



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

SRI LANKA TELECOMMUNICATIONS

(AMENDMENT) ACT, No. 27 OF 1996

[Certified on 23rd October, 1996]

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Sri Lanka Telecommunications (Amendment)
Act, No. 27 of 1996

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L.D.—O.14/96.

**AN ACT TO AMEND THE 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 Telecommunications (Amendment) Act, No. 27 of 1996 and shall come into operation on such date as the Minister may determine by Order published in the Gazette (hereinafter referred to as the "appointed date").

Short title and date of operation.

2. The long title of the Sri Lanka Telecommunications Act, No. 25 of 1991 (hereinafter referred to as the "principal enactment") is hereby amended by the substitution for the words "THE APPOINTMENT OF A DIRECTOR-GENERAL OF TELECOMMUNICATIONS ; ", of the words " THE ESTABLISHMENT OF THE TELECOMMUNICATIONS REGULATORY COMMISSION OF SRI LANKA ; ".

Amendment of the long title of Act. No. 25 of 1991.

3. The heading appearing in Part I immediately preceding section 2 of the principal enactment is hereby repealed and the following new heading substituted therefore :—

Replacement of heading in Part I of the principal enactment.

"ESTABLISHMENT AND CONSTITUTION OF THE TELECOMMUNICATIONS REGULATORY COMMISSION OF SRI LANKA".

4. Section 2 of the principal enactment is hereby repealed and the following section is substituted therefore :—

Replacement of section 2 of the principal enactment.

Establishment of the
Telecommunication
Regulatory
Commission of
Sri Lanka

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

(2) The Commission shall by the name assigned to it by subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.'

Replacement of
section 3 of the
principal
enactment.

5. Section 3 of the principal enactment is hereby repealed and the following section is substituted therefor :—

Constitution
of the
Commission.

3. (1) The Commission shall consist of—

- (a) the Secretary to the Ministry of the Minister, who shall be the Chairman of the Commission ;
- (b) the person for the time being holding office as the Director-General ; and
- (c) three members appointed by the Minister from among persons who possess any recognized qualifications and have distinguished themselves in the field of law, finance and management respectively (hereinafter referred to as "appointed members ").

(2) The provisions of the Schedule to this Act shall have effect in relation to the appointed members of the Commission.'

Insertion of new
sections 3A, 3B, 3C
and 3D in the
principal
enactment.

6. The following new sections are hereby inserted immediately after section 3 and shall have effect as sections 3A, 3B, 3C and 3D of the principal enactment :—

"Quorum and
meetings of the
Commission.

3A. (1) The quorum for a meeting of the Commission shall be three members one of whom shall be the Chairman of the Commission.

(2) The Chairman or in his absence the Director-General shall preside at every meeting of the Commission.

(3) All questions for decision at any meeting of the Commission shall be decided by the vote of the majority of the members present at such meeting.

(4) Subject to the preceding provisions of this section, the Commission may regulate the procedure in regard to the meetings of the Commission and the transaction of business at such meetings.

Validity notwithstanding any defect.

3B. No act, decision or proceeding of the Commission shall be deemed to be invalid by reason only of the existence of any defect in the appointment of any member thereof.

Remuneration of the members of the Commission.

3C. The members of the Commission may be remunerated out of the Fund of the Commission, in such manner and at such rates as may be determined by the Minister in consultation with the Minister in charge of the subject of Finance.

Seal of the Commission.

3D. (1) The seal of the Commission—

- (a) shall be determined and devised by the Commission and may be altered in such manner as may be determined by the Commission;
- (b) shall be in the custody of such person as the Commission may determine from time to time; and
- (c) shall not be affixed to any instrument or document except with the sanction of the Commission and in the presence of two members of the Commission who shall sign the instrument or document in token of their presence.

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

Reference to
"Authority" is
construed to be a
reference to
"Commission".

Amendment of
section 5 of the
principal
enactment.

7. Every reference to the "Authority" in the principal enactment and in any rule, notice, notification, instrument or other document, shall be read and construed as a reference to the "Commission."

