

RADIOCOMMUNICATIONS ACT, 1994

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SCHEDULE—Classification of Radio Stations

GOVERNMENT OF ZAMBIA

ACT

No. 25 of 1994

Date of Assent: 11th May, 1994

An Act to regulate the provision of radiocommunication services; to provide for the functions of the Communications Authority in connection with radiocommunications; to repeal the Radiocommunications Act; and to provide for matters connected with or incidental to the foregoing.

[3rd June, 1994

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Radiocommunications Act, 1994, and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title and commencement

2. In this Act, unless the context otherwise requires—

Interpretation

"aircraft station" has the meaning ascribed to it in the Schedule to this Act;

"amateur radio station " has the meaning ascribed to it in the Schedule to this Act;

"Authority" means the Communications Authority established under the Telecommunications Act, 1994;

Act No. 23 of 1994

"Board" means the Board of Regulators appointed under the Telecommunications Act, 1994;

Act No. 23 of 1994

"broadcaster" means a person licensed to operate a broadcasting service under the Broadcasting Act or any Act amending or replacing that Act;

Cap. 253

"broadcasting service" means a radiocommunication service for reception by members of the general public;

"broadcasting station " means a transmitting station used for the purpose of carrying on a broadcasting service;

"certificate of competency " means a certificate in force under section *ten*;

"Convention" means the International Telecommunication Convention signed at Nairobi on 6th November, 1982 or any other international telecommunication convention to which the Government is from time to time a party, and includes in either case any regulations or other subordinate instruments or provisions annexed thereto or made thereunder;

"dealer" means a person who carries on a trade, business or industry in which transmitting stations or their component parts are assembled, manufactured, imported, bought, sold or exchanged or offered or exposed for sale or exchange;

Cap. 253 "diffusion" has the meaning ascribed to it in the Broadcasting Act or any Act amending or replacing that Act;

"distress call" means a radiocommunication concerning safety of life on land, at sea or in the air;

"generating apparatus " means apparatus—

(a) generating or designed to generate; or

(b) liable to generate fortuitously;

Hertzian waves of a frequency or kind prescribed by regulation;

"harmful interference" means radiation, conduction or any other electromagnetic effect which—

(a) prevents or impedes, or persistently or repeatedly interrupts, a radiocommunication service carried on in accordance with the provisions of this Act or of the Convention; and

(b) is not caused by the working of a transmitting station in accordance with the provisions of this Act;

"Hertzian waves" means electromagnetic waves of frequency not less than ten Hertz and not more than three million megaHertz;

"licence" means a licence in force under this Act and "licenced" and "licensee" have corresponding meanings;

"mobile station" has the meaning assigned to it in the Schedule to this Act;

"radio station" means a receiving station or a transmitting station, or a receiving and transmitting station;

"radio station apparatus" means any apparatus, equipment, instrument, pole, mast, standard, wire, cable, thing or means whatsoever designed, constructed or adapted for use in connection with, or for the purpose of conveying electrical energy to, a radio station;

"radiocommunication" means the transmission and reception of sounds, graphic images or impulses wholly or partly by means of Hertzian waves;

"radiocommunication service" means a service whose primary activity is the transmission or reception of radiocommunications;

"receiving station" means apparatus designed, constructed or adapted for use for the reception of radiocommunications;

"ship station" has the meaning ascribed to it in the Schedule to this Act;

"telecommunication officer" has the same meaning as in the Telecommunications Act, 1994;

Act No. 23
of 1994

"transmitting station" means apparatus (other than generating apparatus) designed, constructed or adapted for use for the transmission or emission of radiocommunications.

3. The provisions of this Act and of the Convention shall not apply to the Zambia Police Force or the Defence Force except in so far as they relate to—

Application

- (a) the establishment of transmitting stations and the erection of radio station apparatus at permanent sites;
- (b) the allocation of frequencies by the Authority;
- (e) the approval of the Authority of the mode of transmission to be used in connection with radio transmitting stations and the power to be radiated therefrom;
- (d) the prevention of harmful interference;
- (e) distress calls, messages and signals; and
- (f) the manner of carrying on radiocommunication services governed by the provisions of the Convention.

