

National Communications Authority Act, 1996

Act 524

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THE FIVE HUNDRED AND TWENTY-FOURTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA

ENTITLED

THE NATIONAL COMMUNICATIONS AUTHORITY
ACT, 1996

AN ACT to establish the National Communications Authority to regulate communications by wire, cable, radio, television, satellite and similar means of technology for the orderly development and operation of efficient communications services in Ghana and to provide for related purposes.

DATE of Assent: 30th December, 1996

BE IT ENACTED by Parliament as follows –

PART I – ESTABLISHMENT OF NATIONAL COMMUNICATIONS. OBJECTS AND FUNCTIONS

1. (1) There is established by this Act a body corporate to be known as the National Communications Authority in this Act referred to as “the Authority”
- (2) The Authority shall have perpetual succession and a common seal and may sue and be sued in its corporate name.
- (3) The Authority may for the discharge of its functions under this Act, acquire and hold any movable or immovable property, dispose of the property and enter into any contract or other transaction.

Objects of the Authority

2. The objects of the Authority are as follows –

- (a) to ensure that there are provided throughout Ghana as far as practicable such communications services as are reasonably necessary to satisfy demand for the services;
- (b) to ensure that communications system operators achieve the highest level of efficiency in the provision of communications services and are responsive to customer and community needs;
- (c) to promote fair competition among persons engaged in the provision of communications services;
- (d) to protect operators and consumers from unfair conduct of other operators with regard to quality of communications services and payment of tariffs in respect of the services;
- (e) to protect the interest of consumers;
- (f) to facilitate the availability of quality equipment to consumers and operators;
- (g) to promote research into and the development of technologies and use of new techniques by providers of communications services and to develop adequate human resources in collaboration with such other government departments and agencies as the Authority considers appropriate.

Functions of
the Authority

3. It shall be the responsibility of the Authority –

- (a) to advise the Minister and the Minister for Information on policy formulation and development strategies for the communications industry;
- (b) to ensure strict compliance with this Act and regulations made under it;
- (c) to grant licence for the operation of communication system as defined in section 44;
- (d) to assign, allocate and regulate the use of frequencies in conformity with international requirements pursuant to any relevant treaties, protocols or conventions to which Ghana is signatory.
- (e) to prepare and review National Frequency Allocation Plan;
- (f) to establish the national numbering plan and to assign numbers accordingly;
- (g) to act internationally as the national body representing Ghana in respect of communications;

- (h) to designate standards of communications equipment;
- (i) to determine a code of practice relating to dealings by operators with international communications operators and regulate international accounting rates;
- (j) to provide guidelines on tariffs chargeable for the provision of communications services;
- (k) to provide where practicable, authorizations to operators of radio telephone stations on ships and aircraft registered in Ghana;
- (l) to establish training standards for communications operators and to monitor the implementation of the training standards;
- (m) to provide, where reasonably practicable, advice and assistance to operators in the communications industry in Ghana for which there may be charged such fees as the Authority considers appropriate;
- (n) to maintain a register of operators;
- (o) to establish by regulations, the protection of data on computer files and their transmission and to safeguard the secrecy of communications and the protection of personal data in conjunction with communications systems operators; and
- (p) to perform any other functions assigned to it under this Act or any other enactment.

Directors of
the Minister

4. The Minister may give to the Authority such directions of a general character as appear to him to be required in the public interest relating to the discharge of the functions of the Authority.

The Board

5. (1) The governing body of the Authority shall be a Board which shall be responsible for securing the discharge of the functions of the Authority.
- (2) The Board shall consist of the following persons who shall be appointed by the President in consultation with the Council of State –
- (a) a Chairman;
 - (b) the Director-General appointed under section 29 of this Act;
 - (c) one representative of the National Security Council; and
 - (d) four other persons with knowledge in matters relevant to the functions of the Authority.

Tenure of
Office of
members of

6. (1) A member of the Board other than the Director-General shall hold office for four years and shall be eligible on the expiration of that period for a

the Board.

re-appointment.

- (2) A member of the Board other than the Director-General may resign his office in writing addressed to the President or may be removed from office by the President for sated reasons.
- (3) Members shall be paid such allowances as may be determined by the Minister in consultation with the Minister for Finance.

