

# WIRELESS TELEGRAPHY ACT

## WIRELESS TELEGRAPHY ACT

### ARRANGEMENT OF SECTIONS

#### PART I

##### *Preliminary*

#### SECTION

1. Short title.
2. Meaning of wireless telegraphy.
3. General interpretation.

#### PART II

##### *Regulation of wireless telegraphy*

4. Licence required for use of wireless telegraphy apparatus.
5. Licence required for dealing in wireless telegraphy apparatus.
6. Grant of licences.
7. Fees and charges for licences.
8. Experimental licences.
9. Regulations as to wireless telegraphy.
10. Misleading messages and interception and disclosure of messages.
11. Territorial extent of preceding provisions.
12. Powers of Commission as to wireless personnel.

#### PART III

##### *Provisions as to interference*

13. Regulations as to radiation of electro-magnetic energy, etc.

14. Enforcement of regulations as to the use of apparatus.
15. Enforcement of regulations as to sales, etc., by manufacturers and others.
16. Deliberate interference.
17. Penalties.
18. Offences by bodies corporate.
19. Forfeiture.

#### PART IV

##### *General*

20. Offences continued after conviction.
21. Civil proceedings.
22. Entry and search of premises, etc.
23. Provisions applicable on an occasion of emergency.
24. Onus of proof.

#### SECTION

25. Saving as regards distress signals and electrical apparatus.
26. Protection of Government and public officers.
27. Service of notices by post.
28. Miscellaneous regulations.
29. Government sound and television broadcasting services.
30. Validity of previous licenses.

## **An Act to make provision for the regulation of wireless telegraphy.**

### **1. Short title**

[1961 No. 31. L.N. 108 of 1968. 1998 No. 31.]

[Commencement] PART I

[1st July, 1966]

This Act may be cited as the Wireless Telegraphy Act.

## **2. Meaning of wireless telegraphy**

In this Act, unless the context otherwise requires-

**“wireless telegraphy”** means the emitting or receiving, over paths which are not provided by any material substance constructed or arranged for that purpose, of electro-magnetic energy of a frequency not exceeding three million megacycles a second, being energy which either-

(a) serves for the conveying of messages, sound or visual images (whether the messages, sound or images are actually received by any person or not), or for the actuation or control of machinery or apparatus; or

(b) is used in connection with the determination of position, bearing or distance, or for the gaining of information as to the presence, absence, position or motion of any object or of any objects of any class,

and reference to stations for wireless telegraphy and apparatus for wireless telegraphy shall be construed as references to stations and apparatus for the emitting or receiving as aforesaid of such electro-magnetic energy as aforesaid:

Provided that where-

(i) a station or apparatus for wireless telegraphy cannot lawfully be used without a licence or could not lawfully be used without a licence but for regulations under this Act; and

(ii) any such electro-magnetic energy as aforesaid which is received by that station or apparatus serves for the conveying of messages, sound or visual images; and

(iii) any apparatus is electrically coupled with that station or apparatus for the purpose of enabling any person to receive any of the messages, sound or visual images,

the apparatus so coupled shall itself be deemed for the purpose of this Act to be apparatus for wireless telegraphy.

## **3. General interpretation**

(1) In this Act, unless the context otherwise requires-

**“Commission”** means, in the case of matters relating to-

(a) telecommunications, the Nigerian Communications Commission established under the Nigerian Communications Commission Act; and

(b) broadcasting, the National Broadcasting Commission established under the National Broadcasting Commission Act;

**“electric line”** means a wire or wires, conductor or other means used for the purpose of conveying, transmitting or distributing electricity with any casing, coating, covering, tube, pipe or insulator enclosing, surrounding or supporting the same, or any part thereof, or any apparatus connected therewith for the purpose of conveying, transmitting or distributing electricity or electric currents;

