ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER T8

TELECOMMUNICATIONS (SPECIAL PROVISIONS) ACT

Showing the Law as at 15 December 2010

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition revises Act 21/2009, in force 25 November 2009

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TELECOMMUNICATIONS (SPECIAL PROVISIONS) ACT

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TELECOMMUNICATIONS (SPECIAL PROVISIONS) ACT

Interpretation

1. (1) In this Act—

"broadcasting service" means the offering of the transmission of programmes whether or not encrypted, by any means of telecommunications, for reception by the public, including sound, radio, television and other types of transmissions, such as those on a point to multipoint basis;

"dealer" means a person having in his possession for sale in the way of his business any radio communications apparatus;

"facility" means a physical component of the radio communication, other than terminal equipment, including wires, lines, wave guides, optics or other equipment or object connected therewith, used for the purpose of radio communications and includes any post, pole, tower, standard, bracket, stay, strut, insulator, pipe, conduit, or similar thing used for carrying, suspending, supporting or protecting the structure;

"Minister" means the Minister to whom responsibility for telecommunications is assigned;

"occupier" means a person having the charge, management or control of any premises or place and includes a sub-tenant or lodger occupying separate rooms in any premises;

"operator" means a person licensed under this Act to operate radio communications;

"radio communications" means any transmission, emission, or reception of signs, signals, writing, images and sound or intelligence of any nature by wire, radio, visual or other electro-magnetic systems;

"radio communications apparatus" includes any appliance used or intended to be used for the purpose of radio communications;

"radio communications receiving set" means a radio communications apparatus used or intended to be used for the reception of messages, entertainment or other communications by means of radio communications;

"radio communications station" means a station used for radio communications and includes a mobile station;

"rules" means the rules made by the Governor in Council under this Act;

"Telecommunications Officer" means the person designated by the Governor under section 4;

"television" means a system of radio communications for the transmission of transient images of fixed or moving objects.

(2) Any term used in this Act or in the rules, if not otherwise defined, shall have the meaning assigned to it in the Radio Regulations annexed to the International Telecommunication Convention, 1947 or to the International Telecommunication Union, as adopted from time to time and in force.

Application

2. This Act shall apply to broadcasting service providers, except insofar as they use spectrum, operate telecommunications networks or provide telecommunications services subject to the Telecommunications Act.

Functions of the Minister

3. The Minister shall be responsible—

(a) to implement and enforce this Act and the rules;

(b) to develop a broadcasting policy for Anguilla;

(c) to consider applications for licences for any of the purposes specified in this Act or the rules, and to grant or refuse to grant such licence, and to monitor, enforce and ensure effective compliance with it;

(d) to ensure the systematic development of radio communications throughout Anguilla.

Designation of Telecommunications Officer

4. The Governor, after consultation with the Minister may, for the purposes of this Act, designate a public officer in the Ministry of Infrastructure, Communications and Utilities to carry out the duties and exercise the powers of the Telecommunications Officer.

Licence for radio communications

5. (1) No person shall establish any radio communications station or install, work or operate any radio communications apparatus in any place in Anguilla or on board any ship or aircraft registered in Anguilla except under and in accordance with a licence granted in that behalf under this Act and subject to such conditions and restrictions as may be prescribed by the rules.

(2) In any case in which it shall appear to the Governor in Council that no provision has been made by rules for the issue of an appropriate licence, or that the circumstances of the case justify the issue of a special licence, the Governor in Council may, notwithstanding section 6, issue a special licence for the establishment of a radio communication station and the installation, working and operation of radio communication apparatus in it, on payment of such fees and on such terms and conditions as to the Governor in Council may seem fit.

(3) Any person who contravenes subsection (1) is guilty of an offence under this Act and on conviction the Court, in addition to any penalty provided by this Act, may order that any radio communications apparatus in connection with which the offence was committed be forfeited to the Crown.

Grant of licences and fees

6. (1) Licences under this Act may be granted by the Telecommunications Officer or by any person duly authorised in writing by the Governor, after consultation with the Minister, in that behalf and shall be for such period and subject to such fees, if any, as the Governor in Council may determine in the rules.

(2) The Telecommunications Officer and every person authorised as aforesaid shall keep a register in which he shall enter the particulars contained in every licence issued by him.

