

**PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF**   
**SRI LANKA**

*————————*

**SRI LANKA TELECOMMUNICATIONS**   
**(AMENDMENT)**

**A**

**BILL**

**to amend the Sri Lanka Telecommunications Act, No. 25 of 1991**

*——————*

*Presented by the Minister of Technologyon 10th of May, 2024*

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*————————*

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*STATEMENT OF LEGAL EFFECT*

*Clause 2:* This clause amends section 4 of the Sri Lanka Telecommunications Act, No. 25 of 1991 (hereinafter referred to as the “principal enactment”) and is consequential to the amendment made by clause 13 to the principal enactment.

*Clause 3:* This clause amends section 5 of the principal enactment and the legal effect of the section as amended is –

(*a*) extending the powers, duties and functions of the Commission to carry out market analysis, to prevent significant market power and to promote fair competition; and

|  |  |
| --- | --- |
| (*b*) | making amendments consequential to the amendment made by clause 13 to the principal enactment. |

*Clause 4:* This clause amends the principal enactment by the insertion of new section 6A in that enactment and the legal effect of the amendment is to empower the Commission to approve or determine the tariffs.

*Clause 5:* This clause amends section 7 of the principal enactment and is consequential to the amendment made by clause 13 to the principal enactment.

*Clause 6:* This clause amends section 8 of the principal enactment and is consequential to the amendment made by clause 13 to the principal enactment.

*Clause 7:* This clause amends section 9 of the principal enactment and is consequential to the amendment made by clause 13 to the principal enactment.

*Clause 8:* This clause amends the principal enactment by the insertion of new section 9A in that enactment and the legal effect of the section as amended is to empower the Commission to resolve the disputes arising out of anti- competitive practices, etc.

*Clause 9:* This clause amends section 10 of the principal enactment by the insertion of new subsections (1A) and (1B) immediately after subsection (1) thereof and the legal effect of the section as amended is to empower the Commission to divide and allocate radio frequency spectrum by way of issuing permits therefor.

*Clause 10:* This clause amends the principal enactment by the insertion of new section 10A in that enactment and the legal effect of the amendment is to make the Commission to be the sole authority to allocate the use of numbers and confer certain powers on the Commission in that behalf.

*Clause 11:* This clause amends section 11 of the principal enactment and the legal effect of the section as amended is –

|  |  |
| --- | --- |
| (*a*)  (*b*) | making amendments consequential to the amendment made by clause 13 to the principal enactment; and  to insert new subsections (6), (7), (8), (9), (10) and (11) in the that section, to empower the Commission to impose penalties on the persons who do not comply |

with the orders issued by the Commission under subsection (2) of that section and to specify the manner of recovery of any such penalty in default.

*Clause 12:* This clause amends section 17 of the principal enactment and the legal effect of the section as amended is –

(*a*) making amendments consequential to the amendment made to the principal enactment by clause 13 to the principal enactment; and

(*b*) to empower the Commission to issue directions to operators who has been issued with a licence under section 17 of the principal enactment.

*Clause 13:* This clause amends the principal enactment by the insertion of new sections 17A and 17B immediately after section 17 thereof and the legal effect of the amendment is to –

(*a*) make provisions to empower the Minister to revoke a licence issued under section 17; and

(*b*) make provisions to prohibit any person to engage in the provision of certain infrastructure services, telecommunication services and cable landing station facilities without obtaining a licence from the Commission.

*Clause 14:* This clause amends section 18 of the principal enactment and the legal effect of the section as amended is to empower the Commission to modify a licence issued under section 17 of the principal enactment.

*Clause 15:* This clause amends section 18A of the principal enactment and the legal effect of the section as amended is to –

(*a*) make amendments consequential to the amendment made to the principal enactment by clause 13 to the principal enactment; and

*(b*) enhance the amount of the fine which shall be imposed on an operator who contravenes the provisions of section 18A, from ten thousand rupees to one hundred thousand rupees.

*Clause 16:* This clause amends the principal enactment by the insertion immediately after section 20 of that enactment the new section 20A and the legal effect of the section as amended is to make provisions –

(*a*) to empower the Commission to make arrangements for the operators to enter into interconnection agreements;

(*b*) to empower the Commission to investigate on anti-competitive practices of operators who are parties to an interconnection agreement; and

(*c*) to empower the Commission to make rules with regard to interconnection rates and for the implementation of the interconnection agreements.

*Clause 17:* This clause amends section 21 of the principal enactment and the legal effect of the section as amended is to-

(*a*) extend the application of the provisions of section 21 with regard to the export of telecommunication apparatus; and

(*b*) amend subsection (5) of that section to enhance the penalty for the contravention of the provisions of that section.

*Clause 18:* This clause amends section 22 of the principal enactment and the legal effect of the section as amended is to extend the power of the Commission-

(*a*) to issue licences to possess radio frequency emitting apparatus;

(*b*) to withdraw or vary licences issued under that section; and

(*c*) to make rules in order to exempt any person or class of person from obtaining a licence under that section, in the public interest and in order to promote the common use of any radio frequency.

*Clause 19:* This clause amends section 22A of the principal enactment and the legal effect of the section as amended is to -

(*a*) extend the power of the Commission to issue licences to perform cabling work over or under the land, roads or territorial waters of Sri Lanka; and

(*b*) introduce certain new grounds under which the Commission may revoke a licence issued under section 22A.

*Clause 20:* This clause amends the principal enactment by the insertion immediately after section 22A of that enactment of the new section 22AA, 22AB, 22AC and 22AD and the legal effect of the amendment is-

(*a*) to empower the Commission to 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 with the assistance of the Sri Lanka Navy, Department of Coast Guard and Sri Lanka Police;

(*b*) to establish the National Submarine Cable Protection Committee to advise the Commission in the monitoring, management and protection of the submarine cables etc;

(*c*) to enable the President to declare the protection zones by proclamation published in the *Gazette*, in relation to a submarine cable and submarine cable landing stations;

(*d*) to empower the Commission to make rules to specify activities prohibited to be

carried out in, over or under any protection zone; and

(*e*) to empower the authorized officers to arrest without a warrant within Sri Lanka

including in territorial waters or within a protection zone, any person who

commits an offence under section 22AC or contravenes any rule made thereunder

and to produce him before the High Court of the competent jurisdiction.

*Clause 21:* This clause amends section 22F of the principal enactment and is consequential to the amendment made by section 11 to the principal enactment.

*Clause 22:* This clause amends the principal enactment by the insertion immediately after section 22J thereof of the new Part IIC (sections 22K and 22L) and the legal effect of the amendment is to make provisions to impose a surcharge on the licence fee which shall be paid by an operator or provider under section 17, 17B, 21 or 22 or on the cess which shall be paid by an operator under section 22G, in the event of a default of the payment by any such operator, provider or licensee, of the licence fee or the cess, as the case may be.

*Clause 23:* This clause amends sections 33, 34 and 35 of the principal enactment and is consequential to the amendment made by clause 13 to the principal enactment.

