

THE TELEGRAPH ACT, 1885
(ACT NO. XIII OF 1885)

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THE TELEGRAPH ACT, 1885
ACT NO.XIII OF 1885
[22ND JULY, 1885]

An Act to amend the law relating to Telegraphs in [Bangladesh].

Whereas it is expedient to amend the law relating to telegraphs in [Bangladesh]. It is hereby enacted as follows:-

PART 1
PRELIMINARY

1. Short title, local extent and commencement.-

(1) This Act may be called the Telegraph Act, 1885.

(2) It extends to the whole of [Bangladesh] and it applies also to all citizens of [Bangladesh] and persons in the service of [Republic] wherever they may be]

(3) It shall come into force on the first day of October, 1885.

[2. *[Repeal and savings.] Rep. by the Repealing Act, 1938 (I of 1938) s. 2 and Sch.]*

3. Definitions.- In this Act, unless there is something repugnant in the subject or context,-

(1) "telegraph" means an electric, galvanic or magnetic telegraph, and includes appliances and apparatus for [making, transmitting or receiving] telegraphic, telephonic or other communications by means of electricity, galvanism or magnetism;

(2) "telegraph officer" means any person employed either permanently or temporarily in connection with a telegraph established, maintained or worked by the [Government] or by a person licensed under this Act;

(3) "message" means any communication sent by telegraph, or given to a telegraph officer to be sent by telegraph or to be delivered;

(4) "telegraph line" means a wire of wires used for the purpose of a telegraph, with any casing, coating, tube or pipe

enclosing the same, and any appliances and apparatus connected therewith for the purpose of fixing or insulating the same;

(5) "post" means a post, pole, standard, stay, strut or other above-ground contrivance for carrying, suspending or supporting a telegraph line;

(6) "telegraph authority", means the [Director General (Bangladesh) Telegraph and Telephone Department], and includes any officer empowered by him to perform all or any of the functions of the telegraphs authority under this Act;

(7) "local authority" means any municipal committee, district board, body of port, commissioners or other authority legally entitled to, or entrusted by the [Government] with, the control or management of any municipal or local fund.

PART II

PRIVILEGES AND POWERS OF THE GOVERNMENT

4. Exclusive privilege in respect of telegraphs, and power to grant licenses.— (1) Within Bangladesh, the Government shall have the exclusive privilege of establishing, maintaining and working telegraphs;

Provided that the Government may grant a license, on such conditions and in consideration of such payments as it thinks fit, to any person to establish, maintain or work a telegraph within any part of Bangladesh:

Provided further that the Government may by rules made under this Act and publish in the official Gazette, permit, subject to such restrictions and conditions as thinks fit, the establishment, maintenance and working-

(a) of wireless telegraphs on ships within Bangladesh territorial waters and on aircraft within or above Bangladesh or Bangladesh territorial waters and

(b) of telegraphs other than wireless telegraphs within any part of Bangladesh.

(2) The Government may, by notification in the official Gazette delegate to the telegraph authority all or any of its powers under the first proviso to sub-section (1).

The exercise by the telegraph authority of any power so delegated shall be subject to such restrictions and conditions as the Government may, by the notification, think fit to impose.

5. Power for Government to take possession of licensed telegraphs and to order interception of messages.— (1) On the occurrence of any public emergency, or in the interest of the public safety, the Government or any officer specially authorized in this behalf by the Government, may—

- (a) take temporary possession of any telegraph established, maintained or worked by any person licensed under this Act; or
- (b) order that any message or class of messages to or from any person or class of persons or relating to any particular subject brought for transmission by, or transmitted or received by, any telegraph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to the Government making the order or an officer thereof mentioned in the order.

(2) If any doubt arises as to the existence of a public emergency, or whether any act done under sub-section (1) was in the interest of the public safety, a certificate of the Government shall be conclusive proof on the point.

** [Section 6- was omitted by Act No.VIII of 1973]*

7. Power to make rules for the conduct of telegraphs.— (1) The Government may, from time to time, by notification in the official Gazette, make rules consistent with the Act for the conduct of all or any telegraphs established, maintained or worked by the Government or by persons licensed under this Act.

(2) Rules under this section may provide for all or any of the following, among other matters, that is to say:-

- (a) the rates at which, and the other conditions and restrictions subject to which, messages shall be transmitted;
- (b) the precautions to be taken for preventing the improper interception or disclosure of messages;
- (c) the period for which and the conditions subject to which, telegrams and other documents belonging to, or being in the custody of telegraph officers shall be preserved; and
- (d) the fees to be charged for searching for telegrams or other documents in the custody of any telegraph officer.