PART II

FUNCTIONS OF COMMUNICATIONS AUTHORITY

4. (1) Subject to the provisions of this Act, the Authority shall have the general control and supervision of radiocommunications and radiocommunication services.

General supervision and
control of
radiocommunications

(2) The Authority is hereby authorized to undertake and carry on any works or activities that, for persons other than the Authority, would by virtue of this Act require a licence.

Approval of sites,
allocation of
frequencies, etc.

5. (1) Subject to subsection (3), the Minister, on the advice of the Authority, shall by statutory instrument—

- (a) approve the sites at which all transmitting stations, other than aircraft stations, mobile stations or ship stations, are to be established and at which all radio station apparatus used in connection with the transmitting station is to be erected; and
- (b) allocate the frequencies on which all radio transmitting stations and all apparatus referred to in paragraph (a) of the definition of "generating apparatus" in section *two* shall be worked; and
- (c) approve—
 - (i) the mode of transmission to be adopted in connection with all transmitting stations and the power to be radiated therefrom;
 - (ii) the classes, types and standards of transmitting stations and radio station apparatus to be used in connection with different classes of radiocommunication services; and
 - (iii) the classes, types and standards of receiving stations and radio and other apparatus to be used in connection with diffusion services.

(2) In exercising the powers conferred upon him by paragraph (b) of subsection (1) or sub-paragraph (i) of paragraph (c) of that subsection, the Minister shall have regard to the provisions of the Convention.

PART III

LICENCES AND CERTIFICATES

Licences

6. (1) Any person may apply to the Authority for a licence under this section.

(2) A license under this section (other than a temporary licence under subsection (4)) authorizes the licensee to establish and operate one or more radio stations at such places as may be specified in the licence and to provide a radiocommunication service by means of the station or stations in accordance with the provisions of this Act and the conditions of the licence.

(3) The licence shall be issued on payment by the applicant of such fees as may be prescribed by regulation.

(4) The Authority may, without charge, issue a temporary licence authorizing a person to be in possession of and to operate a radio station in accordance with this Act for a limited period on condition that the station is not used for the purpose of carrying on a radiocommunication service and on such other conditions as are attached to the licence.

7. (1) A licence is subject to such conditions as the Authority may specify in the licence when it is granted and to such other conditions as the Minister, on the advice of the Authority, may by regulation prescribe.

Conditions of licences

(2) Without limiting the generality of subsection (1), the conditions of a licence may—

- (a) specify the site or sites at which any radio station or radio stations to be operated under the authority of the licence are to be located and regulate the manner of their installation;
- (b) specify the kind of radio station authorized by the licence and regulate the type and standard of radio station apparatus to be used in any such radio station;
- (c) specify the frequency at which transmissions from any such radio station are to be made and the mode of effecting any such transmissions;
- (d) require the payment to the Authority of a fee on grant of the licence and of annual or other periodic licence fees;
- (e) require the licensee or any other person concerned in providing any service authorized by the licence to furnish to the Authority such documents, accounts, returns, estimates and other information as the Board considers necessary for the purposes of exercising or performing the powers and functions of the Authority under this Act;
- (f) require the licensee to refer specified matters to the Authority for determination;
- (g) require the licensee to comply with directions given by the Authority from time to time in relation to specified matters;
- (h) provide for arbitration of disputes arising in connection with the terms and conditions of, or otherwise concerning, the licence; and
- (i) require and regulate the payment of fines and penalties by the licensee for breaches of any or any specified terms and conditions of the licence.

(3) It shall be deemed to be a condition of every licence that the licensee shall comply with the provisions of the convention, to the extent that it applies to the licensee's activities.

(4) In the event of any inconsistency between conditions imposed by the Authority on a licence when it is granted and conditions imposed thereon by the regulations, the provisions imposed by the regulations shall prevail to the extent of the inconsistency.