*Clause 24:* This clause amends the principal enactment by the insertion of new sections 35A and 35B immediately after section 35 thereof and the legal effect of the amendment is to make provisions to enable the operators to share facilities and resources among themselves and with other bodies.

*Clause 25:* This clause amends sections 36 and 37 of the principal enactment and is consequential to the amendment made by clause13 to the principal enactment.

*Clause 26:* This clause amends section 38 of the principal enactment and is consequential to the amendments made by clause13 and clause 24 to the principal enactment.

*Clause 27:* This clause amends sections 39 and 40 of the principal enactment and is consequential to the amendments made by clause13 to the principal enactment.

*Clause 28:* This clause amends section 43 of the principal enactment and is consequential to the amendment made by clause 20 to the principal enactment by inserting new sections 22AC and 22AD in that enactment.

*Clause 29:* This clause amends section 44 of the principal enactment and the legal effect of the section as amended is to –

(*a*) enhance the punishment to be imposed on a person who is guilty of an offence under subsection (1) of section 19 or section 22 and to introduce an additional fine in the event of the offence being committed continuously;

(*b*) make provisions for the confiscation by the Magistrate the telecommunication apparatus used for commission of an offence under subsection (1) of section 19; and

(*c*) make provisions to introduce a penalty for a person who is guilty of an offence under section 17B.

*Clause 30:* This clause amends the principal enactment by the insertion of new sections 46A, 46B and 46C immediately after section 46 thereof and the legal effect of the amendment is to make –

(*a*) the interference, disruption or disturbance to a telecommunication system to be an offence;

|  |  |
| --- | --- |
| (*b*)  (*c*) | the use of a telecommunication system to deceive or mislead a person to be an offence; and  the provision of false information as to the identity of the user of a telecommunication service to be an offence. |

*Clause 31:* This clause amends section 47 of the principal enactment and the legal effect of the section as amend is to make amendments consequential to the amendment made by clause 20 by the insertion of new section 22AC in the principal enactment and to make provisions to introduce a penalty for a person who is guilty of offence for damaging submarine cable or submarine cable landing station etc.

*Clause 32:* This clause amends section 59 of the principal enactment and the legal effect of the section as amended is to-

|  |  |
| --- | --- |
| (*a*) | make the sending or transmitting messages persistently using a telephone or publishing, sending or transmitting telephone numbers of other subscribers for |

the purpose of causing annoyance or inconvenience to be an offence; and

(*b*) make provision to enable a telecommunication officer to disconnect the telephone connections used for the commission of an offence under that section.

*Clause 33:* This clause amends the principal enactment by the insertion of new sections 59A and 59B immediately after section 59 thereof and the legal effect of the amendment is to –

(*a*) make provision for causing of public commotion or disrupting public tranquillity using a telephone to be an offence and to specify the penalty therefor; and

(*b*) make provision that giving or causing to be given to the Commission or any other officer appointed to assist the Commission false or misleading information, to be an offence and to specify the penalty therefor.

*Clause 34:* This clause amends section 65 of the principal enactment and the legal effect of the section as amended is to empower the Magistrate to forfeit the telecommunication apparatus used for the commission of an offence under the principal enactment.

*Clause 35:* This clause amends section 68 of the principal enactment and the legal effect of the section as amended is to extend the power of the Commission for making rules for the purpose of –

(*a*) formulating Codes of Practice applicable to respective operators, providers and licensees;

(*b*) for issuing guidelines, from time to time, which shall be adhered to by the operators, provider and licensees; and

(*c*) for the management of radio frequency spectrum.

*Clause 36:* This clause amends section 73 of the principal enactment and the legal effect of the section as amended is to make provisions to incorporate new definitions for the expressions, “Army”, “cable landing station”, “Department of Coast Guard”, “exclusive economic zone”, “infrastructure”, “person”, “police officer”, “provider”, “radio access network “, “radio frequency emitting apparatus”, “Sri Lanka Air Force”, “Sri Lanka Navy” and “submarine cable”, in that section.

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| *Sri Lanka Telecommunications (Amendment)* | 1 |

L.D.—O. 9/2024

AN ACTTOAMENDTHE SRI LANKA TELECOMMUNICATIONS   
ACT, NO. 25 OF 1991

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

**1.** This Act may be cited as the Sri Lanka Short title

Telecommunications (Amendment) Act, No. of 2024.

|  |  |  |  |
| --- | --- | --- | --- |
| 5 | **2.** Section 4 of the Sri Lanka Telecommunications Act, | | Amendment |
| of section 4 |
| No. 25 of 1991 (hereinafter referred to as the “principal | |
| of Act, No. |
| enactment”) is hereby amended as follows:- | |
| 25 of 1991 |
| (1) | by the substitution for the words “his powers” and |

“he considers”, of the words “its powers” and “it

|  |  |  |
| --- | --- | --- |
| 10 | (2) | considers”, respectively; |
| in paragraph (*b*) thereof, by the substitution for the |

word “operator” of the words “operator and   
provider”; and

|  |  |  |
| --- | --- | --- |
| 15 | (3) | in paragraph (*f*) thereof, by the substitution for the |
| word “operators” of the words “operators and |

providers”.

|  |  |  |  |
| --- | --- | --- | --- |
| 20 | **3.** Section 5 of the principal enactment is hereby amended | | Amendment |
| of section 5 |
| as follows: - | |
| of the |
| (1) | in paragraph (*b*) thereof, by the substitution for the | principal |
| enactment |
| words “to operate telecommunication systems” of | |

the words “to operators”;

(2) in paragraph (*d*) thereof, by the substitution for the   
 words “an operator” of the words“an operator and   
 a provider”;

|  |  |  |
| --- | --- | --- |
| 2 | (3) | *Sri Lanka Telecommunications (Amendment)* |
| in paragraphs (*g*) and (*h*) thereof, by the substitution |

for the words “operator” and “operators”, of the   
words “operator and provider” and “operators and   
providers”, respectively;

|  |  |  |  |
| --- | --- | --- | --- |
| 5 | (4) | in paragraph (*k*) thereof - | |
| (*a*) | by the substitution for the words “to |

determine in consultation with the Minister, the tariffs or methods for determining such tariffs,” of the words and figures “to approve 10 or determine in consultation with the Minister, under section 6A the tariffs or methods for approving or determining such tariffs,”; and

|  |  |  |
| --- | --- | --- |
| 15 | (*b*) | by the substitution for the word “operators” |
| of the words “operators and providers”, |

wherever that word appear in that paragraph;

(5) in paragraph (*m*) thereof, by the substitution for the   
words “operators of telecommunication systems”  
of the words “operators and providers”;

|  |  |  |
| --- | --- | --- |
| 20 | (6) | in paragraph (*r*) thereof, by the substitution for the |

words “operators” of the words “operators and   
providers”;

(7) in paragraph (*w*) thereof, by the substitution for the   
words “unauthorized radio frequency emissions;

