
**Fifth Session Third Parliament Republic of Trinidad
and Tobago**



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 40 of 1991

[L.S.]

AN ACT to provide for the establishment and incorporation of the Trinidad and Tobago Telecommunications Authority and for the regulation of telecommunications services operating in Trinidad and Tobago or on any ship, aircraft, vessel or other contrivance registered in Trinidad and Tobago and for the regulation of the use of apparatus in telecommunications services and for related purposes.

[Assented to 18th November, 1991]

Preamble WHEREAS it is provided by subsection (1) of section 13 of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any such Act does so declare, it shall have effect accordingly:

And whereas it is provided by subsection (2) of the said section 13 of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

Enactment ENACTED by the Parliament of Trinidad and Tobago as follows:—

PART I

PRELIMINARY

Short title and commencement 1. (1) This Act may be cited as the Telecommunications Authority Act, 1991.

(2) This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

(3) This Act comes into operation on such date as the President may by Proclamation appoint, and different days may be appointed for the purposes of different provisions of this Act.

Interpretation 2. (1) In this Act—

“attorney-at-law” means an attorney-at-law within the meaning of the Legal Profession Act;

Act No. 21 of 1986

“Authority” means the Trinidad and Tobago Telecommunications Authority established under section 3;

- “base station” means a station established on land and used for the purpose of communicating with other stations, fixed or mobile;
- “Board” means the Management Board established under section 4;
- “broadcasting service” means a radiocommunication service and includes sound transmission, television transmission or other types of transmission intended for direct reception by the general public;
- “concession” means an authorization granted by the Authority for any purpose specified in section 20(1);
- “concessionaire” means a person holding a concession granted under section 20;
- “Director” means the Director of the Authority appointed under section 8;
- “harmful interference” means interference which endangers the functioning of a radionavigation service or of other safety services or which seriously degrades, obstructs or repeatedly interrupts a radiocommunication service operating in accordance with the Radio Regulations of the International Telecommunications Union;
- “highway authority” means an authority responsible for the maintenance of a highway;
- “licence” means an authorization granted by the Authority for any purpose specified in section 37(1);
- “licencee” means a person holding a licence issued under section 37(1);
- “lines” means a structure of wires, cables, waveguides and radio facilities or other apparatus or thing connected therewith, used for the purpose of telecommunication and includes any post, pole, standard, bracket, stay, strut, insulator, pipe, conduit, covering, support or other contrivance used for carrying, suspending, supporting or protecting the structure;
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Act No. 21 of 1990

Chap. 25:03

“local authority” means the council of a municipal corporation within the meaning of the Municipal Corporation Act, 1990 or the Tobago House of Assembly established under the Tobago House of Assembly Act;

“Minister” means the member of Cabinet to whom responsibility for telecommunications is assigned;

“mobile station” means a station capable of use whilst in motion or during halts at unspecified points;

“public correspondence” includes any exchange of messages that offices or stations for telecommunication provide as a service to the public;

“public ground” includes any open or enclosed space to which for the time being the public has or is permitted to have access;

“public utility” means a statutory authority performing services to the public for which any compensation or payment whatsoever is required, and Telecommunication Services of Trinidad and Tobago Limited;

“radiocommunication service” means a service involving the transmission, emission or reception of radio waves for specific telecommunication purposes;

“satellite radiocommunication service” means a service involving the use of satellite equipment in the transmission, emission or reception of radio waves for specific telecommunication purposes;

“ship station” includes survival craft stations and associated communication stations on board ship;

“station” means one or more transmitters or receivers or a combination of transmitters and receivers including accessory equipment at one location for carrying on a radio-communication service;

“street” has the same meaning assigned to it in section 2 of the Highways Act;

Chap. 48:01

“Telecommunications Division” means the former Telecommunications Division of the Office of the Prime Minister;

“telecommunication service” means a service which provides any transmission, emission, or reception of signals, writing, pulses, images or sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems and includes telephony, telex, telegraphy, sound and visual broadcasting;

“telephony” means a form of telecommunication primarily intended for the exchange of information in the form of speech.

(2) Nothing in this Act affects any provision of any international agreement relating to telecommunications to which Trinidad and Tobago is a party.

PART II

THE TELECOMMUNICATIONS AUTHORITY

3. There is established a body corporate to be known as the Trinidad and Tobago Telecommunications Authority.

Establishment of
the Authority

4. (1) The Authority shall be managed by a Management Board consisting of—

Management of the
Authority

(a) a Chairman and eight members appointed by the President after consultation with the Prime Minister and the Leader of the Opposition;

(b) a Director who shall be *ex officio* a member of the Board but shall not have a vote.

(2) Of the nine members appointed under subsection (1)(a), at least three shall have qualifications in fields relating to telecommunications or experience in the industry or be members of organisations connected with the maintenance or promotion of telecommunications, and one member shall be an attorney-at-law.

(3) All appointments under this section shall be for such a period of not more than three years as the President shall specify in the instrument of appointment.

(4) The appointment of any member and the termination of appointment of that member shall be notified in the *Gazette*.

(5) The validity of any proceeding shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any member or by reason that any person not entitled to do so, took part in the proceeding.

(6) The President, acting in his own discretion, may terminate the appointment of any member of the Board.

(7) The salary and perquisites of the members of the Board shall be determined in the same manner as those of the members of the Service Commissions under the Constitution.

Deputy Chairman

5. The Board shall, at its first meeting and whenever necessary, select from among its members, a Deputy Chairman.

Resignation of
Chairman and
members

6. Any member of the Board other than the Director may resign by giving notice, in writing, addressed to the President.

Secretary

7. (1) The Board shall appoint a Secretary who shall be an attorney-at-law on such terms and conditions as the Board thinks fit.