Meetings of
the Board.

- 7. (1) The Board shall ordinarily meet for the dispatch of business at such times and such places as the Chairman may determine but shall meet at least once every three months.
- (2) A special meeting of the Board shall be called upon a written request of not less than three members including a member appointed under section 5(2)(d).
- (3) At every meeting of the Board the Chairman shall preside and in his absence a member, other than the Director-General, elected by the members present from among their number shall preside.
- (4) Every question before a meeting of the Board shall be determined by a simple majority of members present and where there is equality of votes, the Chairman or the person pressing shall have a second or casting vote.
- (5) The quorum for a meeting shall be three of the membership of the Board and shall include at least one member appointed under section 5(2)(d).
- (6) The Board may co-opt such persons as it considers fit to attend any of its meetings, except that a co-opted person shall not be entitled to vote on any matter for decision by the Board.
- (7) The validity of the proceedings of the Board shall not be affected by a vacancy in its membership or any defect in the appointment or qualification of a member.
- (8) A member of the board who has an interest in a contract, proposed to be entered into with the Authority shall disclose in writing to the board the nature o his interest and shall be disqualified from participating in any deliberations of the Board in respect of the contract.
- (9) A member of the Board who infringes subsection (8) of this section is liable to be removed from the membership of the Board.
- (10) Except as otherwise provided for in this section, the Board shall regulate the procedure at its meetings.

Committees
of the Board

- 8. The Board may for the discharge of the functions of the Authority appoint

committees consisting of members of the Board or non-members or both and may assign to a committee such of the functions of the Board as the Board may determine except that a committee composed exclusively of non-members may only advise the Board.

PART II – LICENSING AND REGULATION OF COMMUNICATIONS SYSTEM OPERATORS

Requirement of licence for operation of communications services.

9. Subject to the other provision of this Act, no person shall establish, install, operate or otherwise use a communications system or provide communications services in Ghana unless he has been granted a licence for the purpose by the Board.

Qualification of operators

10. A licence may only be granted to –

- (a) a citizen of Ghana; or
- (b) a body corporate registered under the Companies Code, 1963 (Act 179); or
- (c) a partnership registered under the Incorporated Private Partnerships Act, 1962 (Act 152)

Exemptions

11. (1) The board may by legislative instrument exempt from the requirement for licence such communications system may be determine.

(2) Without prejudice to subsection (1) of this section the requirement for licence under section 9 shall not apply to -

- a) the acquisition or operation by any person for his own use or solely for the purpose of his business (but not for providing any communications service to another person) of communications systems in which all the equipment comprised therein is situated –
 - i) on a single set of premises in a single occupation: or
 - ii) in a vessel, aircraft or vehicle mechanically coupled together;
- b) communications system of the security services, except that application for allocation of frequencies in the shared bands shall be submitted to the Authority through the office of the President: and
- (c) other communications system which does not require interconnection with any public communications system.

Application for licence

12. (1) An application for licence shall be made to the Authority and shall be in such form and accompanied with such fee and documents as the

Board shall determine.

- (2) The Board shall within 5 working days of the receipt of an application acknowledge receipt and shall within a reasonable period after the 5 working days and in any event not more than 60 days thereafter, inform the applicant in writing of the decision of the Board.

Grant of licence

13. (1) The Authority shall grant the licence to an applicant where it is satisfied that the communications system in respect of which the application is made is technically suitable for the service intended to be rendered and a licence for the operation of such systems have not been granted exclusively to another operator in the public interest.
- (2) An application under subsection (1) of this section shall be granted by the Board unless there are compelling reasons founded on technical data, national security, public safety or other reasonable justification which shall be communicated to the applicant.