25 and” of the words “unauthorized radio frequency emissions;”; and

(8) by the insertion immediately after paragraph (*w*)   
thereof, of the following new paragraphs:-

*Sri Lanka Telecommunications (Amendment)*  3

“(*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

|  |  |  |
| --- | --- | --- |
| 5 | (*wb*) | of competition in it; |
| 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

|  |  |  |
| --- | --- | --- |
| 10 | (*wd*) | anti competitive practices; |
| to take such measures or issue such |

directives, which the Commission considers as appropriate and necessary for the achievement of social policy 15 objectives for the sector, such as universal availability of specified minimum level of service; and “.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 20 | **4.** The following new section is hereby inserted | | | Insertion of |
| immediately after section 6 of the principal enactment and | | | new section |
| 6A in the |
| shall have effect as section 6A of that enactment:- | | |
| principal |
| 25 | “Commission | 6A. (1) The Commission shall approve or | | enactment |
| to approve or determine  tariff | 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

|  |  |
| --- | --- |
| 30 | tariffs or adjustments to tariffs subject to paragraphs (*a*) and (*b*) of subsection (1). |

4 *Sri Lanka Telecommunications (Amendment)*

(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 5 consideration –

(*a*) the government policy and industry   
requirements; and

(*b*) the facilities or services provided by the operator or provider to the 10 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 15 or a provider or grant such approval subject to such conditions imposed by the Commission.

(4) The Commission may determine to forbearany tariff of any service in whole or a part of such tariff, subject to such conditions 20 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, 25 publishing, approving adjustmentsof tariff generally or for any particular telecommunication service provided by an operator or a provider.

(6) An operator or a provider shall not

30 provide any telecommunication service without obtaining approval to a tariff plan from the Commission under this section.

*Sri Lanka Telecommunications (Amendment)*  5

(7) Every operator or provider who contravenes the provisions of subsection (6) commits an offence and be liable on conviction by a Magistrate to a fine not exceeding ten 5 million rupees or to an imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.”.

|  |  |  |
| --- | --- | --- |
| 10 | **5.** Section 7 of the principal enactment is hereby amended | Amendment |
| of section 7 |
| by the substitution for the word “operator” of the words |
| of the |
| “operator or the provider, as the case may be”, wherever that |
| principal |
| word appears in that section. | enactment |
| Amendment |
| **6.** Section 8 of the principal enactment is hereby amended |
| by the substitution for the words “every operator” of the | of section 8 |
| of the |
| words “every operator and provider”. |
| principal |

enactment

|  |  |  |  |
| --- | --- | --- | --- |
| 15 | **7.** Section 9 of the principal enactment is hereby amended | | Amendment |
| as follows:- | | of section 9 |
| of the |
| (1) | in subsection (1) thereof, by the substitution for the | principal |
| enactment |

words “an operator,” of the words “an operator or a   
provider,”; and

|  |  |  |
| --- | --- | --- |
| 20 | (2) | in subsection (2) thereof, by the substitution for the |

words “such operator” of the words “such operator   
or provider”.

|  |  |  |
| --- | --- | --- |
| 25 | **8.** The following new section is hereby inserted | Insertion of |
| immediately after section 9 of the principal enactment and | new section |
| 9A in the |
| shall have effect as section 9A of that enactment:- |
| principal |

enactment

|  |  |
| --- | --- |
| “Resolution  of disputes  on anti  competitive | 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- |

practices, etc.

6 *Sri Lanka Telecommunications (Amendment)*

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

|  |  |  |
| --- | --- | --- |
| 5 | (*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 10 operates a telecommunication service;

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

|  |  |  |
| --- | --- | --- |
| 15 | (*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 may give any operator 20 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

25 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

30 in that behalf, authorize the existence of such

*Sri Lanka Telecommunications (Amendment)*  7

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 5 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 10 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

15 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, 20 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).

|  |  |  |
| --- | --- | --- |
| 25 | (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

30 view of promoting fair competition, preventing market distortions and safeguarding consumer interests; and

8 *Sri Lanka Telecommunications (Amendment)*

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

|  |  |  |
| --- | --- | --- |
| 5 | **9.** Section 10 of the principal enactment is hereby | Amendment |
| of section 10 |
| amended by the insertion immediately after subsection (1) |
| of the |
| thereof, of the following new subsections:- |
| principal |

enactment

“(1A) The Commission shall have the power to –

|  |  |  |
| --- | --- | --- |
| 10 | (*a*) | divide and allocate any part of the radio |
| frequency spectrum into number of bands it |

thinks appropriate and specify the service or   
purpose for which each band may be used;

|  |  |  |
| --- | --- | --- |
| 15 | (*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 20 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.”.

|  |  |  |
| --- | --- | --- |
| 25 | **10.** The following new section is hereby inserted | Insertion of |
| immediately after section 10 of the principal enactment and | new section |
| 10A in the |
| shall have effect as section 10A of that enactment :- |
| principal |

enactment

*Sri Lanka Telecommunications (Amendment)*  9

“Commission 10A. (1) The Commission shall be the sole to be the sole authority on authority vested with the power to manage the

allocation of use of numbers, names, codes and identifiers. and use of

|  |  |  |
| --- | --- | --- |
| 5 | numbers etc. | (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 10 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;

|  |  |  |
| --- | --- | --- |
| 15 | (*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

|  |  |  |
| --- | --- | --- |
| 20 | (*d*) | prepared; |
| to make rules- |

(i) for specifying charges for using numbers, a block or blocks of numbers, codes and names so 25 assigned;

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

10 *Sri Lanka Telecommunications (Amendment)*

(iii) for determining conditions   
relating to the withdrawal of   
numbers, block or blocks of   
numbers, codes, and name

|  |  |  |
| --- | --- | --- |
| 5 | (*e*) | assigned under this section; and |
| to issue directions toany person to- |

(i) submit information on the utilization of numbers, names, codes, and identifiers allocated 10 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 15 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, 20 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.”.

|  |  |  |  |
| --- | --- | --- | --- |
| 25 | **11.** Section 11 of the principal enactment is hereby | | Amendment |
| amended as follows:- | | of section 11 |
| of the |
| (1) | in subsection (1) thereof, by the substitution for the | principal |
| enactment |

wordsand figures “authorized by a licence under   
section 17 to operate a telecommunication system”

30 of the words and figures “issued with a licence under section 17 or under section 17B”;

*Sri Lanka Telecommunications (Amendment)*  11

(2) in subsections (4) and (5) thereof, by the   
 substitution for the word “operator” of the words “  
 operator and provider”; and

|  |  |  |
| --- | --- | --- |
| 5 | (3) | by the addition, immediately after subsection (5) |
| thereof, of the following new subsections:- |

“(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 10 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.

15 (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.

20 (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 exparte application to the Magistrate 25 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 30 exercise of its ordinary jurisdiction impose.

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

12 *Sri Lanka Telecommunications (Amendment)*

(*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 5 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

|  |  |  |
| --- | --- | --- |
| 10 | (*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 15 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 20 and diligence to ensure the compliance therewith.