**“foreign aircraft”** means an aircraft which is not registered in any country in the Commonwealth;

**“foreign ship”** means a foreign ship within the meaning of the Merchant Shipping Act;

**“interference”**, in relation to wireless telegraphy, means the prejudicing by any emission or reflection of electromagnetic energy of the fulfilment of the purposes of the telegraphy (either generally or in part, and without prejudice to the generality of the proceeding words, as respects all, or as respects any, of the recipients or intended recipients of any message, sound or visual image intended to be conveyed by the telegraphy), and the expression “interfere” shall be construed accordingly;

**“licence”** means a licence granted under subsection (1) of section 6 of this Act, and

**“licensee”** shall be construed accordingly;

**“Minister”** means the Minister charged with responsibility for matters relating to wireless telegraphy;

**“ship”** includes every description of vessel used in navigation not propelled by oars;

**“station for wireless telegraphy”** includes the wireless telegraphy apparatus of a vessel or aircraft;

**“vessel”** includes any ship or boat, or any other description of vessel used in navigation.

(2) Any reference in this Act to the sending or the conveying of messages includes a reference to the making of any signal or the sending or conveying of any warning or information, and any reference to the reception of messages shall be construed accordingly.

(3) References in this Act to apparatus on board a ship or vessel includes reference to apparatus on a kite or captive balloon flown from a ship or vessel.

## PART II

### *Regulation of wireless telegraphy*

#### **4. Licence required for use of wireless telegraphy apparatus**

(1) No person shall establish or use any station for wireless telegraphy or install or use any apparatus for wireless telegraphy except under and in accordance with a licence in that behalf.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence.

#### **5. Licence required for dealing in wireless telegraph apparatus**

(1) No person shall offer for sale, sell or have in his possession with a view to sale in the course of his business any installation, mechanism, instrument, material or other apparatus constructed for the purpose of or intended to be used for wireless telegraphy except under and in accordance with a licence in that behalf.

(2) Any person who contravenes the provision of subsection (1) of this section shall be guilty of an offence.

#### **6. Grant of licences**

(1) The Commission may grant licences for the purposes of this Act in the prescribed form or in such other form for any particular case as he may approve and may renew licenses so granted.

[1998 No. 31.]

(2) The grant or renewal of a licence shall be in the discretion of the Commission.

(3) A licence may be issued subject to such terms, provisions and limitations as the Commission may think fit, including in particular in the case of a licence to establish a station, limitations as to the position and nature of the station, the purposes for which, the circumstances in which, and the person by whom the station may be used, and the

apparatus which may be installed or used therein, and, in the case of any other licence, limitation as to the apparatus which be installed or used, and the places where, the purposes for which, the circumstances in which and the persons by whom the apparatus may be used.

(4) A licence shall, unless previously revoked, continue in force for such period as may be specified in the licence.

(5) A licence may be revoked, or the terms, provisions or limitations thereof varied, by a notice in writing of the Commission served on the holder of the licence or by a general notice applicable to licences of the class to which the licence in question belongs published in the Federal *Gazette*.

(6) Where a licence has expired or has been revoked, it shall be the duty of the person to whom the licence was issued, and of every other person in whose possession or under whose control the licence may be, to cause the licence to be surrendered to the Commission if required by the Commission to do so, and any person who without reasonable excuse fails or refuses to comply with the provisions of this subsection shall be guilty of an offence:

Provided that this subsection shall not apply to a licence relating solely to apparatus not designed or adapted for emission (as opposed to reception).

(7) Nothing in this section shall authorise the inclusion in any licence relating solely to apparatus not designed or adapted for emission (as opposed to reception), of any term or provision requiring any person to concede any form of right of entry into any private dwelling house.

## **7. Fees and charges for licences**

(1) On the issue or renewal of a licence, and where the regulations under this Act so provide, at such times thereafter as may be prescribed by the regulations, there shall be paid to the Commission, or such person as it may appoint, by the person to whom the licence is issued such sums as may be prescribed by regulations to be made by the Commission, and different provision may be made in relation to different licences, according to the nature, terms, provisions, limitations and duration thereof.