Conditions of licence

14. (1) A license granted by the Authority under section 13 shall be subject to conditions as may be specified in to licence having regard to the objects and functions of the Authority.
- (2) without prejudice to subsection (1) of this section a licence granted under section 13 may include conditions requiring the operator--
 - a) to interconnect to any communications system to which the licence relates or to permit the connection to his system or station of other communications system;
 - b) to determine the tariffs, charges and the terms and conditions that are applicable to the provisions of the services in the manner and at such times as may be specified in the licence;
 - c) to publish, in such manner and at such times as may be specified in the licence, a notice indicating the method that is to be adopted for determining its charges and other terms and conditions that are to be applicable to the services provided;
 - d) to pay to the Authority during the existence of the licence such fee as may be determined by the Authority;
 - e) to provide to the Authority, in such manner and at such times as may be reasonably required, such documents, accounts, estimates, returns or other information the Authority may require for the purpose of excursing the functions conferred upon it under the Act:
 - f) to operate the communications system in accordance with such standards of performance as the Authority considers appropriate pursuant to section 23 of this Act: and

- g) to do or not to do such things as are specified in the licence, unless written approval is given by the Authority.

Non-transferability of licence

- 15. A licence granted under this Act shall not be transferable except with the written approval of the Board.

Renewal of licence

- 16. (1) a licence granted under this Act shall be for such period as shall be specified therein and may be renewed.
 - (2) application for renewal of licence shall be made to the Authority not later than three months before the expiry of the licence desired to be renewed.
 - (3) The procedure for renewal of licence granted under this Act shall be the same as that applicable to the grant of the original licence.
 - (4) An operator who fails to renew his licence or whose application for the renewal is rejected by the Authority shall cease to operate the communications system.

Power to modify licence

- 17. (1) the Authority may, subject to this Act and any regulations made under it, modify any licence granted under this Act if the modification is possible under the terms of the licence or is required in the public interest.
 - (2) no modifications shall be made under subsection (1) of this section unless the Authority has given at least 60 working days written notice-
 - (a) stating that the Authority proposes to make the modifications; and
 - (b) setting out the effect of the modifications.
 - (3) The Authority shall in all cases consider any representations or objections that are made to it before the modifications are made.
 - (4) A notice under subsection (2) shall be given by publication in such manner as the Authority considers appropriate for the purposes of bringing the matters to which the notice relates to the attention of persons likely to be affected by them and by sending a copy of the notice to the operator.
 - (5) The Authority shall compensate the operator for any expense incurred or damage caused as a result of modification to a licence made under subsection (1) of this section.

Designation of standard and approval of equipments.

18. (1) The Authority shall set designated standards to which communications equipment shall conform for the purposes of this Act.
- (2) There shall be specified in respect of a licence granted under this Act the equipment approved for the provision of the services concerned.

Monitoring of performance of equipments and compensation for damage.

19. (1) The Authority may monitor the use of any communications equipment to determine the standard of performance of the equipment.
- (2) Where any person operates a communication system in such a manner as to cause damage to the equipment or to the operations of another operator, the matter may be referred by either party to the Authority which shall determine the matter and award such compensation to the aggrieved persons as the Authority considers just and fair in the circumstances of the case.
- (3) Subsection (2) of this section is without prejudice to the rights of the parties to institute action in the courts.

Access right of licensed operators.

20. (1) Subject to the approval of the Authority and subject to such terms as may be agreed upon by the parties, an operator may interconnect his communications system to the communications systems of another operator.
- (2) The Authority shall, at the request of either operator or both set up an arbitration panel under the Arbitration Act, 1961 (Act 38) where the parties concerned cannot reach an agreement under subsection (1) of this section.
- (3) The Authority may by legislative instrument make regulations on the terms and conditions of interconnection of communications systems.

Suspension or cancellation of licence.

21. (1) The Authority may, where it is satisfied that an operator is not complying with or has not complied with any of the conditions of his licence, suspend or cancel the licence.
- (2) No suspension or cancellation shall be made under subsection (1) of this section unless the Authority has given the operator a written notice specifying in it the cause for dissatisfaction of the Authority and giving directions for rectification of the breach and the action proposed to be taken by the Authority in the event of non-compliance with the notice.
- (3) The Authority shall not suspend or cancel a licence under this section without first giving the operator an opportunity of being heard and shall where considered appropriate, give him such period as the Authority considers reasonable to comply with the directions of the Authority.

- (4) In determining whether it is necessary to suspend or cancel a licence granted under this Act, the Authority shall consider the extent to which any person is likely to sustain loss or damage as a result of the suspension or cancellation.
- (5) A licence which is not utilized within two years from the date of its grant may be cancelled by the Authority after notice of not less than 30 days has been served on the operator.

