

CHAPTER 302

THE TANZANIA COMMUNICATIONS ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 302

THE TANZANIA COMMUNICATIONS ACT

An Act to establish the Tanzania Communications Commission to be responsible for the regulation of postal and telecommunications services in the United Republic of Tanzania and to provide for the designation of public postal and telecommunications licensees and for related matters.

[1st January, 1992]

[G.N. No. 28 of 1993]

Acts Nos.

18 of 1993

2 of 1996

15 of 2001

PART I

PRELIMINARY PROVISIONS (ss 1-2)

[PCh302s1]1. Short title and application

(1) This Act may be cited as the Tanzania Communications Act.

(2) This Act shall apply to Tanzania Zanzibar as well as to Mainland Tanzania.

[PCh302s2]2. Interpretation Acts Nos. 20 of 1993; 15 of 2001 s. 3

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

"Chairman" means the Chairman of the Commission and includes any temporary Chairman of the Commission;

"Commission" means the Tanzania Communications Commission established by section 3;

"Commissioner" means a person appointed under this Act to be a member of the Commission;

"Director-General" means the Director-General of the Commission appointed under section 8(2);

"entitled person" means a person who is a citizen of the United Republic, or an authority or body incorporated by or under any law in the United Republic, and for the purposes of this Act, includes the government;

"equipment" includes any appliance, apparatus or accessory used or intended to be used for telecommunication or postal purposes;

"Hertzian or radio waves" means electromagnetic waves of frequencies not exceeding 1,000 terahertz propagated in space without any artificial guide;

"installation or plant used for posts" includes all buildings, lands, structures, machinery, equipment, boxes and receptacles used or intended for use in connection with the transmission of postal articles by post;

"installation or plant used for telecommunications" includes all buildings, lands, structures, machinery, equipment, cables, poles and lines used or intended for use in connection with telecommunications;

"letter" includes any communication in the nature of current and personal correspondence and includes postcard;

"licence" means licence issued under the provisions of this Act;

"licensee" means any person licensed under the provisions of this Act;

"mail bag" means any bag, container, envelope or covering in which postal articles are conveyed;

"message" means any sign, signal, writing, image, sound, intelligence or information of any nature transmitted by telecommunication;

"Minister" means Minister responsible for communications;

"parcel" means a postal article which is posted at a post office as a parcel or is received at a post office by parcel post;

"post" means any system for the collection, despatch, conveyance, handling and delivery of postal articles by or through a public postal licensee;

"post office" means any building, house, room, vehicle or place where postal articles are received, delivered, sorted, made up or despatched;

"postage" means the fee chargeable for the transmission by post of postal articles;

"postage stamp" means any label or stamp for denoting any postage or other sum payable in respect of a postal article, and including any adhesive postage stamp or stamp printed, impressed or otherwise indicated on a postal article, whether the postage stamp is issued under this Act or by the government of any other country;

"postal article" means any article or thing transmissible by post but does not include such article or thing as the Minister may prescribe to be not transmissible by post;

"postal service" means any service by post;

"postal successor corporation" means the Tanzania Posts Corporation established by the Tanzania Posts Corporation Act *;

"postal undertaking" means all the lands, buildings, and other property, movable or immovable, vested in the Minister immediately before the transfer date for the postal purposes of the Minister and all assets, powers, rights, interest, privileges, debts, liabilities and obligations connected therewith;

"postcard" means a card recognised as a postcard in accordance with the terms of the Convention regulating the affairs of the Universal Postal Union;

"posting box" includes any pillar box and wall box and any other box or receptacle provided by or under the authority of a public postal licensee for the purpose of receiving postal articles for transmission by, or under the authority of, a public postal licensee;

"public postal licensee" means a person designated by the Commission under section 18;

"public postal licensee's installation or plant" means any installation or plant used for post belonging to or used by a public postal licensee;

"public telecommunication licensee" means a person designated by the Commission under section 15;

"public telecommunication licensee's installation or plant" means any installation or plant used for telecommunications belonging to or used by a public telecommunication licensee;

"public telecommunication network" means a telecommunication installation or plant for use by the public;

"radiocommunication" means any telecommunication by means of Hertzian or radio waves;

"radiocommunication service" means any service for radiocommunications;

"radiocommunication system" means any system used or intended to be used for radiocommunication;

"shares" in relation to a company, includes shares, debentures, bonds and other securities of the company, whether or not constituting a charge on the assets of the company;