Duration of licences

8. (1) A licence remains in force (unless sooner revoked or suspended) for the period specified in the licence but shall, subject to this Act, be renewed on its expiry on payment to the Authority of such fees as the Minister, on the advice of the Authority, may by statutory instrument prescribe.

(2) A temporary licence is renewable at the discretion of the Authority on such terms as it considers appropriate.

Licences not transferable

9. A licence shall not be capable of being bought, sold, leased, mortgaged or charged or in any manner assigned, demised or encumbered.

Certificate of competency to operate amateur radio station

10. On application in writing and on payment of such fees as the Minister, on the advice of the Authority, may by regulation prescribe, the Authority may issue a certificate of competency to a person who appears to the Authority to hold the qualifications and experience prescribed by regulation as being necessary for operating an amateur radio station.

Unauthorized activities

11. (1) A person who, not being the holder of a licence authorizing him to do so—

(a) operates a radio station of a kind specified in the Schedule to this Act or has possession or control of such a radio station; or

(b) not being a broadcaster, operates a radio station of a kind other than a kind specified in the Schedule to this Act or has possession or control of such a radio station; or

(c) provides a radiocommunication service;

shall be guilty of an offence.

(2) A person who, not being the holder of a certificate of competency that authorizes him to do so, operates an amateur radio station or has possession or control of such a radio station shall be guilty of an offence.

(3) Any person guilty of an offence under this section shall be liable upon conviction to a fine not exceeding five hundred thousand kwacha or to imprisonment for a term not exceeding three years, or to both.

12. (1) For the purposes of this section, a licensee or a person who holds a certificate of competency is in default if the licensee or person—

Suspension or
revocation of
licence or
certificate

- (a) has on repeated occasions contravened the conditions of the licence or certificate;
- (b) has at any time contravened a condition of the licence or certificate that is expressed, in the licence or certificate, to be a condition whose contravention may result in revocation or suspension of the licence or certificate; or
- (c) has been the subject of such complaints by the public as, in the opinion of the Board, to warrant action under this section.

(2) Where a licensee or the holder of a certificate of competency is in default, the Authority may—

- (a) by notice in writing to the holder of the licence or certificate, suspend the licence or certificate for a period not exceeding twelve months;
- (b) by a like notice, revoke the licence or certificate; or
- (c) refuse to renew the licence or certificate on its expiry.

(3) Without limiting the generality of the foregoing provisions of this section, the Authority may revoke or refuse to renew a license on the ground that—

- (a) the radio station in respect of which the licence was issued, or the radio station apparatus used in connection therewith—
 - (i) interferes with the working of a radio station or the carrying on of any established radiocommunication or telephone or telegraph services; or
 - (ii) is likely to interfere with established radio station apparatus or other equipment, circuits, wires or the like; or
- (b) radiocommunication services established by the Authority or a licensee after the date of issue of the licence are available to the licensee and provide, in the opinion of the Board, an adequate means of communication for his purposes.

(4) Subject to section *thirteen*, while a licence or certificate of competency is suspended, the holder thereof shall be deemed, for the purposes of this Act, not to hold it.

(5) When a licence is revoked, the person having possession or control of a radio station to which the licence relates shall dispose of the radio station within such period as the Board may direct by /...../ .

(6) A licence or certificate shall not be cancelled, nor shall its renewal be refused, without giving the holder thereof a reasonable opportunity to be heard.

Appeal

13. (1) Any person aggrieved by the suspension or revocation of his licence or certificate of competency, or by the Authority's refusal to /...../ Court within the time and in the manner prescribed by regulation.

(2) Due lodgement of an appeal stays any revocation or suspension against which the appeal is brought, and stays any order made by the Authority in consequence of the revocation or suspension, pending the outcome of the appeal.