Appeals.

- 22. (1) A person aggrieved by the refusal of the Authority to grant or renew his licence under this Act or by the modification, suspension or cancellation of a licence granted under this Act may in writing appeal to the Minister who shall within 30 days of receipt of the appeal make a decision thereon,
- (2) A person dissatisfied with the decision of the Minister may appeal to the High Court.

Standards of performance.

- 23. (1) The Authority may determine such standards of overall performance or specific standards of performance in relation to the provision of communications services by an operator as in the opinion of the Authority ought to be achieved by that operator and arranged for the publication of the standards in such form and in such manner as the Authority considers appropriate.
- (2) The Authority may only make a determination under subsection (1) –
 - (a) after consulting with the operator concerned and persons or bodies that appear to the Authority to be representative of the persons likely to be affected; and
 - (b) after arranging for such research as the Authority considers appropriate with a view to discovering the views of a representative sample of persons likely to be affected and considering the results.
- (3) For the purposes of this section the Authority may determine -
 - (a) circumstances in which the operator is to inform persons of their rights under this Act;
 - (b) such standards of performance in relation to any duty under this Act as in the opinion of the Authority ought to be achieved in all cases;
 - (c) circumstances in which the operator is to be exempted from any requirements pursuant to this section.

- (4) If the operator fails to meet any required standards, he shall pay to any person who is adversely affected by the failure such compensation as may be determined by the Authority.
- (5) The requirements for payment under this section in respect of any failure to meet the required standard does not preclude any other remedy at law which may be available or any other measure or sanctions that may be imposed by the authority in respect of the act or omission which constituted that failure.
- (6) Any dispute arising from the application of this section may be referred to the Board by either party for determination by the Board.

Information on levels of performance.

24. (1) The Authority shall collect information in relation to –
- (a) the compensation paid by the operators under section 23; and
 - (b) the levels of overall performance achieved by the operators in relation to the provision of communication services.
- (2) At such times as the Authority may direct, each operator shall give the following information to the Authority-
- (a) in relation to each standard determined under section 23, the number of cases in which compensation was made and the aggregate amount or value of that compensation;
 - (b) in relation to each standard determined under section 23, such information with respect to the level of performance achieved by the operator as may be specified.
- (3) An operator who without reasonable excuse fails to comply with a direction under subsection (2) of this section commits an offence and shall be liable on conviction to a fine of not less than ₦200,000.00 or imprisonment for a term of not less than six months or both.

Gazette publication.

25. The Authority shall publish in the *Gazette* and in such other newspapers of national circulation as the Authority may determine, notice of every license, modification, suspension or cancellation of license made under this Act except that publication of a modification, suspension or cancellation of a license shall not be made where an objection or an appeal has been lodged with the Authority, the Minister or the court.

PART III – COMMUNICATIONS SYSTEMS FREQUENCIES

Frequencies

26. All frequencies required for the operations of any communications systems shall be granted by the Authority and accordingly any application for frequency shall be made to the Authority.

Assignment of frequencies for communications systems.

27. (1) The Authority may on receipt of an application under this Act assign or allocate a frequency to the applicant and for that purpose take into account all technical data of the equipments of the applicant and also have due regard to the rights and freedoms of other persons.

(2) An application under subsection (1) shall be granted by the Authority unless there are compelling reasons founded on technical data, national security, public safety or other reasonable justification which shall be communicated to the applicant.

(3) The Authority shall in assigning or allocating frequencies under this section take into account-

(a) the availability of frequencies;

(b) the distribution of communication stations between urban, rural, commercial or other categorization;

(c) the technical characteristics of the equipment involved and its capability to interconnect with other communications equipment and networks.