8. Section 5 of the principal enactment is hereby amended as follows :—

(1) in paragraph (f) of that section, by the substitution for the words "given to him from time to time.", of the words " given to it from time time ";

(2) by the repeal of paragraph (i) of that section, and the substitution therefor of the following paragraph :—

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

(3) in paragraph (k) of that section, by the substitution for the words " to specify by rules in consultation with the Minister and the Minister in charge of the subject of Finance, the tariffs " of the words " to determine in consultation with the Minister, the tariffs " ;

(4) in paragraph (n) of that section, by the substitution for the words " to submit to him " of the words " to submit to it " ;

- (5) in paragraph (t) of that section, by the substitution for the words "advisory bodies as he may deem necessary for the purpose of advising him on any matter", of the words "advisory bodies as may be deemed necessary for the purpose of advising it on any matter"; and
- (6) in paragraph (x) of that section, by the substitution for the words "exercise or discharge of his powers," of the words "exercise or discharge of its powers".

9. Section 6 of the principal enactment is hereby amended by the substitution for the words "discharge of his powers", of the words "discharge of its powers".

Amendment of
section 6 of the
principal
enactment.

10. Section 7 of the principal enactment is hereby amended in paragraph (b) of that section, by the substitution for the words "discharging his powers", of the words "discharging its powers".

Amendment of
section 7 of the
principal
enactment.

11. Section 9 of the principal enactment is hereby amended as follows :—

Amendment of
section 9 of the
principal
enactment.

- (1) in subsection (1) of that section, by the substitution for the words "investigation as he may deem necessary", of the words "investigation as it may deem necessary";
- (2) in subsection (2) of that section, by the substitution for the words "as appears to him", of the words "as appears to it".

Amendment of
section 10 of the
principal
enactment.

12. Section 10 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution for the words "where he deems necessary", of the words "where it deems necessary".

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Amendment of
section 11 of the
principal
enactment.

13. Section 11 of the principal enactment is hereby amended as follows :—

(1) in subsection (2) of that section —

(a) by the substitution in paragraph (a) of that subsection, for the words "he proposes", of the words "it proposes" ;

(b) by the substitution in paragraph (b) of that subsection, for the words "in his opinion", of the words "in its opinion" ;

(2) in subsection (3) of that section, by the substitution in paragraph (a) of that subsection, for the words "he proposes to revoke", of the words "it proposes to revoke" ; and

(3) in subsection (5) of that section, by the substitution in paragraph (a) of that subsection, for the words "as he considers appropriate", of the words "as it considers appropriate".

Amendment of
section 12 of the
principal
enactment.

14. Section 12 of the principal enactment is hereby amended as follows :—

(1) by the repeal of subsection (1) of that section, and the substitution therefor of the following subsection:—

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

(2) in subsection (3) of that section, by the substitution for the words "consist of the Authority", and for the words "nominated by the Authority", of the words "consist of the Chairman of the Commission" and the words "nominated by the said Chairman", respectively.

15. Section 15 of the principal enactment is hereby amended by the substitution for the words "certified by him", and the words "signature of the Authority", of the words "certified by it" and the words "signature of the Chairman of the Commission", respectively.

Amendment of section 15 of the principal enactment.

16. Section 17 of the principal enactment is hereby amended as follows :—

Amendment of section 17 of the principal enactment.

(1) in subsection (3) of that section—

(a) by the substitution in paragraph (a) of that subsection, for the words "as he deems appropriate of his intention", of the words "as it deems appropriate of its intention"; and

(b) by the substitution in subparagraph (i) of paragraph (b) of that subsection, for the words "that he propose", of the words "that the Commission propose" ;

(2) in subsection (5) of that section, by the substitution for the words "shall satisfy himself", of the words "shall satisfy itself" ;

(3) in subsection (7) of that section—

(a) by the substitution in paragraph (b) of that subsection, for all the words from "incurred by him" to the end of that paragraph, of the words "incurred by it in granting the licence"; and

(b) by the substitution in paragraph (c) of that subsection, for the words "his duties", of the words "its duties" ; and

(4) in subsection (9) of that section, by the substitution for the words "in to the Consolidated Fund.", of the words "in to the Fund of the Commission established by section 22F of this Act.".

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Amendment of section 18 of the principal enactment.

Insertion of new section 18A in the principal enactment.

17. Section 18 of the principal enactment is hereby amended in subsection (2) of that section, by the substitution for the words "if he considers it", of the words "if it considers it".

