

# The Indian Telegraph Act, 1885

UNION OF INDIA

India

## The Indian Telegraph Act, 1885

### Act 13 of 1885

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1. [Amended by THE INDIAN TELEGRAPH (AMENDMENT) ACT, 2003 (Act 08 of 2004) on 9 January 2004]
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The Indian Telegraph Act, 1885(13 of 1885)Last Updated 3rd August, 2019Statement of Objects and Reasons. - The main object of this Bill is to give power to the Government and to any company or person licensed under section 4 of the Indian Telegraph Act, 1876, and specially empowered in this behalf, to place telegraph lines under or over property belonging whether to private persons or to public bodies.The attention of the Government has recently been directed to the fact that as the law now stands, the Governor-General in Council and his licensees have no power to place telegraph lines upon the land of municipal or other similar bodies or of private persons. In England the requisite powers are conferred on the Postmaster-General, who works and maintains the telegraphs in that country, by 26 and 27 Vic., cap. 112, as amended by 41 and 42 Vic., cap. 76; and as it seems desirable that the Government in which the exclusive privilege of establishing telegraphs in this country is vested should possess somewhat similar powers, the present Bill has been prepared.Section 3 empowers the Government or any company or person licensed under section 4 of the Indian Telegraph Act, 1876, and specially authorized by a Government officer to place and maintain telegraph lines and posts under, over, along, across, in or upon the property of any "person", which term includes a body corporate. It is considered that licensees should have these powers, because the licenses granted always strictly limit the area of the operations of the licensees, and it would be somewhat anomalous for local bodies and private persons to have the power to neutralize the licenses granted by the Governor-General in Council by objecting to the licensees' operations, or by hampering them by the exaction of fees for permission to work under their licenses. The powers thus given are, however, to be exercised so as to do as little damage as possible, and their exercise is moreover made subject to important restrictions and conditions.When the property belongs to a municipal board or other local authority, the powers conferred by the Act cannot be exercised over it without the consent of that authority and that consent may be given

subject to conditions. Among other conditions which can be imposed is one requiring that any expenses to which the local authority may be put by the exercise of the power shall be made good; but it will be observed that no provision is made for the payment of compensation on any other account to a local authority whose property is made use of for this purpose, it being considered that, as the construction of telegraphs is a matter in which the public are interested, no charge should be made for accommodation of this sort when it can be granted without inconvenience to the public or expense to the local authority concerned. It may sometimes happen that, though at the time when a telegraph authority desires to exercise its powers over some property of a local authority there may be no reasonable ground for objecting, and the local authority may thus find itself compelled to consent, a state of things may subsequently arise under which the continued exercise of the powers would be felt as a grave public inconvenience or a cause of serious loss. Land, e.g., which was waste at the time the telegraph line was constructed over it might afterwards be required for some important public object or might acquire great value for building purposes and, as no compensation (except for actual expenses out of pocket) would have been paid to the local authority at the time the line was constructed, it is but just that provisions should be made for the removal or alteration of the line in such an event. This accordingly is done by section 5 of the Bill, which empowers the local authority to call upon the telegraph authority to remove or alter its telegraph or post, and, in the event of the telegraph authority refusing or neglecting to do so gives an appeal to the Local Government. In the event, which it is believed will be rare, of a local authority arbitrarily refusing its consent to the exercise by a telegraph authority of the powers conferred by the Bill or clogging its consent with unreasonable conditions, it will (section 7) be open to the telegraph authority to appeal to the Local Government, whose decision will be final. Turning now to the case in which it may be desired to exercise the powers given by the Bill over the property of private persons, it will be seen that here provision is made for the payment of full compensation, the amount of which in the event of dispute will (section 9) be determined by the Civil Court, and that, in the event of a person upon whose property a telegraph line or post has been placed desiring subsequently to deal with the property in such a way as would make it necessary or convenient that the line or post should be removed to another part of it or to a higher or lower level or altered in form, he can (section 10) tender the cost of the work and call upon the telegraph authority to remove or alter the line or post and, if that authority refuses to do so, can appeal to the Civil Court. It may be observed, however, that in practice in this country the power of taking telegraph lines through private property is not likely to be exercised either by the Government or by its licensees except on rare occasions, and then as a rule only to the extent of crossing with the wire a post being scarcely ever erected on private land. Private property has hitherto been always avoided as much as possible, and it is likely to be still more carefully avoided in future if it is made clear, as it is proposed to do by this Bill that full compensation will have to be paid for exercising the power over private and not for exercising it over public property. The present opportunity has been taken to make three amendments of the Indian Telegraph Act, 1876, which experience has shown to be desirable. The first for its object the emendation of the definition of "telegraph" so as to bring it into more exact conformity with the construction put upon the definitions in the English Acts by a recent decision of the High Court of Justice in England. The second is intended to provide for the regulation of telegraph lines constructed by the Government but leased to companies or individuals by whom they are worked. The position of such lines under the Act as it at present stands is far from clear, and the object of the amendment proposed in section 12 of the Bill is to put them on much the same footing as licensed