(2) The Secretary shall be responsible for such matters as the Board thinks fit.

(3) Service upon the Authority of any notice, order or other document shall be effected by delivering or sending the same by registered post addressed to the Secretary, at the office of the Authority.

Director

8. (1) Subject to section 67(3) the Board shall appoint on such terms and conditions as the Board may determine, a Director who shall be responsible to it for carrying out the business of the Authority.

(2) The appointment of the Director and the termination of his appointment, whether by death, resignation or otherwise, shall be published in the *Gazette*.

9. (1) The Board shall meet once in each month and at such other time and place as the Chairman may in his discretion deem necessary for the efficient performance of the functions of the Authority. Ordinary meetings

(2) The Chairman or, in his absence, the Deputy Chairman shall preside at all meetings of the Board.

(3) Where, for any reason, the Chairman or the Deputy Chairman does not preside at a meeting, the members present may choose one of their number to preside at that meeting.

(4) Notwithstanding subsection (2), no person shall preside at any meeting when the provisions of section 13 apply to him.

10. (1) The Chairman—

Special meetings

(a) may at any time call a special meeting of the Board;

(b) shall call a special meeting within seven days of receiving a request, in writing, to do so signed by any three members of the Board;

(c) shall cause notices to be issued to all members in respect of every special meeting.

(2) Every request for a special meeting shall include sufficient indication of the purpose of the requested meeting.

11. At any meeting of the Board, six members of the Board shall constitute a quorum.

12. (1) The decisions of the Board shall be adopted by a majority of the votes of the members present and voting. Voting

(2) The Chairman or other person presiding at the meeting has an original vote and, if the voting is equal, a casting vote.

Declaration of
interest

13. (1) A member of the Board whose interest is likely to be affected in any way whether directly or indirectly by a decision of the Board on any matter specified in subsection (4)(a) or (b) shall disclose the nature of his interest at the start of the first meeting of the Board he attends at which it is practicable for him to so disclose.

(2) A member making a disclosure of interest on any matter shall not be present when such matter is discussed.

(3) A disclosure made under subsection (1) shall be recorded in the minutes of the meeting at which the disclosure was made.

(4) Every member of the Board shall on appointment and annually thereafter submit to the President a declaration of—

(a) all holdings, acquisitions or beneficial interests in any shares, stocks, bonds, debentures or other securities of any newspaper, radio or television station, or cable television system, any advertising or programme production agency, or other mass media agency held by him;

(b) any beneficial interest in a contract for the construction of works, or the furnishing of a service to any mass media agency referred to in paragraph (a).

Minutes

14. (1) Minutes of each meeting in proper form shall be kept under the direction of the Secretary.

(2) All decisions, resolutions, orders, rules and regulations made by the Board shall be recorded in the minutes.

(3) The minutes shall be confirmed at the next meeting of the Board and a copy of the minutes both when prepared and when confirmed shall be forwarded to the Minister.

Seal

15. (1) The Authority shall have an official seal that is to be kept in the custody of the Secretary.

(2) The seal shall be used only with the permission of the Board, and every instrument to which it is affixed must be signed by the Secretary and any member authorised by the Board to act in that behalf.

(3) All documents other than those required by law to be under seal, may be signified under the hand of the Chairman or the Deputy Chairman or a member duly authorised by resolution to do so.

16. (1) No personal liability shall attach to any member Personal liability of members for—

- (a) any act or omission of the Board; or
- (b) anything done or permitted in good faith in the course of the operations of the Authority under this Act.

(2) Any sums of money, damages or costs recovered against the Authority or any member of the Board for anything done, omitted or permitted in good faith in the course of the operations of the Authority shall be paid out of the funds of the Authority.

17. Subject to this Part, the Board may regulate its own Regulation of procedure proceedings.

18. Subject to the provisions of this Act, the functions Functions of the Authority of the Authority are—

- (a) to formulate policies governing the development of telecommunications subject to the approval of the Minister and ensure compliance with those policies;
 - (b) to formulate, on consultation with producers, broadcasters and the general public, policies governing all broadcast material and to ensure compliance by broadcasters and producers;
 - (c) to determine and implement national telecommunications standards and regulations and ensure compatibility with standards of the International Telecommunications Union and other international and national standards;
 - (d) to advise Government on positions and policies relating to telecommunications issues at international, regional and national levels;
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- (e) to advise the Minister on the representation of the interests of Trinidad and Tobago in all telecommunications matters at international, regional and national fora;
- (f) to review and revise policies, regulations and licence fees governing all telecommunication services;
- (g) to decide on issues involving settlements of disputes among entities, on telecommunications matters;
- (h) to ensure the harmonisation of development of telecommunications activities;
- (i) to issue licences for any purpose specified in section 37(1);
- (j) to grant concessions for any purpose specified in section 20(1);
- (k) to assign radio frequencies and call signs including the assignment and registration of radio frequencies to be used by all stations operating in Trinidad and Tobago or on any ship, aircraft, vessel or other floating or airborne contrivance registered in Trinidad and Tobago;
- (l) to determine tariffs for all internal and external telecommunication services for public correspondence, other than those provided by a public utility and in respect of which tariffs are determined in accordance with the Public Utilities Commission Act, or any other enactment;
- (m) to determine and collect fees including licence and concession fees to be charged in respect of radiocommunication apparatus;
- (n) to train and certify telecommunication personnel in accordance with International Telecommunications Union Regulations;
- (o) to plan, supervise and regulate the use of the frequency spectrum;
- (p) to investigate complaints received from the public in respect of problems of harmful interference and report receipt of complaints and resolution of same pursuant to section 63(3);

- (q) to investigate complaints from consumers and other entities concerning all telecommunication services and related matters and report receipt of complaints and resolution of same pursuant to section 63(3);
- (r) to engage in carrying out research programmes; and
- (s) to undertake in conjunction with other institutions and entities where practicable, training, manpower planning, seminars and conferences in areas of national importance in telecommunications.