PART IV

MISCELLANEOUS

Notice to be given
of certain works

14. (1) A person who desires to construct a railway or works for the supply of light, heat or power by means of electricity shall—

(a) give one months notice in writing to the Authority of his intention to commence the construction of the railway or works and cause a copy of that notice to be published in the *Gazette* and in one or more newspapers of general circulation throughout Zambia; and

(b) furnish the Authority with a plan of the proposed railway or works, together with particulars showing the manner and position in which the railway or works are to be constructed and operated and such further information as the Authority may require.

(2) If it appears to the Board that—

(a) the operation of or the equipment to be used in connection with a railway or works referred to in subsection (1) is likely to interfere with the working or maintenance of a radio station or radio station apparatus or the carrying on of a licensed radiocommunication service; or

(b) the working or maintenance of a radio station or radio station apparatus of a licensee or a radiocommunication

service carried on by a licensee is being interfered with by the construction or operation of or the equipment used in connection with—

- (i) a railway or works referred to in subsection (1); or
- (ii) any railway, works or other operations whatsoever,

the Authority shall in writing notify the person constructing or operating the railway or works of the action which the person shall take to remedy or prevent the interference.

(3) A person who proceeds with the construction or the equipment of a railway or works or continues to operate a railway or works after he has been given notice by the Authority under subsection (2) without complying with the terms of the notice shall be liable—

- (a) to a penalty recoverable by the Authority by action in a competent court of five hundred thousand kwacha for each day he fails to comply with the terms of the notice; and
- (b) for any loss or damage caused to the working or maintenance of a radio station or radio station apparatus by his failure to comply with the terms of the notice.

(4) Nothing in this section limits or affects the rights or remedies of any licensee or other person against a person on whom this section imposes any duty.

15. (1) Any telecommunication officer or person employed in connection with radiocommunication service who—

- (a) unlawfully discloses the contents or existence of any radiocommunication message that is not of a public character, or
- (b) makes use for his own purposes of any knowledge he may acquire, in the course of his duties, of the contents of a radiocommunication message;

shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand kwacha or to imprisonment for a term not exceeding twelve months, or to both.

(2) For the purposes of subsection (1), disclosure is lawful only if it is compellable under any law or given for purposes of the administration of justice.

16. A person who without lawful authority, by any radiation (whether continuous or intermittent) of electromagnetic energy by means of an apparatus designed or adapted for the purpose, disturbs,

Unauthorized disclosure of messages

Obstruction of radio transmissions

obstructs or impedes any radiocommunication or other operation of a radio station shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand kwacha or to imprisonment for a term not exceeding twelve months, or to both.

Powers of
inspection

17. (1) A telecommunication officer authorized in writing by the Authority or a police officer may require a person who he has reasonable cause to suspect is a person required under this Act to be the holder of a licence or certificate to produce his licence or certificate.

(2) If authorized by warrant issued under the hand of a magistrate, a telecommunication officer or a police officer—

(a) may at all reasonable times enter any radio station or any premises which are owned or occupied by a person who he has reasonable cause to suspect is using the premises for the carrying on of a business or activity for which a licence or certificate is required under this Act; and

(b) shall have power to make such examination, inspection and inquiry and do such things as may appear to him necessary for ascertaining whether or nor the provisions of this Act or the regulations under this Act are being complied with:

Provided that nothing in this subsection shall require a warrant to be obtained for entry to premises or any part of premises which, in the ordinary course of business, are open to the public.

(3) A telecommunication officer or police officer may seize—

(a) any radio station which he has reasonable cause to suspect is being worked by or is in the possession or under the control of a person in contravention of this Act; and

(b) any book, record or document which he has reasonable cause to suspect will afford evidence of the commission of an offence against this Act.

(4) A telecommunication officer may order a person to cease using, pending inquiry by the Authority, a radio station or radio or other apparatus which, in his opinion, is causing harmful interference or is being operated otherwise than in accordance with this Act, the regulations or the terms and conditions of a licence or certificate.

(5) Any person who obstructs or hinders a telecommunication officer or police officer in the exercise of his powers under this section, or who neglects or fails to comply with an order under subsection (4), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred thousand kwacha or to imprisonment for a term not exceeding twelve months, or to both.

