

THE INDIAN WIRELESS TELEGRAPHY ACT, 1933

ACT XVII OF 1933

An Act to regulate the possession of wireless telegraphy apparatus.

Whereas it is expedient to regulate the possession of wireless telegraphy apparatus in India; It is hereby enacted as follows:

1. Short title, extent and commencement.—

(1) This Act may be called the Indian Wireless Telegraphy Act, 1933.

(2) It extends to the whole of India.

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

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

(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;

(2) 'wireless telegraphy apparatus' means any apparatus, appliance, 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;

(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.

3. Prohibition of possession of wireless telegraphy apparatus without licence.—Save as provided by Section 4, no person shall possess wireless telegraphy apparatus except under and in accordance with a licence issued under this Act.

4. 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.

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

6. Offence and penalty.—

(1) Whoever possesses any 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.

(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 a c c o r d i n g l y .

7. Power of search.—Any officer specially empowered by 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, in respect of which an offence punishable under Section 6 has been committed, is kept or concealed, and take possession thereof.

8. 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.

9. 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

10. Power of Central Government to make rules.—

(1) The Central Government may, by notification in the Official Gazette, make rules 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 purpose 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 manufactures of such apparatus.

(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.

(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 or [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 should 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.

11. Saving of Indian Telegraph Act, 1885- Nothing in this Act contained shall authorize the doing of anything prohibited under the Indian Telegraph Act, 1885 (13 of 1885), and no license issued under this Act shall authorize any person to do anything for the doing of which a license or permission under the Indian Telegraph Act, 1885, is necessary.