(4) Without prejudice to subsection (3) of this section the Authority in assigning or allocating frequencies shall in the interest of the public -

(a) classify radio stations;

(b) determine the location of classes of stations or individual stations and approve their call signs;

(c) assign bands of frequencies to the various classes of stations and assign frequencies for each individual station and determine the power which each station shall use and the time during which it may operate;

(d) modify frequencies;

(e) establish areas or zones to be served by any situation as appropriate having regard to the efficient allocation of frequencies;

(f) prescribe and publish such regulations applicable to radio stations engaged sharpness of the emissions from each station and from

the equipment in it; and

(g) designate standards of equipment to be used with respect to the external sharpness of the external sharpness of the emissions from each station and from the equipment in it; and

(h) ensure avoidance of harmful emission, interference or illegal broadcasting.

(5) Nothing contained in this Act shall permit the modification, suspension or cancellation of a frequency assigned by the Authority to an operator because of views or opinions expressed through the medium of the operator unless the view or opinion is a breach of the conditions of his licence.

PART IV – ADMINISTRATIVE AND FINANCIAL PROVISIONS

Divisions of the Authority

28. (1) The Authority shall have such division as may be considered appropriate by the Board for the effective and efficient discharge of the functions of the Authority.

(2) A division of the Authority shall be headed by a Director.

Chief Executive

29. (1) There shall be appointed for the Authority a Director-General who shall be the chief executive of the Authority.

(2) The Director-General shall subject to the directions of the Board be responsible for the management and administration of the Authority.

(3) The Director-General shall be appointed by the President in accordance with the advice of the Board given in consultation with the Public Services Commission.

(4) The Director-General shall hold office on such terms and conditions as shall be specified in his letter of appointment.

Other staff of Authority

30. (1) The Authority shall have such other staff and employees as may be necessary for the proper and effective performance of its function.

(2) The Other officers of the Authority shall be appointed by the President in accordance with the advice of the Board given in consultation with the Public Service Commission.

(3) The other employees of the Authority shall hold office on such terms and conditions as shall be specified in their letters of appointment.

- (4) The President may delegate the power of appointment of the public officers in accordance with article 195(2) of the constitution.
- (5) Public officers may be transferred or seconded to the Authority or may otherwise give assistance to the Authority.
- (6) The Board may engage the services of such consultants and advisers as it considers necessary for the effective discharge of the functions of the Authority.

Funds of the
Authority

31. (1) The funds of the Authority shall include –
- (a) monies provided to the Authority by Parliament for the discharge of its functions;
 - (b) any loans granted to the Authority by Government or obtained from any other source;
 - (c) moneys accruing to the Authority by way of revenue;
 - (d) gifts and monies from any other source.
- (2) All sums received on account of the Authority shall be paid into such Bank account as the Board may determine except that the Board may invest as it considers fit any money not required for immediate use.
- (3) All fees received by the Board in respect of licences and other charges under this Act shall be paid into the bank account of the Authority by the Board.

Account and
audit

32. (1) The Board shall keep books of account and proper records in relation to them; and the books of account and records shall be in such form as the Auditor General may approve.
- (2) The books of account of the Authority shall be audited by the Auditor-General within six (6) months after the end of each financial year.
- (3) The financial year of the Authority shall be the same as the financial year of government.

Annual Report

33. (1) The Board shall submit to the Minister as soon as practicable and in any event not more than three months after the end of each financial year a report dealing generally with the activities of the Authority during the financial year to which the report relates including the financial year to which the report and a list of persons granted licence in the year.

- (2) The Minister shall as soon as practicable and in any event not more than three months after months the receipt of the report makes a report to Parliament on the activities of the Authority to which the report relates.

PART V – MISCELLANEOUS PROVISIONS

Operation of
radio
communication
equipment by
diplomatic
missions

34. (1) Notwithstanding any provision of this Act to the contrary, a diplomatic mission in Ghana which intends to operate a radio communication station may applied to the Authority through the Ministry of Foreign Affairs for the required facilities.

(2) The facilities shall be granted by the Authority on the following conditions-

a) that the Government of the diplomatic mission concerned provides reciprocal facilities to the Government of Ghana where required; and

b) that the power output of the transmitter is not higher than necessary for transmitting to the state to which the diplomatic mission belongs and is in any case not more than 5 kilowatts.

(3) Subject to subsections (1) and (2) of this section, a station installed by a diplomatic mission shall operate in accordance with the International Telecommunication Convention and Radio Regulations of the International Telecommunications Union.

