



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

**SRI LANKA TELECOMMUNICATIONS
(AMENDMENT) ACT, No. 39 OF 2024**

[Certified on 17th of July, 2024]

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Sri Lanka Telecommunications (Amendment)
Act, No. 39 of 2024

[Certified on 17th of July, 2024]

L.D.—O. 9/2024

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: -

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| <p>1. This Act may be cited as the Sri Lanka Telecommunications (Amendment) Act, No. 39 of 2024.</p> | <p>Short title</p> |
| <p>2. Section 4 of the Sri Lanka Telecommunications Act, No. 25 of 1991 (hereinafter referred to as the “principal enactment”) is hereby amended as follows:-</p> <ul style="list-style-type: none">(1) by the substitution for the words “his powers” and “he considers”, of the words “its powers” and “it considers”, respectively;(2) in paragraph (b) thereof, by the substitution for the word “operator” of the words “operator and provider”; and(3) in paragraph (f) thereof, by the substitution for the word “operators” of the words “operators and providers”. | <p>Amendment of section 4 of Act, No. 25 of 1991</p> |
| <p>3. Section 5 of the principal enactment is hereby amended as follows: -</p> <ul style="list-style-type: none">(1) in paragraph (b) thereof, by the substitution for the 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”; | <p>Amendment of section 5 of the principal enactment</p> |

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- (3) 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;
- (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 or determine in consultation with the Minister, under section 6A the tariffs or methods for approving or determining such tariffs,”; and
 - (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”;
- (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; and” of the words “unauthorized radio frequency emissions;”; and
- (8) by the insertion immediately after paragraph (w) thereof, of the following new paragraphs:-

- “(wa) to carry out market analysis in the provision of telecommunication services in order to examine the dynamics of a particular market to understand the level of competition in it;
- (wb) to intervene to prevent the emergence or abuse of significant market power;
- (wc) to take regulatory measures in order to promote fair competition and to eliminate anti competitive practices;
- (wd) to take such measures or issue such directives, which the Commission considers as appropriate and necessary for the achievement of social policy objectives for the sector, such as universal availability of specified minimum level of service; and”.

4. The following new section is hereby inserted immediately after section 6 of the principal enactment and shall have effect as section 6A of that enactment:-

Insertion of new section 6A in the principal enactment

“Commission to approve or determine tariff 6A. (1) The Commission shall approve or determine tariffs based on the following principles:-

- (a) tariffs shall be non-discriminatory; and
- (b) tariffs shall be oriented towards cost, in general cross subsidies shall be eliminated.

(2) An operator or provider may propose tariffs or adjustments to tariffs subject to paragraphs (a) and (b) of subsection (1).

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(3) Where an operator or a provider proposes tariffs or adjustment of tariffs, the Commission may approve or reject such tariffs or adjustment of tariffs subject to subsection (1), taking into consideration –

- (a) the government policy and industry requirements; and
- (b) the facilities or services provided by the operator or provider to the particular class of users or in a particular area:

Provided however, the Commission may partially approve a proposed tariff or an adjustment to tariffs proposed by an operator or a provider or grant such approval subject to such conditions imposed by the Commission.

(4) The Commission may determine to forbear any tariff of any service in whole or a part of such tariff, subject to such conditions or without conditions.

(5) The Commission may, in consultation with the Minister, by way of rules make provision for a special tariff plan which shall include manner of setting, reviewing, publishing and approving adjustments of tariff generally or for any particular telecommunication service provided by an operator or a provider.

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

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

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| 5. Section 7 of the principal enactment is hereby amended by the substitution for the word “operator” of the words “operator or the provider, as the case may be”, wherever that word appears in that section. | Amendment of section 7 of the principal enactment |
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| 6. Section 8 of the principal enactment is hereby amended by the substitution for the words “every operator” of the words “every operator and provider”. | Amendment of section 8 of the principal enactment |
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| 7. Section 9 of the principal enactment is hereby amended as follows:- | Amendment of section 9 of the principal enactment |
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- (1) in subsection (1) thereof, by the substitution for the words “an operator,” of the words “an operator or a provider,”; and
- (2) in subsection (2) thereof, by the substitution for the words “such operator” of the words “such operator or provider”.