lines. The object of the third amendment which is made by section 13 of the Bill, is to prescribe penalties for the breach of the rules made under section 8 of the Act for the conduct of telegraphs worked under license or lease. In such cases, as the Act now stands the only remedy is to revoke the license or lease but this course would in most cases cause such great public inconvenience that it is impracticable. The result is that at present there is virtually no penalty for the infringement of the rules made under section 8 of the Act. To remedy this state of things, the Bill adds a clause to that section empowering the Governor-General in Council to prescribe by the rules moderate fines for the breach of them. Select Committee Report (Extract). - We are of opinion that it would be for the convenience of the Telegraph Department and the public that Act 1 of 1876 should be repealed and re-enacted with most of the modifications and additions proposed by the Bill as introduced. We have, accordingly, re-drawn the Bill as a consolidating measure. Amendment Act 33 of 1971-Statement of Objects and Reasons. - Under section 7(2)(a) of the Indian Telegraph Act, 1885, the rates for telegrams, whether inland or foreign, have to be prescribed by Rules. At present, the rates of inland telegrams alone are prescribed by Rules and the rates for foreign telegrams are published in the Telegraph Guide, Volume 1. The Committee on Subordinate Legislation of Rajya Sabha have pointed out that the section requires the rates at which messages shall be transmitted to be provided in the Rules themselves and not elsewhere, e.g., Posts and Telegraphs Guide and that rates cannot be kept out of purview and scrutiny of Parliament by notifying them in a document (i.e., Posts and Telegraphs Guide) which, unlike the Rules is not placed before the Parliament.<sup>2</sup> It is administratively impossible to prescribe the rates for transmission of foreign telegrams by rules as the rates are subject to frequent variations depending on changes in the accounting rates effected by foreign administrations. The devaluation or revaluation of Indian currency and foreign currencies also affects the structure of rates for transmission of foreign telegrams. Further, such rates have also to be revised due to changes in the rates for transmission of messages in India.<sup>3</sup> It is, therefore, proposed to take power to notify, from time to time, the rates for foreign telegrams keeping in view the rates for transmission of messages in force in countries outside India, foreign exchange rates for transmission of messages within India and other relevant considerations. Consequently, it is proposed to amend clause (a) of sub-section (2) of section 7 of the Act so as to prescribe rates for inland telegrams only by Rules.<sup>4</sup> Section 29 of the Act provides for punishment with imprisonment or fine or both of a person who transmits or causes to be transmitted by telegraph a message which he knows to be false or fabricated. It has been represented to the Government that by taking shelter under this provision, the telegraph authorities sometimes harass the press correspondents for, transmitting any news report telegraphically to their respective news agencies or newspapers found later to be false. With a view to maintaining the independence of the journalistic profession and having regard to the resolution passed by the Press Council of India in this behalf, it is proposed to omit section 29. Amendment Act 38 of 1972-Statement of Objects and Reasons. - Section 5 of the Indian Telegraph Act, 1885, confers powers on the Government, on the occurrence of any public contingency or in the interest of public safety, to take possession of licensed telegraphs and to order interception of messages. As doubts have been expressed about the validity of this provision, Government, after consulting the Law Commission, considers it necessary to amend sub-section (1)(b) of that section so as to limit the exercise of powers thereunder only in the interests of sovereignty and integrity of India, security of the State, public order or friendly relations with foreign States or for preventing incitement to the commission of an offence. The object is to bring the provisions of sub-section (1) of section 5 in line with permissible heads of restrictions under

article 19(2) of the Constitution. Government also considers it necessary to omit sub-section (2) of section 5 which bars judicial review of any action taken under the section. The Bill seeks to achieve the above objects. Amendment Act 48 of 1974-Statement of Objects and Reasons. - Section 7 of the Indian Telegraph Act, 1885, empowers the Central Government to make rules from time to time consistent with the Act, by notification in the Official Gazette, for the conduct of all or any telegraphs established, maintained or worked by the Government or by persons licensed under the Act. Sub-section (2) of this section enumerates the matters for which rules under this section may be made.

2. The Posts and Telegraphs Board decided in November, 1967 that applicants for new telephone connections should be required to register their demand in a standard prescribed form, machine-numbered and issued on payment of Rs. 10 non-refundable. The new forms were introduced on 1st December, 1969. This step was considered necessary for the following reasons:-(i) to make the waiting list more realistic to enable correct planning for expansion of the telephone system;(ii) to eliminate unnecessary bogus demands for telephone connections;(iii) on receipt of the application for a telephone, the Department has to incur some expenditure in the registration of the application, maintaining waiting lists and for the correspondence it has to undertake with applicants regarding position of their cases up to the time the demands mature. Taking this in view, the Posts and Telegraphs Board considered a charge of Rs. 10 as fair and reasonable to cover the abovementioned expenditure, in addition to the cost of printing and sale of the form.

3. The Committee on Subordinate Legislation of the Lok Sabha was of the view that there was no express provision in the Indian Telegraph Act, 1885 conferring any power on the telegraph authority to levy charge on the application form. It was felt by the Committee that for the levy of the above charge the Indian Telegraph Act, 1885, should be suitably amended.

4. It is now proposed to amend section 7 of the Act suitably with a view to empowering the Government to make rules for the levy of charges in respect of any application for providing any telegraph line, appliance or apparatus. It is also proposed to validate the charges already levied during the period commencing from 1st December, 1969 and ending with the commencement of the proposed Amendment Act.

Amendment Act 4 of 2004-Statement of Objects and Reasons. - The New Telecom Policy, 1999 as approved by the Cabinet provides that resources for meeting the Universal Service Obligation will be raised through a Universal Access Levy, which will be a percentage of revenue earned by the operators under various licences. Various service providers have been issued licences under section 4 of the Indian Telegraph Act, 1885, on certain terms and conditions. On the basis of recommendations of the Telecom Regulatory Authority of India, it has been stipulated that Universal Access Levy would be a part of the licence fee. With a view to implement the New Telecom Policy, it has been decided to establish a Fund with effect from the 1st April, 2002 to be called the "Universal Service Obligation Fund" by amending the Indian Telegraph Act, 1885 to meet the Universal Service Obligation. The Universal Service Obligation is the Government's commitment to provide access to basic telegraph services to people in rural or remote areas at affordable and reasonable prices. The licence fee, including the sums of money received towards the Universal Service Obligation, shall first be credited to the Consolidated Fund of India and the Central Government may, if Parliament by appropriation made by law in this behalf so provides, credit such proceeds to the Fund from time to time for being utilised exclusively for meeting the Universal Service Obligation.