(4) A diplomatic mission to which facilities have been granted by the Authority shall furnish the Authority on a form provided by the Authority with the technical data in respect of the equipment installed including-

a) the mode of transmission; and

b) the type and description of aerial and mean gain of aerial.

(5) The diplomatic mission shall communicate to the Authority through the Ministry of Foreign Affairs the date for, the installation of the equipment.

(6) The inspection of any station installed by a diplomatic mission in Ghana shall be carried out by the Authority subject to reciprocal arrangement between the Government of the diplomatic mission concerned and the Government of Ghana.

Procedures for
dealing with

35. (1) Every operator shall establish to procedure for dealing with complaints

complaints from
customers

by his customers or potential customers in relation to the provision by the operator of the relevant communication services.

- (2) No procedure shall be established, and no modification of the procedure shall be made, unless -
 - a) the operator has consulted persons or bodies that constitute a fair representation of customers for whom he provides the services: and
 - b) the proposed procedure or modification has been approved by the Authority.
- (3) The operator shall publicise the approved procedure in such a manner as the Authority may require and send a description of the procedure, free of charge, to any person who asks for it.
- (4) The Authority may direct the operator to review his procedure or the manner in which he operates and make modifications to that procedure.

Settlement of
certain disputes
between
operators and
customers

36. (1) Any dispute between a customer and an operator in which it is alleged that the operator-
 - a) has exercised undue discrimination against a customer in respect of charges or terms applied, or to be applied, for the provision of the service in question: or
 - b) has shown undue preference to any other person in respect of the charges or terms to the detriment of the customer: or
 - c) has applied, or proposes to apply, any charge related to the provision of the service to the customer which is not authorised in accordance with this Act, may be referred to the Authority by either party.
- (2) Where a dispute is referred to the Authority under sub-section (1) of this section, the Board or a person appointed by the Board shall determine whether the allegation is well founded, and if it is, make such determination as is appropriate together with a statement of reason for the determination made.
- (3) No act or omission of an operator which is authorised by any condition included in his licence shall be taken to constitute undue discrimination or undue preference for the purposes of the section.
- (4) The procedures to be followed in determining a dispute referred to under this section shall be prescribed by the Authority in regulations made under this Act.

Entry by hand

37. (1) An operator may, subject to such terms and conditions as may be agreed upon between the operator and the owner or occupier of any land, enter the land temporarily and remain on the land for a reasonable time for the purpose of-
- a) supplying, erecting or maintaining communications services or facilities;
 - b) surveying or obtaining relevant information on the land;
 - c) determining whether the land is suitable for his purpose.
- (2) Nothing in subsection (1) of this section permits an operator to enter any land which is a burial ground or occupied by anything held to be sacred or the object of veneration except for the purpose of removing a danger to life or property.
- (3) On entering any land under this section, the operator shall take such reasonable care as may be practicable and shall –
- a) restore all affected structures and services to their normal state of repair;
 - b) remove all dirt and debris resulting from the activities in subsection (1) from the site; and
 - c) pay compensation for any damage caused on the land.
- (4) The amount of compensation payable under subsection (3) of this section shall be determined by agreement between the parties and if the parties are unable to reach an agreement on the compensation payable, the matter may be referred to the Board which shall in consultation, with the body charged with valuation of government land determine the compensation payable.

Establishment of register.

38. (1) The Authority shall establish and keep a register in such form as the Board may determine and shall record in it -
- a) licences issued under this Act and the relevant conditions;
 - b) suspensions and cancellation of licences;
 - c) designated standards of communications equipment and;
 - d) such other information relating to operators as the Board considers appropriate.

- (2) Where it appears to the Board that the entry of any condition in the register would be contrary to the public interest or the commercial interest of any person, the Board may decide not to enter that condition in the register.
- (3) The register shall be open for public inspection during such hours and subject to the payment of such fee as may be determined by the Board.
- (4) Any person may, on payment of the fee require the Authority to supply to him an extract from any part of the register.

Inspectors.