18. (1) A person who—

Miscellaneous
offences

- (a) fails or refuses to furnish a return or to supply information in the manner and in the time prescribed under this Act or furnishes a false or misleading return;
- (b) on being required to do so, fails or refuses to produce to a telecommunication officer or a police officer a licence or certificate issued under this Act or a book, record or document relating to any radio station which is in his possession or under his control;
- (c) fails or refuses, without reasonable cause, to give information to, or gives false or misleading information to, a telecommunication officer or a police officer in response to a requirement under this Act;
- (d) without the permission of the licensee or a telecommunication officer having authority to grant such permission, enters any part of a licensed radio station which is not open to members of the public;
- (e) for the purpose of obtaining, whether for himself or any other person, the issue of a licence or certificate under this Act, makes a declaration or statement which he knows to be false in any material particular or does not believe to be true or knowingly makes use of a declaration, statement or document containing the same;
- (f) wilfully interferes with, hinders or impedes in any way the carrying on by the Authority or a licensee of a radiocommunication service or the free use or working of a radio station or radio apparatus of the Authority or licensee;
- (g) affixes or attaches a wire, conductor or other thing to a radio station or radio apparatus;
- (h) interferes with, hinders or impedes in any way the establishment, erection, alteration, maintenance or inspection of a radio station or radio station apparatus;
- (i) knowingly transmits or causes to be transmitted—
 - (i) a false or fraudulent distress call; or
 - (ii) a communication of a blasphemous, indecent, obscene or offensive nature;
- (j) without lawful excuse, by any means interferes with or obstructs the carrying on of a radiocommunication service;

- (k) wilfully intercepts a radiocommunication transmission which is not intended to be received by him; or
- (l) reproduces or divulges the contents or substance of a radiocommunication transmission not intended to be received by him, whether received voluntarily or involuntarily, to another person or uses it for any purpose whatsoever;

shall be guilty of an offence and shall be liable to a fine not exceeding two million kwacha or to imprisonment for a term not exceeding two years, or to both.

(2) A person contravening paragraph (d) of subsection (1) who fails to leave a radio station immediately on being required to do so by the person in charge of the station or by a telecommunication officer may be removed by the person in charge or a telecommunication officer and a police officer shall, on being requested to do so by the person in charge or by a telecommunication officer, remove or assist in the removal of the person.

(3) A person who witnesses another person—

- (a) wilfully destroying, damaging or removing radio station apparatus, or attempting to do so; or
- (b) contravening or attempting to contravene the provisions of paragraphs (f), (g), (h), (i) of subsection (1);

may, without warrant, arrest that other person.

(4) A person who arrests another person under subsection (3) shall forthwith notify that other person of the cause of the arrest.

(5) Any person arrested under subsection (3) shall as soon as possible be brought to a police station and shall there be detained until further dealt with according to law:

Provided that a person so arrested shall not be detained for a period longer than twenty-four hours unless a warrant for his further detention is obtained.

(6) Nothing in subsection (5) limits or affects the operation of any law providing for the release on bail of a person under detention.

19. (1) On the conviction of a person for an offence involving the unlawful possession or use of a radio station or any radio station apparatus, the court convicting the accused may, on the application of the prosecutor and in addition to any penalty which it may impose, order the confiscation of the radio station or apparatus in connection with or by means of which the offence was committed, unless it is proved to the satisfaction of the court that the radio station or apparatus is not the property of the accused and that the owner was unable to prevent its unlawful use by the accused when the offence was committed.

Forfeiture of
equipment

(2) Any radio station or apparatus confiscated under this section shall be deemed forfeited to the Republic.