19. (1) All the right, claim or interest of the Government in the assets set out in the Schedule are hereby vested in the Authority. Assets transferred to the Authority Schedule

(2) The Auditor General shall within thirty days of the commencement of this Act cause an audit to be made of the inventory of assets vested in the Authority and referred to in subsection (1).

(3) The Auditor General shall within thirty days of completion of the audit or as soon as possible thereafter, cause a copy of the audited inventory to be laid before Parliament.

PART III

CONCESSIONS

20. (1) No person shall, unless granted a concession by the Authority for the purpose or so authorised by any other written law— Concessions

- (a) establish or operate a telecommunication service for public correspondence;
- (b) establish or operate a broadcasting service on land or from any ship, aircraft, vessel or other floating or airborne contrivance registered in Trinidad and Tobago;
- (c) establish or operate a telecommunication service for which the President under subsection (3) has declared a concession necessary; or

(d) lay or maintain upon the foreshore or bed of the territorial sea, any line for the purpose of telecommunication.

(2) The Authority may grant a concession for the purposes of subsection (1)—

- (a) upon receipt of an application in the prescribed form;
- (b) upon payment of such fee as may be prescribed; and
- (c) for such time and subject to such conditions as the Authority thinks fit and in accordance with regulations approved under this Act.

(3) The Authority may by Order, subject to affirmative resolution of Parliament, increase or decrease the number of categories of telecommunication services for which concessions are necessary.

(4) The Authority shall, not later than 30th June and 31st December in every year, publish in the *Gazette* a true and correct list of the names and addresses of all persons to whom concessions have been granted and of all persons whose concessions have expired or been terminated or suspended.

Conditions of
concession

21. In addition to any special conditions that are imposed by the Authority in accordance with this Act or any international agreement referred to in section 2(2), every concession for the operation of a telecommunication service shall contain conditions with respect to—

- (a) the maintenance and expansion of the telecommunication service;
- (b) the hours of supply of the telecommunication service to be reserved for government purposes;
- (c) the fees to be paid annually by the concessionaire to the Authority;
- (d) the expiration of the concession and the time required for the submission of an application for renewal;
- (e) the termination or suspension of the concession by the Authority, as a penalty for any breach by the concessionaire of the provisions of this Act or of any of the conditions of the concession;

- (f) the time of review of a concession for a broadcast service;
- (g) the transfer of a concession or change of its ownership.

22. A concessionaire shall adhere to the radio frequency assigned to the telecommunication service that he operates and it is a condition of each concession that the concessionaire shall so adhere.

Adherence to assigned radio frequency

23. A concession granted under this Act expires at the end of the period stated in the concession document applicable to the particular service, but the concessionaire may apply to the Authority for renewal of the concession for a further period to be determined by the Authority.

Expiration of concession

24. The Authority may terminate a concession either at the end of the initial period for which the concession was granted, or of any subsequent period by giving twelve months' notice to the concessionaire of its intention to do so.

Termination of concession

25. A concessionaire shall, not later than 30th June in every year, submit to the Authority and where required, to the Public Utilities Commission, a complete audited financial report of his undertaking, including balance sheet, profit and loss statement and the rates of depreciation used for each category of fixed assets.

Concessionaire submit report

26. (1) The concessionaire of a telecommunication service for public correspondence shall give absolute priority to messages concerning safety of life and to epidemiological communiques of exceptional urgency of the World Health Organization or any similar body.

Priority of safety messages

(2) The concessionaire of a telecommunication service shall give absolute priority to distress calls and messages regardless of their origin and reply promptly thereto and take all necessary action.

(3) Subject to subsections (1) and (2), the concessionaire of a telecommunication service shall give priority to government telegrams and facsimile messages over other telegrams and facsimile messages and to government telephone calls over other telephone calls where priority is requested by the Minister.

- Liability** **27.** The concessionaire of any telecommunication service for public correspondence is not liable for any loss or damage arising only from the use of the service.
- Secret language** **28.** Government and service telegrams and facsimile messages may be expressed in secret language.
- Secrecy** **29.** (1) The concessionaire of a telecommunication service for public correspondence shall ensure secrecy compatible with the system of telecommunication used for messages transmitted through his telecommunication service.
- (2) Where any other law provides for the disclosure of messages transmitted by telecommunication services, the concessionaire of such a service shall comply with the other law by making the required disclosure to the authority specified in the other law.
- Laying lines** **30.** (1) Subject to section 35 a concessionaire may, in connection with a telecommunication service, lay or maintain any line in or over public ground or remove the line therefrom and for that purpose may, in accordance with the provisions of the Highways Act and subject to the provisions of this section and sections 31 to 33, break open a street or public ground and alter the position of, or remove any pipe, conduit, cable, wire or line.
- Chap. 48:01**
- (2) Before a concessionaire breaks open a street or public ground for the purposes specified in subsection (1) he shall—
- (a) obtain from the highway authority or local authority, plans showing all underground pipes, conduit, cables, wires or lines with respect to that street or public ground; and
- (b) submit, where the works involve the removal or alteration in the position of any pipe, conduit, cable, wire or line that is a line or main for the supply of water, gas or electricity, detailed plans of the intended works to each public utility owning the line or main and shall not commence any works in connection with the removal or alteration in the position of the line or main without first having obtained written permission from the relevant public utility.