(2) Where sums will or may become payable under subsection (1) of this section, subsequently to the issue or renewal of a licence, the Commission may, on the issue or renewal thereof, require such security to be given, by way of deposit or otherwise, for the payment of the sums which will or may become payable as he thinks fit.

## **8. Experimental licences**

(1) Subject to the provisions of this section, where an application for the grant or renewal of a licence is made to the Commission by a citizen of Nigeria and the Commission is satisfied that the only purpose for which the applicant requires the licence is to enable him to conduct experiments in wireless telegraphy for the purpose of scientific research, the Commission shall not refuse to grant or renew the licence and shall not revoke the licence when granted, and no sum shall be payable under regulations under this Act otherwise than on the issue or renewal of the licence.

(2) Nothing in subsection (1) of this section, shall limit the discretion of the Commission as to the terms, provisions or limitation which it attaches to any licence or its power to vary the terms, provisions or limitations of any licence.

(3) Nothing in subsection (1) of this section, shall prevent the Commission from re- fusing to grant or renew, or from revoking, any licence, if, whether before or after the grant or last renewal of the licence, the applicant has been convicted of any offence under this Part, whether in relation to the same or any other apparatus, or has contravened any of the terms, provisions or limitation of that or any other wireless telegraphy licence granted to him, or has been convicted under section 16 of this Act, of using any apparatus for the purpose of interfering with any wireless telegraphy.

(4) Nothing in subsection (1) of this section, shall prevent the application of the pro- visions of section 24 of this Act to a holder of an experimental licence granted in pursu- ance of this section.

## **9. Regulations as to wireless telegraphy**

(1) The Commission may with the approval of the Minister make regulations-

[1998 No. 31.)

(a) prescribing the things which are to be done or are not to be done in connection with the use of any station for wireless telegraphy or wireless telegraphy appa- ratus, and, in particular, requiring the use of any such station or apparatus to cease on the demand in that behalf of any such persons as may be prescribed by or under the regulations;

(b) imposing on the person to whom a wireless telegraphy licence is used with respect to any station for wireless telegraphy or wireless telegraphy apparatus, or who is in possession or control of any station for wireless telegraphy or wireless telegraphy apparatus, obligation as to permitting and facilitating the inspection of the station and apparatus are as to the condition in which the sta- tion and apparatus are to be kept and, in the case of a station or apparatus for the establishment, installation or use of which a wireless telegraphy licence is necessary, as to the production of the licence, or of such other evidence of the licensing of the station or apparatus as may be prescribed by the regulations;

(c) where sums are or may become due from the person to whom a wireless teleg- raphy licence is issued after the issue or renewal thereof, requiring that person to keep and produce such accounts and records as may be specified in the regulations;

(d) requiring the person to whom a wireless telegraphy licence has been issued to exhibit at the station such notices as may be specified in the regulations;

(e) for preserving the secrecy of communications by wireless telegraphy,

and different provisions may be made by any such regulations for different classes of cases:

Provided that nothing in any such regulations shall require any person to concede any form of right of entry into a private dwelling house for the purpose of permitting or facilitating the inspection of any apparatus not designed or adapted for emission (as opposed to reception).

(2) Any person who contravenes any regulation made under this section, or causes or permits any station for wireless telegraphy or wireless telegraphy apparatus to be used in contravention of any such regulations, shall be guilty of an offence.

## **10. Misleading messages and interception and disclosure of messages**

(1) No person shall-

(a) by means of wireless telegraphy, send or attempt to send, any message which, to his knowledge, is false or misleading and is, to his knowledge, likely to prejudice the efficiency of any safety of life service or endanger the safety of any person or of any vessel, aircraft or vehicle, and in particular, any message which, to his knowledge, falsely suggests that a vessel or aircraft is in distress or in need of assistance or is not in distress or not in need of assistance; or

(b) otherwise than under the authority of the Commission, or in the course of his duty as a servant of the State, either-

[1998 No.31.]