"subsidiary" has the same meaning as in the Companies Act *;

"telecommunication line" means a wire or cable used for telecommunications with any casing, coating, tube or pipe enclosing the same and any appliance and apparatus connected therewith for the purpose of fixing or insulating the same;

"telecommunication service" means any service for telecommunication;

"telecommunication system" means any system used or intended to be used for telecommunications;

"telecommunications" means a transmission, emission or reception of signs, signals, writing, images, sounds or intelligence of any nature by wire, radio, optical or other electro-magnetic system whether or not such signs, signals, writing, images, sounds or intelligence have been subjected to rearrangement, computation or other processes by any means in the course of their transmission, emission or reception;

"telecommunications successor company" means a company established by the Tanzania Telecommunications Company Incorporation Act *;

"user" means any person or body of persons who uses or operates a radio communication channel or frequency or runs telecommunication systems or services referred to in the provisions of this Act;

"vessel" includes any ship, boat, air-cushioned vehicle or floating rig or platform used in any form or operations at sea or any other description of vessel.

(2) For the purpose of this Act–

(a) the delivery of the postal article shall be delivered if–

(i) it is delivered into the letter box of the addressee or by leaving it at the house or office of the addressee, or with the addressee, or with his employee, or agent,

or other person authorised to receive it and, where the addressee is a guest or is resident at a hotel, hostel or lodging or of a similar nature, if it is left with the proprietor or manager thereof or with his agent; or

(ii) it is deposited into a posting box or handed over to an employee or agent of a public postal licensee authorised to receive it;

(b) a postal article shall be in the course of transmission by post from the time of its being delivered to the postal public licensee to the time of its being delivered to the addressee, or its being returned to the sender or otherwise disposed of under this Act.

PART II

ESTABLISHMENT, FUNCTIONS AND POWERS OF THE TANZANIA COMMUNICATIONS COMMISSION (ss 3-8)

[PCh302s3]3. Establishment of the Commission

(1) There is established a Commission to be known as the Tanzania Communications Commission.

(2) The Commission shall be a body corporate and shall—

(a) have perpetual succession and a common seal;

(b) in its corporate name, be capable of suing and being sued;

(c) be capable of purchasing and otherwise acquiring or alienating any movable or immovable property;

(d) have power to exercise and perform such other power and functions as are conferred by or under this Act.

[PCh302s4]4. Constitution of the Commission

(1) The Commission shall consist of–

(a) a Chairman who shall be appointed by the President; and

(b) not less than four nor more than six other members who shall be appointed by the Minister.

(2) The provisions of the First Schedule to this Act shall have effect as to the tenure of office and the termination of the appointment of members of the Commission, as well as to the proceedings of the Commission and other matters in relation to the Commission.

(3) The Minister may by notice published in the Gazette amend, vary or alter any of the provisions of the First Schedule to this Act.

[PCh302s5]5. Functions and duties of the Commission

(1) The functions of the Commission shall be–

(a) to ensure that there are provided throughout the United Republic good and sufficient domestic and international telecommunications (except broadcasting and television) and postal services and such other services on such terms as the Commission may think expedient;

(b) without prejudice to the generality of paragraph (a) to ensure that any person by whom any telecommunication or postal services fall to be provided is able to provide these services at rates consistent with efficient and continuous service and necessity for maintaining independent financial viability;

(c) to promote the development of telecommunication and postal systems and services in accordance with practicable recognised international standard practices and public demand;

(d) to exercise licensing and regulatory functions in respect of telecommunication and postal systems and services in the United Republic, including the establishment of standards and codes relating to equipment attached to telecommunication and radiocommunication systems;

(e) to exercise licensing and regulatory functions in respect of allocation and use of satellite orbits and radio frequency spectrum in the United Republic for all purposes, including establishment of standards and codes relating to any matter in connection therewith;

(f) to regulate the fixing of rates of postage and other fees or sums to be charged in respect of postal articles sent under this Act;

(g) to regulate the fees and commissions on postal financial services;

(h) to regulate the performance of postal financial services on behalf of government and non-government agencies;

(i) to regulate the issuance of postage stamps including definitive, commemorative and special issues of postage stamps and any other philatelic items;

(j) to ensure that the terms and conditions stated in a licence granted under sections 9, 10, 14, 15, 16, 17 and 18 are complied with;

(k) to promote competition in providing for telecommunication and postal services;

(l) to secure that reasonable demands for telecommunication and postal services are satisfied;

(m) to regulate telecommunications tariff rates with a view to eliminate unfair business practices among operators;

(n) to promote and encourage the expansion of telecommunication and postal services with a view to the economic development of the United Republic;

(o) to further the advancement of technology relating to the telecommunication and postal systems and services;

(p) to act internationally as national body representative of the United Republic in respect of telecommunication and postal matters;

(q) to advise the government on all telecommunication and postal matters and on matters pertaining to the Commission generally.