(3) Twenty-one days prior to the breaking open of a street or public ground by a concessionaire in accordance with this section the concessionaire shall—

- (a) notify the Director who shall cause all other concessionaires to be notified of the intended breaking open of such street or public ground;
- (b) notify every public utility,

in order to allow the concessionaires or public utilities to effect any works that they may need to effect.

(4) No concessionaire or public utility notified under subsection (3) shall break open such street or public ground within six months of the receipt of notification made under subsection (3) except where the concessionaire proves to the satisfaction of the Director, or the public utility proves to the satisfaction of the Minister that it is necessary to effect emergency works.

(5) Where in breaking open a street or public ground a concessionaire causes damage to any line or main he shall—

- (a) immediately notify the public utility owning the line or main;
- (b) immediately repair to the satisfaction of the public utility and at his own expense, the damage caused;
- (c) where he omits to satisfy the requirements of paragraph (b), be held liable for any expenditure incurred by the public utility in effecting the repairs.

31. Where works involve any removal or alteration as is referred to in section 30(2)(b), the removal or alteration shall be carried out by the staff of the relevant public utility and the concessionaire shall pay the cost of executing the works.

Removal or alteration

32. (1) Where emergency works with respect to a telecommunication service require the breaking open of a street or public ground, a concessionaire shall give immediate notice to the Director and the relevant highway authority or local authority as the case may be, of his intention to break open the street or public ground.

Emergency works

(2) Where the Director certifies in writing that the works executed or to be executed are emergency works, a concessionaire may dispense with the requirement of section 30(2) except for the requirement of permission from the public utility.

(3) A local authority or highway authority given notice in accordance with subsection (1) shall immediately notify all public utilities, and the Director, given notice in accordance with subsection (1) shall immediately notify all concessionaires of the breaking of the street or public ground in order to allow the concessionaires or public utilities to effect any works that they may need to effect.

(4) Where in effecting emergency works, damage is done to a line or main of a public utility the concessionaire shall give immediate notice of the damage to the appropriate public utility.

Restoration of
street or other
public ground

33. (1) Where a concessionaire or a public utility breaks open a street or public ground for the purpose of executing any works he shall, on completion of the works with all convenient speed and to the satisfaction of the relevant highway authority or local authority as the case may be, fill in and consolidate the ground, reinstate and make good the street, and remove all debris resulting from the execution of the works.

(2) Where a concessionaire omits to restore the street or public ground in accordance with the provisions of subsection (1), he shall be held liable for any expenditure incurred by the relevant highway authority or local authority for the purpose of such restoration and for any loss suffered by any other person caused thereby.

(3) The liability of a concessionaire under subsection (2) shall continue for a period of four years or until the relevant highway or local authority expresses in writing that it is satisfied under subsection (1), whichever is sooner.

Right of user

34. Works referred to in sections 30 to 33 confer no right other than a right of user, in or over public ground.

Publication of
works

35. The Director may require a concessionaire to publish a description of the works to be undertaken prior to the execution of the works.

Trees

36. (1) The owner of any tree shall ensure that the tree does not interfere with any line of a public utility.

(2) In the course of constructing or maintaining any works of a public utility, the public utility may, by its officers or agents duly authorised in writing, cut or remove from any street, highway or land, any tree or branch or other parts of a tree, tending to interfere with, endanger or otherwise prejudicially affect such works, but no person shall for this purpose, except with the consent of the owner or occupier enter any land until after the expiration of seven days and in case of emergency, three days from the day on which notice of the entry has been given to the owner or occupier of the land or affixed conspicuously thereon.

(3) Where any tree or part of a tree so cut or removed was not growing on or projecting over any street or highway, the public utility shall make adequate compensation for the loss, if any, occasioned by the cutting or removal.

(4) Where trees on private lands overhang or interfere with any line or works, a concessionaire shall before cutting down, pruning or trimming the trees obtain the consent of the owner or of the person in possession of the land.

(5) In this section, "public utility" means Telecommunication Services of Trinidad and Tobago Limited, Trinidad and Tobago Electricity Commission and the Water and Sewerage Authority or any other statutory authority that the Minister may by Order declare to be a public utility for the purposes of this section.

PART IV

LICENCES

37. (1) No person shall, unless issued a licence or a ^{Licences} temporary licence for the purpose by the Authority—

- (a) establish, maintain or use a radiocommunication service that is not intended for public correspondence where the service is established on, above or under ground or where it is to be used for valuable consideration;
- (b) establish, keep or use any radio-transmitting apparatus other than in connection with a wire broadcasting service operated under a concession granted under this Act;

- (c) establish or operate a mobile radiocommunication service on board any ship, aircraft, vessel or other floating or airborne contrivance registered in Trinidad and Tobago, whether the service is intended for public correspondence or not;
- (d) establish or operate a radiocommunication service that is not intended for public correspondence and is not a broadcasting service, namely—
 - (i) a private fixed radiocommunication service;
 - (ii) a private mobile radiocommunication service;
 - (iii) a personal radiocommunication service;
 - (iv) an amateur radiocommunication service;
 - (v) an experimental radiocommunication service;
 - (vi) a satellite radiocommunication service;
 - (vii) any other type of radiocommunication service for which the Authority by Notice under subsection (4) declares a licence or a temporary licence necessary;
- (e) manufacture, trade or deal in, maintain or operate any apparatus of any kind that generates or emits radio waves intended for radiocommunication.

(2) The Authority may issue a licence for the purposes of subsection (1)—

- (a) upon receipt of an application in the prescribed form;
- (b) upon payment of such fee as may be prescribed; and
- (c) for such time and subject to such conditions as the Authority thinks fit and in accordance with regulations approved under this Act.