18. The following new section is hereby inserted immediately after section 18 and shall have effect as section 18A of the principal enactment :—

"Operator prohibited from allowing telecommunication system to be used by any person for business purposes.

18A (1) An operator shall not permit the use of the telecommunication system in respect of which a licence is issued to such operator, by any other person, for the purpose of sending or receiving messages by such person by way of a business on the payment of a fee or reward, without obtaining the prior approval of the Commission.

(2) On application being made in that behalf by an operator, the Commission shall grant approval for purpose of subsection (1), by the issue of a permit to the operator which shall be subject to such terms and conditions as may be specified therein.

(3) The Commission may at any time cancel the permit issued under subsection (2), on the breach of any of the terms and conditions to which it is subject to.

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

19. Section 20 of the principal enactment is hereby amended as follows :—

(1) in paragraph (a) of subsection (1) of that section—

(a) by the substitution for sub-paragraph (ii) of that paragraph, of the following sub paragraph:—

Amendment of section 20 of the principal enactment.

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

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

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

(b) by the substitution in sub-paragraph (iii) of that paragraph for the words "where a single individual runs such system and—", of the words "which is not connected to another telecommunication system and where a single individual runs such system and—";

(2) in subsection (2) of that section, by the substitution in paragraph (a) of that subsection for the words "referred to in paragraph (d) of subsection (1)", of the words "referred to in paragraph (c) of subsection (1)" ; and

(3) in subsection (3) of that section, by the substitution in paragraph (a) of that subsection, for the words "referred to in paragraph (a) (iii) or (d) of subsection (1)", of the words "referred to in paragraph (a) (iii) or (c) of subsection (1)".

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Amendment of section 21 of the principal enactment.

20. Section 21 of the principal enactment is hereby amended as follows :—

(1) by the repeal of subsection (1) of that section, and the substitution therefor of the following subsection :—

“(1) No person shall by way of trade, manufacture, import, sell, offer for sale, deal in, transfer, hire, lease, demonstrate, maintain or repair, any telecommunication apparatus, except under the authority of a licence issued by the Commission. An application for a licence under this subsection shall be made to the Commission in such form as may be determined by the Commission.” :

(2) in subsection (2) of that section—

(a) in paragraph (b) of that subsection, by the substitution for the words “be in the prescribed form and under the hand”, of the words “be under the hand” ; and

(b) by the repeal of paragraph (c) of that subsection and the substitution therefor of the following paragraph—

“(c) be on the payment of such fee as may be specified by rules made in that behalf by the Commission ; and ” ; and

(3) in subsection (4) of that section, by the substitution for the words “to the Secretary to the Ministry of the Minister who may”, of the words “to the Court of Appeal which may”.

21. Section 22 of the principal enactment is hereby amended as follows :—

(1) by the repeal of subsection (1) of that section, and the substitution therefor of the following subsection :—

Amendment of section 22 of the principal enactment.

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

(2) in subsection (2) of that section—

(a) by the repeal of paragraph (a) of that subsection, and the substitution therefor of the following paragraph :—

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

(b) by the repeal of paragraph (b) of that subsection, and the substitution therefor of the following paragraph :—

"(b) be issued on the payment of such fee as may be determined by the Commission by rules made in that behalf : .

Provided that the Commission may issue a licence under this subsection, to any—

(i) foreign diplomatic mission in Sri Lanka ;

(ii) an Agency of the United Nations ;

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

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

without the payment of such fee ; ”;

(c) by the substitution in paragraph (c) of that subsection for the words “use of the prescribed frequency equipment”, of the words “use including the sealing of, such radio frequency emitting apparatus” ;

(3) in subsection (4) of that section, by the substitution for the words “to the Secretary to the Ministry of the Minister who”, of the words “to the Court of Appeal which” ; and

(4) by the substitution for the marginal note to that section, of the following marginal note :—

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

Insertion of new section 22A in the principal enactment.

22. The following new section is hereby inserted immediately after section 22 and shall have effect as section 22A of the principal enactment :—

“ Licence for performing cabling work.

22A. (1) No person shall perform cabling work in any premises except under the authority of a license issued by the Commission for that purpose under subsection (2). Every application for a licence under this section shall be made to the Commission in such form as may be determined by the Commission.