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| 8. The following new section is hereby inserted immediately after section 9 of the principal enactment and shall have effect as section 9A of that enactment:- | Insertion of new section 9A in the principal enactment |
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| “Resolution of disputes on anti competitive practices, etc. | 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- |
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- (a) the existence or the construed existence of any anti-competitive practice;
- (b) the acquisition, existence or construed existence of an abuse of a dominant position (significant market power) which may affect the conditions in one or more markets in which an operator or provider operates a telecommunication service;
- (c) the creation or construed creation of a merger situation; or
- (d) not having the right of access market network at fair, cost based and non-discriminatory terms and conditions,

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

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

(3) Where upon investigation the Commission is satisfied that any one of the situations specified in paragraph (a), (b), (c), or (d) exists, but such situation does not operate or is not likely to operate against public interest, the Commission shall, by order made in that behalf, authorize the existence of such

situation subject to such terms and conditions as it may consider necessary or expedient for the purpose of remedying or preventing the resulting adverse effects, if any, on other operators or providers in the market wherein any one of the situations specified in paragraph (a), (b), (c), or (d) exists.

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

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

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

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

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

Amendment of
section 10 of
the principal
enactment

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

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

- (a) divide and allocate any part of the radio frequency spectrum into number of bands based on the International Telecommunication Union policies and guidelines or international best practices, in the best interest of the efficient management of the frequency spectrum and specify the service or purpose for which each band may be used;
- (b) specify frequency channel plans; and
- (c) assign the radio frequency or any band of radio frequencies to users of radio communication apparatus in the manner provided in section 22.

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

Insertion of new
section 10A in
the principal
enactment

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

“Commission to be the sole authority on allocation of and use of numbers etc.

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

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

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

- (a) to assign numbers, a block or blocks of numbers, codes, and names in accordance with respective plans;
- (b) to grant approval to lease or sell the right to use a number, a block or blocks of numbers or codes;
- (c) to amend the plans for numbering, names, codes and identifiers so prepared;
- (d) to make rules-
 - (i) for specifying charges for using numbers, a block or blocks of numbers, codes and names so assigned;
 - (ii) relating to managing of numbers, names, codes, and identifiers in the respective plans; and

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

(e) to issue directions to any person to-

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

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

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

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

Amendment of
section 11 of
the principal
enactment

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

(1) in subsection (1) thereof, by the substitution for the words and figures “authorized by a licence under section 17 to operate a telecommunication system” of the words and figures “issued with a licence under section 17 or under section 17B”;

- (2) in subsections (4) and (5) thereof, by the substitution for the word “operator” of the words “operator and provider”; and
- (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 person to pay a penalty of an amount not exceeding one *per centum* of the annual turnover of the year immediately preceding the year concerned, accrued from the activity authorized by such licence.

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

(8) If any person who has become liable to a penalty in terms of subsection (6) fails to pay such penalty, within such period as may be specified in such notice, the Commission may make an *ex parte* application to the Magistrate Court of the competent jurisdiction for an order requiring the payment of the penalty recovered in a like manner as a fine imposed by such court notwithstanding such sum may exceed the amount of fine which that court may, in the exercise of its ordinary jurisdiction impose.

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

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- (a) if that body of persons is a body corporate, every person who at the time of non-compliance under subsection (6) was a director, and any other officer responsible for the management and control of that body corporate;
- (b) if that body of persons is a firm, every partner of that firm; or
- (c) if that body is not a body corporate, every person who at the time of non-compliance of requirements under subsection (6) was the officer responsible with management and control of that body,

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

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

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

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12. Section 17 of the principal enactment is hereby amended as follows:-

Amendment of
section 17 of the
principal
enactment

- (1) in paragraph (b) of subsection (6) thereof, by the substitution for the words “revoked in accordance 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) The Commission shall have the power to issue directions to any operator to whom a licence has been issued under this section to share the use, with another operator specified by the Commission any infrastructure owned or used by such operator including any radio access network, subject to such terms and conditions specified by regulations made under this Act.”.