- 39. (1) For the purpose of this Act, the Board may in writing appoint inspectors.
- (2) An inspector appointed under this Act shall carry out such functions as the Board may determine for the purpose of giving full effect to this Act.
- (3) An inspector appointed under this Act may at all reasonable times enter any premises which he reasonably suspects to be used for a purpose to which this Act applies to inspect the premises or generally to carry out any function imposed upon him under the Act or to ensure that the provisions of this Act are complied with.

Ministerial
responsibility

- 40. The Minister for Transport and Communications shall have ministerial responsibility for the Authority.

Regulations

- 41. (1) The Board may by legislative instrument make regulations generally for the purpose of giving effect to the provisions of this Act and may in particular, make regulations in relation to the following:-
 - (a) technical standards for provision of communications services;
 - (b) accreditation of test houses;
 - (c) guidelines and rules on tariffs and on international accounting rates;
 - (d) the issue, conditions, duration, suspension or revocation of any license or frequency;
 - (e) terms and conditions of interconnection of communication systems;
 - (f) cabling, cellular, trunking, refarming, personal communications network (P.C.N.), specialized mobile radio (S.M.R.), communication satellite system including low earth orbiting satellite (LEOS), integrated services digital network (I.S.D.N.), radio and television broadcasting and any other means of

communications;

- (g) the use of communications stations or equipment including equipment on board any vehicle, vessel or aircraft within Ghana or its territorial waters or Flight Information Region (FIR);
 - (h) the issue of certificates or license held by operators of ships, aircraft radio telephone stations (including any station on board any ship or aircraft registered in Ghana or present in Ghana whether registered in Ghana or not);
 - (i) the appointment of examiners and the conduct of examinations for the purpose of granting certificates or licenses under paragraph (h) of this subsection;
 - (j) the qualification of candidates for examinations and class of certificates and any other matter connected with the examinations under paragraph (l) of this subsection.
 - (k) the national numbering plan; and
 - (l) anything to be prescribed by regulations under this Act.
- 2) There may be imposed for the contravention of any provision in regulations made under subsection (1) a fine not exceeding ₵5 million or imprisonment for a term not exceeding 2 years or to both.
 - 3) Without prejudice to subsection (1) of this section the Board may from time to time issue technical manuals relating to specifications of communications equipment and every person shall comply with the specifications provided in the manuals.
 - 4) A legislative instrument issued under this section shall be under the signature of the Chairman of the Board or in his absence the person for the time being acting as Chairman.

Misleading
interception and
non-disclosure
of message

- 42. (1) A person who is or has been an employee of an operator shall not:-
 - (a) send or attempt to send by means of communication equipment or facility any message which to his knowledge is false or misleading or is likely to prejudice the efficiency of any service or endanger the safety of any person; or
 - (b) use any communications equipment or facilitates with intent to obtain information relating to the content, sender or addressee of any message which neither the person using the equipment or facilities nor any person on whose behalf he is acting is authorized to receive; or

(c) except, in the course of legal proceedings or for the purpose of any report of legal proceedings, disclose any information relating to the contents, sender or addressee of any message, being information which would not have come to his knowledge but for the use of communications equipment or facilities by him or by another person in the course of his duty as an employee of the licensed operator unless authorized by the Authority.

(2) Any person who contravenes subsection (1) of this section, commits an offence and is liable on conviction to a fine of not less than ₡200,000 or imprisonment of not more than 2 years of both.

Offences and penalties.

43. (1) Any person who -

(a) installs, establishes or operates any communications system without licence from the Authority as provided under this Act; or

(b) uses by any frequency when it has not been assigned for allocated to him by the Authority under this Act; or

(c) unlawfully destroys or damages any communications equipment; or

(d) uses communications equipment for the purpose of interfering with any communications stations; or

(e) intentionally and unlawfully intercepts communications not intended for the general for general public,

commits an offence and is liable on conviction to a fine of not less ₡1 million or to imprisonment for a term not exceeding one year or to both on first conviction; and to a fine of not less than ₡5 million or to imprisonment for a term not exceeding two years or to both for subsequent conviction.