(10) A person who is aggrieved by the imposition of apenalty under this section, may appeal against such order to the High Court 25 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 subsections (6) before the 30 registrar of the High Court.”.

|  |  |  |  |
| --- | --- | --- | --- |
| *Sri Lanka Telecommunications (Amendment)* | | 13 | Amendment of section 17 of the  principal  enactment |
| **12.** Section 17 of the principal enactment is hereby amended as follows:- | | |
| (1) | in paragraph (*b*) of subsection (6) thereof, by the | |

substitution for the words “revoked in accordance 5 with any terms in that behalf contained in the licence” of the words and figures “revoked in terms of the provisions of section 17A”; and

(2) by the addition immediately after subsection (9)   
 thereof, of the following new subsection:-

10 “(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 facility owned or used by 15 such operator including any radio access network, subject to such terms and conditions specified by rules made under this Act.”.

|  |  |  |
| --- | --- | --- |
| 20 | **13.** The following new sections are hereby inserted | Insertion of |
| immediately after section 17 of the principal enactment and | new sections |
| 17A and 17B |
| shall have effect as sections 17A and 17B of that enactment:- |
| in the |

principal

|  |  |  |  |
| --- | --- | --- | --- |
| 25 | “Revocation | 17A. (1) A licence issued under section 17 | enactment |
| of a licence | may be revoked by the Minister assigning |
| issued under |
| reasons therefor, on the breach of terms and |
| section 17 |
| conditions of the licence and on any |
| contravention of the provisions of this Act or |

any regulation or rule made thereunder.

(2) The Minister shall by Order published in the *Gazette* specify the date of such revocation (not being a date earlier than thirty 30 days from the date of publication of the Order)

14 *Sri Lanka Telecommunications (Amendment)*

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.

5 (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 10 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 15 Minister appeal against such revocation to the Court of Appeal which may confirm or set aside the decision of the Minister.

|  |  |  |  |
| --- | --- | --- | --- |
| 20 | Prohibition | 17B. (1) A person shall not engage in the | |
| to engage in | following activities except under the authority | |
| certain |
| of a licence issued by the Commission in that | |
| activities |
| without a | behalf:- | |
| licence | (*a*) | providing infrastructure services |

specified by rules, required for   
operating a telecommunication

|  |  |  |  |
| --- | --- | --- | --- |
| 25 | (*b*) | system; | telecommunication |
| providing |

services specified by rules; or

(*c*) providing cable landing station   
 facilities.

*Sri Lanka Telecommunications (Amendment)*  15

(2) For the purpose of paragraph (*c*) of   
subsection (1), the facilities shall include   
submarine cables laid within the territorial   
waters of Sri Lanka.

5 (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)

|  |  |  |
| --- | --- | --- |
| 10 | shall be- | in such form and on payment of such |
| (*a*) |

fee as may be determined by the   
Commission;

|  |  |  |
| --- | --- | --- |
| 15 | (*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 20 time to time by rules made under this Act.

(5) Any person who engages in any activity specified in paragraph (*a*), (*b*) or (*c*) of subsection (1) without obtaining a licence 25 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 breach of any terms and conditions of the

16 *Sri Lanka Telecommunications (Amendment)*

licence or on the failure by the licensee to   
comply with the technical standards he was   
required to conform to.

(7) Where the Commission refuses an 5 application for a licence under subsection (1) or revokes a licence under subsection (3), 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 10   
 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

|  |  |  |
| --- | --- | --- |
| 15 | specify- | the manner of making an application |
| (*a*) |

for a licence under subsection (1);

(*b*) requirements to be fulfilled by an applicant to make an application for 20 each category of licence under subsection (1);

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

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 25 | (*d*) | grounds | for | suspension | or | Amendment |
| cancellation of a licence.”. | | | | |
| **14.** Section 18 of the principal enactment is hereby | | | | |
| of section 18 |
| amended as follows:- | | | | |
| of the |

principal   
enactment

*Sri Lanka Telecommunications (Amendment)*  17

(1) by the substitution for the words “modification of   
 any condition of a licence” of the words  
 “modification of a licence”, wherever those words   
 appear in that section;

|  |  |  |
| --- | --- | --- |
| 5 | (2) | by the addition immediately after subsection (3) |

thereof, of the following new subsection:-

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

10 implementation of the provisions of this Act or any regulation or rule made thereunder.”; and

(3) in the marginal note thereof, by the substitution for   
 the word and figures “section 17.” of the words and   
 figures “sections 17 and 17B.”.

|  |  |  |  |
| --- | --- | --- | --- |
| 15 | **15.** Section 18A of the principal enactment is hereby | | Amendment |
| amended as follows:- | | of section |
| 18A of the |
| (1) | in subsection (1) thereof, by the substitution for the | principal |
| enactment |
| words “without obtaining the prior approval of the | |

Commission.” of the words “except with a provider

|  |  |  |
| --- | --- | --- |
| 20 | (2) | licence issued by the Commission under section |
| 17B.”; |
| by the repeal of subsections (2) and (3) thereof and |

the substitution therefor of the following   
subsection:-

25 “(2) Where a provider requests the operator to use the telecommunication system, the operator shall permit such provider to use such telecommunication systemincluding wholesale services subject to the provisions of this Act.”;

30 and

|  |  |  |
| --- | --- | --- |
| 18 | (3) | *Sri Lanka Telecommunications (Amendment)* |
| in subsection (4) thereof, by the substitution for the |

words “ten thousand rupees” of the words “one   
hundred thousand rupees”.

|  |  |  |
| --- | --- | --- |
| 5 | **16.** The following new section is hereby inserted | Insertion of |
| immediately after section 20 of the principal enactment and | new section |
| 20A in the |
| shall have effect as section 20A of that enactment:- | principal |

enactment

|  |  |  |
| --- | --- | --- |
| 10 | “Interconnection | 20A. (1) The Commission may require an |
| of tele | operator to enter into an agreement with another |
| communication |
| systems | 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.

15 (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

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 20 | 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 25 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:-

*Sri Lanka Telecommunications (Amendment)*  19

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

|  |  |  |
| --- | --- | --- |
| 5 | (*b*) | to the interconnection agreement; |
| consumers connected to the |

telecommunication system of one   
operator shall have access to the   
telecommunication system of other

10 operator who is a party to the interconnection agreement;

(*c*) operators who are parties to the   
interconnection agreement shall   
maintain the same level of

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 15 | quality | in | their | respective |

telecommunication systems;

(*d*) interconnection arrangement shall be efficient and fair and the parties to an interconnection agreement 20 shall ensure that services are supplied on non-discriminatory basis with regard to capacity, interfaces and technical standards;

|  |  |  |
| --- | --- | --- |
| 25 | (*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

30 competition; and

20 *Sri Lanka Telecommunications (Amendment)*

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

5 (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 10 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 15 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 20 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-25 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

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 30 | recommendations | to | amend | the |

interconnection agreement to that effect.