(2) In discharging the functions and duties imposed on it by subsection (1), the Commission shall have regard to—

(a) efficiency and economy;

(b) satisfying reasonable demands for telecommunication and postal services;

(c) fostering the development and expansion of telecommunication and postal services in the United Republic in collaboration with other countries and international organisations;

(d) maintaining effective competition between persons engaged in the provision of telecommunication and postal system and services;

(e) enabling persons providing telecommunication and postal systems and services in the United Republic to compete effectively in the provision of such systems and services;

(f) the promotion of measures for the safety of life through telecommunications;

(g) the provision of the telecommunication and postal service at rates consistent with efficient service and necessity for maintaining independent financial viability;

(h) improvements in the effective and efficient use of the radio frequency spectrum;

(i) the promotion of research and development in the field of telecommunication and postal systems and services;

(j) collaboration with educational institutions for the promotion of technical education in the fields of telecommunication systems and services.

(3) Without prejudice to the generality of the functions specified in subsections (1) and (2), the Commission shall have power to do all such acts and things as may appear to it to be necessary, advantageous or convenient for the efficient discharge of its functions and may in particular exercise all or any of the powers specified in the Second Schedule.

[PCh302s6]6. Obligations of the Commission

(1) The Commission shall in the performance of its functions have regard to—

(a) any general policies of the government notified to it by the Minister under section 7;

- (b) any general or specific direction given by the Minister under section 7;
- (c) any obligations under any convention to which the United Republic is a party.

(2) The Commission shall in the performance of its functions establish and maintain a system of co-ordination, co-operation and consultation with the Tanzania Broadcasting Commission and any other body within or outside the United Republic which has similar or related functions.

[PCh302s7]7. Role of Minister

- (1) It shall be the duty of the Minister to—
- (a) determine government policies for telecommunications and postal sectors;
 - (b) co-ordinate the telecommunications and postal sector industries both within and outside the United Republic.

(2) The Minister shall notify the Commission of general policies of the government that are to apply in relation to the Commission and to ensure that the policies are carried out.

(3)(a) The Minister may after consultation with the Commission give directions to the Commission in relation to the performance of its functions and the exercise of its powers, in regard to—

- (i) conditions to be included in the licences to be granted to applicants;
- (ii) general guidelines for determination of tariffs by respective operators;
- (iii) determination of technical standards about network matters;

(iv) guidelines for performing its functions or exercise of its powers relating to the issuing, varying or cancelling of licences;

(v) any other general policy matter within the powers of the Commission;

(b) Any direction given by the Minister to the Commission in accordance with this subsection shall be in writing and published in the Gazette.

[PCh302s8]8. The Secretariat

(1) There is established a Secretariat of the Commission which shall subject to this Act be the executive, technical and administrative organ of the Commission.

(2) The Secretariat shall be headed by a Director-General who shall be appointed by the President and shall hold office on such terms and conditions, and for such period not less than five years, as may be specified in the instrument of his appointment and shall be eligible for reappointment.

(3) The Director-General shall be responsible to the Commission for the proper administration and management of the functions and affairs of the Commission in accordance with the policy laid down by the Commission.

(4) If the Director-General is temporarily absent from the United Republic or temporarily incapacitated by reason of illness or for any other reason temporarily unable to perform his duties, a person may be appointed by the Commission to act in the place of the Director-General during any such period of absence from duty.

(5) The Commission may, from time to time appoint and employ on such terms and conditions as the Commission may determine such other officers and employees as may be necessary for the effective performance of its functions.

PART III

POWER TO LICENSE AND REGULATE POSTAL SERVICES AND TELECOMMUNICATION SYSTEMS (ss 9-23)

[PCh302s9]9. Power to issue licence and regulate telecommunication systems

(1) Subject to the provisions of this Act the Commission shall have the power of licensing and regulating telecommunication systems and services in the United Republic.