(3) When making rules for the conduct of any telegraph established, maintained or worked by any person licensed under this Act, the Government may, by the rules, prescribe fines for any breach of the same;

Provided that the fines so prescribed shall not exceed the following limits, namely:-

- (i) when the person licensed under this Act is punishable for the breach, one thousand taka and in the case of a continuing breach a further fine of two hundred taka for everyday after the first during the whole or any part of which the breach continues;
- (ii) when a servant of the person so licensed, or any other person, is punishable for the breach, one-fourth of the amounts specified in clause(i).

7A. Recovery of dues in respect of telegraph, etc.- [If any person does not pay any sum due from him under this Act in respect of any telegraph or message, the sum so due may, on application made by the telegraph authority in this behalf, be recovered from such person, as if it were a fine imposed under this Act by any Magistrate having jurisdiction where that person may for the time being be resident; and the telegraph authority may further direct that any message, or postal article as defined in clause (i) of section 2 of the Post Office Act, 1898 not being on Bangladesh State Service, addressed

to that person, shall be withheld from him until the sum so due is paid or recovered as aforesaid.]

** [Section 7A- has been omitted by Act No.XXV of 1957]*

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

9. Government not responsible for loss or damage.— The Government shall not be responsible for any loss or damage which may occur in consequence of any telegraph officer failing in his duty with respect to the receipt, transmission or delivery of any message; and no such officer shall be responsible for any such loss or damage unless he causes the same negligently, maliciously or fraudulently.

PART III

POWERS TO PLACE TELEGRAPH LINES AND POSTS.

10. Power of telegraph authority to place and maintain telegraph lines and posts.— The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along or across, and posts in or upon, any immovable property;

Provided that—

- (a) the telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by the Government or to be so established or maintained;
- (b) the Government shall not acquire any right other than that of user only in the property under, over, along, **across**, in or upon which the telegraph authority places any telegraph line or post; and
- (c) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority; and

- (d) in the exercise of the powers conferred by this section the telegraph authority shall do as little damage as possible, and when it has exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

11. Power to enter on property in order to repair or remove telegraph lines or posts.— The telegraph authority may, at any time, for the purpose of examining, repairing, altering or removing any telegraph line or post, enter on the property under, over, along, across, in or upon which the line or post has been placed.

PROVISIONS APPLICABLE TO PROPERTY VESTED IN OR UNDER THE CONTROL OR MANAGEMENT OF LOCAL AUTHORITIES.

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

13. Power for local authority to require removal or alteration of telegraph line or post.— When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property vested in or under the control or management of a local authority, and the local authority, having regard to circumstances which have arisen since the telegraph line or post was so placed, considers it expedient

that it should be removed or that its position should be altered, the local authority may require the telegraph authority to remove it or alter its position, as the case may be.

14. Power to alter position of gas or water pipes or drains.— The telegraph authority may, for the purpose of exercising the power conferred upon it by this Act in respect of any property vested in or under the control or management of a local authority, alter the position thereunder on any pipe (not being a main) for the supply of gas or water or of any drain (not being a main drain);

Provided that—

- (a) when the telegraph authority desires to alter the position of any such pipe or drain, it shall give reasonable notice of its intention to do so, specifying the time at which it will begin to do so, to the local authority, and, when the pipe or drain is not under the control of the local authority, to the person under whose control the pipe or drain is;
- (b) a local authority or person receiving notice under clause (a) may send a person to superintend the work, and the telegraph authority shall execute the work to the reasonable satisfaction of the person so sent.

15. Disputes between telegraph authority and local authority.— (1) If any dispute arises between the telegraph authority and a local authority in consequence of the local authority refusing the permission referred to in section 10, clause (c), or prescribing any condition under section 12, or in consequence of the telegraph authority omitting to comply with a requisition made under section 13, or otherwise in respect of the exercise of the powers conferred by this Act, it shall be determined by such officer as the Government may appoint either generally or specially in this behalf.

(2) An appeal from the determination of the officer so appointed shall lie to the Government; and the order of the Government shall be final.

PROVISIONS APPLICABLE TO OTHER PROPERTY

16. Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.— (1) If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

(2) If, after the making of any order under sub-section (1), any person resists the exercise of those powers or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Penal Code.

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient, or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount ~~has been determined~~ under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under sub-section (3) or sub-section (4) shall be **final**:

Provided that nothing in this sub-section shall **affect** the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority from the person who has received the same.

