

# The Telegraph Wires (Unlawful Possession) Act, 1950

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### Act 74 of 1950

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#### 184.

Statement of Objects and Reasons.-Thefts of copper wires used in telegraph lines have been so rampant that telecommunications in several parts of the country, particularly in West Bengal, Bihar, Orissa and Mysore were considerably dislocated during the last two years. With the co-operation of the State Governments, the Posts and Telegraphs Department have been making energetic efforts to prevent such crimes as well as to punish the offenders. In bringing the offenders to book in a Court of law, however, they have been experiencing great difficulty in establishing the identity of the stolen property, especially as large quantities of copper wires had been sold to the public by the Disposals Directorate since the termination of the war. Many offenders have escaped due only to the failure to prove in Court that the wires found in their possession were stolen from the Posts and Telegraphs Department. It is apprehended that such thefts are engineered and organised systematically, and that the situation might deteriorate if the prosecutions continue to fail.<sup>2</sup> The copper wires used in telegraph lines are of distinctive gauges, viz., 150 lbs., 200 lbs., and 300 lbs. per mile and except for the stocks sold by the Disposals Directorate, wire of these gauges is not in the market. It would not, therefore, be unreasonable to presume that any person found in possession of copper wire of any of these gauges came into such possession unlawfully, except in the case of persons who purchased them from disposals stock.<sup>3</sup> The present Bill seeks to make unlawful possession of telegraph wires an offence punishable with imprisonment for five years or with fine or with both and placing the burden of proving lawfulness of possession on the accused.

Amendment Act 15 of 1962-Statement of Objects and Reasons.-Under section 5 of the Telegraph Wires (Unlawful Possession) Act, 1950, punishment is provided for anyone who is found or is proved to have been in possession of any quantity of certain gauges of copper wire which are in use in the Posts and Telegraphs Department. The punishment includes imprisonment extending to five years, or fine, or both.<sup>2</sup> There has been a steady increase in the incidence of copper wire thefts from trunk lines and it has been noticed in a number of cases that the same set of persons are responsible for the offence.

It is also seen that the punishments awarded by Courts in such cases have been light. It is felt that the provision of a minimum punishment for the second and subsequent offences under the Act by the same set of persons may act as a deterrent to persons repeating the offence. For this purpose, it is necessary to amend section 5 of the Telegraph Wires (Unlawful Possession) Act, 1950.<sup>3</sup> The present Bill is designed to achieve the object mentioned above. Amendment Act 44 of 1975-Statement of Objects and Reasons.-The Telegraph Wires (Unlawful Possession) Act, 1950, was enacted mainly with the object of simplifying the procedure for prosecution and conviction of persons accused of thefts of telegraph copper wires. In the light of the working of the Act, section 5 thereof was amended in 1962 to provide for a minimum punishment for the second and subsequent offences under the Act by the same set of persons. This amendment has not, however, achieved the desired deterrent effect. It is, therefore, proposed to prescribe minimum punishment even for the first offence under the Act, so as to curb more effectively the continuing thefts of telegraph copper wires in the country which have now assumed alarming proportions.<sup>2</sup> At present there is no provision in the Act for the seizure of stolen telegraph wires with the result that it is difficult to obtain possession of such telegraph wires in most of the cases. It is, therefore, proposed to include a new provision for the seizure by the police of the stolen telegraph wires and the conveyance or animal used in such thefts, as well as for the confiscation of the stolen telegraph wires and of the conveyance or animal by Court.<sup>3</sup> Under section 7 of the Act, only officers who are specially empowered in this behalf are competent to lodge complaints under the Act in a Court. Such a procedure has proved cumbersome and entails constant revision of the list of such officers. It is, therefore, proposed to simplify the procedure by providing that a Court shall take cognizance of any offence under the Act only on a report in writing by a public servant.<sup>4</sup> Opportunity is being taken to amend the definition of the expression "telegraph wire," so as to specify therein the metric system of units and to bring it in line with the new Indian Standard Specification for telegraph copper wire. An Act to regulate the possession of telegraph wires and to provide for the punishment of the offence of unlawful possession thereof. Be it enacted by Parliament as follows:-

Enforced on 1.4.1951. The Act has been extended to the Union territory of -(1) Dadra and Nagar Haveli by Regulation 6 of 1963; (2) Goa, Daman and Diu by Regulation 6 of 1963; and (3) Pondicherry by Act 28 of 1968, Section 3 and Sch. The Act has been extended to Sikkim, see S.O. 208(E)/1975.

## **1. Short title, extent and commencement**

(1) This Act may be called The Telegraph Wires (Unlawful Possession) Act, 1950. (2) It extends to the whole of India. (3) It shall come into force in any State on such date as the Central Government may, by notification in the Official Gazette for such State, and different dates may be appointed for different States.

