



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

SRI LANKA BROADCASTING CORPORATION
(AMENDMENT)
ACT, No. 48 OF 1988

[Certified on 30th November, 1988]

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Sri Lanka Broadcasting Corporation (Amendment)
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L. D.—O. 49/83.

AN ACT TO AMEND THE SRI LANKA BROADCASTING CORPORATION
Act, No. 37 OF 1966

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 Broadcasting Corporation (Amendment) Act, No. 48 of 1988, and shall come into operation on such date as the Minister may appoint by Order published in the *Gazette*.

Short
title
and date
of
operation.

2. Section 3 of the Sri Lanka Broadcasting Corporation Act, No. 37 of 1966, (hereinafter referred to as the "principal enactment") is hereby amended in subsection (1) of that section, by the insertion immediately after paragraph (b) of that subsection of the following paragraph:—

Amendment
of section 3
of Act No. 37
of 1966.

"(bb) to register persons who carry on the business of importing, selling, manufacturing, or assembling radio receiving sets ;".

3. Section 4 of the principal enactment is hereby amended as follows:—

Amendment
of section 4
of the
principal
enactment.

(1) by the substitution for paragraphs (l) and (m) of that section of the following paragraphs:—

"(l) do all such things as the Corporation considers to be in the interests of the community for the purpose of developing and improving radio broadcasting talent ;

(m) act in combination or association with any person or body of persons whether incorporated or not and whether in Sri Lanka or elsewhere, for any of the aforesaid purposes ;" ;

(2) by the addition immediately after paragraph (m) of that subsection of the following paragraphs:—

"(n) issue and renew licences under Part IIIA for the possession and use of radio receiving sets and to appoint agents to issue and renew such licences and to ensure that such licences have been obtained or renewed; and

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- (o) call for information and returns in respect of imports, sales, manufacture or assembling of radio receiving sets from all persons engaged in such import, sales, manufacture or assembling of radio receiving sets.”.

Insertion
of new
section 4A
in the
principal
enactment.

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

“ Appoint-
ment of
agents.

4A. The Corporation may from time to time appoint any person or body of persons, whether incorporated or not, to be an agent of the Corporation for the purposes of issuing and renewing licences under Part IIIA of this Act, and to pay such agent, such remuneration as may be agreed upon between the Corporation and such agent.”.

Amendment
of section 23
of the
principal
enactment.

5. Section 23 of the principal enactment is hereby amended as follows :—

- (1) by the insertion immediately after paragraph (c) of that section of the following paragraph :—

“ (cc) all such sums as may be credited to the fund under section 42A ;” ;

- (2) by the substitution for paragraph (d) of that section of the following paragraph :—

“ (d) all sums of money received as fees each year for the issue and renewal of radio licences ;” ;

- (3) by the insertion immediately after paragraph (d) of that section of the following paragraph :—

“ (dd) all sums of money received as fees each year for the issue of Certificates of Registration under Part IIIA of this Act ; and”.

6. The following new Part is hereby inserted immediately after Part III of the principal enactment and shall have effect as Part IIIA of that enactment :—

Insertion of
new Part IIIA
in the
principal
enactment.

“PART IIIA

ISSUE OF LICENCES AND REGISTRATION

Prohibition
on the
possession
and use of
radio
receiving
sets.

32A. (1) On or after the relevant date no person shall possess or use any radio receiving set except under the authority of a licence issued in that behalf by the Corporation.

(2) The requirements of subsection (1) shall not apply—

(a) to the possession and use of a radio receiving set by any person at a school, a Higher Educational Institution or other institution which the Minister may specify by Order published in the *Gazette*, for the purposes of this section, having regard to the fact that social or educational activities of benefit to the community are being carried on at such institution ;

(b) to the possession and use of a radio receiving set by any importer, seller, manufacturer or an assembler of radio receiving sets who is registered and holds a Certificate of Registration issued under section 32N of this Act, in the course of his business as such importer, seller, manufacturer or assembler ;

(c) to the possession and use of a radio receiving set by a repairer of radio receiving sets in the course of his business as such repairer ;

(d) to the use by any person, of a radio receiving set with the permission, express or implied, or on the instructions, of the holder of a licence issued under this Part in respect of that set at the premises specified in the licence ;

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(e) to the possession and use of a radio receiving set by any person employed in the Corporation or in any private broadcasting station established and maintained under a licence issued by the Minister under section 44 for the purposes of the Corporation of that station.