17. Removal or alternation of telegraph line or post on property other than that of a local authority.— (1) When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property, not being property vested in or under the control or management of a local authority, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telegraph line or post should be removed to another part thereof or to a higher or lower level or altered in form, he may require the telegraph authority to remove or alter the line or post accordingly;

Provided that, if compensation has been paid under section 10, clause (d), he shall, when making the requisition, tender to the telegraph authority the amount requisite to defray the expense of the removal or alteration, or half of the amount paid as compensation, whichever may be the smaller sum.

(2) If the telegraph authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situate to order the removal or alteration.

(3) A District Magistrate receiving an application under subsection (2) may, in his discretion, reject the same or make an order absolutely or subject to conditions, for the removal of the telegraph line or post to any other part of the property or to a higher or lower level, or for the alteration of its form; and the order so made shall be final.

PROVISIONS APPLICABLE TO ALL PROPERTY

18. Removal of trees interrupting telegraphic communication.—

(1) If any tree standing or lying near a telegraph line interrupts, or is likely to interrupt, telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph authority, cause the tree to be removed or dealt with in such other way as he deems fit.

(2) When disposing of an application under subsection (1) the Magistrate shall, in the case of any tree in existence before

the telegraph line was placed, award to the persons interested in the tree such compensation as he thinks reasonable, and the award shall be final.

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

Every telegraph line or post placed before the passing of this Act under, over, along, across, in or upon any property, for the purposes of a telegraph established or maintained by the Government shall be deemed to have been placed in exercise of the powers conferred by and after observance of all the requirements of this Act.

19A. Person exercising legal right likely to damage telegraph or interfere with telegraphic communication to give notice.-

(1) Any person desiring to deal in the legal exercise of a right with any property in such a manner as is likely to cause damage to a telegraph line or post which has been duly placed in accordance with the provisions of this Act, or to interrupt or interfere with telegraphic communication, shall give not less than one month's notice in writing of the intended exercise of such right to the telegraph authority, or to any telegraph officer whom the telegraph authority may empower in this behalf.

(2) If any such person without having complied with the provisions of sub-section (1) deals with any property in such a manner as is likely to cause damage to any telegraph line or post, or to interrupt or interfere with telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph authority, order such person to abstain from dealing with such property in such manner for a period not exceeding one month from the date of his order and forthwith to take such action with regard to such property as may be in the opinion of the Magistrate necessary to remedy or prevent such damage, interruption or interference during such period.

(3) A person dealing with any property in the manner referred to in sub-section (1) with the bona fide intention of

averting imminent danger of personal injury to himself or any other human being shall be deemed to have complied with provisions of the said sub-section if he gives such notice of the intended exercise of the right as is in the circumstances possible or where no such previous notice can be given without incurring the imminent danger referred to above, if he forthwith gives notice of the actual exercise of such right to the authority or officer specified in the said sub-section.

19B. Power to confer upon licensee powers of telegraph authority under this Part.— The Government may, by notification in the official Gazette, confer upon any licensee under section 4, in respect of the extent of his license and subject to any conditions and restrictions which the Government may think fit to impose and to the provisions of this Part, all or any of the powers which the telegraph authority possesses under this Part with regard to a telegraph established or maintained by the Government or to be so established or maintained:

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

PART IV PENALTES

20. Establishing, maintaining or working unauthorized telegraph.— (1) If any person establishes, maintains or works a telegraph within Bangladesh in contravention of the provisions of section 4 or otherwise than as permitted by rules made under that section, he shall be punished, if the telegraph is a wireless telegraph, with imprisonment which may extend to three years, or with fine, or with both, and, in any other case, with a fine which may extend to one thousand taka.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, offences under this section in respect of a wireless telegraph shall, for the purposes of the said Code, be bailable and non-cognizable.

(3) When any person is convicted of an offence punishable under this section, the Court before which he is convicted may direct that the telegraph in respect of which the offence has been committed, or any part of such telegraph, be forfeited to Government.

20A. Breach of condition of license.— If the holder of a license granted under section 4 contravenes any condition contained in his license, he shall be punished with fine which may extend to one thousand taka and with a further fine which may extend to five hundred taka for every week during which the breach of the condition continues.

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

** [Section 22- omitted by Act No.VIII of 1973.]*

23. Intrusion into signal room, trespass in telegraph office or obstruction.—

If any person—

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

he shall be punished with fine which may extend to five hundred taka.