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

Insertion of new
sections 17A and
17B in the
principal
enactment

“Revocation
of a licence
issued under
section 17

17A. (1) A licence issued under section 17 may be revoked by the Minister assigning reasons therefor, on the breach of terms and conditions of the licence.

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

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and the reasons for the revocation shall be informed to the relevant operator through the Commission fifteen days prior to the date of the revocation.

(3) The Order referred to in subsection (2) shall also specify the interim arrangement made for operating the telecommunication system in respect of which the licence was issued to the operator thereof has been revoked under this section.

(4) Where the Minister revokes a licence under section 17, the licensee may within a period of thirty days from the date of the communication to him the decision of the Minister appeal against such revocation to the Court of Appeal which may confirm or set aside the decision of the Minister.

Prohibition
to engage in
certain
activities
without a
licence

17B. (1) A person shall not engage in the following activities except under the authority of a licence issued by the Commission in that behalf:-

- (a) providing infrastructure services specified by rules, required for operating a telecommunication system;
- (b) providing telecommunication services specified by rules; or
- (c) providing cable landing station facilities.

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

(3) The charges for cable landing station facilities including access to the submarine cables shall be approved or determined by the Commission.

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

- (a) in such form and on payment of such fee as may be determined by the Commission; and
- (b) required to conform to such technical standards as may be determined by the Commission from time to time by rules made under this Act.

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

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

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

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

- (a) the manner of making an application for a licence under subsection (1);
- (b) requirements to be fulfilled by an applicant to make an application for each category of licence under subsection (1); and
- (c) period of validity and the manner of renewal of a licence.”.

Amendment of
section 18 of the
principal
enactment

14. Section 18 of the principal enactment is hereby amended as follows:-

- (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;

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- (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 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. Section 18A of the principal enactment is hereby amended as follows:-

Amendment of
section 18A of
the principal
enactment

- (1) in subsection (1) thereof, by the substitution for the words “without obtaining the prior approval of the Commission.” of the words “except with a provider licence issued by the Commission under section 17B.”;
- (2) by the repeal of subsections (2) and (3) thereof and the substitution therefor of the following subsection:-

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

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- (3) in subsection (4) thereof, by the substitution for the words “ten thousand rupees” of the words “one hundred thousand rupees”.

Insertion of new
section 20A in
the principal
enactment

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

“Interconnection
of tele
communication
systems

20A. (1) The Commission may require an operator to enter into an agreement with another operator for the interconnection between their telecommunication systems, in the circumstances where the Commission deems that interconnection is necessary for the provision of efficient telecommunication service or for the public interest.

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

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

- (a) conditions of the interconnection agreement shall conform with the conditions of the respective licences issued to each operator who is a party to the interconnection agreement;
- (b) consumers connected to the telecommunication system of one operator shall have access to the telecommunication system of other operator who is a party to the interconnection agreement;
- (c) operators who are parties to the interconnection agreement shall maintain the same level of quality in their respective telecommunication systems;
- (d) interconnection arrangement shall be efficient and fair and the parties to an interconnection agreement shall ensure that services are supplied on non-discriminatory basis with regard to capacity, interfaces and technical standards;
- (e) the terms and conditions subject to which interconnected services are provided shall reflect internationally accepted best practices;
- (f) interconnection services shall ensure effective and sustainable competition; and

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

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

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

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

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

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

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

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

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

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(12) The Commission may make rules for -

- (a) stipulating the terms and conditions to be incorporated in an interconnection agreement;
- (b) determining methodology relating to interconnection rates for services; and
- (c) issuing guidelines and directions to the parties to the interconnection agreement to implement the interconnection agreement.”.