(2) The power conferred on the Commission by subsection (1) shall—

(a) include the right to issue licences and to regulate the establishment, installation, use, working, maintenance, development, construction, promotion, hiring and selling of telecommunication systems and services; and

(b) extend to every vessel or aircraft registered in the United Republic and to every other vessel, aircraft and any vehicle, whether mechanically propelled or not, in the United Republic.

(3) The power conferred under this section shall not be infringed by—

(a) the running by any person solely for his own use or solely for the purpose of his business (but not for providing any telecommunication service to another person) or telecommunication line system 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 or in two or more vessels, aircraft or vehicles mechanically coupled together; or

(b) the operation of the telecommunication system—

(i) in the course of their duties by the officers and men of the armed forces, the police and national security of the United Republic; or

(ii) by the Tanzania Broadcasting Corporation or any other person in the provision of any broadcasting and television services under the Broadcasting Services Act *.

[PCh302s10]10. Commission to manage and assign the national radio frequency spectrum Act No. 15 of 2001 s. 4

(1) The Commission shall maintain control over all radiocommunication channels and frequencies and provide for the use of such channels and frequencies by persons for limited periods of time by issuing licences under such conditions as shall be determined by the Commission.

(2) The Commission may, consistent with public interest, convenience and necessity, make regulations—

(a) governing harmful interference to other communications;

(b) establishing minimum performance standards of electronic appliances,

in regard to manufacture, import, sale, shipment and use of such devices or appliances.

(3) The Commission shall set aside separate radio frequency spectrum for use and management by the central government, the Tanzania Broadcasting Commission and those to be allocated and managed by the Commission for commercial, local governments, authorities, non-governmental institutions and other uses, and shall maintain a register in respect of all operators to whom radio frequency spectra have been allocated.

(4) The Commission shall—

(a) classify radio stations, prescribe the nature of service to be rendered by each station, assign bands of frequencies to each class of stations and assign frequencies to each and the time during which it may operate;

(b) make regulations to—

(i) prevent interference between stations and to carry out the requirements under this Act;

(ii) require stations to maintain such records of communications or signals as the Commission may deem necessary;

(iii) require stations to submit to the Commission such reports as the Commission may require.

(5) The Commission shall have authority to inspect all radio installations associated with stations required to be licensed under this Act, to ascertain whether they conform to the requirements of the regulations in regard to construction, installation and operation.

(6) With effect from the effective date, and notwithstanding the provisions of any written law, compact, concession, contract, deed, deed of settlement, licence, memorandum of understanding or any other kind of agreement or provision providing to the contrary, the Commission shall, in the maintenance of its control over radio communication channels and frequencies, have power, subject to this Act, to allocate, reallocate, assign, reassign, issue, reissue, redistribute, retrieve, suspend, cancel, or otherwise modify the distribution amongst users or licensees of any radio communication channels or frequencies.

(7) The Commission may exercise the powers conferred by subsection (6) only if—

(a) as a result of any investigations or inquiry carried out by it or by any other public authority; or

(b) in the ordinary course of performing its functions, under this Act, pursuant to subsection (10),

the Commission is of the view that it is necessary or desirable in the public interest that it exercises such powers in relation to any user or licensee of any radio communication channel or frequency.

(8) Where the Commission carries out an investigation or inquiry pursuant to subsection (7) (a) and it is proved to its satisfaction that a user or licensee of a radio communication channel or frequency, who has had the opportunity to be heard by the Commission, is—

(a) utilizing the said radio communication channels or frequencies for purposes other than those originally permitted; or

(b) not utilizing the frequencies efficiently or effectively; or

(c) misusing, abusing or hoarding the radio communication channels or frequencies; or

(d) engaging in practices intended to drive competitors out of business or deter any other licensee or user from establishing a competitive business in the country or in any specific area or location within the country;

(e) carrying out acts intended or likely to hurt, injure, infringe, harm or interfere with the radio communication channels or frequencies of other users or licensees;

(f) using or operating a radio communication channel or frequency without a licence issued under this Act;

(g) contravening any other conditions in relations to the assigned frequencies, the Commission shall decide to exercise the power conferred by subsection (6) and shall in writing notify the user or licensee of a radio communication channel or frequency the decision of the Commission and direct him as to what he is to do to comply with that decision.

(9) When the Commission takes the measures under subsection (6) in pursuance of subsection (8), no compensation shall be paid by the Commission or any other authority to the user or licensee of radio communication channel or frequency.