(3) (a) Where the Minister considers that several radio receiving sets are likely to be used in any category of premises, he may, by Order published in the *Gazette*, declare that the provisions of this section shall apply in respect of that category of premises.

(b) The owner of any premises included in a category of premises to which this section applies, may in lieu of applying for a licence in respect of every radio receiving set installed in such premises, apply for a licence in respect of these premises. Every application made under this subsection shall be accompanied by the prescribed fee. Different fees may be prescribed in respect of different category of premises, having regard to the number of radio receiving sets likely to be used in that category of premises.

(c) The provisions of section 32c, 32d, 32e and 32f shall, *mutatis mutandis*, apply to, and in relation to, the application for, the issue and renewal of, licences issued under subsection (2).

(d) Where a licence issued under this section in respect of any premises is in force, the possession and use of a radio receiving set by any person on such premises shall be deemed to be under the authority of a licence issued under section 32c.

For the purposes of this Section "Higher Educational Institution" shall have the same meaning as in the Universities Act, No. 16 of 1978.

Right of persons who were possessing and using radio receiving sets prior to the relevant date.

32B. Notwithstanding the provisions of section 32A, any person who immediately prior to the relevant date was having in his possession a radio receiving set, shall be entitled to possess and use such radio receiving set, without a licence in that behalf for a period of three months commencing from the relevant date.

Issue of a licence.

32c. (1) The Corporation or any agent shall, on application made therefore, in such form as may be prescribed, containing the prescribed particulars, and on payment of the prescribed fee, issue a licence in respect of a radio receiving set, authorizing the applicant to possess and use such radio receiving set.

(2) Every application for a licence in respect of any radio receiving set under this Part, shall be made to the Corporation or any agent, in the prescribed form and shall contain the prescribed particulars.

(3) Every licence issued under this Part shall be—

- (a) in such form as may be prescribed;
- (b) valid for a period of one year; and
- (c) renewable after the expiration of the period specified in the licence.

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Terms and conditions of the licence.

32D. Every licence issued in respect of any radio receiving set under this Part shall be subject to such terms and conditions as may be prescribed with regard to the use and transfer of that licence.

Any change in particulars in the application to be informed.

32E. Every holder of a licence shall within thirty days of any change in the particulars in his application, for a licence issued under this Part inform the Corporation or any agent in writing of such change.

Renewal of licence.

32F. (1) The Corporation or any agent may, on application made therefore in such form as may be prescribed, and on payment of the prescribed fee renew any licence, issued under section 32C, and the licence which is renewed shall be valid for a period of one year from the date specified therein.

(2) Every application for the renewal of a licence under this Part, shall be made to the Corporation or any agent in the prescribed form within three months of the date of expiry specified therein.

Penalty for possessing or using a radio receiving set without the radio receiving set being licenced and for contravention of terms and conditions of a licence.

32G. (1) Any person—

(a) who possesses or uses a radio receiving set, without a licence in that behalf, issued under this Part;

(b) who acts in contravention of, or fails to comply with any term or condition of, a licence issued under this Part,

shall be guilty of an offence under this Act, and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding two thousand five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

(2) The Magistrate may on conviction of any person of any offence under subsection (1), in addition to any punishment which he may impose under that subsection make order that—

(a) the licence, if any, issued under this Part in respect of the radio receiving set in connection with which the offence is committed be cancelled ; and

(b) any radio receiving set in connection with which the offence is committed or which was used in or in connection with the commission of the offence be forfeited to the State.