*Sri Lanka Telecommunications (Amendment)*  21

(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,

|  |  |  |  |
| --- | --- | --- | --- |
| 5 | telecommunication | services | and |

telecommunication apparatus of such operator   
may inform the Commission in respect of such   
failure and the Commission shall within thirty

|  |  |
| --- | --- |
| 10 | 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.

15 (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.

20 (10) Any operator who fails to comply with determination made under subsection (8) by the Commission commits an offence and be liable to a fine not exceeding ten million rupees and in the event of the offence being committed 25 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 30 determination under subsection (8), may appeal against such determination to the Court of Appeal within thirty days from the date of such determination.

22 *Sri Lanka Telecommunications (Amendment)*

(12) The Commission may make rules for -

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

|  |  |  |
| --- | --- | --- |
| 5 | (*b*) | determining methodology relating |
| to interconnection rates for services; |

and

|  |  |  |
| --- | --- | --- |
| 10 | (*c*) | issuing guidelines and directions to |
| the parties to the interconnection |
| agreement to implement the |

interconnection agreement.”.

|  |  |
| --- | --- |
| **17.** Section 21 of the principal enactment is hereby amended as follows:- | Amendment of section 21 of the |

principal

|  |  |  |  |
| --- | --- | --- | --- |
| 15 | (1) | in subsection (1) thereof, by the substitution for | enactment |
| the word “import,” of the words “import, export,”; |

and

(2) in subsection (5) thereof, by the substitution for the words commencing from “to a fine not exceeding ten thousand rupees” to the end of that subsection 20 of the words “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

|  |  |
| --- | --- |
| 25 | one thousand five hundred rupees for each day on which the offence is so committed after |

conviction.”.

|  |  |
| --- | --- |
| **18.** Section 22 of the principal enactment is hereby amended as follows:- | Amendment of section 22 of the |

principal   
enactment

*Sri Lanka Telecommunications (Amendment)*  23

(1) in subsection (1) thereof, by the substitution for   
 the words “use any radio frequency or radio   
 frequency emitting apparatus” of the words “use   
 any radio frequency or use or possess any radio

|  |  |  |
| --- | --- | --- |
| 5 | (2) | frequency emitting apparatus”; |
| in paragraph (*b*) of subsection (2) thereof, by the |

substitution for the words “as may be determined   
by the Commission by rules made in that behalf:”  
of the words “as may be prescribed:”;

|  |  |  |
| --- | --- | --- |
| 10 | (3) | by the insertion immediately after subsection (2) |

thereof, of the following new subsection:-

“(2A) A licence issued under subsection (1) shall specify the service or services or purpose for which such radio frequency or radio 15 frequency emitting apparatus are used and the period of the validity of such licence.”;

(4) by the repeal of subsection (3) thereof, and the   
 substitution therefor of the following subsection:-

“(3) The Commission shall have power to 20 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 25   
 licensee to comply with any regulation for the time being in force under this Act relating to the same.”;

(5) by the insertion immediately after subsection (3)   
 thereof, of the following new subsections:-

24 *Sri Lanka Telecommunications (Amendment)*

“(3A) The Commission may vary or withdraw any radio frequency assigned by the frequency licence under subsection (1) or the service or services or purpose for which such 5 radio frequency has been assigned, from time to time.

(3B) The Commission may revoke, vary or withdraw any radio frequency after giving written notice to the relevant person prior to a 10 reasonable period of such revocation, variation or withdrawal and giving reasons therefor.

(3C) The Commission may consider   
payment of any compensation to the relevant   
person whose frequency licence has been varied

15 or withdrawn under subsection (3B).

(3D) In the overall planning and management of radio frequency spectrum, the Commission shall have power to direct any person to whom a licence has been issued under 20 subsection (1) to comply with and to implement new technologies for the efficient use of radio frequency spectrum in the public interest.”;

(6) in subsection (5) thereof, by the substitution for the words “A person uses” of the words and figure “Save 25 as provided for in subsection (6), a person who uses”; and

(7) by the addition immediately after subsection (5)   
thereof, of the following new subsections:-

*Sri Lanka Telecommunications (Amendment)*  25

“(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

5 by rules made in that behalf, any person or class of persons from having to obtain a licence for the use of or possession, establishment or installation of any radio frequency emitting apparatus either absolutely or subject to such

10 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 15 be promulgated by way of rules made under this Act as and when required.”.

|  |  |  |  |
| --- | --- | --- | --- |
| 20 | **19.** Section 22A of the principal enactment is hereby | | Amendment |
| of section |
| amended as follows:- | |
| 22A of the |
| (1) | in subsection (1) thereof, by the substitution for the | principal |
| enactment |
| words “cabling work in any premises” of the words | |

“cabling work in any premises, over or under the   
land, roads or territorial waters of Sri Lanka,”; and

(2) by the repeal of subsection (3) thereof and the   
 substitution therefor of the following subsection:-

25 “(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 30 licensee;

26 *Sri Lanka Telecommunications (Amendment)*

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

|  |  |  |
| --- | --- | --- |
| 5 | (*c*) | on the failure by the licensee to |
| comply with the provisions of the |

Act or any regulation or rule made   
thereunder; or

|  |  |  |
| --- | --- | --- |
| 10 | (*d*) | where such revocation or suspension |
| is deemed to be necessary in the |

public interest or in the interest of   
national security.”.

|  |  |  |
| --- | --- | --- |
| 15 | **20.** The following new sections are hereby inserted | Insertion of |
| immediately after section 22A of the principal enactment | new sections |
| 22AA, 22AB, |
| and shall have effect as sections 22AA, 22AB, 22AC and 22AD |
| 22AC and |
| of that enactment: - |
| 22AD in the |

principal

|  |  |  |  |
| --- | --- | --- | --- |
| 20 | “Responsibility | 22AA. (1) The Commission shall, with the | enactment |
| of the | assistance of the Sri Lanka Navy, the |
| Commission |
| Department of Coast Guard and Sri Lanka |
| to protect |
| submarine | Police, monitor, manage and protect the |
| cables | 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 25 National Submarine Cable Protection Committee established under subsection (2) of this section.

(2) There shall be established a committee

|  |  |
| --- | --- |
| 30 | 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:-

*Sri Lanka Telecommunications (Amendment)*  27

(*a*) the Director-General of the   
 Commission who shall be the   
 Chairman of the Committee;

|  |  |  |
| --- | --- | --- |
| 5 | (*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

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 10 | (*d*) | Director-General | of | such |
| Department; | | |
| a police officer of the police force | | |

nominated by the Inspector General   
of Police;

|  |  |  |
| --- | --- | --- |
| 15 | (*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 of the 20 Ministry of the Minister assigned the subject of the Fisheries and Aquatic Resources nominated by the Secretary to such Ministry;

|  |  |  |
| --- | --- | --- |
| 25 | (*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;

28 *Sri Lanka Telecommunications (Amendment)*

(*h*) an officer of the Central   
Environmental Authority   
established by the National   
Environmental Act, No. 47 of 1980,

5 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

|  |  |  |
| --- | --- | --- |
| 10 | (*j*) | landing station; and |
| an officer nominated by the Director- |

General of Merchant Shipping appointed under section 3 of the Merchant Shipping Act, No. 52 of 15 1971.