(3) The provisions of this Act relating to licences apply to temporary licences as they do to licences.

(4) The Authority may by regulations increase or reduce the number of categories of telecommunication services in respect of which a licence is necessary.

(5) A person who in the course of his trade or business transports or stores apparatus referred to in paragraph (b) or (e) of subsection (1) is exempt from the requirement to obtain a licence in respect of such transport or storage.

(6) This section does not apply to broadcast receivers in domestic use operating on frequencies assigned by the International Telecommunications Union for such receivers.

38. A licence issued under this Part shall contain Contents of licence conditions with respect to—

- (a) the expiration of the licence;
- (b) the fees to be paid for the issue or renewal of the licence; and
- (c) the revocation or suspension of the licence by the Authority, as a penalty for any breach by the licensee of the provisions of this Act or of any of the conditions of the licence.

39. A licensee shall adhere to the radio frequency assigned Adherence to assigned radio frequency to the radiocommunication service that he operates and it is a condition of each licence that the licensee shall so adhere.

40. (1) Subject to subsection (2) no person shall, unless Authorisation to operate in territorial waters or air space so authorised by the Authority—

- (a) operate or use any telecommunication service whether for public correspondence or not; or
- (b) operate or use any radiocommunication equipment,

on board any ship in the territorial waters of Trinidad and Tobago, other than a ship of war, or on any aircraft in the airspace of Trinidad and Tobago, other than a military aircraft.

(2) Where a ship or aircraft is not registered in Trinidad and Tobago but operates in the territorial waters or airspace of Trinidad and Tobago, authorisation of the Authority is not required for the operation or use of any telecommunication or radiocommunication apparatus as long as the service or apparatus is operated or used under a valid authority or licence issued elsewhere than in Trinidad

and Tobago in accordance with any international agreement relating to telecommunication or radiocommunication in respect of ships or aircraft.

No interference to telecommunication service

41. Radiocommunication apparatus referred to in this Part shall be operated or used so as not to cause harmful interference to any other means of telecommunication.

PART V

INSPECTORS

Inspectors

42. The Authority may designate officers of the Authority to be inspectors for the purposes of this Act and shall furnish each inspector with a certificate of designation.

Power to request information

43. An inspector may for any purpose related to the administration of this Act require a concessionaire or licensee to give him information concerning any undertaking for which the concession was granted or the licence issued, or concerning the operation of any apparatus, or the execution of works done in relation to the undertaking.

Entry and search

44. (1) An inspector may, at all reasonable times, enter any place, vehicle, ship, aircraft, vessel or other contrivance from which any telecommunication service is carried on, or in which any telecommunication apparatus other than apparatus referred to in section 37(6) is located, and—

- (a) test any apparatus or article found therein which is used or intended to be used for the purpose of telecommunication;
- (b) examine records or other documents relating to the operation of the telecommunication service;
- (c) search, where necessary with the assistance of any other person, for any apparatus, articles, books, records or documents that may afford evidence of contravention of this Act;
- (d) seize and take away any apparatus, articles, books, records or documents if it appears that there has been a contravention of this Act;

- (e) require the owner or person in charge of the place, vehicle, ship, aircraft, vessel or other contrivance to give him all reasonable assistance in the examination or search including the answering of questions.

(2) Notwithstanding the provisions of subsection (1), an inspector shall not exercise his powers under subsection (1)(c) or (d) or enter a dwelling-house except upon the warrant of a magistrate issued to him for the purpose and unless he is accompanied by a police officer.

(3) In the case of a mobile station, an inspector may demand entry without a warrant.

45. (1) Where it is shown to the satisfaction of a magistrate on sworn information in writing—

Magistrate may
issue warrant

- (a) that for the purpose of performing any function under section 44(1), entry has been denied an inspector; or
- (b) that a request for entry would defeat the purpose of an entry by an inspector for the purpose of performing any function under section 44(1),

and there is reasonable ground for entry for any purpose mentioned in section 44(1), the magistrate may by warrant authorise entry.

(2) A warrant issued under this section remains in force until the purpose for which the warrant is required has been satisfied or for one month, whichever is sooner.

PART VI

OFFENCES

46. A person who—

- (a) acts in contravention of sections 13, 20(1), 22, 33, 37(1), 39, or 71;
- (b) breaches any condition of a licence or concession issued or granted under this Act;
- (c) operates a station in such a manner as to cause harmful interference to any other telecommunication service; or

Contraventions

(d) aids or abets any broadcasting service operating contrary to its concession or to this Act,

is guilty of an offence and liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for three years and on indictment to a fine of fifty thousand dollars and to imprisonment for seven years, and in the case of a continuing offence to a further fine of one thousand dollars for each day that the offence continues after conviction.

False signals

47. A person who knowingly transmits or circulates false or deceptive distress, safety or identification signals is guilty of an offence and liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for three years, and on indictment to a fine of fifty thousand dollars and to imprisonment for seven years.

Damage to apparatus

48. (1) A person who maliciously damages, removes or destroys any line, apparatus, works or other installation of a telecommunication service for public correspondence or of any telecommunication service operated by the Police Service, the Fire Service, the Prison Service or the Trinidad and Tobago Defence Force is guilty of an offence and liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for three years, and on indictment to a fine of fifty thousand dollars and to imprisonment for seven years.

(2) A person who negligently damages, removes or destroys any line, apparatus, works or other telecommunication installation is guilty of an offence and liable on summary conviction to a fine of one thousand dollars and to imprisonment for one year.

Recovery of civil debt

49. A person convicted under section 48 is liable for all expenses reasonably incurred in the repairing, restoration or replacement of any line, apparatus, works or other telecommunication installation damaged, removed or destroyed by him and the expenses are recoverable summarily as a civil debt.