Dealer's licence

7. (1) No person shall sell, offer for sale, let on hire, or otherwise deal in radio communications apparatus unless he is the holder of a dealer's licence issued under this Act.

(2) Every licensed dealer shall at all times afford to the Telecommunications Officer or any person authorised in writing by him all information in his possession with respect to any sale or otherwise of radio communications apparatus.

Appeal

8. Any person aggrieved by a decision of the Minister to refuse to grant a licence may appeal to the High Court within 30 days of the date of such decision.

Record book to be kept by licensed dealer

9. (1) Every licensed dealer shall keep a book to be called the "Radio communications Receiving Set Record Book" and shall, immediately after receipt of any radio communications receiving set, make or cause to be made entry in it of the date of such receipt, the number and full description of each kind of receiving set received, and the name and address of the person or persons from whom received. The licensed dealer shall also enter in such record book any radio communications apparatus which he has constructed or assembled together for the purpose of use, sale or hire.

(2) Every licensed dealer shall immediately after delivery of a radio communications receiving set, make or cause to be made in the Radio communications Receiving Set Record Book entry of the date of such delivery, the name and address of the person to whom delivered, the description of every radio communications receiving set delivered, and the cause of such delivery whether on sale, hire, loan or otherwise.

(3) Any person who contravenes this section or who in the purchase, sale, hire, or delivery of any radio communications apparatus knowingly makes or causes to be made any false entry or statement as to any matter which he is required by this section to make, is liable, on summary conviction, to a penalty of $20,000.

Inspection of licence

10. Every person who is required to possess a licence under this Act shall exhibit his licence for inspection on demand to the Telecommunications officer or any person duly authorised in writing by him to make such demand or to a police officer.

Liability of occupier

11. The occupier of any premises or place in which is installed any radio communications apparatus in respect of which a licence is not in force shall be deemed to have installed it unless and until the contrary is proved.

Radio communications apparatus on ships and aircraft

12. (1) No person shall work any radio communications apparatus installed on—

(a) any ship whilst that ship is in the territorial waters of Anguilla; or

(b) any aircraft whilst that aircraft is in or over Anguilla or the territorial waters thereof;

otherwise than in accordance with the rules.

(2) Any person who contravenes or permits, procures or assists in the contravention of the rules is guilty of an offence under this Act.

Disposal of privately owned radio communications apparatus

13. (1) Notwithstanding anything contained in this Act any person who owns any radio communications apparatus for his own private use, and in respect of which he holds the appropriate valid licence, may sell or otherwise dispose of such radio communications apparatus to any other person without being licensed as a dealer, but in the case of the sale or disposal of any radio communications apparatus forming part of any radio communications station licensed under this Act, the person so selling or disposing of it shall within 14 days of such sale or disposition notify the Telecommunications Officer thereof in writing, stating the name and address of the person to whom such radio communications apparatus has been sold or otherwise disposed of, and the description of the radio communications apparatus.

(2) Every person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a penalty of $20,000.

Disclosure of communications

14. Any person who—

(a) without authority in writing from the Governor in Council intercepts any radio communications not intended for the general public and discloses or makes use of the contents, or even discloses the existence of such radio communications; or

(b) being employed or engaged in any capacity whatsoever at a radio communications station, contrary to his duty discloses or in any way makes use of, or intercepts the contents or any part of the contents of any message transmitted or received or to be transmitted or delivered at or from such station;

is guilty of an offence and is liable on summary conviction to a penalty of $20,000.

Stopping transmission of telegram

15. It shall be lawful for the Governor or any person duly appointed by him in writing in that behalf to stop the transmission of any telegram in any case where it appears to the Governor that its contents are dangerous to the security of the British Commonwealth or any part of it, or contrary to the Laws of Anguilla or to public order or decency.

Damage to apparatus, etc., and obstruction

16. Any person who unlawfully and maliciously—

(a) removes, damages or destroys any apparatus, facility or installation for the purpose of radio communications or any part of such apparatus or installation; or

(b) obstructs or prevents in any manner whatsoever the sending, conveying, delivery or receipt of any message or signal by radio communications;

is guilty of an offence and is liable on summary conviction to a penalty of $20,000 or to imprisonment for a term of 6 months or both.