(3) The Committee shall have the following   
powers and functions:-

(*a*) to advise the Commission in the monitoring, management 20 and protection of the submarine cables laid within the territorial waters of Sri Lanka connected with the provision of any telecommunication service under

|  |  |  |
| --- | --- | --- |
| 25 | (*b*) | this Act; |
| to make recommendations to the |

Minister in formulations of policies   
regarding protection and resilience   
of submarine cables and submarine

30 cable landing stations; and

*Sri Lanka Telecommunications (Amendment)*  29

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

|  |  |  |
| --- | --- | --- |
| 5 | Protection | 22AB. (1) The President may, by |
| zone to be | proclamation published in the *Gazette*, on the |
| declared by |
| recommendations made by the Minister, |
| the President |

declare any zone of the sea adjacent to the territorial waters including exclusive economic zones, to be the protection zone (hereinafter 10 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 15 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 20 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 25 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.

30 *Sri Lanka Telecommunications (Amendment)*

(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 5 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

|  |  |  |
| --- | --- | --- |
| 10 | Prohibition | like manner. |
| 22AC. (1) The Commission shall, in |
| 15 | of certain |
| consultation with the Committee, make rules |
| activities |
| to specify activities prohibited to be carried |
| within the |
| protection | out in, over or under any protection zone. |
| zone |
| (2) Without prejudice to the generality of |

the powers conferred under subsection (1),   
the Commission shall make rules for the   
following :-

|  |  |  |
| --- | --- | --- |
| 20 | (*a*) | prohibiting the use of following |
| fishing methods and equipments:- |

(i) trawl gear that is designed to   
work on or near the seabed;

(ii) a net anchored to the seabed and   
 kept upright by floating;

25 (iii) a fishing line that is designed to catch fish at or near the seabed;

(iv) a dredger;

*Sri Lanka Telecommunications (Amendment)*  31

(v) a pot or trap;

(vi) a seine;

(vii) a structure moored to the seabed   
with the primary function of

|  |  |  |
| --- | --- | --- |
| 5 | (*b*) | attracting fish for capture; |
| prohibiting the towing, operating, |

or suspending from a ship-

|  |  |  |  |
| --- | --- | --- | --- |
| (i) any | item | mentioned | in |

paragraph (*a*); or

10 (ii) a net, rope, chain or any other thing used in connection with fishing operations;

(*c*) prohibiting the lowering, raising or   
suspending an anchor from a ship;

|  |  |  |
| --- | --- | --- |
| 15 | (*d*) | prohibiting sand mining; |
| (*e*) | prohibiting exploring for or |

exploiting resources (other than   
marine species);

|  |  |  |
| --- | --- | --- |
| 20 | (*f*) | prohibiting mining or the use of |
| (*g*) | mining techniques; |
| prohibiting any activity that |

involves a serious risk that an object will connect with the seabed, if a connection between the object and 25 a submarine cable would be capable of damaging the submarine cable; or

32 *Sri Lanka Telecommunications (Amendment)*

(*h*) prohibiting any activity that, if done   
near a submarine cable, would   
involve a serious risk of damaging   
the submarine cable.

|  |  |  |
| --- | --- | --- |
| 5 | Arrest | 22AD. (1) Any authorized officer may arrest |
| without a | without a warrant within Sri Lanka including |
| warrant |
| in territorial waters or within a protection zone, |

any person who commits an offence under section 22AC or contravenes any rule made 10 thereunder and may produce him before the High Court of the competent jurisdiction.

(2) Where a person is arrested under subsection (1), any article that has been used in the commission of the offence in respect of 15 which such person has been arrested, may be seized and detained in a place, as may be determined by the High Court of the competent jurisdiction.

(3) The following officers designated in 20 writing in that behalf shall be an authorized officer for the purposes of this section:-

(*a*) a police officer of the police force   
not below the rank of a Sergent;

|  |  |  |
| --- | --- | --- |
| 25 | (*b*) | a member of the Army not below the |
| (*c*) | rank of a soldier; |
| a member of the Sri Lanka Navy not |

below the rank of a petty officer;

(*d*) a member of Sri Lanka Air Force not   
below the rank of a Sergent; or

*Sri Lanka Telecommunications (Amendment)*  33

(*e*) a Coast Guard Officer of the   
 Department of Coast Guard.

(4) Every authorized officer shall be deemed to be a peace officer within the meaning and 5 for the purposes of the Code of Criminal Procedure Act, No. 15 of 1979.”.

|  |  |  |  |
| --- | --- | --- | --- |
| 10 | **21.** Section 22F of the principal enactment is hereby | | Amendment |
| of section |
| amended in subsection (2) thereof as follows:- | |
| 22F of the |
| (1) | in paragraph (*c*) thereof, by the substitution for the | principal |
| enactment |
| words and figures “section 22G; and” of the word | |

and figures “section 22G;”; and

(2) by the insertion immediately after paragraph   
 (*c*) thereof, of the following paragraph:-

“(*ca*) all such sums of money collected as the 15 penalty imposed by the Commission under subsection (8) of section 11; and”.

|  |  |
| --- | --- |
| **22.** The following new Part is hereby inserted immediately after section 22J of the principal enactment and shall have effect as Part IIC of that enactment:- | Insertion of new Part IIC in the  principal |

enactment 20 “PART IIC

IMPOSITIONOF SURCHARGEON LICENCE FEEAND CESS

|  |  |  |
| --- | --- | --- |
| 25 | Commission | 22K. (1) Where any operator, provider or |
| to impose | licensee, who has been issued with a licence |
| surcharge on |
| under section 17, 17B, 21 or 22 , as the case be, |
| the default of |
| payment of | has failed to pay any fee required to be paid in |
| any licence | terms of those sections on or before the date |
| fee or cess |
| specified by the Commission to make such |
| under this |
| Act | payment , or an operator who has failed to pay |

34 *Sri Lanka Telecommunications (Amendment)*

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, shall be liable to pay a surcharge on 5 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 10 each person in respect of whom the surcharge is to be imposed specifying the following details:-

|  |  |  |
| --- | --- | --- |
| 15 | (*a*) | the reasons for surcharging; |
| (*b*) | the amount in default and the |
| (*c*) | surcharge decided thereon; |
| the action contemplated for its |

recovery;

(*d*) the date on or before which the   
amount specified under paragraph

|  |  |  |
| --- | --- | --- |
| 20 | (*e*) | (*b*) is to be paid; and |
| the details of the manner in which |

payment shall be made.

|  |  |  |
| --- | --- | --- |
| 25 | Proceedings | 22L. (1) Where any sum to be charged under |
| for recovery | section 22K has not been paid within the time |
| before a |
| specified in the notice under subsection (2) of |
| Magistrate |
| 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

*Sri Lanka Telecommunications (Amendment)*  35

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.