(3) Any radio receiving set forfeited under subsection (2) shall upon such forfeiture be vested absolutely in the State. Such vesting shall take effect—

(a) after the expiration of the period within which an appeal may be preferred to the Court of Appeal against the order of the Magistrate ; or

(b) where an appeal has been preferred to the Court of Appeal against the order of the Magistrate upon the determination of such appeal, confirming or up-holding the order of forfeiture.

Surcharge
where
licence
fee has not
been
paid.

32H. Where any person applies to the Corporation or any agent for the renewal of a licence issued under section 30c after the date of expiry specified in such licence, the Corporation or such agent may renew such licence, subject to the payment by the applicant of a surcharge at the prescribed rate ; so however the maximum rate so specified shall not exceed ten *per centum* of the fee so payable for the renewal of such licence.

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Prohibition
on carrying
on the
business of
importing,
selling &c.,
of radio
receiving
sets, without
Certificate of
Registration.

32J. (1) On or after the relevant date no person shall carry on the business of importing, selling, manufacturing, or assembling any radio receiving set, except under the authority of a Certificate of Registration issued in that behalf by the Corporation;

(2) The requirements of subsection (1) shall not apply to the import, sale, manufacture or assembling of a radio receiving set by any person who has been issued a licence to establish and maintain a radio broadcasting station under section 44.

Persons
who were
carrying on
business
before the
relevant
date.

32K. Notwithstanding the provisions of section 32J a person who immediately prior to the relevant date was carrying on the business of importing, selling, manufacturing or assembling, any radio receiving set, shall be entitled to carry on such business without a Certificate of Registration under this Part for a period of three months commencing from the relevant date.

Registration
of person
carrying on
business of
importing
&c., of radio
receiving
sets

32L. The Corporation shall—

(a) on application made therefor, in such form as may be prescribed, together with a certified copy of the Certificate of Registration issued under the Business Names Ordinance (Chapter 149) relating to the business, in connection with which the application is made; and

(b) on payment of the prescribed fee, register any person with the Corporation and issue to such person a Certificate of Registration authorizing such person to carry on the business of importing, selling, manufacturing or assembling radio receiving sets, in connection with which the application is made.

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Application
for
registration.

32M. Every application for registration under this Part shall be made to the Corporation in such form as may be prescribed containing the prescribed particulars, together with a certified copy of the Certificate of Registration issued under the Business Names Ordinance (Chapter 149) relating to the business in connection with which the application made.

Terms and
conditions
of the
Certificate
of
Registration.

32N. Every Certificate of Registration issued under this Part shall be subject to such terms and conditions set out in the Schedule hereto.

Penalty for
carrying on
business of
importing,
selling &c.,
of radio
receiving sets
without a
Certificate of
Registration
and
contravention
of terms and
conditions
of the
Certificate
of
Registration.

32P. (1) Any person who—

- (a) carries on the business of importing, selling, manufacturing or assembling radio receiving sets without a Certificate of Registration issued in that behalf, or
- (b) acts in contravention of, or fails to comply with any terms or conditions of a Certificate of Registration issued under this Part,

shall be guilty of an offence and shall on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two thousand five hundred rupees or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(2) The Magistrate on conviction of any person of any offence under subsection (1) may, in addition to any punishment he may impose under that subsection having regard to the gravity of the offence make order—

- (a) suspending, for a period to be specified in such order the Certificate of Registration in connection with which the offence is committed; or
- (b) cancelling such Certificate of Registration.

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Liability of
certain
persons in
respect of
offences
committed by
bodies
corporate
or
unincorpo-
rate.

32Q. Where an offence under this Part is committed by a body of persons, then—

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

(b) if that body of persons is a firm, every person who at the time of the commission of the offence was a partner of that firm,

shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in all circumstances.”.

Insertion of
new
section 40A,
in the
principal
enactment.

7. The following new section is hereby inserted immediately after section 40 of the principal enactment and shall have effect as section 40A of that enactment :—

“Magistrate
to
grant search
warrants.