(i) use any wireless telegraphy apparatus with intent to obtain information as to the contents, sender or addressee of any message (whether sent by means of wireless telegraphy or not) which neither the person using the apparatus nor any person on whose behalf it is acting is authorised by the Commission to receive; or

(ii) except in the course of legal proceedings or for the purpose of any report thereof, disclose any information as to the contents, sender or addressee of any such message, being information which would not have come to his knowledge but for the use of wireless telegraphy apparatus by him or by another person.

(2) Any person who contravenes the provisions of subsection (1) of this section, shall be guilty of an offence.

## **11. Territorial extent of preceding provisions**

(1) Subject to the provisions of this section, this Part of this Act shall apply-

(a) to all stations and apparatus in Nigeria;

(b) to any station or apparatus on board a ship outside Nigeria; and

(c) to any apparatus outside Nigeria which was released in Nigeria.



(2) Where anything is done or omitted to be done in contravention of the provisions of this Part of this Act as applied by this section, the captain or other person for the time being in charge of the ship shall, in the absence of evidence to the contrary, and without prejudice to the liability of any other person, be guilty of an offence against this Act.

(3) For the purposes of this section, the Commission with the approval of the Minister may in respect of any foreign ship or foreign aircraft while in Nigeria make regulations to restrict or control the use of any wireless telegraphy apparatus on board the foreign ship or foreign aircraft to such times or purpose as he may approve; and any regulation made under this subsection may provide for the imposition of fine not exceeding in the case of anyone offence, the sum of N200 and, in any proper case, for the confiscation of the wireless telegraphy apparatus or any part thereof.

[1998 No.31.]

(4) In this section and for the avoidance of doubts-

“**Nigeria**” includes the territorial waters and air limits of Nigeria;

“**ship**” means any ship subject to the laws of Nigeria, and includes any type of Nigerian craft capable of becoming airborne.

## **12. Powers of Commission as to wireless personnel**

(1) The Commission may hold examinations to determine the competence of the persons examined to fill positions in connection with the operation of stations for wireless telegraphy apparatus and may issue to persons successful at such examinations certificates of competence of such types as it may from time to time determine.

[1998 No. 31.]

(2) Where the Commission is satisfied that any person has qualified in another country for a certificate of competence or authority to fill position in connection with the operation of stations for wireless telegraphy or wireless telegraphy apparatus in that country, it may issue to that person a certificate of competence to fill similar positions in Nigeria.

(3) The Commission, if it appears to him that there are sufficient grounds so to do, may at any time revoke any certificate issued under subsection (2) of this section.

(4) Where any certificate granted under subsection (2) of this section, has ceased to be in force or has been revoked, it shall be the duty of the person to whom the certificate was issued, and of every other person in whose possession or under whose control the

certificate may be, to cause the certificate to be surrendered to the Commission if required by the Commission so to do, and any person who without reasonable excuse fails or refuses to comply with the provisions of this subsection shall be guilty of an offence.

(5) The Commission may charge persons applying to take part in any examination under this section, and to applicants for, or for copies of, any certificates issued under this section, such fees, if any, as it may determine.

### PART III

#### *Provisions as to interference*

## **13. Regulations as to radiation of electro-magnetic energy, etc.**

(1) The Commission may with the approval of the Minister make regulations for both or either of the following purposes, that is to say-

[1998 No. 31.]

(a) for prescribing the requirements to be complied with in the case of any apparatus to which this section applies if the apparatus is to be used;

(b) for prescribing the requirements to be complied with in the case of any apparatus to which this section applies if the apparatus is to be sold otherwise than for export, or offered or advertised for sale otherwise than for export, or let on hire or offered or advertised for letting on hire, by any person who in the course of business manufactures, assembles or imports such apparatus.