(2) A licence issued under subsection (1), shall be—

- (a) in such form and on payment of such fee as may be determined by the Commission;
- (b) subject to such terms and conditions as may be specified in such licence; and
- (c) required to conform to such technical standards as may be determined by the Commission from time to time by rules made in that behalf.

(3) The Commission may at any time revoke and determine any licence granted under this section on the breach of any terms and conditions of the licence, or on the failure of the licensee to comply with the technical standards he was required to conform to.

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

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

(6) Rules may be made under this section—

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

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

Insertion of new
Part II A and Part
II B in the principal
enactment.

23. The following new Parts are hereby inserted immediately after section 22A, and shall have effect as Part II A and Part II B of the principal enactment :—

“ PART II A

STAFF OF THE COMMISSION

Director-General
of
Telecommuni-
cations.

22B. (1) The Minister shall appoint a person to be the Director-General of Telecommunications (in this Act referred to as the “Director-General ”) who shall be the Chief Executive Officer of the Commission . The conditions of employment, including remuneration of the Director-General shall be determined by the Minister.

(2) The Director-General shall, subject to the General direction and control of the Commission, be charged with the direction of the affairs and transactions of the Commission, the exercise and performance of its powers and duties and the administration and control of the employees of the Commission.

(3) The Director-General may, with the approval of the Commission, whenever he considers it necessary to do so, delegate to any employee of the Commission, any power or duty conferred or imposed upon him by this Act, and such employee shall exercise and perform such power or duty subject to the general or special directions of the Director-General.

(4) The Minister may remove from office the Director-General appointed under subsection (1).

Staff of the Commission.

22c. (1) The Commission may, subject to the provisions of this Act—

- (a) appoint such officers and servants as it considers necessary for the exercise or performance of the powers and duties of the Commission and dismiss and exercise disciplinary control over such officers and servants;
- (b) fix the rates at which such officers and servants shall be remunerated;
- (c) determine the terms and conditions of service of such officers and servants; and
- (d) establish and regulate provident funds or schemes for the benefit of such officers and servants and make contributions to any such funds from the Fund of Commission.

(2) The Commission may make rules in respect of all or any of the matters referred to in subsection (1).

Appointment of
officers in the
public service to
the staff of the
Commission.

22D. (1) At the request of the Commission, any officer in the public service other than a public officer to whom section 65B or section 65C applies, may, with the consent of that officer and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Commission for such period as may be determined by the Commission with like consent, or be permanently appointed to such staff.

(2) Where any officer in the public service is temporarily appointed to the staff of the Commission under subsection (1), the provisions of subsection (2) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall, *mutatis mutandis*, apply to, and in relation to, such officer.

(3) Where any officer in the public service is permanently appointed to the staff of the Commission under subsection (1), the provisions of subsection (3) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall, *mutatis mutandis*, apply to, and in relation to, such officer.

(4) Where the Commission employs any person who has agreed to serve the Government for a service to the Commission by that person, shall be regarded as service to the Government for the purpose of discharging the obligations of such agreement.

Appointment of officers and servants of public corporations to the staff of the Commission.

22E. (1) At the request of the Commission, any officer or servant of a public corporation may, with the consent of such officer or servant and the governing board of such corporation, be temporarily appointed to the staff of the Commission for such period as may be determined by the Commission with like consent or with the like consent be permanently appointed to the staff of the Commission on such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by the Commission and the governing board of such corporation.

(2) Where any person is appointed, whether temporarily or permanently under subsection (1) to the staff of the Commission, he shall be subject to the same disciplinary control as any other member of the staff.

PART IIb

FUND OF THE COMMISSION

Fund of the Commission.

22F. (1) The Commission shall have its own Fund.

(2) There shall be paid into the Fund—

(a) all such sums of money as may be voted upon from time to time by Parliament for the use of the Commission;

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

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

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

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

Levy of cess on annual turnover.

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

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

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

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

Financial year. 22H. The financial year of the Commission shall be the calender year.

Audit of Accounts. 22J. (1) The Commission shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all other transactions of the Commission.

(2) The provisions of Article 154 of the Constitution relating to the audit of the accounts of public corporations shall apply to the audit of the accounts of the Commission.”.

24. Section 27 of the principal enactment is hereby repealed.

Repeal of section 27 of the principal enactment.