Amendment Act 57 of 2006-Statement of Objects and Reasons. - Section 9-A of the Indian Telegraph Act, 1885 provides for the establishment of a Fund, called the "Universal Service Obligation Fund" (USO Fund) for meeting the "Universal Service Obligation". As per clause (1-A) of section 3 of the said Act,

"Universal Service Obligation" means the obligation to provide access to basic telegraph services to people in the rural and remote areas at affordable and reasonable prices. At present, support from USO Fund is being provided only for the basic telegraph services, that is, wire-line and fixed wireless terminals.<sup>2</sup> The National Telecom Policy, 1999 has set the target of achieving rural tele-density from the level of 0.4 in 2002 to 4.0 by the year 2010. The rural tele-density has increased to 1.77 by the year 2005. In order to facilitate telecom penetration in the rural areas, it is considered desirable to support new wireless technologies which can be rolled out much faster. Therefore, cellular mobile service is to be deployed for rapid expansion of telegraph services in rural and remote areas at affordable and reasonable prices. Accordingly, the financial support from USO Fund is required to be provided for cellular services in such areas.<sup>3</sup> The Bill seeks to achieve the above objects.[22nd July, 1885]...An Act to amend the law relating to Telegraphs in India. Whereas it is expedient to amend the law relating to telegraphs in India; It is hereby enacted as follows:

## **Part I – Preliminary**

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

(1) This Act may be called The Indian Telegraph Act, 1885. (2) [ It extends to the whole of India [ \* \* \* ] [Substituted by Act 45 of 1948, Section 2, for sub-Section (2) (w.e.f. 3.9.1948).]. ] (3) It shall come into force on the first day of October, 1885.

### **2. Repeal and savings.**

- [Repealed by the Repealing Act, 1938 (1 of

**1938.**

), section 2 and Schedule.]...

### **3. Definitions.**

- In this Act, unless there is something repugnant in the subject or context, (1) [ Fund means the Universal Service Obligation Fund established under sub-section (1) of section 9-A; (1-A) Universal Service Obligation means the [obligation to provide access to telegraph services] [Inserted by Act 8 of 2004, Section 2 (w.r.e.f. 1.4.2002).] to people in the rural and remote areas at affordable and reasonable prices; ] [(1-AA) [Substituted by Act 15 of 1961, Section 2, for Clause (1) (w.e.f. 2.5.1961).] telegraph means any appliance, instrument, material or apparatus used or capable of use for transmission or reception of signs, signals, writing, images, and sounds or intelligence of any nature by wire, visual or other electro-magnetic emissions, Radio waves or Hertzian waves, galvanic, electric or magnetic means. Explanation. Radio waves or Hertzian waves means electro-magnetic waves of frequencies lower than 3,000 giga-cycles per second propagated in space without artificial guide; ] (2) telegraph officer means any person employed either permanently or temporarily in connection with a telegraph established, maintained or worked by [the Central Government]

[Substituted by A.O.1937, for "the Government".] or by a person licensed under this Act;(3)message means any communication sent by telegraph, or given to a telegraph officer to be sent by telegraph or to be delivered;(4)telegraph line means a wire or wires used for the purpose of a telegraph, with any casing, coating, tube or pipe enclosing the same, and any appliances and apparatus connected therewith for the purpose of fixing or insulating the same;(5)post means a post, pole, standard, stay, strut or other above ground contrivance for carrying, suspending or supporting a telegraph line;(6)telegraph authority means the Director-General of [Posts and Telegraphs] [Substituted by Act 14 of 1914, Section 2, for "Telegraphs".], and includes any officer empowered by him to perform all or any of the functions of the telegraph authority under this Act;(7)local authority means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by [the Central or any State Government] [Substituted by A.O.1937, for "the Government".] with, the control or management of any municipal or local fund.[\* \* \*] [Cl(8) which was inserted by A.O.1950, omitted by Act 3 of 1951, Section 3 and Sch.(w.e.f. 1.4.1951).]

## Part II – Privileges And Powers Of The Government

### 4. Exclusive privilege in respect of telegraphs, and power to grant licenses.

- [(1)] [Section 4 renumbered as sub-Section (1) thereof by Act 7 of 1914, Section 4.] Within [India] [Substituted by Act 45 of 1948, Section 3, for "the Provinces".], the Central Government shall have the exclusive privilege of establishing, maintaining and working telegraphs:Provided that the Central Government may grant a license, on such conditions and in consideration of such payments as it thinks fit, to any person to establish, maintain or work a telegraph within any part of [India] [Substituted by Act 45 of 1948, Section 3, for "the Provinces".]:[Provided further that the Central Government may, by rules made under this Act and published in the Official Gazette, permit, subject to such restrictions and conditions as it thinks fit, the establishment, maintenance and working(a)of wireless telegraphs on ships within Indian territorial waters [and on aircraft within or above [India], or Indian territorial waters], and(b)of telegraphs other than wireless telegraphs within any part of [India] [Substituted by Act 45 of 1948, Section 3, for "the Provinces".].][Explanation. The payments made for the grant of a licence under this sub-section shall include such sum attributable to the Universal Service Obligation as may be determined by the Central Government after considering the recommendation made in this behalf by the Telecom Regulatory Authority of India established under sub-section (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997).] [Inserted by Act 8 of 2004, Section 3 (w.r.e.f. 1.4.2002).](2)[ The Central Government may, by notification in the Official Gazette, delegate to the telegraph authority all or any of [its] [Inserted by Act 7 of 1914, Section 4.] powers under the first proviso to sub-section (1).The exercise by the telegraph authority of any power so delegated shall be subject to such restrictions and conditions as the Central Government may, by the notification, think fit to impose.] [Inserted by Act 7 of 1914, Section 4.](3)[ Any person who is granted a license under the first proviso to sub-section (1) to establish, maintain or work a telegraph within any part of India, shall identify any person to whom it provides its services by-(a)authentication under the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016; or(b)offline verification under the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016; or(c)use of passport issued under section 4 of the Passports Act,

