

INDIAN WIRELESS TELEGRAPHY ACT, 1933

17 of 1933

11th September, 1933

An important source of revenue to the Indian State Broadcasting Service is the fees on licenses for wireless apparatus. These licenses are issued under the Indian Telegraph Act which, however, only gives power to control establishment, maintenance and working of such apparatus in British India. The detection of unlicensed apparatus and the successful prosecution of offenders is therefore difficult in practice as it is first necessary to locate unlicensed apparatus and then to prove that it has actually been established, maintained and worked. It is believed that the revenue lost at present owing to the use of unlicensed wireless apparatus is considerable, thus adversely affecting the financial position of the Indian State Broadcasting Service. It is now proposed to remedy this state of affairs by legislation to prohibit the possession without license of wireless apparatus as distinct from the establishment, maintenance and working of such apparatus and the present Bill has been passed, 1933, Part V, page 8. Amendment Act IS of 1961. With the introduction of television in India, it has become necessary to license the possession and working of television apparatus. Although the definition of 'telegraph' in the Indian Telegraph Act, 1885 and the definition of "wireless communication" in the Indian Wireless Telegraphy Act, 1933 appear to be wide enough to cover transmission and reception of visual images by television, it is considered desirable to place the matter beyond controversy by a suitable amendment of these two Acts. Opportunity has also been taken to amend section 7 of the Indian Telegraph Act, 1885 so as to take power to prescribe by rules the qualifications for persons employed in establishing, maintaining or working wireless telegraph systems. the examinations to be passed by them and the fees to be charged for admission to such examinations. Gaz of Ind., 19-12-1960, Pt. II, S, 2. Ext., p. 916. An act to regulate the possession of wireless telegraphy apparatus.

WHEREAS it is expedient to regulate the possession of wireless telegraphy apparatus in 2[India]; It is hereby enacted as follows:—

SECTION 01: SHORT TITLE, EXTENT AND COMMENCEMENT

(1) This Act may be called THE INDIAN WIRELESS TELEGRAPHY ACT, 1933.

3[(2) It extends to the whole of India 4[* * *].

(3) It shall come into force on such date⁵as the Central Government may, by notification in the Official Gazette, appoint.

SECTION 02: DEFINITIONS

—In this Act, unless there is anything repugnant in the subject or context,—

6[(1) "wireless communication" means any transmission, omission or reception of signs, signals, writing, images and sounds, or intelligence of any nature by means of electricity, magnetism, or Radio waves or Hertzian waves, without the use of wires or other continuous electrical conductors between the transmitting and the receiving apparatus:

Explanation.— "Radio waves" or "Hertzian waves" means electromagnetic waves of frequencies lower than 3,000 gigacycles per second propagated in space without artificial guide;]

OBJECTS AND REASONS With the introduction of television in India, it has become necessary to licence the possession and working of television apparatus although the definition of "telegraph" in the Indian Telegraph Act. 1885-and the definition of "wireless communication" in the Indian Wireless Telegraphy Act, appear to be wide enough to cover transmission and reception of visual images by television. it is considered desirable to place the matter beyond controversy by a suitable amendment of these two Acts."—S.O.R. Gaz. of Ind., 960. Extra, Pt. II S. 2, page 916. instrument or material used or capable of use in wireless communication, and includes any article determined by rule made under sec.10-to be wireless telegraphy apparatus, but does not include any such apparatus, appliance, instrument or material commonly used for other electrical purposes, unless it has been specially designed or adapted for wireless communication or forms part

of some apparatus, appliance, instrument or material specially so designed or adapted, nor any article determined by rule made under section 10-not to be wireless telegraphy apparatus;

8[(2A) "wireless transmitter" means any apparatus, appliance, instrument or material used or capable of use for transmission or omission of wireless communication;]

(3) "prescribed" means prescribed by rules made under section 10-.

SECTION 03: PROHIBITION OF POSSESSION OF WIRELESS TELEGRAPHY APPARATUS WITHOUT LICENSE

Save as provided by section 4-, no person shall possess wireless telegraphy apparatus except under and in accordance with a license issued under this Act. OBJECTS AND REASONS

"Clause 3 prohibits the possession without telegraphs, but does not restrict or control licence of wireless telegraphy apparatus. The mere possession of apparatus, or penalise Indian Telegraph Act, 1885-, controls only such possession without licence unless it can establishing, maintenance and working of be shown that the apparatus is used."— S. O. R.