(10) Where in the ordinary course of performing its functions under this Act, pursuant to subsection (7)(b) or upon complaint to the Commission by a user or licensee of a radio communication channel or frequency or by any other authority, the Commission thinks it desirable to consider whether or not it shall exercise any of the powers under subsection (6) in relation to any user or licensee, it shall by notice in writing notify to any person intended or likely to be affected by the exercise, stating—

(a) the measure that it proposes to institute;

(b) the time not exceeding twenty-eight days within which any party affected or likely to be affected may make representations to the Commission.

(11) Where no representations are submitted by any person in response to any notice specified in subsection (10), the Commission shall proceed to institute measures under subsections (6) and (12)(d).

(12) If any party makes representations to the Commission in pursuance of subsection (10), the Commission shall within fourteen days of receipt of such representations, consider those representations including whether or not any compensation is payable under section 22, and may—

- (a) reject the representations of any of them; or
- (b) amend the proposed measures in response to the representations; or
- (c) decide to exercise any of the powers conferred by subsection (6); and
- (d) direct in writing the user or licensee of radio communication channel or frequency concerned to give effect to the decision of the Commission.

(13) Upon receipt of a decision of the Commission on the representations pursuant to subsection (12) the user or licensee to whom the decision of the Commission relates shall not institute any action in any court of law in relation to the said decision—

- (a) if he has not previously made any representations to the Commission; and
- (b) if he institutes any such action, it shall be in the High Court, and the action shall be only on procedural issues or on grounds that the decision of the Commission was based on extraneous factors.

(14) Notwithstanding any of the provisions of section 22, any decision of the Commission in exercising powers under subsection (6) shall be given effect to, whether or not a user or licensee institutes any action in any court of law or makes any further representations to the Commission after the decision is made.

(15) In exercising its powers conferred under subsection (6) the Commission may fix or prescribe the minimum or maximum number or amount of radio communication

channels or frequencies which any user or licensee may be granted for the purposes of this Act.

(16) In the exercise of any power, the performance of any duty or the discharge of any right, privilege or obligation by any person or authority in pursuance of the provisions of this Act, regard shall always be had to the fact that all radio communication channels and frequencies are a national resource which is held in trust for the people by the Government, and maintained and controlled by the Commission for carrying out the purposes and provisions of this Act.

(17) Subject to the provisions of this Act, any person who is aggrieved by a decision of the Commission under this section may, within twenty eight days of the notice of the decision of the Commission appeal to the High Court only on procedural issues or on grounds that the decision of the Commission was based on extraneous factors.

[PCh302s11]11. Attorney-General to be party to the suit Act No. 15 of 2001 s. 5

(1) Notwithstanding the preceding provisions of this section, and the Commission having the status of a body corporate, the Attorney-General shall have the right to intervene in any suit or matter instituted by or against the Commission if in his opinion the suit or matter involves important matters of public policy or national interest.

(2) Where the Attorney-General intervenes in any suit or matter in pursuance of subsection (1), the provisions of the Government Proceedings Act *, shall apply in relation to the proceedings of that suit or matter as if it had been instituted by or against the Government.

[s. 10A]

[PCh302s12]12. Offences Act No. 15 of 2001 s. 5

(1) Any person who fails or refuses to comply with any directions of the Commission given under subsection (8), (11) or (12) of section 10 commits an offence.

(2) A person who commits an offence under subsection (1) shall upon conviction be liable to a fine of not less than the equivalent in Tanzanian Shillings of 1,500,000 USD and in case of a continuing offence, to a further fine of not less than the equivalent in Tanzanian Shillings of 50,000 USD for every day or part thereof during which the offence continues after conviction.

(3) Notwithstanding the provisions of subsections (1) and (2), any person who willfully contravenes or fails to comply with the conditions imposed on his licence granted under this Act in relation to the use of a radio communication channel or frequency, shall have his licence cancelled.

[s. 10B]

[PCh302s13]13. Deposit before conviction Act No. 15 of 2001 s. 5

(1) The Commission may require any user or licensee to deposit with it an amount not exceeding the equivalent in Tanzanian Shillings of 750,000 USD or execute a bond to be secured against the assets of a user or licensee of a similar amount to defray any cost or liability incurred by the Commission or any other person which may arise out of any criminal or civil process in relation to this Act.

(2) Refusal or failure to pay the deposit or execute a bond under subsection (1) shall be deemed to be an offence against subsection (2) of section 12 and shall be punishable as a continuing offence.

