall be eligible for such pension under the Minutes on pensions as would have been awarded to him had he retired from the public service on the ground of abolition of office on that date : or

(ii) if he is a public officer of the class or description referred to in paragraph (c) of that subsection, be deemed to have left the public service on the relevant date, and shall be eligible for such an award under the Minutes on pensions as would have been awarded to him if he had left the public service on the ground of abolition of office on that date.

(8) In the event of any conflict or inconsistency between the provisions of subsections (4) and (7) of this section and any other provisions of this Act, the provisions of those subsections shall to

the extent of such conflict or inconsistency prevail upon such other provisions.

(9) The following provisions shall apply to and in relation to any employee of the Commission who becomes such an employee on the relevant date, by virtue of the operation of the provisions of subsection (7) :-

(a) such employee shall be employed by the Commission on such terms and conditions as may be agreed upon by such employee and the Commission.

Provided however, that such terms and conditions shall not be less favorable than the terms and conditions on which such employee was previously employed by the Authority ;

(b) if on the relevant date, such employee was a public officer in the service of the Authority holding a post declared to be pensionable and who had less than ten years pensionable service, then-

(i) he shall be deemed, for the purposes only of the Minutes on pensions, to be holding the post in the service of the Authority that he held on the relevant date, until such period of time as, when added to his pensionable service under the Authority makes an aggregate of ten years pensionable service (service under the Commission being counted as pensionable service under the Authority for the computation of such aggregate):

(ii) in respect of him the Commission shall pay out of the Fund of the Commission to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund for every complete month of the period of service during which he is deemed for the purposes of the Minutes on pensions to be holding the post in the Authority that he held on the relevant date, such sum as may be determined by the Minister in charge of the subject of finance ; and

(iii) at the end of the period referred to in sub-paragraph (i), he shall be deemed to have retired from the public service and shall be eligible for such a pension under the Minutes on Pensions as would have been awarded to him had he retired from the public service on the ground of abolition of office on the termination of such period.

(10)

(a) Any person who on and after the relevant date continues in office as a public officer performing work for and on behalf of the Commission in his capacity as such officer may at any time with his consent and that of the Commission, be appointed to the staff of the Commission.

(b) Where any officer is appointed to the staff of the Commission under paragraph (a) the provision of subsections (7) and (9) of this section shall, mutatis mutandis, apply to and in relation to him and the reference to 'relevant date' appearing in those subsection shall mean the date on which the officer is appointed to the staff of the Commission.

Employment of a public officer in a transferable service in the Commission.
[25, 27 of 1996]

65C.

(1) Where any public officer of the Authority who was in a transferable service of the Government on the day immediately preceding the appointed date, is appointed to the staff of the Commission, the provisions of section 65B shall, mutatis mutandis, apply to and in relation to, the employment of such officer.

(2) For the purpose of subsection (1), the reference to 'relevant date' in section 65B shall mean the date on which the office referred to in that subsection, becomes an employee of the Commission.

Interpretation of the term "Authority".
[25, 27 of 1996]

65D.

(a) For the purpose of this part of this Act, 'Authority' means the Authority as referred to in section 2 of the principal enactment as repealed by section 4 of this Act,'.

(b) in every context in which the Director General of Telecommunications appointed under section 2 of the principal enactment as repealed by section 4 of this Act (whether by name designation in full or by the abbreviated designation of Director General ')is mentioned in any written law, notice or other document or form required or authorized by any written law under section 27 (b) of the principal enactment as repealed by section 24 of this act, there shall be substituted for the words 'Director General of Telecommunications ' of the words 'commission'.

PART VII GENERAL

Power of Minister to give general or special directions. **66.** (1) The Minister may issue from time to time to the Authority, general or special directions in writing.
(2) It shall be the duty of the Authority to comply and to ensure compliance by any operator with any general or special directions issued by the Minister under subsection (1).

General directions by the Minister. **67.** The Minister may from time to time direct the Authority to furnish to him in writing such information as may be needed for his official purposes.

Power of Authority to make rules. [35, 39 of 2024] **68.** (1) The Authority may make rules in respect of all matters for which rules are required or authorised to be made under this Act.
(1A) Without prejudice to the generality of the power conferred under subsection (1), the Commission shall have power to make rules for the formulation of Codes of Practice applicable to respective operators, providers and licensees.
(2) All rules made by the Authority shall be published in the Gazette and shall come into effect on the date of publication or on such later date as may be specified therein.
(3) No rule made by the Authority shall have effect until it has been approved by the Minister.

Acquisition of immovable property under the Land Acquisition Act for the Commission. [26, 27 of 1996] **68A.** (1) Where any immovable property is required for any purpose of the Commission, and the Minister, by Order published in the Gazette, approves the proposed acquisition, that property shall be deemed to be required for a public purpose and may accordingly be acquired under the Land Acquisition Act and be transferred to the Commission.
(2) Any sum payable for the acquisition of any immovable property under the Land Acquisition Act for the Commission, shall be paid from the Fund of the Commission.