Amendment of
section 21 of the
principal
enactment

17. Section 21 of the principal enactment is hereby amended as follows:-

- (1) in subsection (1) thereof, by the substitution for 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 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 one thousand five hundred rupees for each day on which the offence is so committed after conviction.”.

Amendment of
section 22 of the
principal
enactment

18. Section 22 of the principal enactment is hereby amended as follows:-

- (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 frequency emitting apparatus”;
- (2) 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.”;
- (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 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 revoke any licence issued under subsection (1) on the breach of any condition or restriction to which it is subject to or in the event of any default in the payment of any consideration payable thereunder or on the failure of the licensee to comply with any regulation for the time being in force under this Act relating to the same.”;

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

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

- (a) direct any person to whom a licence has been issued under subsection (1) to comply with and to implement new technologies for the efficient use of radio frequency spectrum in the public interest; and
- (b) vary any radio frequency after giving written notice to the relevant person prior to a reasonable period of such variation and giving reasons therefor.

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

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

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

- (6) by the insertion immediately after subsection (4) thereof, of the following new subsections:-

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

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

- (7) in subsection (5) thereof, by the substitution for the words “A person uses” of the words and figure “Save as provided for in subsection (6), a person who uses”; and
- (8) by the addition immediately after subsection (5) thereof, of the following new subsections:-

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

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

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Amendment of
section 22A of
the principal
enactment

19. Section 22A of the principal enactment is hereby amended as follows:-

- (1) in subsection (1) thereof, by the substitution for the 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:-

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

- (a) on the breach of any term or condition of the licence by the licensee;
- (b) on the failure by the licensee to pay the fee determined by the Commission under paragraph (a) of subsection (2);
- (c) on the failure by the licensee to comply with the provisions of the Act or any regulation or rule made thereunder; or
- (d) where such revocation or suspension is deemed to be necessary in the public interest or in the interest of national security.”.

Insertion of new
sections 22AA
and 22AB in the
principal
enactment

20. The following new sections are hereby inserted immediately after section 22A of the principal enactment and shall have effect as sections 22AA and 22AB of that enactment:-

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“Responsibility
of the
Commission
to protect
submarine
cables

22AA. (1) The Commission shall, with the assistance of the Sri Lanka Navy, the Department of Coast Guard and Sri Lanka Police, monitor, manage and protect the submarine cables laid within the territorial waters of Sri Lanka connected with the provision of any telecommunication service under this Act, subject to the advice of the National Submarine Cable Protection Committee established under subsection (2) of this section.

(2) There shall be established a committee called and known as the National Submarine Cable Protection Committee (in this section and section 22AB referred to as the “Committee”) consisting of the following members:-

- (a) the Director-General of the Commission who shall be the Chairman of the Committee;
- (b) an officer of the Sri Lanka Navy nominated by the Commander of the Navy;
- (c) a Coast Guard Officer of the Coast Guard Department nominated by the Director-General of such Department;
- (d) a police officer of the police force nominated by the Inspector General of Police;
- (e) an officer of the Customs nominated by the Director-General of Customs appointed under section 2 of the Customs Ordinance (Chapter 235);

- (f) an officer not below the rank of Senior Assistant Secretary to the Ministry of the Minister assigned the subject of the Fisheries and Aquatic Resources nominated by the Secretary to such Ministry;
- (g) an officer of the Marine Environment Protection Authority established by the Marine Pollution Prevention Act, No. 35 of 2008 nominated by the General Manager of such Authority;
- (h) an officer of the Central Environmental Authority established by the National Environmental Act, No. 47 of 1980, nominated by the Director-General of such Authority;
- (i) the providers issued with licences under paragraph (c) of subsection (1) of section 17B to operate a cable landing station; and
- (j) an officer nominated by the Director-General of Merchant Shipping appointed under section 3 of the Merchant Shipping Act, No. 52 of 1971.