(3) Where a user or licensee is sentenced to pay a fine under section 12 the court shall order forfeiture to the United Republic any deposit made or bond executed under this Act.

[s. 10C]

[PCh302s14]14. Licence to be issued unconditionally or subject to conditions

(1) A licence may be granted by the Commission either unconditionally or subject to such conditions as it may specify in the licence, providing for the running by the licensee of such telecommunication systems and services as may be specified in the licence.

(2) A licence granted under subsection (1) may be granted either to any person, or class of persons and may in addition, include conditions requiring—

(a) the interconnection or access to telecommunication systems of any person or class of person licensed under subsection (1);

(b) the payment to the Commission of such fee on the grant of the licence as may be determined by the Commission or the payment to it of periodic fees during the currency of the licence.

(3) A payment required by subsection (2) to be rendered to the Commission may be recovered by it in any court of competent jurisdiction as if it were a simple contract debt.

(4) The grant and renewal of the licence under this section shall be at the discretion of the Commission.

(5) Any person aggrieved by a refusal of the Commission to grant a licence may, within fourteen days of the refusal, appeal to a court of competent jurisdiction on the grounds only that the relevant procedure was not followed or that the refusal was based on extraneous factors.

(6) The decision of the court on the appeal shall be final.

(7) Anything done in accordance with a licence granted under subsection (1) shall not constitute any infringement of the privilege conferred by section 15.

[s. 11]

[PCh302s15]15. Designation of public telecommunication licensee

(1) The Commission shall have the power to designate the telecommunication successor company to be a public telecommunication licensee to perform all or any of the functions relating to the operation and provision of telecommunication systems and services in the United Republic.

(2) The Commission shall within a specified period grant a licence under section 9 to the telecommunications successor company so designated as the telecommunication public licensee.

[s. 12]

[PCh302s16]16. Power to issue licence and to regulate provision of postal services

(1) The Commission shall have the power to issue licences for—

(a) conveying by post from one place to another whether by land, or by sea or by air, all letters and postcards;

(b) performing all the incidental services of receiving, collecting, sending, despatching and delivering all letters and postcards; except those letters falling within any of the following categories, that is to say—

(i) trade announcements, circular, printed extracts from newspapers, or advertisements, not addressed to any person;

(ii) letters delivered by an employee of the sender;

(iii) letters delivered by a messenger employed by the sender especially for the purpose, not being a person employed or engaged in the course of his business or employment in delivering or procuring the delivery of letters;

(iv) letters exceeding two kilograms in weight per letter;

(v) letters concerning goods sent with the goods and delivered therewith;

(vi) letters carried to or from a post office;

vi letters carried in accordance with an agreement entered into by the licensee;

VIII transfers between document exchanges;

ic letters carried to the premises of a provider of electronic mail services for the purposes of being transmitted as electronic mail, or letters carried from the premises of such a person after having been so transmitted;

(x) letters carried and delivered by a private friend without hire, reward or other profit; and

(xi) letters carried and delivered personally by the sender.

(2) If any question arises as to whether or not any postal article is a letter within the meaning of this Act, the decision of the Commission thereon shall be final.

[s. 13]

[PCh302s17]17. Licences to be issued unconditionally or subject to conditions

(1) The Commission may grant a licence on such terms and conditions and in consideration of such payments as it thinks fit to any person for the doing of any such act or the performance of any such service falling within section 19(1)(a) and (b) as is specified in the licence; and anything done under and in accordance with a licence granted under this section shall not constitute an infringement of the privilege conferred by section 18.

(2) A licence granted under subsection (1) may be granted either to any person, or class of persons or a particular person, and may include (without prejudice to the power to impose conditions conferred by that subsection) conditions requiring the payment to the Commission of a fee on the grant of the licence or the payment to the Commission of periodic fees during the currency of the licence or both of such amount as may be determined or under the licence.

(3) A payment required by subsection (2) to be rendered to the Commission may be recovered by it in any court of competent jurisdiction as if it were a simple contract debt.

(4) No person shall question whether the grant of a licence under subsection (1) was, or was not, effected with consent of or in accordance with the terms of a general

authority given by the Commission; and the validity of a licence granted under that section shall not be impugned on the ground that it was granted neither with the consent of nor in accordance with the terms of a general authority given by the Commission.

(5) The grant and renewal of the licence under this section shall be at the discretion of the Commission.