SECTION 04: POWER OF CENTRAL GOVERNMENT TO EXEMPT PERSONS FROM PROVISIONS OF THE ACT

The Central Government may by rules made under this Act exempt any person or any class of persons from the provisions of this Act either generally or subject to prescribed conditions, or in respect of specified wireless telegraphy apparatus.

SECTION 05: LICENSES

The telegraph authority constituted under the Indian Telegraph Act, 1885-, shall be the authority competent to issue licenses to possess wireless telegraphy apparatus under this Act, and may issue licenses in such manner, on such conditions and subject to such payments, as may be prescribed.

SECTION 06: OFFENCE AND PENALTY

(1) Whoever possesses any 9[wireless telegraphy apparatus, other than a wireless transmitter,] in contravention of the provisions of section 3 shall be punished, in the case of the first offence, with fine which may extend to one hundred

rupees, and, in the case of a second or subsequent offence, with fine which may extend to two hundred and fifty rupees.

10[(1A) Whoever possesses any wireless transmitter in contravention of the provisions of section 3-shall be punished with imprisonment which may extend to three years, or with fine which may extend to one thousand rupees or with both.]

(2) For the purposes of this section a Court may presume that a person possesses wireless telegraphy apparatus if such apparatus is under his ostensible charge, or is located in any premises or place over which he has effective control.

(3) If in the trial of an offence under this 'section the accused is convicted the Court shall decide whether any apparatus in respect of which an offence has been committed should be confiscated, and, if it so decides, may order confiscation accordingly.

SECTION 07: POWER OF SEARCH

Any officer specially empowered¹²by the Central Government in this behalf may search any building, vessel or place in which he has reason to believe that any wireless telegraphy apparatus,¹³[in respect of which an offence punishable under section 6 has been committed, is kept or concealed, and take possession thereof.]

OBJECTS AND REASONS "The seriousness of illegal possession of Act effective, but in amending this section transmitters having been recognised, it is care Has been taken to vest the powers of essential that restrictions in section 7-of the search only in officers specially empowered

Act with regard to searches should be re- by the Central Government in this behalf." moved as far as possible so as to render the —S. O. R. Gaz. of Ind., 1949, Pt. V, page 139.

SECTION 08: APPARATUS CONFISCATED OR HAVING NO OWNER TO BE PROPERTY OF CENTRAL GOVERNMENT

All wireless telegraphy apparatus confiscated under the provisions of sub-section (3) of section 6-, and all wireless telegraphy apparatus having no ostensible owner shall, be the property of the Central Government.

SECTION 09: POWER OF COURT TO DIRECT PAYMENT OF FINES TO PRESCRIBED AUTHORITY

[Ceased to have effect by A. O., 1937 and repealed by the Repealing and Amending Act, 1940 (32 of 1940), S. 2 and Sch. I.]

SECTION 10: POWER OF CENTRAL GOVERNMENT TO MAKE RULES

(1) The Central Government may, by notification in the Official Gazette, make rules¹⁴ for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(i) determining that any article or class of article shall be or shall not be wireless telegraphy apparatus for the purposes of this Act;

(ii) the exemption of persons or classes of persons under section 4 from the provisions of this Act;

(iii) the manner of and the conditions governing the issue, renewal, suspension and cancellation of licenses, the form of licenses and the payments to be made for the issue and renewal of licenses;

(iv) the maintenance of records containing details of the acquisition and disposal by sale or otherwise of wireless telegraphy apparatus possessed by dealers in wireless telegraphy apparatus;

(v) the conditions governing the sale of wireless telegraphy apparatus by dealers in and manufacturers of such apparatus¹⁵

[*].¹⁵[* * * * *]

(3) In making a rule under this section the Central Government may direct that a breach of it shall be punishable with fine which may extend to one hundred rupees.

¹⁶[(4) 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 or¹⁷[in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid] 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.]

SECTION 11: SAVINGS OF INDIAN TELEGRAPH ACT, 1885

Nothing in this Act contained shall authorise the doing of anything prohibited under the Indian Telegraph Act, 1885-, and no license issued under this Act shall authorise any person to do anything for the doing of which a license or permission under the Indian Telegraph Act, 1885-, is necessary.