1967; or(d)use of any other officially valid document or modes of identification as may be notified by the Central Government in this behalf.(4)If any person who is granted a license under the first proviso to sub-section (1) to establish, maintain or work a telegraph within any part of India is using authentication under clause (a) of sub-section (3) to identify any person to whom it provides its services, it shall make the other modes of identification under clauses (b) to (d) of sub-section (3) also available to such person.(5)The use of modes of identification under sub-section (3) shall be a voluntary choice of the person who is sought to be identified and no person shall be denied any service for not having an Aadhaar number.(6)If, for identification of a person, authentication under clause (a) of sub-section (3) is used, neither his core biometric information nor the Aadhaar number of the person shall be stored.(7)Nothing contained in sub-sections (3), (4) and (5) shall prevent the Central Government from specifying further safeguards and conditions for compliance by any person who is granted a license under the first proviso to sub-section (1) in respect of identification of person to whom it provides its services.Explanation. - The expressions "Aadhaar number" and "core biometric information" shall have the same meanings as are respectively assigned to them in clauses (a) and (j) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.] [Inserted by Act No. 14 of 2019, dated 23.7.2019.]

## **5. [ Power for Government to take possession of licensed telegraphs and to order interception of messages. [Substituted by Act 38 of 1972, Section 2, for Section 5 (w.e.f. 21.8.1972).]**

(1)On the occurrence of any public emergency, or in the interest of the public safety, the Central Government or a State Government, or any officer specially authorized in this behalf by the Central or a State Government may, if satisfied that it is necessary or expedient so to do, take temporary possession (for so long as the public emergency exists or the interest of the public safety requires the taking of such action) of any telegraph established, maintained or worked by any person licensed under this Act.(2)On the occurrence of any public emergency, or in the interest of the public safety, the Central Government or a State Government or any officer specially authorised in this behalf by the Central Government or a State Government may, if satisfied that it is necessary or expedient so to do in the interests of the sovereignty, and integrity of India, the security of the State, friendly relations with Foreign States or public order or for preventing incitement to the commission of an offence, for reasons to be recorded in writing, by order, direct that any message or class of messages to or from any person or class of persons, or relating to any particular subject, brought for transmission by or transmitted or received by any telegraph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to the Government making the order or an officer thereof mentioned in the order:Provided that press messages intended to be published in India of correspondents accredited to the Central Government or a State Government shall not be intercepted or detained, unless their transmission has been prohibited under this sub-section.]

## **6. Power to establish telegraph on land of Railway Company.**

- Any Railway Company, on being required so to do by the Central Government, shall permit the Government to establish and maintain a telegraph upon any part of the land of the Company, and

shall give every reasonable facility for working the same.

## **6A. [ Power to notify rates for transmission of messages to countries outside India. [Inserted by Act 33 of 1971, Section 2 (w.e.f. 10.8.1971).]**

(1)The Central Government may, from time to time, by order, notify the rates at which, and the other conditions and restrictions subject to which, messages shall be transmitted to any country outside India.(2)In notifying the rates under sub-section (1), the Central Government shall have due regard to all or any of the following factors, namely:(a)the rates for the time being in force, for transmission of messages, in countries outside India;(b)the foreign exchange rates for the time being in force;(c)the rates for the time being in force for transmission of messages within India;(d)such other relevant factors as the Central Government may think fit in the circumstances of the case.]

## **7. Power to make rules for the conduct of telegraphs.**

(1)The Central Government may, from time to time, by notification in the Official Gazette, make [rules] [See the Indian Telegraph Rules, 1951; the Indian Wireless Telegraph (Commercial Radio Operators Certificates of Proficiency and Licence to Operate Wireless Telegraph) Rules, 1954; the Wireless Telegraphy (Amateur Service) Rules, 1958; the Indian Wireless Telegraphy (Experimental Service) Rules, 1962; the Indian Wireless Telegraphy (Demonstration Licences) Rules, 1962; the licensing of Wireless Receiving Apparatus Rules, 1965 and the Commercial Broadcast Receiver Licensing (Dealers) Rules, 1965.] consistent with this Act for the conduct of all or any telegraphs established, maintained or worked by the Government or by persons licensed under this Act.(2)Rules under this section may provide for all or any of the following, among other matters, that is to say:(a)the rates at which, and the other conditions and restrictions subject to which, messages shall be transmitted [within India] [Inserted by Act 33 of 1971, Section 3 (w.e.f. 10.8.1971).];(b)the precautions to be taken for preventing the improper interception or disclosure of messages;(c)the period for which, and the conditions subject to which, telegrams and other documents belonging to, or being in the custody of, telegraph offices shall be preserved;(d)the fees to be charged for searching for telegrams or other documents in the custody of any telegraph officer;(e)[ the conditions and restrictions subject to which any telegraph line, appliance or apparatus for telegraphic communication shall be established, maintained, worked, repaired, transferred, shifted, withdrawn or disconnected;] [Inserted by Act 47 of 1957, Section 2 (w.e.f. 1.7.1959).](ee)[ the charges in respect of any application for providing any telegraph line, appliance or apparatus;] [Inserted by Act 48 of 1974, Section 2(w.e.f. 1.6.1975).](eea)[ the manner in which the Fund may be administered; [Inserted by Act 8 of 2004, Section 4 (w.r.e.f. 1.4.2002).](eeb)the criteria based on which sums may be released;](f)the charges in respect of(i)the establishment, maintenance, working, repair, transfer or shifting of any telegraph line, appliance or apparatus;(ii)the services of operators operating such line, appliances or apparatus;(g)the matters in connection with the transition from a system where under rights and obligations relating to the establishment maintenance, working, repair, transfer or shifting of any telegraph line, appliance or apparatus for telegraphic communication attach by virtue of any agreement to a system where under such rights and obligations attach by virtue of rules made under this section;(h)the time at which,