40A. (1) Where a Magistrate is satisfied on information received on oath that there is reasonable ground to believe that, in contravention of the provisions of this Act the person against whom the information is given—

(a) is possessing or using a radio receiving set ;

(b) is carrying on the business of importing, selling, manufacturing or assembling radio receiving sets,

in any premises within his jurisdiction such Magistrate may, grant a search warrant to any officer of the Corporation to enter such premises, to make inquiries from any person found thereon and to seize any radio receiving set in connection with which such contravention is committed.

(2) When an officer of the Corporation seizes any radio receiving set under subsection (1), he shall produce such radio receiving set within a period of seven days from the date of seizure before the Magistrate's Court within whose jurisdiction that radio receiving set is seized, and upon the production of that radio receiving set, the court shall make such order as he may deem fit relating to the custody of that radio receiving set."

8. Section 42 of the principal enactment is hereby amended by the substitution for the words "be liable to a fine", of the words "be liable unless otherwise expressly provided to a fine".

Amendment of section 42 of the principal enactment.

9. The following new section is hereby inserted immediately after section 42 of the principal enactment and shall have effect as section 42A of that enactment:—

Insertion of new section 42A in the principal enactment.

"Two third of fine when recovered to be credited to the Fund of the Corporation.

42A. Two thirds of all fines imposed by court for any offence under this Act when recovered shall be credited to the Fund of the Corporation."

10. Section 48 of the principal enactment is hereby amended as follows:—

Amendment of section 48 of the principal enactment.

(1) by the insertion immediately preceding the definition of "broadcasting" of the following definitions:—

"agent" in any context relating to a licence under Part III A of this Act means any person or body of persons whether incorporated or not appointed to be such agent by the Corporation, under section 4A of this Act;

"premises" means any building or part of a building together with the land appertaining thereto ;

(2) by the addition immediately after the definition of "programme" of the following definitions:—

"radio receiving set" means a device connected to an internal or external aerial or other source of radio signal in order to make available in some desired from the required information ;

"relevant date" means the date on which Part IIIA of this Act comes into operation ;

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Non appli-
cation of
certain
provisions
in the
Telecommuni-
cation
Ordinance.

11. From and after the relevant date the provisions of the Telecommunications Ordinance (Chapter 192) relating to licences shall not apply to, or in relation to, the import, sale, manufacture, assembly, possession or use of radio receiving sets.

Addition
of new
Schedule
in the
principal
enactment.

12. The following new Schedule is hereby added immediately after section 48 of the principal enactment.

"SCHEDULE (Section 32N).

Terms and conditions of the Certificate of Registration issued under section 32N.

1. The Certificate of Registration shall not be transferable.
2. The Certificate of Registration shall be exhibited in a conspicuous place in the place of business to which it relates.
3. Every holder of the Certificate of Registration shall keep and maintain a register in such form as may be prescribed and shall enter or cause to be entered therein the particulars relating to every transaction of his business.
4. Every such register kept and maintained shall be available for inspection by any officer authorized in that behalf by the Director-General of the Corporation.
5. (1) Every holder of a Certificate of Registration shall furnish to the Corporation, when called upon to do so by the Corporation, such return or other information, in respect of his business.
(2) Every return furnished under the preceding paragraph shall be verified by a declaration to the effect that the particulars stated therein are true and accurate.
6. Every holder of a Certificate of Registration shall within thirty days of any change in the particulars stated in his application for registration, inform the Corporation in writing of such change.
7. Every holder of the Certificate of Registration shall issue a receipt with his signature on it, to the person with or on behalf of whom such transaction is made stating—
 - (a) the name of that person and the description and address of the premises and the make and the registered number of the vehicle in which such radio receiving set is to be kept;
 - (b) the nature of the transaction;
 - (c) the make and the number of the radio receiving set or sets in respect of which the transaction is made;
 - (d) the date of the transaction,

and shall keep a copy of every such receipt and produce it on demand to the Director-General of the Corporation or any person authorized by him in that behalf."