Interference to telecommunication services

50. A person who knowingly uses any apparatus for the purpose of causing interference to any telecommunication service is guilty of an offence and liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for three years, and on indictment to a fine of fifty thousand dollars and to imprisonment for seven years.

51. (1) A person who by means of any telecommunication False messages service sends any message that to his knowledge is false or misleading and likely to prejudice the efficiency of any life-safety service or endanger the safety of any person, ship, aircraft, vessel or vehicle is guilty of an offence and liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for three years, and on indictment to a fine of fifty thousand dollars and to imprisonment for seven years.

(2) For the purposes of subsection (1), a person is taken to know that a message is false or misleading if he did not take reasonable steps to ensure that it was not false or misleading.

52. A person who enters the premises of a telecommuni- Entry on premises cation service for public correspondence without reasonable excuse is guilty of an offence and liable on summary conviction to a fine of one thousand dollars and to imprisonment for six months.

53. A person who obstructs, hinders, molests or assaults Obstructing an inspector an inspector duly engaged in the performance of any duty or the exercise of any powers conferred on him under this Act is guilty of an offence and liable on summary conviction to a fine of one thousand dollars and to imprisonment for six months.

54. A person who contravenes or fails to comply with General penalty any of the provisions of this Act is guilty of an offence and except where the provision by or under which the offence is created provides the penalty to be imposed, is liable on summary conviction to a fine of one thousand dollars, and in the case of a continuing offence to a further fine of one hundred dollars for each day that the offence continues after conviction.

55. Where an offence under this Act that has been Offence by body corporate committed by a body corporate is proved to have been attributable to negligence on the part of a director, manager, secretary or other officer of the body corporate, he as well as the body corporate is guilty of the offence.

56. Any apparatus used in the commission of an offence Forfeiture under this Act is liable to be forfeited.

PART VII

FINANCIAL PROVISIONS

Funds and
resources of the
Authority

57. The funds and resources of the Authority shall consist of—

- (a) such amounts as may be appropriated therefor by Parliament;
- (b) special grants of funds as may from time to time be provided for the financing of any special project;
- (c) all sums from time to time received by or falling due to the Authority as fees or payments for services rendered;
- (d) fees collected in respect of concessions granted or licences issued by the Authority;
- (e) repayment of any loans made by the Authority under section 61(b);
- (f) investments made by the Authority and the income accruing therefrom;
- (g) such sums as may from time to time become due to the Authority by reason of the provision of facilities or services;
- (h) sums borrowed by the Authority in accordance with section 59; or
- (i) all other sums or property that may in any manner become lawfully payable to or vested in the Authority in respect of any matters incidental to its functions.

Financial powers
of the Authority

58. For the purpose of carrying out its functions, the Authority may with the prior approval, in writing, of the Minister with responsibility for finance—

- (a) charge fees for any service provided;
- (b) charge licence and concession fees;
- (c) build up reserves;
- (d) invest reserves and surplus funds in such securities as the Authority thinks fit.

Power to borrow

59. (1) Subject to subsection (2), the Authority may borrow any money required by it for the efficient exercise of its functions or for meeting its obligations.

(2) Borrowing may be effected only with the prior approval, in writing, of the Minister with responsibility for finance as to the amount, the sources of borrowing and the terms and conditions of the loan.

(3) Approval of the Minister with responsibility for finance in respect of borrowing may be either general or limited to a particular transaction.

(4) The Authority may not pledge, mortgage or charge its assets as security for any loan without the written approval of the Minister.

60. The Authority is exempt from stamp duty, corporation tax, customs duty, value added tax, motor vehicle tax and all other taxes, fees, charges, assessments, levies and imposts on its income or profit, or on assets which it acquires for its own use. Exemption from tax

61. The funds of the Authority are to be applied in defraying the following expenditure: Application of funds

- (a) the remuneration, fees and allowances of the members of the Board;
- (b) the salaries, fees, allowances, advances, loans, gratuities, pensions and other payments to the staff of the Authority;
- (c) the capital and operating expenses, including maintenance and insurance, of any property of the Authority;
- (d) the making and maintenance of investments by the Authority in the discharge of its duties and functions; and
- (e) any other expenditure authorized by the Authority in the discharge of its duties, functions and contractual obligations.

62. The Authority may, by resolution subject to the prior approval, in writing, of the Minister with responsibility for finance, make rules for the proper control of the system of accounting and the finances of the Authority. Authority may make rules

63. (1) The Authority shall—

- (a) keep proper accounts and records in respect of its operations; and
- (b) prepare a statement of accounts in a form which conforms with established commercial accounting principles in respect of each financial year.

Accounts, audit and annual report

(2) The accounts required to be kept pursuant to subsection (1) shall be audited annually by the Auditor General or by an auditor authorised by him for such purpose.

(3) The Authority shall, not later than the 30th June in every year, submit to the Minister in respect of the preceding financial year, a copy of the audited statement of accounts together with a report of its proceedings and operations under this Act.

(4) The Minister shall cause a copy of the statements and reports referred to in subsection (3) to be laid at the same time before Parliament within twenty-eight days of his receipt of the statements, minutes and reports, and if Parliament is not then in session, within twenty-eight days after the commencement of its next session.

Bad debts

64. The Authority shall not write-off bad debts except with the prior approval, in writing, of the Minister with responsibility for finance.

Financial year

65. (1) The financial year of the Authority shall be 1st January to 31st December in every year, but the period from the date of commencement of this Act to the end of December next following shall be deemed to be the first financial year.

(2) Notwithstanding subsection (1) the Authority may, with the approval of the Minister, vary its financial year.