5 (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.

10 (*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 15 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 20 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 25 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.”.

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| --- | --- | --- |
| 36 | *Sri Lanka Telecommunications (Amendment)* | Amendment of sections  33, 34 and  35 of the  principal |
| **23.** Sections 33, 34 and 35 of the principal enactment are hereby amended by the substitution for the word “operator”of the words “operator or provider “, wherever that word appears in those sections. | |

enactment

|  |  |  |
| --- | --- | --- |
| 5 | **24.** The following new sections are hereby inserted | Insertion of |
| new section |
| immediately after section 35 of the principal enactment and |
| 35A and 35B |
| shall have effect as sections35A and 35B of that enactment:- |
| in the |

principal

|  |  |  |  |
| --- | --- | --- | --- |
| 10 | “Sharing of | 35A. (1) It shall be the duty of the Mayor or | enactment |
| infrastructure | Chairman of a local authority or the Board of |
| facilities or |
| Directors or the Management of a public |
| resources |
| 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 15 infrastructure facilityor resourceowned 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 20 means of a telecommunication system such operator is licensed to operate or, providing other service or facilitiesor resources such provider is licensed to provide, under this Act.

(2) Rules shall be made under this Act to

|  |  |  |
| --- | --- | --- |
| 25 | Sharing of | regulate the implementation of the provisions |
| of this section. |
| 35B. (1) The Commission may, in the public |
| 30 | facilities or | interest, direct in writing to any operator to |
| resources by |
| coordinate and corporate with another operator |
| operators |
| to share the use of any facility or resource |
| including radio access network owned or used |

by such operator.

*Sri Lanka Telecommunications (Amendment)*  37

(2) Prior to issuing the direction under subsection (1), the Commission shall, provide reasonable opportunity for both such operators to make representations, in orderto facilitate 5 the sharing of such facility or resourcein an efficient manner.

(3) The Commission shall make rules to   
regulate the implementation of the provisions   
of this section.”.

|  |  |  |
| --- | --- | --- |
| 10 | **25.** Sections 36 and 37 of the principal enactment are | Amendment |
| 15 | hereby amended by the substitution for the word “operator” | of sections |
| 36 and 37 of |
| of the words “operator or provider”, wherever that word |
| the principal |
| appears in those sections. |
| enactment |
| **26.** Section 38 of the principal enactment is hereby | Amendment |
| amended as follows:- | of section 38 |
| of the |

principal enactment (1) by the substitution for the word “operator” of the   
 words “operator or provider”; and

|  |  |  |
| --- | --- | --- |
| 20 | (2) | in paragraph (*b*) of subsection (1) thereof, by the |
| substitution for the word and figures “section 36,” |
| of the words and figures “section 35A or section |

36,”.

|  |  |  |
| --- | --- | --- |
| 25 | **27.** Sections 39 and 40 of the principal enactment are | Amendment |
| hereby amended by the substitution for the word “operator” | of sections |
| of the words “operator or provider”, wherever that word | 39 and 40 of |
| the principal |
| appears in those sections. |
| enactment |
| 30 | **28.** Section 43 of the principal enactment is hereby |
| Amendment |
| amended in subsection (2) thereof, by the substitution for | of section 43 |
| of the |
| the words and figure “All offences under subsection (1)” of |
| principal |
| the words and figures “All offences under subsection (1) |
| enactment |
| other than the offences specified in section 22AC of this Act”. |

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| --- | --- | --- |
| 38 | *Sri Lanka Telecommunications (Amendment)* | Amendment of section 44 of the |
| **29.** Section 44 of the principal enactment is hereby amended as follows:- | |

principal   
enactment

(1) by the repeal of subsection (1) thereof and the   
substitution therefor of the following subsection:-

5 “ (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 10 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 15 thousand rupees for each day on which the offence is so committed after conviction.”; and

(2) by the insertion immediately after subsection (1)   
thereof, of the following new subsections :-

“(1A) In addition to the penalty imposed 20 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 25 subsection (2) of section 17B shall be liable on conviction by a Magistrateto 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

*Sri Lanka Telecommunications (Amendment)*  39

and imprisonment and in the event of the   
offence being committed continuously, to a   
fine of ten thousand rupees for each day on

|  |  |  |
| --- | --- | --- |
| 5 | which the offence is so committed after | Insertion of |
| conviction.”. |
| **30.** The following new sections are hereby inserted |
| immediately after section 46 of the principal enactment and | new sections |
| 46A, 46B and |
| shall have effect as section 46A, 46B and 46C of that |
| 46C in the |
| enactment:- |
| principal |

enactment

|  |  |  |
| --- | --- | --- |
| 10 | “Interference, | 46A. Every person who willfully |
| etc. to tele | interferes with, disrupts or disturbs any |
| communication | telecommunication system in respect of which |
| system |
| a licence has been issued under section 17 or |

any radio frequency emitting apparatus in

|  |  |
| --- | --- |
| 15 | respect of which a licence has been issued under section 22 commits an offence and shall on |

convictionby a Magistrate be liable to a fine   
not exceeding five million rupees.

|  |  |  |
| --- | --- | --- |
| 20 | Deceiving or | 46B. Every person who, with the intention |
| misleading | of misrepresenting, deceiving or misleading |
| persons using |
| any other person omits, changes or modifies |
| a tele |
| the calling party number or introduces any |
| communication |
| system | other calling party number other than his own |

number commits an offence and shall on

|  |  |
| --- | --- |
| 25 | conviction by a Magistratebe 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.

|  |  |  |
| --- | --- | --- |
| 30 | Providing | 46 C. Every person who, willfully provides |
| false | false information as to the identity of user to |
| information |
| obtain telecommunication service commits an |
| as to the |
| 35 | identity of | offence and shall on conviction be liable to a |
| user to obtain | fine not less than one hundred thousand rupees |
| tele |
| and not exceeding one million rupees and to |
| communication |
| service |

40 *Sri Lanka Telecommunications (Amendment)*

imprisonment of either description for a term   
not less than one year and not exceeding three   
years or to both such fine and imprisonment.”.

|  |  |  |
| --- | --- | --- |
| 5 | **31.** Section 47 of the principal enactment is hereby | Replacement |
| repealed and the following section is substituted therefor:- | of section 47 |
| of the |

principal   
enactment

|  |  |
| --- | --- |
| “Penalty for  intentionally | 47. Every person who, with the intention of- |

damaging or

|  |  |  |  |
| --- | --- | --- | --- |
| 10 | tampering | (*a*) | preventing or obstructing the |
| with tele |
| transmission or delivery of any |
| communication |
| installation | (*b*) | message, telecommunication service |
| or data; or |
| interrupting or acquainting himself |

with the contents of, any message or   
data; or

|  |  |  |
| --- | --- | --- |
| 15 | (*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 20 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 30 service within Sri Lanka or outside the