Search warrant

17. (1) If the Magistrate is satisfied by information on oath that there are reasonable grounds for supposing that a radio communications station has been or is being established without a licence in that behalf, or that any radio communications apparatus has been installed, worked, operated or concealed in any place in Anguilla or on board any ship or aircraft registered in Anguilla without a licence in that behalf or contrary to this Act or the rules or of any licence granted under this Act, he may grant a search warrant authorising the Telecommunications Officer or any police officer with such assistance as may be necessary to enter, inspect and search at any time of the day or night the station, place, ship or aircraft, and to seize any apparatus which appears to him to be used or intended to be used for radio communications.

(2) All radio communications apparatus that may be found upon any such search may, by order of the Magistrate, be forfeited to the Crown.

Control of radio communications in case of emergency

18. It shall be lawful for the Governor, where in his opinion an emergency has arisen in which it is expedient for the public service or in the public interest that Her Majesty should have control over the transmission and reception of messages to or from any radio communications station in Anguilla during such emergency, to take possession of and assume control of any radio communications station or apparatus in Anguilla, to be used for Her Majesty's service and, subject thereto, for such ordinary service as may seem fit, or to direct and authorise such persons as he thinks fit to assume the control of the transmission and reception of messages either wholly or partly and in such manner as he directs.

Suppressors or other devices required to be used for reducing electrical interference

19. No person shall use or cause to be used any vehicle, apparatus, motor, machinery, installation or appliance which is capable of causing electrical interference with the lawful and normal operation or use of any duly licensed radio communications station, radio communications receiving set or radio communications apparatus unless such vehicle, apparatus, motor, machinery, installation, or appliance be first equipped with filters, suppressors, or other devices or otherwise so modified as to reduce such electrical interference to a negligible and acceptable amount to the satisfaction of the Telecommunications Officer.

Rules

20. (1) The Governor in Council may make rules generally for giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power the rules may provide for the following matters—

(a) regulating and prescribing the duties of Telecommunications Officers;

(b) the types and forms of licences and the manner in which applications for licences are to be made;

(c) the licensing of dealers in and the sale or transfer of radio communications apparatus;

(d) the terms on which and the conditions and restrictions subject to which licences shall be granted and the duties of licensees;

(e) the conditions under which radio communications may be worked in Anguilla and on ships or on any aircraft while in or over Anguilla or the territorial waters thereof;

(f) the securing of the safety of the public from personal injury;

(g) the control, measurement and suppression of electrical interference in relation to the working of radio communications apparatus;

(h) controlling the user of any instrument or apparatus erected, constructed, established or maintained under a licence granted under this Act and the transmission or reception of any messages thereby;

(i) for obtaining secrecy on the part of all persons employed in or in any way connected with the maintenance and working of any radio communications station and prescribing the form and nature of any oath of secrecy to be taken by any such person;

(j) the examination of applicants for licences to establish and to operate a radio communications station and for the examination of apparatus and equipment;

(k) the register and records to be kept with respect to licences issued under this Act.

(3) The rules may provide for a penalty of $20,000 on summary conviction for the breach of any rule.

(4) The rules are regulations, and as from the date of publication or from the date specified in them shall have the same force and effect as if they were contained in and formed part of this Act.

Right of entry, etc.

21. (1) A Telecommunications Officer or any person duly authorised by him shall have the right at all reasonable hours to enter and inspect any radio communications station in respect of which a licence is issued under this Act.

(2) If on an inspection referred to in subsection (1) it is found that the terms, conditions or restrictions laid down in the licence or in any rule under this Act are not being complied with, the Telecommunications Officer may order the use of the radio communications station and apparatus to be discontinued and thereupon the licence in respect thereof shall be cancelled.

(3) Every person who obstructs the Telecommunications Officer or any person duly authorised by him in the course of his duties under this section is guilty of an offence under this Act.

General penalty

22. A person who contravenes or fails to comply with any provision of this Act or any rulecommits an offence and, except where the provision by or under which the offence is created provides the penalty to be imposed, is liable on summary conviction to a fine of $20,000, and in the case of a continuing offence to a further fine of $1,000 for each day that the offence continues after conviction.

Exemption

23. Nothing in this Act extends to any ship or aircraft belonging to or exclusively employed in the service of Her Majesty or any foreign warship or service aircraft, or to any radio communications apparatus thereon.

Citation

24. This Act may be cited as the Telecommunications (Special Provisions) Act, Revised Statutes of Anguilla, Chapter T8.