## **2. Definitions**

.In this Act, (a) prescribed means prescribed by rules made under this Act; (b) [telegraph wire means any copper wire with the diameter of which in millimetres, is, [Substituted by Act 44 of 1975, Section 2 (w.e.f. 7.8.1975).] (i) not less than 2.43 and not more than 2.53; or (ii) not less than 2.77 and not more than 2.87; or (iii) not less than 3.42 and not more than 3.52.]

### **3. Duty to declare possession of telegraph wires**

.Every person in possession of telegraph wires shall, within six months from the commencement of this Act, make a declaration in writing, in such form and to such authority as may be prescribed, stating the quantity of telegraph wires in his possession.

### **4. Duty to have telegraph wires converted or sold**

.Every person in possession of telegraph wires which exceed ten pounds in weight shall, within one year from the commencement of this Act, have the whole of the quantity as is in excess of ten pounds converted into ingots: Provided that it shall be open to any such person to sell the whole or any part of the telegraph wires in his possession at such price and to such authority as may be prescribed. [4-A. Prohibition of sale or purchase of telegraph wires [Inserted by Act 53 of 1953, Section 3 (w.e.f. 30.12.1953).] No person shall, after the commencement of the Telegraph Wires (Unlawful Possession) (Amendment) Act, 1953, sell or purchase any quantity of telegraph wires except with the permission of such authority as may be prescribed.]

### **5. [ Penalty for unlawful possession of telegraph wires [Substituted by Act 15 of 1962, Section 2, for Section 5 (w.e.f. 30.3.1962).]**

.Whoever is found or is proved to have been in possession of any quantity of telegraph wires shall unless he proves that the telegraph wires came into his possession lawfully, be punishable, (a) [ for the first offence, with imprisonment for a term which may extend to five years or with fine, or with both, and, in the absence of special and adequate reasons to be recorded in the judgment of the Court, the term of such imprisonment shall not be less than one year and such fine shall not be less than one thousand rupees;] (b) for the second or a subsequent offence, with imprisonment for a term which may extend to five years and also with fine and in the absence of special and adequate reasons [to be recorded in the judgment of the Court, the term of such imprisonment] [Substituted by Act 44 of 1975, Section 3, for "to be mentioned in the judgment of the Court, such imprisonment" (w.e.f. 7.8.1975).] shall not be less than two years and such fine shall not be less than two thousand rupees: Provided that where a person has made a declaration under section 3 in relation to any quantity of telegraph wires, the burden of proving, in respect of the quantity so declared that it came into his possession lawfully, shall not be on such person.]

### **6. Penalty for contravention of provisions of section 3 or section 4**

.Any person who fails to make a declaration as required by section 3 or [contravenes the provisions of section 4 or section 4-A, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.] [Substituted by Act 53 of 1953, Section 5, for "fails to comply with the provisions of section 4," (w.e.f. 30.12.1953).] [6-A. Powers of search and seizure [Inserted by Act 44 of 1975, Section 4 (w.e.f. 7.8.1975).] (1) A Police Officer not below the rank of a Sub-Inspector may seize, or search any place and seize, (i) any telegraph wire; (ii) any conveyance or animal used for the transport of such telegraph wire, if a reasonable suspicion exists that any provision of this Act

has been, or is being, or is about to be, contravened in respect of such telegraph wire.(2)The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches and seizures shall, so far as may be, apply to searches and seizures made under this section.

## **6.**

-B. Confiscation of telegraph wires, conveyances, etc.Where any person has been convicted for the contravention of any of the provisions of this Act, the telegraph wires in relation to which the contravention has been made and any conveyance or animal used for the transport of such telegraph wires, shall be liable to confiscation by the Court unless the owner of the conveyance or animal proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance or animal and that each of them had taken all reasonable precautions against such use:Provided that where any such conveyance or animal is used for the transport of goods or passengers for hire, the owner of the conveyance or animal shall be given an option to pay in lieu of the confiscation of the conveyance or animal, or fine not exceeding the market price of the conveyance or animal on the date of seizure thereof or the value of the telegraph wires in relation to which the contravention has been made, whichever is less:Provided further that any telegraph wires, so seized and confiscated shall be handed over by the Court to such authority as may be specified by the Central Government.]

## **7. Cognizance of offences**

.[(1) No Court shall take cognizance of any offence punishable under the Act, except on a report in writing of the facts constituting such offence made by a person who is a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).] [Substituted by Act 44 of 1975, Section 5, for sub-Section (1) (w.e.f. 7.8.1975).](2)No Court inferior to that a Presidency Magistrate or a Magistrate of the first class try and offence punishable under this Act.

## **8. Power to make rules**

(1)The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:(a)the form in which, and the authorities to which, declarations under section 3 may be made;(b)the authorities to which, and the prices at which, telegraph wires may be sold under section 4.(3)[ Every rule made under this section shall be laid, as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in session [or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid] [Inserted by Act 15 of 1962, Section 3 (w.e.f. 30.3.1962).] both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule.]