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

- (a) to advise the Commission in the monitoring, management and protection of the submarine cables laid within the territorial

waters of Sri Lanka connected with the provision of any telecommunication service under this Act;

- (b) to make recommendations to the Minister in formulations of policies regarding protection and resilience of submarine cables and submarine cable landing stations; and
- (c) to exercise or discharge any other powers or functions as may be prescribed.

Protection zone to be declared by the President

22AB. (1) The President may, by proclamation published in the *Gazette*, on the recommendations made by the Minister, declare any zone of the sea adjacent to the territorial waters including exclusive economic zones, to be the protection zone (hereinafter referred to as the “protection zone”) in relation to a submarine cable and submarine cable landing station.

(2) The Minister shall, prior to making recommendations under subsection (1), obtain the recommendations of the Committee in respect of such matter.

(3) Where any operator requests the Minister to declare any zone as a protection zone under subsection (1), the Minister shall obtain the recommendations of the Committee and submit his recommendations to the President.

(4) Where the President refuses to declare such zone as a protection zone, the Minister shall cause to be informed of such decision to the relevant operator.

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(5) An operator who is aggrieved by the decision of the President may appeal to the Minister within forty five days from the date of such decision.

(6) The Minister shall, in consultation with the Committee, make his recommendations on the appeal to the President, and the President may make decision on the appeal within forty five days from the date of receipt such appeal. The decision of the President made under this subsection shall be final and conclusive.

(7) A proclamation made under subsection (1), may be revoked or varied by the President in like manner.”.

Amendment of
section 22F of
the principal
enactment

21. Section 22F of the principal enactment is hereby amended in subsection (2) thereof as follows:-

- (1) in paragraph (c) thereof, by the substitution for the 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 penalty imposed by the Commission under section 11; and”.

Amendment of
section 22G of
the principal
enactment

22. Section 22G of the principal enactment is hereby amended in subsection (1) thereof, by the substitution for the words “the operator.” of the words “the operator or the provider.”.

23. 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

“PART IIc

IMPOSITION OF SURCHARGE ON LICENCE FEE AND CESS

Commission
to impose
surcharge on
the default of
payment of
any licence
fee or cess
under this
Act

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

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

- (a) the reasons for surcharging;
- (b) the amount in default and the surcharge decided thereon;

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

Proceedings
for recovery
before a
Magistrate

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

(2) (a) The Magistrate shall thereupon summon such person who is liable to pay the amount in default, to show cause as to why further proceedings for the recovery of the sum to be recovered shall not be taken against him.

(b) Where the person who is liable to pay the amount in default fails to show sufficient

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

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

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

24. 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.

Amendment of sections 33, 34 and 35 of the principal enactment

25. The following new sections are hereby inserted immediately after section 35 of the principal enactment and shall have effect as sections 35A and 35B of that enactment:-

Insertion of new section 35A and 35B in the principal enactment

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“Sharing of
infrastructure
facilities or
resources

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

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

Sharing of
facilities or
resources by
operators

35B. (1) The Commission may, in the public interest, direct in writing to any operator to coordinate and cooperate with another operator to share the use of any facility or resource including radio access network owned or used by such operator.

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

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

26. Sections 36 and 37 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.

Amendment of sections 36 and 37 of the principal enactment

27. Section 38 of the principal enactment is hereby amended as follows:-

Amendment of section 38 of the principal enactment

- (1) by the substitution for the word “operator” of the words “operator or provider”; and
- (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,”.

28. Sections 39 and 40 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.

Amendment of sections 39 and 40 of the principal enactment

29. Section 44 of the principal enactment is hereby amended as follows:-

Amendment of section 44 of the principal enactment

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

“(1) Every person guilty of an offence under subsection (1) of section 19 and section 22 shall be liable on conviction by a Magistrate to a fine not less than fifty thousand rupees and not exceeding ten million rupees or to an imprisonment of either description for a term not less than six months and not exceeding three years or to both such fine and imprisonment and in the event of the offence being committed continuously, to a fine of two thousand rupees for each day on which the offence is so committed after conviction.”; and

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

“(1A) In addition to the penalty imposed under subsection (1), the Magistrate may make an order to confiscate all telecommunication apparatus used in the commission of the offence under subsection (1) of section 19.