the manner in which, the conditions under which and the persons by whom the rates, charges and fees mentioned in this sub-section shall be paid and the furnishing of security for the payment of such rates, charges and fees;(i)the payment of compensation to the Central Government for any loss incurred in connection with the provision of any telegraph line, appliance or apparatus for the benefit of any person(a)where the line, appliance or apparatus is, after it has been connected for use, given up by that person before the expiration of the period fixed by these rules, or(b)where the work done for the purpose of providing the line, appliance or apparatus is, before it is connected for use, rendered abortive by some act or omission on the part of that person;(j)the principles according to which and the authority by whom the compensation, referred to in clause (i)shall be assessed;(jj)[ the qualifications to be possessed and the examinations, if any, to be passed by the persons employed for the establishment, maintenance or working of any telegraph and the fees to be charged for admission to such examinations;] [Inserted by Act 15 of 1961, Section 3 (w.e.f. 2.5.1961).] and(k)any other matter for which provision is necessary for the proper and efficient conduct of all or any telegraphs under this Act.(3)When making rules for the conduct of any telegraph established, maintained or worked by any person licensed under this Act, the Central Government may by the rules prescribe fines for any breach of the same:Provided that the fines so prescribed shall not exceed the following limits, namely:(i)when the person licensed under this Act is punishable for the breach, one thousand rupees, and in the case of a continuing breach, a further fine of two hundred rupees for every day after the first during the whole or any part of which the breach continues;(ii)when a servant of the person so licensed, or any other person, is punishable for the breach, one-fourth of the amounts specified in clause (i).(4)[ Nothing in this section or in any rules made hereunder shall be construed as(a)precluding the Central Government from entering into an agreement with a person for the establishment, maintenance and working by that Government on terms and conditions specified in the agreement, of any telegraph line, appliance or apparatus for the purpose of affording means of telegraphic communication, where having regard to the number of the lines, appliance or apparatus required by that person for telegraphic communication, it is necessary or expedient to enter into such agreement with him, or(b)subjecting the Central Government to any obligation to provide any telegraph line, appliance or apparatus for the purpose of affording means of telegraphic communication.(5)[ Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days [which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid,] [Inserted by Act 47 of 1957, Section 2 (w.e.f. 1.7.1959).] both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]]

### **7A. [ Saving of existing agreements. [Inserted by Act 47 of 1957, Section 3 (w.e.f. 1.7.1959).]**

Nothing in section 7 shall authorise the making of any rules determining any agreement entered into by the Central Government with any person before the commencement of the Indian Telegraph (Amendment) Act, 1957, relating to the establishment, maintenance or working of any telegraph

line, appliance or apparatus for telegraphic communication; and all rights and obligations thereunder relating to such establishment, maintenance or working shall be determined in accordance with the terms and conditions of such agreement.

## **7B. Arbitration of disputes.**

(1) Except as otherwise expressly provided in this Act, if any dispute concerning any telegraph line, appliance or apparatus arises between the telegraph authority and the person for whose benefit the line, appliance or apparatus is, or has been, provided, the dispute shall be determined by arbitration and shall, for the purposes of such determination, be referred to an arbitrator appointed by the Central Government either specially for the determination of that dispute or generally for the determination of disputes under this section. (2) The award of the arbitrator appointed under sub-section (1) shall be conclusive between the parties to the dispute and shall not be questioned in any Court.]

## **8. Revocation of licenses.**

- The Central Government may, at any time, revoke any license granted under section 4, on the breach of any of the conditions therein contained, or in default of payment of any consideration payable thereunder.

## **9. Government not responsible for loss or damage.**

- The [Government] [Substituted by A.O.1950.] shall not be responsible for any loss or damage which may occur in consequence of any telegraph officer failing in his duty with respect to the receipt, transmission or delivery of any message; and no such officer shall be responsible for any such loss or damage, unless he causes the same negligently, maliciously or fraudulently. [Part II-A [Inserted by Act 8 of 2004, Section 5 (w.r.e.f. 1.4.2002).] Universal Service Obligation Fund

## **9A. Establishment of Universal Service Obligation Fund.**

(1) On and from the commencement of the Indian Telegraph (Amendment) Act, 2003, there shall be deemed to have been established, for the purposes of this Act, a Fund to be called the Universal Service Obligation Fund. (2) The Fund shall be under the control of the Central Government and there shall be credited thereto (a) any sums of money paid under section 9-B; (b) any grants and loans made by the Central Government under section 9-C. (3) The balance to the credit of the Fund shall not lapse at the end of the financial year.

## **9B. Crediting of sums to Consolidated Fund of India.**

- The sums of money received towards the Universal Service Obligation under section 4 shall first be credited to the Consolidated Fund of India, and the Central Government may, if Parliament by appropriation made by law in this behalf so provides, credit such proceeds to the Fund from time to

time for being utilised exclusively for meeting the Universal Service Obligation.