(6) Anything done in accordance with a licence granted under subsection (1) shall not constitute any infringement of the privilege conferred by section 18.

[s. 14]

[PCh302s18]18. Designation of postal public licensee

(1) The Commission shall have the power to designate the Tanzania Posts Corporation to be a public postal licensee to perform all or any of the functions relating to the operation and provision of postal services in the United Republic.

(2) The Commission shall within a specified period grant a licence under section 16 to the Tanzania Posts Corporation so designated as the postal public licensee.

[s. 15]

[PCh302s19]19. Application and grant of licence

(1) As from the commencement of this Act no person shall operate a telecommunication or postal service in the United Republic unless the person is—

- (a) an eligible person; and
- (b) is licensed as a telecommunication or postal services operator under this

Act.

(2) Notwithstanding the provision of subsection (1) of this section, any person operating telecommunication or postal systems and services in the United Republic may apply to the Commission within one year of the commencement to this Act to be licensed under sections 9, 10, 14, 15, 16, 17 and 18 of this Act.

(3) Any person not licensed under sections 9, 10, 14, 15, 16, 17 and 18 of this Act shall cease to operate telecommunication or postal systems and services in any part of the United Republic of Tanzania.

[s. 16]

[PCh302s20]20. Application for licence to be in writing

(1) Any application for a licence under sections 9, 10, 14, 15, 16, 17 and 18 of this Act shall be addressed in writing to the Commission.

(2) The Commission may, in consideration of any application under this Act, require the applicant to produce such evidence or information to show the capacity to operate telecommunication or postal systems and services as the Commission may deem necessary to enable it make a decision.

(3) The Commission may require that an application for a licence be accompanied by such a fee as the Commission may describe.

[s. 17]

[PCh302s21]21. Discretion to grant or refuse licence

(1) The Commission may, subject to subsection (2) of this section grant a licence to an applicant under this Act if it is satisfied from all the evidence and information

supplied to the Commission that the applicant is suitable to operate the telecommunication or postal systems and services.

(2) The Commission shall upon receipt of an application, consider it and within not more than sixty days, may in its absolute discretion, either grant a licence or refuse the application.

(3) A licence granted under subsection (1) of this section may be renewed on its expiry on application within the prescribed period which shall be decided by the Commission.

(4) No licence shall be transferred except with the prior consent in writing of the Commission.

[s. 18]

[PCh302s22]22. Modifications of licence conditions Act No. 15 of 2001 s. 6

(1) Subject to this section the Commission may modify the conditions of a licence granted under sections 9, 10, 14, 15, 16, 17 and 18.

(2) Before making modifications of the conditions of a radio frequency licence or a licence of a public telecommunication or postal licensee under this section the Commission shall give notice to the licensee—

(a) stating that it proposes to make modifications in the manner as specified in the notice and the compensation payable for any damage caused thereby; and

(b) specifying the time (not being less than twenty eight days from the date of service of the notice on such a licensee) within which written representation in respect to the proposed modifications may be made.

(3) Upon receipt of any representation referred to in subsection (2), the Commission shall consider such a representation and may–

- (a) reject the representation; or
 - (b) amend the proposed modifications or compensation payable in accordance with the representation,
- or otherwise, and, in either event, it shall thereupon issue a direction in writing to such a licensee requiring that effect be given to the proposed modifications specified in the notice or to such modifications as subsequently amended by the Commission within reasonable time.

(4) Any licensee aggrieved by the decision of the Commission under subsection (3) may, within fourteen days of the receipt by it of the direction, appeal to the High Court on procedural issues, or on grounds that the decision of the Commission was based on extraneous factors, the decision of the court shall be final.

(5) The Commission shall not enforce its direction–

- (a) during the period referred to in subsection (4); or
- (b) while the appeal of the licensee is under consideration by the court.

(6) If no written representation is received by the Commission within the time specified in subsection (2) or if any written representation made under subsection (2) is subsequently withdrawn, the Commission may forthwith carry out the modifications as specified in the notice given under subsection (2).