25. The following new Part is hereby inserted immediately after section 65, and shall have effect as Part VI A of the principal enactment : —

Insertion of new Part VI A in the principal

PART VI A

Commission to exercise and perform powers and duties of the Authority formerly exercised and performed by the Director-General of Telecommunications. 65A. Where on or before the appointed date—

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

(b) in every context in which the Director-General of Telecommunications appointed under section 2 of the

principal enactment, as repealed by section 4 of this Act, (whether by name, designation in full or by the abbreviated designation of "Director-General") is mentioned in any written law, notice or other document or form required or authorised by any written law under section 27 (b) of the principal enactment as repealed by section 24 of this Act, there shall be substituted for the words "Director-General of Telecommunications" of the words "Commission".

Notice
required to be
given by
public officers
in the service
of the
Authority
before the
relevant date.

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

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

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

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

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

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

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

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

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

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

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

(a) where such notice is given by him under paragraph (b) of that subsection, becomes an employee of the Commission from and after the relevant date, and shall be deemed to have retired from the public service on that date, and shall be eligible for such a pension under the Minutes on Pensions as would have been awarded to him had he retired from the Public Service on the ground of abolition of office on that date ; or

(b) where such notice is given by him under paragraph (c) of that subsection, becomes an employee of the Commission from and after the relevant date, and shall be

deemed to have left the public service on the date on which he completes ten years of pensionable service provided for in paragraph (b) of subsection (9), and shall be eligible for such an award under the Minutes on Pensions as would have been awarded to him had he retired from the public service on the ground of abolition of office, on the termination of such period of pensionable service ; or

- (c) where such notice is given by him under paragraph (d), of that subsection, becomes an employee of the Commission from and after the relevant date, and shall be deemed for the purposes of Public Service Provident Fund to have left the service of the Government upon the determination of a contract with the consent of the Government otherwise than by dismissal on that date ; or
- (d) where such notice is given by him under paragraph (e) of that subsection, and
 - (i) if he is a public officer of the class or description referred to in paragraph (b) of that subsection, be deemed to have retired from the public service on the relevant date, and shall be eligible for such pension under the Minutes on Pensions as would have been awarded to him had he retired from the public service on the ground of abolition of office on that date ; or

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

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

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

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

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

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

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

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

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

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

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

**Employment of
a public officer
in a transferable
service in the
Commission.**

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

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

Interpretation of
the term
"Authority".

65D. For the purpose of this Part of this Act, "Authority" means the Authority as referred to in section 2 of the principal enactment as repealed by section 4 of this Act.'

26. The following new sections are hereby inserted immediately after section 68, and shall have effect as sections 68A, 68B, 68C and 68D of the principal enactment :—

Acquisition of
immovable
property under
the Land
Acquisition Act
for the
Commission.

68A. (1) Where any immovable property is required to be acquired for any purpose of the Commission, and the Minister, by Order published in the Gazette, approves the proposed acquisition, that property shall be deemed to be required for a public purpose and may accordingly be acquired under the Land Acquisition Act and be transferred to the Commission.

(2) Any sum payable for the acquisition of any immovable property under the Land Acquisition Act for the Commission, shall be paid from the Fund of the Commission.

State property
both movable
and immovable
to be made
available to the
Commission.

68B. (1) Where any immovable property of the State is required for the purpose of the Commission, such purpose shall be deemed to be a purpose for which a special grant or lease of such property may be made under section 6 of the Crown Lands Ordinance, and accordingly, the provisions of that Ordinance shall apply to a special grant or lease of such property to the Commission.

(2) Where any movable property of the State is required for the purpose of the Commission, the Minister may by Order published in the Gazette, transfer to and vest in the Commission the possession and use of such movable property.

Insertion of new
sections 68A, 68B,
68C and 68D in the
principal
enactment.

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Members,
officers and
servants deemed
to be public
servants.

Commission
deemed to be
scheduled
institution.

Amendment of
section 73 of the
principal
enactment.

Addition of
Schedule to the
enactment.

68C All members, officers and servants of the Commission shall be deemed to be public servants within the meaning and for the purpose of the Penal Code.

68D The Commission shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.”.