(2) Where an offence created under this Act or any regulations made under it is committed by a body corporate or by a member or a partnership or other firm, every director or officer of that body corporate or any member of the partnership or other person concerned with the management of the firm shall also be guilty of the offence and shall, on conviction, be liable to a fine of not less than ₡1 million for the offence and shall in addition be liable to the payment of compensation for any damage resulting from the breach unless he proves to the satisfaction of the court that -

(a) he exercised due diligence to secure compliance with the provisions of the Act; and

(b) the offence was committed without his knowledge, consent or

connivance.

(3) Where an offence is committed under section 43 (1)(a) or (b) of this Act, the court which convicts the offender may order the forfeiture of any equipment used in the commission of the offence.

Interpretation

44. In this Act unless the context otherwise requires -

“Authority” means the National Communications Authority established by section 1 of this Act;

“Board” means the governing body of the Authority;

“Chairman” means the Chairman of the Board;

“communications” means any transmission, emission, or reception of signs, signals, writing, images, sounds or intelligence of any nature through a communications systems;

“communications equipment” means any equipment or apparatus for the purpose of or intended to be used for communications as part of or comprising a communications system;

“communications service” includes the provision of any such service through a communications system for the transmission or routing of signals or a combination of these function;

“communication station” means one or more transmitters or receivers or a combination of transmitters and receivers including the accessory equipments necessary at one location for carrying out communications service;

“communication systems” means a system for the conveyance through the agency of electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy, light energy of -

- (a) Speech, music and other sound;
- (b) Visual images;
- (c) Signals serving for imparting (whether as between persons and things) of any matter in the form of sounds or visual images;
- (d) signals serving for the actuation or control of machinery or apparatus; and
- (e) includes communications equipment situated in Ghana; and
 - (i) connected to but not comprised in a communications system; or

- (ii) connected to and comprised in a communications systems which extends beyond the boundaries of Ghana;

“consumer or customer” means any person who is, or wishes to be provided with any relevant communications services by an operator;

“frequency” means radio frequency;

“Minister” means the Minister responsible for Transport and Communications;

“National Frequency Allocation Plan” means a frequency allocation plan prepared and issued by the Authority based on the International Telecommunication Union Final Act of the World Radio Administrative Conference;

“national numbering plan” means a plan which outlines national telephone numbers and area code for use by operators and customers or subscribers for the provision of communications services;

“operator” means a person who provides communications services through a communications system and who has been licensed and assigned or allocated frequency under section 9 and 27 respectively of this Act;

“radio communications” means communications by means of electromagnetic waves;

“radio frequency” means any discrete portion of electromagnetic wave that lies between 9KHZ and 3,000 GHZ;

“shared bands” means frequency bands in the National Frequency Allocation Plan which are for common use for defence and civil purposes;

“wire communication” or “communication by wire” means the transmission of writing signs, signals, pictures and sounds of all kinds by aid of wire, cable or other-like connection between the point of origin and reception of such transmission, including all instrumentalities, facilities, apparatus, and services among other things for the receipt, forwarding and delivery of communications, including or incidental to such transmission.

Repeal savings
and transitional
provisions

45. (1) The Telecommunications (Frequency Registration Control) Decree, 1977 (SMCD 71) is hereby repealed;

(2) Notwithstanding the repeal under subsection (1) of this section;

- (a) any rules or regulations made under it and in force immediately before the coming into force of this Act shall continue in force to

the extent that the rules or regulations are consistent with the corresponding provisions of this Act until they are amended or revoked;

- (b) any action or other legal proceeding instituted under the repealed enactment may be continued under it as if the enactment had not been repealed;
- (c) the Frequency Board in existence immediately before the coming into force of this Act shall until the Board of the Authority is constituted, grant frequencies and perform related functions provided under this Act and the Minister shall until the Board of the Authority is constituted, exercise all other powers conferred on the said Board under this Act.

Transfer of
assets and
liabilities

46. The rights, assets, property, obligations and liabilities of the Frequency Board established under the Telecommunications (Frequency Registration and Control) Decree, 1977 (S.M.C.D. 71) are hereby transferred to the Authority.

Existing
operators

47. Any person who owns or operates a communications system in Ghana immediately before the coming into force of this Act and to which this Act is applicable and intends to so continue shall subject to the provisions of this Act, apply within six months from the date of the coming into force of this Act for the grant of a licence and the assignment of the requisite frequency.