24. Unlawfully attempting to learn contents of messages.— If any person does any of the acts mentioned in

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

25. Intentionally damaging or tampering with telegraphs.— (1) If any person, intending—

- (a) to prevent or obstruct the transmission or delivery of any message, or
- (b) to intercept or to acquaint himself with the contents of any message, or
- (c) to commit mischief,

damages, removes, tampers with or touches any battery, machinery, telegraph line, post or other thing whatever, being part of or used in or about any telegraph or in the working thereof, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

(2) If any wire used for the purpose of a telegraph or a telegraph line is found in the possession of a person, other than a licensee under section 4, or a person who, in course of his duty, is in possession of such wire, he shall be deemed to have committed an offence punishable under section 411 of the Penal Code.

25A. Injury to or interference with a telegraph line or post.—

If, in any case not provided for by section 25, any person deals with any property and thereby wilfully or negligently damages any telegraph line or post duly placed on such property in accordance with the provisions of this Act, he shall be liable to pay the telegraph authority such expenses (if any) as may be incurred in making good such damage, and shall also, if the telegraphic communication is by reason of the damage so caused interrupted, be punishable with a fine which may extend to one thousand taka:

Provided that the provisions of this section shall not apply where such damage or interruption is caused by a person

dealing with any property in the legal exercise of a right if he has complied with the provisions of section 19A (1).

26. Telegraph officer or other official making away with or altering or unlawfully intercepting or disclosing messages, or divulging purport of signals.— If any telegraph officer, or any person, not being a telegraph officer but having official duties connected with any office which is used as a telegraph office,—

- (a) wilfully secretes, makes away with or alters any message which he has received for transmission or delivery, or
- (b) wilfully and otherwise than in obedience to an order of the Government or of a Government or of an officer specially authorized by the Government to make the order, omits to transmit, or intercepts or detains, any message or any part thereof, or otherwise than in pursuance of his official duty or in obedience to the direction of a competent Court, discloses the contents or any part of the contents of any message, to any person not entitled to receive the same; or
- (c) divulges the purport of any telegraphic signal to any person not entitled to become acquainted with the same;

he shall be punished with imprisonment for a term which may extend to three years or with fine, or with both.

27. Telegraph officer fraudulently sending messages without payment.—

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

28. Misconduct.— If any telegraph officer, or any person not being a telegraph officer but having official duties connected with any office which is used as a telegraph office, is guilty of

any act of drunkenness, carelessness or other misconduct whereby the correct transmission or the delivery of any message is impeded or delayed, or if any telegraph officer loiters or delays in the transmission or delivery of any message, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred taka or with both.

29. Sending fabricated or obscene messages.—

If any person transmits or causes to be transmitted by telegraph a message which he knows or has reason to believe to be false or fabricated, or a message which is indecent or obscene, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

29A. Penalty.— If any person, without due authority,—

- (a) makes or issues any document of a nature reasonably calculated to cause it to be believed that the document has been issued by, or under the authority of, the Director General, Bangladesh Telegraph and Telephone Department, or
- (b) makes on any document any mark in imitation of, or similar to, or purporting to be, any stamp or mark of any telegraph office under the Director General Bangladesh Telegraph and Telephone Department or a mark of a nature reasonably calculated to cause it to be believed that the document so marked has been issued by or under the authority of, the Director General, Bangladesh Telegraph and Telephone Department.

he shall be punished with fine which may extend to fifty taka.

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

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

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

PART V SUPPLEMENTAL PROVISIONS

33. Power to employ additional police in places where mischief to telegraphs is repeatedly committed.— (1) Whenever it appears to the Government that any act causing or likely to cause wrongful damage to any telegraph is repeatedly and maliciously committed in any place, and that the employment of an additional police force in that place is thereby rendered necessary, the Government may send such additional police force as it thinks fit to the place, and employ the same therein so long as, in the opinion of that Government, the necessity for doing so continues.

(2) The inhabitants of the place shall be charged with the cost of the additional police force, and the District Magistrate shall, subject to the orders of the Government assess the proportion in which the cost shall be paid by the inhabitants according to his judgment of their respective means.

(3) All moneys payable under sub-section (2) shall be recoverable either under the warrant of a Magistrate by distress and sale of the moveable property of the defaulter within the local limits of his jurisdiction, or by suit in any competent Court.

(4) The Government may by order in writing, define the limits of any place for the purposes of this section.

**[Section 34- omitted by Act No.VIII of 1973]*