*Sri Lanka Telecommunications (Amendment)*  41

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

|  |  |
| --- | --- |
| 5 | of either description for a term not exceeding ten years or to both such fine and such |

imprisonment.”.

|  |  |  |  |
| --- | --- | --- | --- |
| 10 | **32.** Section 59 of the principal enactment is hereby | | Amendment |
| amended as follows:- | | of section 59 |
| of the |
| (1) | by the repeal of subsection (1) thereof and | principal |
| enactment |
| substitution therefor of the following subsection :- | |

“(1) Every person who –

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

|  |  |  |
| --- | --- | --- |
| 15 | (*b*) | telephone; or |
| publishes, sends or transmits telephone |

numbers of other subscribers,

without reasonable excuse for the purpose of 20 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 25   
 payment of such fine , to imprisonment of either description for a term not exceeding six months.”; and

(2) in subsection (2) thereof, by the substitution for the   
 words “allow such a call to be made.” of the words

|  |  |
| --- | --- |
| 30 | “allow such call to be made or proceed to disconnect the telephone connection through which such call |

was made.”.

|  |  |  |
| --- | --- | --- |
| 42 | *Sri Lanka Telecommunications (Amendment)* | Insertion of new sections 59A and 59B in the |
| **33.** The following new sections are hereby inserted immediately after section 59 of the principal enactment and shall have effect as sections 59A and 59B of that enactment:- | |

principal   
enactment

|  |  |  |
| --- | --- | --- |
| 5 | “Penalty for | 59A. Every person who, willfully makes |
| causing | a telephone call or sends or transmits a message |
| public |
| using a telephone, with the intention of causing |
| commotion |
| 10 | or disrupting | public commotion or disrupting public |
| public |
| tranquility commits an offence and shall on |
| tranquility |
| using a | conviction be liable to a fine not exceeding |
| telephone |
| one million rupees or to an imprisonment of |

either description for a term not exceeding three months or to both such fine and imprisonment and in the event of the offence being committed continuously, to a fine of one 15 thousand five hundred rupees for each day on which the offence is so committed or an imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

|  |  |  |
| --- | --- | --- |
| 20 | False | 59B. Any person who knowingly — |
| statements, |

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

|  |  |  |
| --- | --- | --- |
| 25 | (*b*) | gives or causes to be given to the |

Commission or any other officer   
appointed to assist the Commission   
false or misleading information,

*Sri Lanka Telecommunications (Amendment)*  43

commits an offence and shall on conviction after summary trail before a Magistrate be liable to a fine not exceeding one hundred thousand rupees or in the default of the payment of such 5 fine to an imprisonment for a term not exceeding sixmonths.”.

|  |  |
| --- | --- |
| **34.** Section 65 of the principal enactment is hereby amended as follows:- | Amendment of section 65 of the |

principal   
enactment

|  |  |  |
| --- | --- | --- |
| 10 | (1) | by the addition immediately after subsection (2) |
| thereof, of the following subsections:- |

“(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 15 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

20 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 25 forfeiture may be preferred to a High Court established by Article 154P of the Constitution or the Supreme Court; or

44 *Sri Lanka Telecommunications (Amendment)*

(*b*) where an appeal has been preferred against the order of forfeiture, to a High Court established by Article 154P of the Constitution or 5 to the Supreme Court, upon the determination of such appeal, either confirming the order of forfeiture or setting aside the appeal”; and

|  |  |  |
| --- | --- | --- |
| 10 | (2) | by the repeal of the marginal note to that section, |
| and the substitution therefor of the following:- |

“Magistrate to grant search   
warrant and seize, and forfeit, the   
telecommunication apparatus”.

|  |  |  |
| --- | --- | --- |
| 15 | **35.** Section 68 of the principal enactment is hereby | Amendment |
| of section 68 |
| amended by the insertion immediately after subsection (1) |
| of the |
| thereof, of the following subsection:- | principal |

enactment

“(1A) Without prejudice to the generality of the power conferred under subsection (1), the Commission shall have power to make rules in 20 respect of the following :-

(*a*) for formulating Codes of Practice applicable   
to respective operators, providers, and   
licensees;

(*b*) for issuing guidelines from time to time 25 which shall be adhered to by the operators, provider and licensees; and

(*c*) for the management of radio frequency   
 spectrum.”.

|  |  |  |
| --- | --- | --- |
| *Sri Lanka Telecommunications (Amendment)* | 45 | Amendment of section 73 of the |
| **36.** Section 73 of the principal enactment is hereby amended as follows:- | |

principal   
enactment

(1) by the insertion immediately before the definition   
 of the expression “cabling work” of the following

5 definitions:-

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

“cable landing station” means a facility where   
undersea fiber optic cables carrying

10 international telecommunications and internet traffic are connected to terrestrial network; ”;

(2) by the insertion immediately after the definition of   
 the expression “cabling work” of the following

15 definition:-

““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;”;

|  |  |  |
| --- | --- | --- |
| 20 | (3) | by the insertion immediately after the definition of |

the expression “Director- General” of the following   
definitions:-

““exclusive economic zone” means a zone   
declared under section 5 of the Maritime

25 Zones Law, No. 22 of 1976;

46 *Sri Lanka Telecommunications (Amendment)*

“infrastructure” means a telecommunication facility including a line, submarine cable, distribution point, duct, pit, tunnel, manhole, tower, mast, pole, 5 antenna, structure and active network used for the purpose of providing telecommunication service;”;

(4) by the insertion immediately after the definition of the expression “operator” of the following 10 definitions :-

““person” include a body of persons;

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

|  |  |  |
| --- | --- | --- |
| 15 | (5) | by the insertion immediately after the definition of |
| the expression “prescribed” of the following |

definition :-

““provider” means a person authorized by   
a licence under section 17B to provide

|  |  |  |  |
| --- | --- | --- | --- |
| 20 | telecommunication | services | or |

infrastructure facilities or cable landing   
station facilities;”;

|  |  |  |
| --- | --- | --- |
| 25 | (6) | by the insertion immediately after the definition of |
| the expression “public switched network” of the |
| following definition:- |

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

|  |  |  |
| --- | --- | --- |
| 30 | (7) | by the insertion immediately after the definition of |

the expression “radio beam” of the following   
definition:-

*Sri Lanka Telecommunications (Amendment)*  47

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

5 “Sri Lanka Air Force” means the Sri Lanka Ari Force raised and maintained under section 2 of the Air Force Act (Chapter 359);

“Sri Lanka Navy” means the Sri Lanka Navy

|  |  |
| --- | --- |
| 10 | 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;”.

|  |  |  |
| --- | --- | --- |
| 15 | **37.** In the event of any inconsistency between the Sinhala | Sinhala text |
| and Tamil texts of this Act, the Sinhala text shall prevail. | to prevail in |
| case of |

inconsistency

|  |  |
| --- | --- |
| 48 | *Sri Lanka Telecommunications (Amendment)* |

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