### **9C. Grants and loans by the Central Government.**

- The Central Government may, after due appropriation made by Parliament by law in this behalf, credit by way of grants and loans such sums of money as that Government may consider necessary in the Fund.

### **9D. Administration and utilisation of Fund.**

(1)The Central Government shall have the power to administer the Fund in such manner as may be prescribed by rules made under this Act.(2)The Fund shall be utilised exclusively for meeting the Universal Service Obligation.(3)The Central Government shall be responsible for the co-ordination and ensuring timely utilisation and release of sums in accordance with the criteria as may be prescribed by rules made under this Act.]

## **Part III – Power To Place Telegraph Lines And Posts**

### **10. Power for telegraph authority to place and maintain telegraph lines and posts.**

- The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along, or across, and posts in or upon, any immovable property:Provided that(a)the telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by the [Central Government] [Substituted by A.O.1937, for "Government".], or to be so established or maintained;(b)the [Central Government] [Substituted by A.O.1937, for "Government".] shall not acquire any right other than that of user only in the property under, over, along, across, in or upon which the telegraph authority places any telegraph line or post; and(c)except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority; and(d)in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and when it has exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

### **11. Power to enter on property in order to repair or remove telegraph lines or posts.**

- The telegraph authority may, at any time, for the purpose of examining, repairing, altering or removing any telegraph line or post, enter on the property under, over, along, across, in or upon which the line or post has been placed.Provisions applicable to property vested in or under the control or 6management of local authorities

## **12. Power for local authority to give permission under section 10, clause (c), subject to conditions.**

- Any permission given by a local authority under section 10, clause (c), may be given subject to such reasonable conditions as that authority thinks fit to impose, as to the payment of any expenses to which the authority will necessarily be put in consequence of the exercise of the powers conferred by that section, or as to the time or mode of execution of any work, or as to any other thing connected with or relative to any work undertaken by the telegraph authority under those powers.

## **13. Power for local authority to require removal or alteration of telegraph line or post.**

- When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property vested in or under the control, or management of a local authority, and the local authority, having regard to circumstances which have arisen since the telegraph line or post was so placed, considers it expedient that it should be removed or that its position should be altered, the local authority may require the telegraph authority to remove it or alter its position, as the case may be.

## **14. Power to alter position of gas or water pipes or drains.**

- The telegraph authority may, for the purpose of exercising the powers conferred upon it by this Act in respect of any property vested in or under the control or management of a local authority, alter the position thereunder of any pipe (not being a main) for the supply of gas or water, or of any drain (not being a main drain): Provided that (a) when the telegraph authority desires to alter the position of any such pipe or drain, it shall give reasonable notice of its intention to do so, specifying the time at which it will begin to do so, to the local authority, and, when the pipe or drain is not under the control of the local authority, to the person under whose control the pipe or drain is; (b) a local authority or person receiving notice under clause (a) may send a person to superintend the work, and the telegraph authority shall execute the work to the reasonable satisfaction of the person so sent.

## **15. Disputes between telegraph authority and local authority.**

(1) If any dispute arises between the telegraph authority and a local authority in consequence of the local authority refusing the permission referred to in section 10, clause (c), or prescribing any condition under section 12, or in consequence of the telegraph authority omitting to comply with a requisition made under section 13, or otherwise in respect of the exercise of the powers conferred by this Act, it shall be determined by such officer as the [Central Government] [Substituted by A.O.1937, for "Local Government".], may appoint either generally or specially in this behalf. (2) An appeal from the determination of the officer so appointed shall lie to the [Central Government] [Substituted by A.O.1937, for "Local Government".]; and the order of the [Central Government] [Substituted by A.O.1937, for "Local Government".] shall be final. Provisions applicable to other

property

## **16. Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.**

(1) If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them. (2) If, after the making of an order under sub-section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code (45 of 1860). (3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him. (4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it. (5) Every determination of a dispute by a District Judge under sub-section (3), or sub-section (4) shall be final: Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same.

## **17. Removal or alteration of telegraph line or post, on property other than that of a local authority.**

(1) When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property, not being property vested in or under the control or management of a local authority, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telegraph line or post should be removed to another part thereof or to a higher or lower level or altered in form, he may require the telegraph authority to remove or alter the line or post accordingly: Provided that, if compensation has been paid under section 10, clause (d), he shall, when making the requisition, tender to the telegraph authority the amount requisite to defray the expense of the removal or alteration, or half of the amount paid as compensation, whichever may be the smaller sum. (2) If the telegraph authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situate to order the removal or alteration. (3) A District Magistrate receiving an application under sub-section (2) may, in his discretion, reject the same or make an order, absolutely or subject to conditions, for the removal of the telegraph line or post to any other part of the property or to a higher or lower level or for the alteration of its form; and the order so made shall be final. Provisions applicable to all property

## **18. Removal of trees interrupting telegraphic communication.**

(1) If any tree standing or lying near a telegraph line interrupts, or is likely to interrupt, telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph authority, cause the tree to be removed or dealt with in such other way as he deems fit. (2) When disposing of an application under sub-section (1), the Magistrate shall, in the case of any tree in existence before the telegraph line was placed, award to the persons interested in the tree such compensation as he thinks reasonable, and the award shall be final.