State property both movable and immovable to be made available to the Commission. [26, 27 of 1996] **68B.** (1) Where any immovable property of the State is required for the purpose of the Commission, such purpose shall be deemed to be a purpose for which a special grant or lease of such property may be made under, section 6 of the Crown Lands Ordinance, and accordingly, the provisions of that Ordinance shall apply to a special grant or lease of such property to the Commission.
(2) Where any movable property of the state is required for the

purpose of the Commission, the Minister may by Order published in the Gazette, transfer to and vest in the Commission the possession and use of such movable property.

Members officers
and servants
deemed to be
public servants.
[26, 27 of 1996]

68C.

All members, officers and servants of the Commission shall be deemed to be public servants within the meaning and for the purpose of the Penal Code.

Commission
deemed to be
scheduled
institution.
[26, 27 of 1996]

68D.

The Commission shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

Power of
Government to
prohibit or restrict
the use of
telecommunication.

69.

If on the occurrence of any public emergency or in the interest of public safety and tranquility, it is expedient or necessary that the transmission and reception of messages, by telecommunication should be prohibited or be subject to supervision and control, the Minister may, upon being satisfied of the above matter by Order made either generally and published in the Gazette or specially in writing in respect of any telecommunication service provided 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

(a) where prohibition is expedient or necessary, prohibit the transmission or reception of messages by telecommunication either generally or at any specified person or class of person; or

(b) where supervision and control are expedient or necessary

(i) prescribe the conditions and restrictions subject to which messages may be transmitted or received by telecommunication either generally or by an operator or person in charge of any specified telecommunication service; and

(ii) 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 telecommunication.

70. No suit or prosecution shall lie

(a) against the Authority for any act which in good faith is done or purported to be done by the Authority under this Act or any regulation or rule made thereunder; or

(b) against any officer, servant or agent of the Authority for any act which in good faith is done or purported to be done by him under this Act or any regulation or rule made thereunder or on the direction of the Authority.

71. (1) The Minister may make regulations in respect of any matter required by this Act to be prescribed or in respect of which regulations are authorised by this Act to be made.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations prescribing

(a) the regulatory measures as may become necessary in order to comply with any general or special directions that may be given by the Government under paragraph (f) of section 5;

(b) in respect of each of the licences referred to in this Act, other than the licence referred to in section 17, the form of the licence, the manner in which application for the licence is to be made, the duration of the licence, and the fee payable for the issue and for the renewal of the licence;

(c) the technical examinations to be held and the fees to be charged from candidates under section 6 and the form of the certificate to be issued to such candidates who reach the prescribed levels of proficiency at such examinations;

(d) the manner in which, and the conditions and restrictions subject to which, messages shall be transmitted;

(e) the precautions to be taken for preventing the improper interception or disclosure of messages;

(f) the fees to be charged for searching for or furnishing certified copies of messages and other documents in the custody of any telecommunication officer;

(g) the regulation of the working or use of telecommunications apparatus in any place in Sri Lanka at any time when an Order under section 69 is not in force;

(h) prohibiting or regulating the working or use of any

telecommunication apparatus at any time when an Order under section 69 is not in force.

(i) in any ship, whether Sri Lankan or foreign, while it is in the territorial waters of Sri Lanka; or

(ii) in any aircraft, whether Sri Lankan or foreign while it is in or over Sri Lanka or the territorial waters thereof;

(i) the ensuring of the secrecy of any specified class or description of messages;

(3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall as soon as convenient after its publication in the Gazette be brought before Parliament for approval. Any such regulation which is not so approved shall be deemed to be rescinded as from the date of its disapproval, but without prejudice to anything previously done thereunder.

(5) Notification of the date on which any regulation and by the Minister is so deemed to be rescinded shall be published in the Gazette.

Repeal of Chapter 72.
192 and savings.

(1) The Telecommunication Ordinance (Chapter 192) is hereby repealed.

(2) Notwithstanding the repeal of the aforesaid Ordinance

(a) every action or proceeding instituted by or against the telecommunication authority and pending under the provisions of the repealed Ordinance in any court, whether original or appellate on the date of coming into operation of this section, shall be deemed to be an action or proceeding instituted by or against the Corporation and every such action or proceeding may be proceeded with to completion and be enforced accordingly;

(b) every regulation or rule made under the repealed Ordinance as is in force on the date of coming into operation of this section, in so far as such regulation or rule is not inconsistent with the provisions of this Act shall be

deemed to be a regulation or rule made under this Act and may be amended or rescinded by regulations or rules made under this Act;

(c) every application for a licence of a prescribed description made to the telecommunication authority under the provisions of the repealed Ordinance other than applications in respect of matters for which a licence is not required under this Act before the date of coming into operation of this section and not disposed of on that date shall be deemed to be an application made to the Authority under this Act and the Authority shall deal with such application under the provisions of this Act relating to applications made after the date of coming into operation of this section;

(d) every licence issued by the telecommunication authority under sections 3 and 4 of the repealed Ordinance and in force immediately prior to the date of coming into operation of this section shall be deemed to be a licence granted by the Authority under the provisions of this Act;

(e) any decree, order or award entered or made in favour of or against the Department of Telecommunications by any court or tribunal or other body in any action, matter, proceeding or thing shall with effect from the date of coming into operation of this section be deemed to be a decree, order or award entered or made in favour of or against the Corporation and may be enforced accordingly.