Regulations

20. (1) The Minister, on the advice of the Authority, may by statutory instrument prescribe all matters which by this Act are required or permitted to be prescribed or which are necessary or expedient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may by regulation—

/...../
necessary to give force and effect, within Zambia, to the provisions of the Convention;

(b) classify radio stations, other than broadcasting stations and radio stations used solely in connection with broadcasting and diffusion services, and in so doing, amend the Schedule to this Act or vary the definition of a radio station specified in the Schedule to this Act and prescribe the nature of the radiocommunication services to be carried on therefrom:

(c) provide for the inspection and testing by telecommunication officers of broadcasting stations and radio and other apparatus used in connection with broadcasting or diffusion services and for the method of installation, working and maintenance thereof;

(d) provide for the establishment, maintenance, protection, working and conduct of all or any radiocommunication services carried on by the Authority or any licensee, including any such service carried on in conjunction with a telephone or telegraph service;

(e) make provision for the purpose of ensuring that the use of generating apparatus or power lines does not cause harmful interference and in so doing, prescribe the conditions to be observed with respect to—

(i) the maximum intensity of electromagnetic energy of specified frequencies which may be radiated in any direction from generating apparatus or power lines when in use;

(ii) the electromagnetic energy of specified frequencies which may be injected by generating apparatus into the power lines by means of which power is supplied to that generating apparatus;

- (f) make provision for the purpose of ensuring that the use, in connection with broadcasting or diffusion services or otherwise, of radio stations or radio or other apparatus, does not interfere with radiocommunication, telephone or telegraph services or with radio stations or radio or other apparatus, equipment, circuits, instruments, wires and the like;
- (g) prohibit or restrict the importation, purchase and sale of any apparatus capable of causing harmful interference;
- (h) make provision for the keeping of books, records and documents, the furnishing of returns and the supply of information relating to dealings in, and the repair of, radio transmitting stations;
- (i) prescribe the qualifications in respect of age, term of service, skill, character and otherwise, and the experience (if any) required by applicants, for certificates of competency;
- (j) make provision with respect to the holding of examinations to determine the proficiency of applicants for certificates of competency and with respect to the issue of such certificates;
- (k) fix the fees to be paid—
 - (i) by applicants in connection with examinations referred to in paragraph (j); and
 - (ii) on the issue of certificates of competency;
- (l) prescribe—
 - (i) the form and manner in which applications for licenses and certificates under this Act are to be made and information to be supplied in connection therewith;
 - (ii) the form of licenses and certificates, terms and conditions to be attached to licences and certificates and the periods for which licenses and certificates shall remain in force;
 - (iii) the circumstances in which and the terms and conditions subject to which licences and certificates shall be issued;
- (m) make provision for the revocation, suspension and amendment of licences and certificates and for the surrender or delivery to the Authority of licenses and certificates for those purposes;
- (n) prescribe the circumstances in which and the conditions, including the payment of a fee, on which copies of licenses and certificates may be obtained;

- (o) make provision for the notification to the Authority by persons to whom licences and certificates are issued of changes in their places of residence or work;
- (p) make provision for the notification of the Authority of changes in the places, aircraft, ships or vehicles at or in which radio stations in respect of which licenses are issued are established, installed or worked; and
- (q) make provision for the proper exercise by the Authority of the powers of control of and supervision over radiocommunication services conferred upon it by this Act and of the other powers and functions thereby conferred or imposed upon it.

21. (1) The Radiocommunications Act is hereby repealed

Repeal of
Cap. 796 and
savings

(2) Notwithstanding the repeal of the Radiocommunications

Act—

- (a) an authority under section *eighteen* or *nineteen* of the repealed Act which was in force immediately before the commencement of this Act shall, subject to the terms and conditions on which it was issued, continue in force for such time as the Minister, on the advice of the Authority, may by regulation determine;
- (b) any application, allocation, approval or exemption made or given, any examination or test taken or made, any agreement, other than a contract of service, entered into, and any record kept or other thing done, under the provisions of the repealed Act which, immediately before the commencement of this Act, was subsisting or was of force or effect or capable of acquiring force or effect shall, subject to the provisions of the repealed Act, continue to subsist or to be of force or effect or, as the case may require, acquire force or effect and shall be treated, for the purposes of this Act, as having been made, given, taken, entered into, kept or done under the corresponding provisions of this Act.