## **19. Telegraph lines and posts placed before the passing of this Act.**

- Every telegraph line or post placed before the passing of this Act under, over, along, across, in or upon any property, for the purposes of a telegraph established or maintained by the [Central Government] [Substituted by A.O.1937, for "Government".], shall be deemed to have been placed in exercise of the powers conferred by, and after observance of all the requirements of, this Act. [19-A. Person exercising legal right likely to damage telegraph or interfere with telegraphic communication to give notice. [Inserted by Act 7 of 1914, Section 5.]] (1) Any person desiring to deal in the legal exercise of a right with any property in such a manner as is likely to cause damage to a telegraph line or post which has been duly placed in accordance with the provisions of this Act, or to interrupt or to interfere with telegraphic communications, shall give not less than one month's notice in writing of the intended exercise of such right to the telegraph authority, or to any telegraph officer whom the telegraph authority may empower in this behalf. (2) If any such person without having complied with the provisions of sub-section (1) deals with any property in such a manner as is likely to cause damage to any telegraph line or post, or to interrupt or interfere with telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph authority, order such person to abstain from dealing with such property in such manner for a period not exceeding one month from the date of his order and forthwith to take such action with regard to such property as may be in the opinion of the Magistrate necessary to remedy or prevent such damage, interruption or interference during such period. (3) A person dealing with any property in the manner referred to in sub-section (1) with the bona fide intention, of averting imminent danger of personal injury to himself or any other human being shall be deemed to have complied with the provisions of the said sub-section if he gives such notice of the intended exercise of the right as is in the circumstances possible, or where no such previous notice can be given without incurring the imminent danger referred to above, if he forthwith gives notice of the actual exercise of such right to the authority or officer specified in the said sub-section.]

## **19.**

-B. Power to confer upon licensee powers of telegraph authority under this Part.- The Central Government may, by notification in the Official Gazette, confer upon any licensee under section 4, in respect of the extent of his license and subject to any conditions and restrictions which the Central Government may think fit to impose and to the provisions of this Part, all or any of the powers which the telegraph authority possesses under this Part with regard to a telegraph established or maintained by the Government or to be so established or maintained: Provided that the notice

prescribed in section 19-A shall always be given to the telegraph authority or officer empowered to receive notice under section 19-A(1).

## **Part IV – Penalties**

### **20. [ Establishing, maintaining or working unauthorised telegraph. [Substituted by Act 7 of 1914, Section 6, for Section 20.]**

(1) If any person establishes, maintains or works a telegraph within [India] in contravention of the provisions of section 4 or otherwise than as permitted by rules made under that section, he shall be punished, if the telegraph is a wireless telegraph, with imprisonment which may extend to three years, or with fine, or with both, and, in any other case, with a fine which may extend to one thousand rupees. (2) Notwithstanding anything contained in the [Code of Criminal Procedure, 1898 (5 of 1898)] [\*Now see the Code of Criminal Procedure, 1973 (2 of 1974).], offences under this section in respect of a wireless telegraph shall, for the purposes of the said Code, be bailable and non-cognizable. (3) When any person is convicted of an offence punishable under this section, the Court before which he is convicted may direct that the telegraph in respect of which the offence has been committed, or any part of such telegraph, be forfeited to Government.][20-A. Breach of condition of license. [Inserted by Act 7 of 1914, Section 7.]- If the holder of a license granted under section 4 contravenes any condition contained in his license, he shall be punished with fine which may extend to one thousand rupees, and with a further fine which may extend to five hundred rupees for every week during which the breach of the condition continues.]

### **21. Using unauthorised telegraphs.**

- If any person, knowing or having reason to believe that a telegraph has been established or is maintained or worked in contravention of this Act, transmits or receives any message by such telegraph, or performs any service incidental thereto, or delivers any message for transmission by such telegraph or accepts delivery of any message sent thereby, he shall be punished with fine which may extend to fifty rupees.

### **22. Opposing establishment of telegraphs on railway land.**

If a Railway Company, or an officer of a Railway Company, neglects or refuses to comply with the provisions of section 6, it or he shall be punished with fine which may extend to one thousand rupees for every day during which the neglect or refusal continues.

### **23. Intrusion into signal-room, trespass in telegraph office or obstruction.**

- If any person (a) without permission of competent authority, enters the signal-room of a telegraph office of the Government, or of a person licensed under this Act, or (b) enters a fenced enclosure round such a telegraph office in contravention of any rule or notice not to do so, or (c) refuses to quit such room or enclosure on being requested to do so by any officer or servant employed therein,

or(d)will fully obstructs or impedes any such officer or servant in the performance of his duty,he shall be punished with fine which may extend to five hundred rupees.

## **24. Unlawfully attempting to learn contents of messages.**

If any person does any of the acts mentioned in section 23 with the intention of unlawfully learning the contents of any message, or of committing any offence punishable under this Act, he may (in addition to the fine with which he is punishable under section 23) be punished with imprisonment for a term which may extend to one year.

## **25. Intentionally damaging or tampering with telegraphs.**

- If any person, intending(a)to prevent or obstruct the transmission or delivery of any message, or(b)to intercept or to acquaint himself with the contents of any message, or(c)to commit mischief,damages, removes, tampers with or touches any battery, machinery, telegraph lines post or other thing whatever, being part of or used in or about any telegraph or in the working thereof,he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.[25-A. Injury to or interference with a telegraph line or post. [Inserted by Act 7 of 1914, Section 8.]- If, in any case not provided for by section 25, any person deals with any property and thereby wilfully or negligently damages any telegraph line or post duly placed on such property in accordance with the provisions of this Act, he shall be liable to pay the telegraph authority such expenses (if any) as may be incurred in making good such damage, and shall also, if the telegraphic communication is by reason of the damage so caused interrupted, be punishable with a fine which may extend to one thousand rupees:Provided that the provisions of this section shall not apply where such damage or interruption is caused by a person dealing with any property in the legal exercise of a right if he has complied with the provisions of section 19-A(1).]