(1B) Every person guilty of an offence under subsection (5) of section 17B shall be liable on conviction by a Magistrate to a fine not exceeding five million rupees or to an imprisonment of either description for a term not exceeding three years or to both such fine and imprisonment and in the event of the offence being committed continuously, to a fine of ten thousand rupees for each day on which the offence is so committed after conviction.”.

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30. The following new sections are hereby inserted immediately after section 46 of the principal enactment and shall have effect as sections 46A, 46B and 46C of that enactment:-

Insertion of new sections 46A, 46B and 46C in the principal enactment

“Interference, etc. to telecommunication system

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

Deceiving or misleading persons using a telecommunication system

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

Providing false information as to the identity of user to obtain telecommunication service

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

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

Replacement of
section 47 of the
principal
enactment

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

“Penalty for
intentionally
damaging or
tampering
with tele
communication
installation

47. Every person who, with the intention of-

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

damages, removes or tampers with any submarine cable, submarine cable landing station or telecommunication installation line, post or other thing whatever being part of or used in or about any telecommunication system or submarine cable in the provision of any service within Sri Lanka or outside the exclusive economic zone of Sri Lanka, by

means thereof commits an offence and shall be liable on conviction to a fine not exceeding one hundred million rupees or to imprisonment of either description for a term not exceeding ten years or to both such fine and such imprisonment.”.

32. Section 59 of the principal enactment is hereby amended as follows:-

Amendment of
section 59 of the
principal
enactment

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

“(1) Every person who –

- (a) persistently makes telephone calls, or sends or transmits messages using a telephone; or
- (b) publishes, sends or transmits telephone numbers of other subscribers,

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

- (2) in subsection (2) thereof, by the substitution for the words “allow such a call to be made.” of the words “allow such call to be made or proceed to disconnect the telephone connection through which such call was made.”.

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Insertion of new
sections 59A in
the principal
enactment

33. The following new section is hereby inserted immediately after section 59 of the principal enactment and shall have effect as section 59A of that enactment:-

“False
information,
etc.

59A. Any person who knowingly —

- (a) gives or causes to be given any false or misleading information relating to the commission of any offence under this Act; or
- (b) gives or causes to be given to the Commission or any other officer appointed to assist the Commission false or misleading information,

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

Amendment of
section 65 of the
principal
enactment

34. Section 65 of the principal enactment is hereby amended as follows:-

- (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 commission of that offence be forfeited to the State.

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

(5) Such vesting shall take effect-

- (a) if no appeal is preferred after the expiration of the period within which an appeal against the order for forfeiture may be preferred to a High Court established by Article 154P of the Constitution or the Supreme Court; or
- (b) where an appeal has been preferred against the order of forfeiture, to a High Court established by Article 154P of the Constitution or to the Supreme Court, upon the determination of such appeal, either confirming the order of forfeiture or setting aside the appeal.”; and

(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”.

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

Amendment of section 68 of the principal enactment

“(1A) Without prejudice to the generality of the power conferred under subsection (1), the

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Commission shall have power to make rules for the formulation of Codes of Practice applicable to respective operators, providers and licensees.”.

Amendment of
section 73 of the
principal
enactment

36. Section 73 of the principal enactment is hereby amended as follows:-

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

- (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 Zones Law, No. 22 of 1976;

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

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

““person” include a body of persons;

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

- (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 telecommunication services or infrastructure facilities or cable landing station facilities;”;

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

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

- (7) by the insertion immediately after the definition of the expression “radio beam” of the following definition:-

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

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

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

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

Sinhala text to prevail in case of inconsistency

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