(2) The said requirements shall be such requirements as the Commission thinks fit for the purpose of ensuring that the use of the apparatus does not cause undue interference with wireless telegraphy, and may in particular include-

(a) requirements as to the maximum intensity of electro-magnetic energy of any specified frequencies which may be radiated in any direction from the apparatus while it is being used; and

(b) in the case of an apparatus the power for which is supplied from electric lines, requirements as to the maximum electro-magnetic energy of any specified frequencies which may be injected into these lines by the apparatus,

and, in so far as apparatus to the Commission necessary or expedient in the case of the regulations in question, different requirement may be prescribed for different circumstance and in relation to different classes or description of apparatus, different districts or places and different times of use.

(3) (a) The apparatus to which this section applies, shall be such apparatus as may be specified in the regulations made thereunder, being apparatus generating, or designed to generate, or liable to generate fortuitously, electro-magnetic energy at frequencies of not more than three million megacycles per second, and not being wireless telegraphy apparatus.

(b) The references in this subsection to apparatus include references to any form of electric line, and other references in this Act to apparatus shall be construed accordingly.

(4) It shall not be unlawful for any person to use any apparatus to which this section applies or to sell any such apparatus or offer or advertise it for sale or let it on hire or offer or advertise it for letting on hire by reason only that it does not comply with the requirements applicable under any regulations made under this section, but the non-compliance shall be a ground for the giving of a notice under section 14 or section 15 of this Act, as the case may be.

## **14. Enforcement of regulations as to use of apparatus**

(1) If the Commission is of opinion-

(a) that any apparatus does not comply with the requirements applicable to it under regulations made for the purpose specified in paragraph (a) of subsection (1) of section 13 of this Act; and

[1998 No.3!.]

(b) that either-

(i) the use of the apparatus is likely to cause undue interference with any wire telegraphy used for the purposes of any safety of life service or for any purpose of which the safety of any person or any vessel, aircraft or vehicle may depend; or

(ii) the use of the apparatus is likely to cause undue interference with any other wireless telegraphy and in fact has caused or is causing such interference in a case where he considers that all reasonable steps to minimise interference have been taken in relation to the station or apparatus receiving the telegraphy,

it may serve on the person in whose possession the apparatus is, a notice in writing requiring that, after a date fixed by the notice, not being less than 28 days from the date of the service thereof, the apparatus shall not be used, whether the person to whom the notice is given or otherwise, or, if the Commission thinks fit so to frame the notice, shall only be used in such manner, at such times and in such circumstances as may be specified in the notice:

Provided that if the Commission is satisfied that the use of the apparatus in question is likely to cause undue interference with any wireless telegraphy used for the purpose of any safety of life service or for any purpose on which the safety of any person or of any

vessel, aircraft or vehicle may depend, the date to be fixed by notice may be the date of service thereof.

(2) A notice under subsection (1) of this section, may be revoked or varied by a subsequent notice in writing by the Commission served on the person in whose possession the apparatus then is:

Provided that where a notice under this subsection has the effect of imposing any additional restriction on the use of the apparatus, the provisions of subsection (1) of this section, relating to the coming into force of notices shall apply in relation to notice as if it has been a notice served under subsection (1) of this section.

(3) (a) Where notice has been given under subsection (1) of this section, any person having possession of or any interest in the apparatus to which the notice relates may within 28 days appeal to the High Court having jurisdiction in that part of the Federation where the apparatus is situated at the time when the notice was given, and the High Court may, upon application of such person made at the time of the filing the appeal, direct that the Commission's notice shall not operate until a particular date not later than the termination of the appeal:

Provided that where the Minister in writing under his hand certifies to the High Court that the continued use of the apparatus in question is likely to cause interference with any wireless telegraphy used for the purpose on which the safety of life service or the safety of any person, vessel, aircraft or vehicle may depend, the High Court may not alter the date upon which the directive in the Commission's notice shall operate.