## **26. Telegraph officer or other official making away with or altering, or unlawfully intercepting or disclosing messages, or divulging purport of signals.**

- If any telegraph officer, or any person, not being a telegraph officer but having official duties connected with any office which is used as a telegraph office,(a)wilfully secrets, makes away with or alters any message which he has received for transmission or delivery, or(b)wilfully, and otherwise than in obedience to an order of the Central Government or of a State Government, or of an officer specially authorised [by the Central or a State Government] [Substituted by A.O.1937, for "by the Governor General in Council".] to make the order, omits to transmit or intercepts or detains, any message or any part thereof, or otherwise than in pursuance of his official duty or in obedience to the direction of a competent Court, discloses the contents or any part of the contents of any message, to any person not entitled to receive the same, or(c)divulges the purport of any telegraphic signal to any person not entitled to become acquainted with the same,he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.



## **27. Telegraph officer fraudulently sending messages without payment.**

- If any telegraph officer transmits by telegraph any message on which the charge prescribed by the [Central Government] [Substituted by A.O.1937, for "Government".], or by a person licensed under this Act, as the case may be, has not been paid, intending thereby to defraud the [Central Government] [Substituted by A.O.1937, for "Government".] or that person, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

## **28. Misconduct.**

- If any telegraph officer, or any person not being a telegraph officer but having official duties connected with any office which is used as a telegraph office, is guilty of any act of drunkenness, carelessness or other misconduct whereby the correct transmission or the delivery of any message is impeded or delayed, or if any telegraph officer loiters or delays in the transmission or delivery of any message, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

## **29. Sending fabricated message.**

- [Omitted by the Indian Telegraph (Amendment) Act, 1971 (33 of 1971), section 4 (w.e.f. 10-8-1971).]...[29-A. Penalty. [Inserted by Act 7 of 1914, Section 9.]- If any person, without due authority,(a)makes or issues any document of a nature reasonably calculated to cause it to be believed that the document has been issued by, or under the authority of, the Director-General of [Posts and Telegraphs], or(b)makes on any document any mark in imitation of, or similar to, or purporting to be, any stamp or mark of any telegraph office under the Director-General of [Posts and Telegraphs] [Substituted by Act 14 of 1914, Section 2, for "Telegraphs".], or a mark of a nature, reasonably calculated to cause it to be believed that the document so marked has been issued by, or under the authority of, the Director-General of [Posts and Telegraphs] [Substituted by Act 14 of 1914, Section 2, for "Telegraphs".],he shall be punished with fine which may extend to fifty rupees.]

## **30. Retaining a message delivered by mistake.**

- If any person fraudulently retains, or wilfully secrets, makes away with or detains a message which ought to have been delivered to some other person, or, being required by a telegraph officer to deliver up any such message, neglects or refuses to do so, he shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

## **31. Bribery.**

a telegraph officer shall be deemed a public servant within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code (45 of 1860); and in the definition of legal remuneration contained in the said section 161, the word Government shall, for the purposes of this Act, be deemed to include a person licensed under this Act.

## **32. Attempts to commit offences.**

- Whoever attempts to commit any offence punishable under this Act shall be punished with the punishment herein provided for the offence.

## **Part V – Supplemental Provisions**

### **33. Power to employ additional police in places where mischief to telegraphs is repeatedly committed.**

(1)Whenever it appears to the State Government that any act causing or likely to cause wrongful damage to any telegraph is repeatedly and maliciously committed in any place, and that the employment of an additional police-force in that place is thereby rendered necessary, the State Government may send such additional police-force as it thinks fit to the place, and employ the same therein so long as, in the opinion of that Government, the necessity of doing so continues.(2)The inhabitants of the place shall be charged with the cost of the additional police-force, and the District Magistrate shall, subject to the orders of the State Government, assess the proportion in which the cost shall be paid by the inhabitants according to his judgement of their respective means.(3)All moneys payable under sub-section (2) shall be recoverable either under the warrant of a Magistrate by distress and sale of the movable property of the defaulter within the local limits of his jurisdiction, or by suit in any competent Court.(4)The State Government may, by order in writing, define the limits of any place for the purposes of this section.

### **34. [ Application of Act to Presidency-towns. [Inserted by Act 11 of 1888, Section 1.]**

(1)This Act, in its application to the Presidency-towns, shall be read as if for the words District Magistrate in section 16, sub-section (1) and section 17, sub-sections (2) and (3), for the words Magistrate of the first or second class in section 18, sub-section (1), [and section 19-A, sub-section (2)] and for the word Magistrate in section 18, sub-section (2), there had been enacted the words Commissioner of Police, and for the words District Judge in section 16, sub-sections (3), (4) and (5), the words Chief Judge of the Court of Small Causes.[\* \* \*] [Sub-Section (2) omitted by A.O.1937.](3)The fee in respect of an application to the Chief Judge of a Presidency Court of Small Causes under sub-section (3)of section 16 shall be the same as would be payable under the Court-fees Act, 1870 (7 of 1870), in respect of such an application to a District Judge beyond the limits of a Presidency-town, and fees for summons and other processes in proceedings before the Chief Judge under sub-section (3) or sub-section (4) of that section shall be payable according to the scale set forth in the Fourth Schedule to the Presidency Small Cause Courts Act, 1882 (15 of 1882).][35] [Substituted by A.O.1950, for the former section which had been inserted by Act 45 of 1948, Section 3.]. Reference to certain laws of Part B States.- [Repealed by the Part b States (Laws) Act, 1951 (3 of 1951), section 3 and Schedule.]...