Interpretation.
[36, 39 of 2024]

73. In this Act, unless the context otherwise requires

'Army' means Army raised and maintained under the Army Act (Chapter 357);

'cable landing station' means a facility where undersea fiber optic cables carrying international telecommunications and internet traffic are connected to terrestrial network;

'Cabling work' means-

(a) the installation of customer cabling for connection to a telecommunication system operated by an operator ;

(b) the connection of customer cabling to a telecommunication system operated by an operator ; or

(c) the maintenance of customer cabling connected to a

telecommunication system operated by an operator :-

'Department of Coast Guard' means the Department of Coast Guard established under section 2 of the Department of Coast Guard Act, No. 41 of 2009;

'Customer cabling' means a line that-

(a) is or is intended to be connected to a telecommunication system operated by an operator ; and

(b) is used or intended to be used beyond the boundaries of any such telecommunication system referred to in paragraph (a) ;

'Director-General' means the person for the time being holding the office of Director-General of Telecommunications ;

'exclusive economic zone' means a zone declared under section 5 of the Maritime Zones Law, No. 22 of 1976;

'infrastructure' means a telecommunication facility including a line, submarine cable, distribution point, duct, pit, tunnel, manhole, tower, mast, pole, antenna, structure and active network used for the purpose of providing telecommunication service;

'message' means any communication sent or received or made by telecommunication or given to a telecommunication officer to be sent by telecommunication 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, pictures or actuation or control of machinery or apparatus ;

'operator' means a person authorised by a licence under section 17 to operate a telecommunication system;

'person' include a body of persons;

'police officer' shall have same meaning assigned to it in the Police Ordinance (Chapter 53);

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

'prescribed' means prescribed by regulations made under this Act;

'provider' means a person authorized by a licence under section 17B to provide telecommunication services or infrastructure facilities or cable landing station facilities;

'public switched network' means a set of nodes and links that provide connections between two or more defined points to accommodate telecommunications between them using switched connection at the respective nodes via a combination of the links proper to the connection by means of which an operator may under the authority of a licence given under this Act, provide telecommunication services to the public in Sri Lanka ;

'radio access network' means a part of a telecommunication network that connects end-user devices to the core network through a radio link; and

'radio beam' means an electro magnetic radiation wherein the energy is focussed using antenna to enhance the signal strength created by the radiation at a required remote location ;

'radio frequency emitting apparatus' means a radio communication equipment designed or intended to transmit or emit radio waves;

'Sri Lanka Air Force' means the Sri Lanka Air Force raised and maintained under section 2 of the Air Force Act (Chapter 359);

'Sri Lanka Navy' means the Sri Lanka Navy raised and maintained under section 2 of the Navy Act (Chapter 358);

'submarine cable' means a cable laid under the sea, between land-based stations to carry telecommunication signals;'

'telecommunication' means the making of any transmission, emission or reception of signs, signals, writing, images, sound or intelligence of any nature by optical means or by wire or radio waves or any other electromagnetic system ;

'telecommunication apparatus' means apparatus constructed or adopted for use ;

(a) in transmitting or receiving anything falling within the definition of the expression 'telecommunication system' which is to be or has been conveyed by means of a telecommunication system; or

(b) in conveying, for the purposes of such a system, anything falling within that definition;

'telecommunication line' means a wire or wires or optical fibre used for the purpose of telecommunication, with or without 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;

'telecommunication network' means a set of nodes and links that provide connections between two or more defined points to accommodate telecommunication between them using dedicated or switched connections established at the nodes via a combination of the links proper to the connections ;

'telecommunication office' means an office or building or any place at which any work incidental to or connected with transmission of messages is carried on under the control of or administered by the Authority or an operator ;

'telecommunication officer' means any person employed either permanently or temporarily in connection with any telecommunication service provided by an operator;

'telecommunication service' means a service consisting in the conveyance by means of a telecommunication system of any message, or a service consisting in the installation, maintenance, adjustment, repair, alteration, moving, removal or replacement, of apparatus which is or is to be connected to a telecommunication system ;

'telecommunication system' means a system for the conveyance by the agency of electric, magnetic, electro-magnetic, optic, electro-chemical or electromechanical energy, of

(a) speech, music and other sounds ;

(b) visual Images;

(c) information for human comprehension that is intended for presentation in a two dimensional form, consisting of symbols, phrases or sentences in natural or artificial languages, pictures, diagrams and tables ; or

(d) signals serving for the actuation or control of machinery or apparatus;

'terminal apparatus' means any telecommunication apparatus used in telecommunication by means of a licensed system and not comprised in that licensed system or any other licensed system for originating or terminating messages transacted

Sinhala text to prevail in case of inconsistency.

74. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.