(b) This subsection shall apply in relation to a notice under subsection (1) of this section, which has been varied by a subsequent notice as it applies in relation to a notice which has not been so varied.

(4) On any such appeal, the High Court may, if it thinks it expedient so to do, call in the aid of one or more assessors specially qualified, and may hear and determine the appeal wholly or in part with their assistance.

(5) On any such appeal, the High Court shall hear the Commission and the person at whose instance the appeal was made and any other person appearing to them to be interested who desires to be heard, and has, in accordance with the rules regulating the procedure of the appeal, procured himself to be made a party to the appeal, and if the High Court is satisfied that the apparatus in question complies with the requirements applicable to it under the regulations, it shall direct the Commission to revoke the notice and the Commission shall revoke the notice accordingly.

(6) A direction given under subsection (5) of this section may be absolute, or may be conditional on such steps being taken in relation to the apparatus, or on the apparatus be-

ing made to comply with such requirement as may be specified in the direction, and any question whether or not these steps have been taken or, as the case may be, whether or not the apparatus has been made to comply with those requirements shall, on the application to the Commission or of any person having possession of or any interest in the apparatus, be determined by the Court.

(7) Any person, who, knowing that a notice of the Commission under this section is in force with respect to any apparatus, uses that apparatus, or causes or permits it to be used, in contravention of the notice, shall be guilty of an offence.

## **15. Enforcement of regulations as to sales, etc., by manufacturers and others**

(1) If the Commission is of opinion that any apparatus does not comply with the requirements applicable to it under regulations made for the purpose specified in paragraph (b) of subsection (1) of section 13 of this Act, he may serve on any person who has manufactured, assembled or imported the apparatus in the course of business a notice in writing prohibiting him from selling the apparatus, otherwise than for export, or offering or advertising it for sale, otherwise than for export, or letting it on hire or offering or advertising it for letting on hire.

[1998 No. 31.]

(2) Where a notice has been served under subsection (1) of this section, the person on whom the notice has been served may appeal against the same to the High Court having jurisdiction in that part of the Federation where the apparatus is situated at the time when the notice was given.

(3) On any such appeal, the High Court may, if it thinks it expedient so to do, call in the aid of one or more assessors specially qualified, and may hear and determine the appeal wholly or in part with their assistance.

(4) On any such appeal, the High Court shall hear the Commission and the person at whose instance the appeal was made and any other person appearing to it to be interested who desires to be heard and has, in accordance with the rules regulating the procedure of the appeal, procured himself to be made a party to the appeal, and, if it is satisfied that the apparatus in question complies with the requirements applicable to it under the regulations, shall direct the Commission to revoke the notice and shall revoke it accordingly:

Provided that the making by the High Court of a direction under this subsection shall not, where the apparatus is subsequently altered, prevent the Commission from serving a fresh notice under subsection (1) of this section with respect to the apparatus and the refusal by the High Court to make a direction under this subsection shall not, where the apparatus is subsequently altered,

prevent the Commission from revoking the notice or the person on whom the notice was served from instituting a further appeal under subsection (2) of this section.

(5) Where a notice has been served under subsection (1) of this section, the person on whom the notice has been served shall, if he contravenes the provisions of the notice without the notice having been previously revoked by the Commission, be guilty of an offence.

## **16. Deliberate interference**

(1) Any person who wilfully uses any apparatus for the purpose of interfering with any wireless telegraphy shall be guilty of an offence.

This section shall apply whether or not the apparatus in question is wireless telegraphy apparatus or apparatus to which any of the preceding provisions of this Part apply, and whether or not any notice under section 14 or section 15 of this Act has been given with respect to the apparatus, or if, given, has been varied or revoked.

For full law download PDF, click the button below

[WIRELESS-TELEGRAPHY-ACT.pdf](#) Download