**Authority a
statutory authority
Chap. 71:81**

66. The Authority is a statutory authority for the purposes of the Guarantee of Loans (Statutory Authorities) Act.

PART VIII

STAFF AND RELATED MATTERS

Staff of Authority

67. (1) Subject to subsections (3) and (4) the Authority may—

- (a) employ administrative, technical, professional, and other ancillary and supportive staff as it considers necessary for the due performance of its duties and functions;

- (b) fix qualifications, terms and conditions of service for the officers and employees of the Authority;
- (c) exercise disciplinary control over, or terminate the appointment of persons employed under this section.

(2) The Board shall obtain the prior approval, in writing, of the Minister in respect of the remuneration for any appointment equivalent to or higher than the post of Administrative Officer V in the Civil Service.

(3) On the commencement of this Part the persons serving in the Telecommunications Division may opt to be seconded to the Authority for a period of two years on terms and conditions that are no less favourable than the terms and conditions enjoyed while serving in the Telecommunications Division.

(4) A person to whom subsection (3) refers shall, within two years after the commencement of this Act, exercise any one of the following options:

- (a) to transfer to the Authority on terms and conditions that are no less favourable than the terms and conditions enjoyed while on secondment to the Authority;
- (b) to remain in the Public Service in such office as is commensurate with the office held by him in the Public Service prior to secondment to the Authority;
- (c) to retire voluntarily on such terms set out in the Second Schedule to the Voluntary Termination of Employment Act, 1989.

Act No. 19 of 1989

(5) The President may by Order extend the period of secondment and the period for the exercise of the option referred to in subsections (3) and (4) respectively.

(6) Where a person does not exercise any of the options listed in subsection (4)(a) to (c), he shall be deemed to have retired voluntarily in accordance with subsection (4)(c).

(7) Where a person opts not to be seconded to the Authority under subsection (3), or opts to remain in the Public Service under subsection 4(b) and retires or is removed from the Public Service in consequence of the abolition of his office, he shall be paid compensation for loss of office or employment in accordance with the Pensions Act.

Chap. 23:52

(8) Where a person who opted to transfer to the Authority under subsection 4(a) retires or is removed from employment with the Authority in consequence of the abolition of his office, he shall be paid compensation for loss of office or employment in accordance with the Pensions Act.

Transfer of
officers

68. (1) An officer in the Public Service or in a statutory authority may, with the approval of the appropriate Service Commission or statutory authority as the case may be and the Authority, consent to be appointed on transfer to the service of the Authority, upon such terms and conditions as may be acceptable to him and the Authority.

(2) The officer shall, upon transfer and until such time as the pension scheme referred to in section 70 is established—

- (a) have preserved his superannuation rights accruing at the time of the transfer; and
- (b) become a member of the pension scheme.

(3) Where the transfer becomes effective before the pension scheme is established, the officer shall become a member within one year of its establishment.

(4) Subsections (1) and (2) apply to transfers of officers and employees of the Authority to the Public Service or to a statutory authority as they do to transfers from the Public Service to the Authority.

Transfer on
secondment

69. (1) An officer in the Public Service, or in a statutory authority, or an employee of any public or private body, national or international, may, with the consent of the Authority and with the approval of the appropriate Service Commission or the relevant body, consent to be transferred on secondment to the service of the Authority, and an officer or employee of the Authority may with like approval be transferred on secondment to the Public Service or a statutory authority or other body.

(2) Where a transfer on secondment is effected, the President or the Authority may make such arrangements as may be necessary to preserve the rights of the officer or employee transferred, to any pension, gratuity or other allowance for which he would have been eligible had he not been transferred.

(3) A period of transfer on secondment shall not exceed five years.

70. (1) The pension rights which would have accrued to the officers and members of staff of the Telecommunications Division to whom section 67(4)(a) applies shall be preserved to them unbroken and continue to so accrue until the establishment of the scheme referred to in subsection (2) which will be harmonized with such pension rights. Pensions rights
and scheme

(2) The Authority, shall within three years of its establishment, provide for the establishment and maintenance of a pension scheme for the benefit of its officers and employees.

(3) Without prejudice to the generality of subsection (2) the Authority may, under the pension scheme—

- (a) establish contributory superannuation schemes and establish and contribute to superannuation funds for the benefit of its officers and employees;
- (b) grant gratuities, pensions or superannuation allowances to the widows, families or dependants of its officers and employees;
- (c) enter into and carry into effect, arrangements with any insurance company or other association or company for securing for any of its officers or employees, or their widows, families or dependants, such gratuities, pensions or allowances as are authorised by this section;
- (d) give donations or subscriptions to charitable institutions, sick funds, benevolent funds and other objects calculated to benefit its officers and employees.

PART IX

GENERAL

71. (1) Where the Director has reasonable grounds for believing that any person is using a radiocommunication service or a broadcasting service for purposes that— Directions
by Minister

- (a) are dangerous to the security of the State;
- (b) disrupt a telecommunication service on land or on board any ship, aircraft, vessel or other floating or airborne contrivance;

- (c) causes interference to any telecommunication service established in respect of natural disasters and emergencies,

the Director shall immediately notify the Minister who may direct that person to cease using such means of radiocommunication or broadcasting.

(2) Where a person is directed by the Minister under subsection (1), he shall immediately comply with such direction.

(3) It is a condition of each concession that the concessionaire shall comply with a direction of the Minister given under this section.

Appeal

72. A person aggrieved by a direction of the Minister given under section 71 may appeal to a Judge of the High Court and thence to the Court of Appeal.