27. Section 73 of the principal enactment is hereby amended by the insertion immediately before the definition of the expression “Director-General”, of the following new definitions :—

“cabling work” means—

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

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

(c) the maintenance of customer cabling connected to a telecommunication system operated by an operator ;

“customer cabling” means a line that—

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

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

28. The following Schedule is hereby added immediately after section 74 of the principal enactment.

SCHEDULE [Section 3(2)].

PROVISIONS RELATING TO THE APPOINTED MEMBERS OF
THE COMMISSION

1. A person shall be disqualified from being appointed or continuing as a member of the Commission—

- (a) if he is or becomes a Member of Parliament, a Provincial Council or any local authority ;
- (b) if he is under any law in force in Sri Lanka or in any other country, found or declared to be of unsound mind.

2. Every appointed member of the Commission shall, unless he vacates office earlier by death, resignation or removal, hold office for a term of three years from the date of his appointment and unless he has been removed from office, be eligible for re-appointment.

3. The Minister may, by Order published in the Gazette remove an appointed member of the Commission from office, where—

- (a) he becomes subject to any disqualification specified in paragraph 1 ;
- (b) he becomes permanently incapable of performing his duties ; or
- (c) where he had done any act or thing which amounts to malfeasance, gross misconduct or negligence in the performance of his duties.

4. An appointed member of the Commission may at any time resign from his office by letter to that effect addressed to the Minister and such resignation shall take effect upon it being accepted by the Minister in writing.

5. An appointed member shall be deemed to have vacated office on his absence from three consecutive meetings of the Commission without excuse, considered sufficient in the opinion of the Members of the Commission.

6. An appointed member of the Commission vacating or deemed to be vacating office, shall not participate on behalf of any person, in any matter pending before the Commission on the date of vacation of office or on the date he is deemed to have vacated his office, for a period of two years from such date of vacation of office, and shall not participate on behalf of any person in any matter in which he while he was a member, personally participated.

7. Where an appointed member of the Commission dies, resigns, removed from office or is deemed to have vacated office, the Minister may, having regard to the provisions of paragraphs (c) of subsection (1) of section 3 of this Act, appoint any other person to succeed such member. Any person appointed in place of such member shall hold office during the unexpired term of office of the member whom he succeeds.

8. Where an appointed member of the Commission, by reason of illness, infirmity or absence from Sri Lanka is temporarily unable to perform his duties, it shall be the duty of such member to inform the Minister in writing of such inability. Thereupon the Minister may, having due regard to provisions of paragraph (c) of subsection (1) of section 3 of this Act, appoint another person to act in his place during the period of his absence.”

29. From and after the appointed date—

- (a) every licence granted by the Minister on the recommendation of the Authority under section 17 of the principal enactment, and in force on the day immediately prior to the appointed date, shall be deemed for all purposes to be a licence granted on the recommendation of the Commission, and every such licence shall be valid and effectual and shall continue in force until its expiry ;
- (b) every licence issued by the Authority under section 21 or 22 of the principal enactment and in force on the day immediately prior to the appointed date, shall be deemed for all purposes to be a licence issued by the Commission and every such licence shall be valid and effectual and shall continue in force until its expiry ;
- (c) all property both movable and immovable which was owned by or was in the possession of the Authority on or before the appointed date, shall vest in the Commission and shall be deemed to be the property of the Commission ;
- (d) all contracts and agreements entered into by, with or for the Authority shall be deemed to be contracts, and agreements entered into by or with or for the Commission and all rights privileges, obligations, debts and liabilities of the Authority subsisting on the day immediately preceding the appointed date shall be deemed to be rights, privileges, obligations, debts and liabilities of the Commission ;
- (e) all actions and other proceedings instituted by or against the Authority pending on the day immediately preceding the appointed date, shall be deemed to be actions and proceedings instituted by or against the Commission and every such action and proceeding may be proceeded with and be enforced accordingly ;

Licences issued
property owned.
contracts entered
into, orders made
and actions
instituted by the
Authority deemed
to be those of the
Commission.

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- (f) every order made by the Authority under section 11 of the principal enactment on or before the day immediately preceding the appointed date, shall be deemed to be an order, made by the Commission : and
- (g) every rule made by the Authority under section 68 of the principal enactment and is in effect on the day immediately preceding the appointed date, shall be deemed to be rules made by the Commission and may accordingly be amended or rescinded by any rule made under that section.

Sinhala text to
prevail in case of
inconsistency.

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