Minister's certification

73. Where on an appeal against a direction made by the Minister under section 71, the Minister certifies that in his opinion it is contrary to public order, public safety or national defence to disclose the grounds for believing that the appellant was using the means of telecommunication of which he was deprived for purposes dangerous to the security of the State then, unless the High Court or the Court of Appeal, as the case may be, thinks fit to order otherwise, the Minister is presumed to have had reasonable grounds for so believing.

Monitoring stations

74. (1) The Authority may operate frequency monitoring stations for—

- (a) ascertaining whether radiocommunication and broadcasting services are operated in accordance with this Act;
- (b) planning, supervising and regulating the use of the frequency spectrum;
- (c) carrying out any technical function necessary for fulfilling the requirements of Article 20 or any similar article of the Radio Regulations of the International Telecommunications Union for the time being in force.

(2) The President may by Order exempt a monitoring station operated by the Authority from any of the provisions of this Act.

75. (1) Where the Director is of the opinion that the use of any apparatus is likely to cause or has caused or is causing harmful interference to any other telecommunication service, station or apparatus whether or not all reasonable steps to minimize interference have been taken by the service or station causing the interference, he may—

- (a) serve notice on the person in possession of the apparatus requiring the person to cease using the apparatus within seven days from the date of service of the notice; or
- (b) impose limits as to when the apparatus may be used.

(2) A person aggrieved by a notice of the Director under subsection (1) may appeal to a Judge of the High Court and thence to the Court of Appeal.

76. Nothing in this Act affects the obligations of any concessionaire providing a telecommunication service under any international agreement to which Trinidad and Tobago is a party.

77. (1) The Authority may make regulations for the purpose of giving effect to this Act and in particular may—

- (a) prescribe conditions relating to the operation or use of any station, service or apparatus;
- (b) provide for the operation of telecommunication services and the use of radiocommunication equipment on any ship or floating contrivance in the territorial waters of Trinidad and Tobago or any aircraft or airborne contrivance in Trinidad and Tobago air space;
- (c) prescribe conditions for the operation of amateur radiocommunication services, personal radiocommunication services, private fixed radiocommunication services, private mobile radiocommunication services, satellite radiocommunication services or any other service specified under section 37(1)(d)(vii);
- (d) prescribe such requirements as it thinks fit for ensuring that any apparatus does not cause harmful interference with telecommunication services generally;

- (e) prescribe fees for any service provided by the Authority;
- (f) prescribe concession and licence fees and provide for different classes of concessions and licences, including demonstration licences and experimental service licences;
- (g) prescribe procedures and forms for applications;
- (h) provide for all matters relating to officers and employees;
- (i) provide for the certification of skilled personnel in telecommunications;
- (j) prescribe penalties not exceeding a fine of ten thousand dollars for offences against the regulations.

(2) Regulations made under this Act are subject to affirmative resolution of Parliament.

(3) To the extent that any regulation made under this section is inconsistent with sections 4 or 5 of the Constitution, it shall not take effect unless approved by resolution of Parliament passed with the special majority required by section 13(2) of the Constitution.

Tariffs

78. The Minister may by Notice in the *Gazette* state the tariffs for all internal and external telecommunication services.

Authority to promulgate Broadcasting Code

79. (1) The Authority shall, within a year of its establishment, by Order, subject to affirmative resolution of Parliament, promulgate a Broadcasting Code to regulate the practices of concessionaires of broadcasting services.

(2) The Authority may by Order amend the Broadcasting Code subject to affirmative resolution of Parliament.

(3) To the extent that a Broadcasting Code made under this section is inconsistent with sections 4 or 5 of the Constitution, it shall not take effect unless approved by resolution of Parliament passed with the special majority required by section 13(2) of the Constitution.

**Transitional provisions
Ch. 36 No. 2**

80. (1) Subject to this section the Wireless Telegraphy Ordinance is repealed.

(2) Every regulation made under the Wireless Telegraphy Ordinance shall remain in force until replaced by a corresponding regulation made under this Act.

(3) Subject to subsections (4) and (5), licences issued under the Wireless Telegraphy Ordinance and in force at the commencement of this Act remain in force for one year thereafter.

(4) Any licence in force allowing for the operation of telecommunication services for public correspondence by Telecommunications Services of Trinidad and Tobago Limited remains in force until concession is granted for such services under this Act or provision is made therefor under some other written law.

(5) Until concessions are granted under this Act or provisions are made under some other written law for the operation of the broadcasting services in existence at the commencement of this Act, broadcasting services may continue to be operated after the commencement of this Act on the same terms and conditions as they were prior to the commencement of this Act.

(6) The Cable and Wireless (West Indies) Limited Ordinance is to be read with such modifications and adaptations as are necessary to bring it into conformity with the provisions of this Act. ch. 36 No. 3

SCHEDULE

(Section 19)

ASSETS VESTED IN THE AUTHORITY

All the—

- (a) vehicles;
- (b) furniture;
- (c) equipment, including office equipment, testing equipment and computers and their peripheral equipment and manuals;
- (d) mobile monitoring and direction-finding facilities including maintenance equipment and spare parts; and
- (e) miscellaneous items of nominal value,

operated or used by the Telecommunications Division of the Office of the Prime Minister.

Passed in the Senate this 20th day of August, 1991.

J. SAMPSON
Acting Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed in the Senate and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the Senate that is to say by the votes of 28 members of the Senate.

J. SAMPSON
Acting Clerk of the Senate

Passed in the House of Representatives this 28th day of October, 1991.

N. COX
Acting Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed in the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House that is to say by the votes of 25 members of the House.

N. COX
Acting Clerk of the House

House of Representatives Amendments agreed to by the Senate this 30th day of October, 1991.

J. SAMPSON
Acting Clerk of the House