[s. 19]

[PCh302s23]23. Suspension or cancellation of licence

(1) If the Commission is satisfied that—

(a) a person who is granted a licence under sections 9, 10, 14, 15, 16, 17 and 18 or any regulations made under this Act is contravening, or has contravened, any of the conditions of the licence or the provisions of this Act or regulations made thereunder; or

(b) a person who operates a telecommunication system which he is authorised to operate by licence granted under sections 9, 10, 14 and 15—

(i) has connected to the system any other telecommunication system or equipment which is not authorised by a licence to be so connected; or

(ii) has provided by means of the system any telecommunication service which is not authorised by a licence to be so provided,

the Commission may, by notice in writing and without any compensation, do either or both of the following—

(aa) cancel the licence or suspend the licence for such a period as the Commission thinks fit; or

(bb) require the payment of a fine in such amount as the Commission thinks fit.

(2) Any person who is aggrieved by any decision of the Commission under this section may, within fourteen days (14) after such a person has been given the notice in writing referred to in subsection (1), appeal to the High Court on procedural issues, or on grounds that the decision of the Commission was based on extraneous factors, the decision of the court shall be final.

[s. 20]

PART IV

APPROVAL OF TELECOMMUNICATION EQUIPMENT TO BE CONNECTED TO
PUBLIC NETWORK (ss 24-25)

[PCh302s24]24. Commission to approve equipment

(1) Any equipment to be used for connection to any telecommunication system or equipment belonging to a public telecommunication licensee shall be approved by the Commission before use.

(2) A person applying for an approval under this section may be required by the Commission to comply with such requirement as the Commission may think appropriate; and those requirements may include the requirement to satisfy some other person with respect to any matter.

(3) Any approval under this section may apply either to particular equipment or to any equipment of a description specified in the approval, and may so apply either for the purposes of a particular telecommunication system or the purposes of any telecommunication system or a description so specified.

(4) An approval under this section may specify conditions which must be complied with if the approval is to apply, for any purposes specified for the approval, to any telecommunication system or equipment which is so specified or is of a description so specified; and any such condition may impose on the person to whom the approval is given a requirement to satisfy some other person with respect to any matter.

(5) The Commission or any other person by whom any matter falls to be determined for the purposes of any requirement imposed in pursuance of subsections (2)

or (4) may charge a fee in respect of the carrying out of any test or other assessment made by the Commission or other person.

(6) A public telecommunication licensee may, with approval of the Commission (except in case of emergency), cease or refuse to supply the telecommunication service to any person by means of telecommunication system or telecommunication line operated by the licensee if, through the use of such telecommunication service, there is or is intended to be connected to the telecommunication system or telecommunication line, equipment or cabling that is a threat to—

- (a) the safety or proper functioning of the telecommunication line; or
- (b) the safety of any person.

[s. 21]

[PCh302s25]25. Power to make regulations

(1) The Commission may, with the approval of the Minister, make regulations for any purpose for which regulations are required to be made under this Act and generally for carrying out the purposes and provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Commission may, with the approval of the Minister, make regulations for or with respect to all or any of the following matters—

- (a) the proficiency examinations, including the syllabi and the details thereof, for the certification of competency of individuals operating telecommunication services or for the grant of any licence by the Commission;
- (b) the classes and the conditions for the grant of licences by the Commission;

- (c) the regulation of dealing in and use of telecommunication equipment;
- (d) the regulations of interference by radio-waves or electrical or other means to telecommunication in the United Republic;
- (e) the regulation of installation, wiring, cabling and other types of works to be carried out on the telecommunication systems of a public telecommunication licensee;
- (f) the regulation of telecommunications and postal tariffs.

(3) Until regulations are made by the Minister under this Act all subsidiary legislation, made under the Tanzania Posts and Telecommunications Corporation Act *, and, in particular, but without prejudice to the generality of the foregoing, the subsidiary legislation set out in the Third Schedule to this Act, as amended and in force at the date when this Act comes into operation, shall apply, with necessary modifications, as if that subsidiary legislation were made under this Act.

[s. 22]

PART V

MISCELLANEOUS AND GENERAL POWER (ss 26-31)

[PCh302s26]26. Power to enter upon and to survey land

(1) A public telecommunications licensee may, for the purposes of provision of any telecommunication service—

- (a) enter upon any land and survey the land or any portion of it; or

(b) enter upon any land in order to construct, erect, place, maintain, examine, alter or remove any telephone or telegraph line, or pole or radio link installation which is the property of the public telecommunication licensee.

(2) Where any damage to land is caused, by reason of the exercise of the powers conferred by this section, the owner or occupier of the land shall be entitled to receive compensation for it from the public telecommunication licensee in accordance with this Act.

(3) Nothing in this section shall be deemed to authorise any employee or agent of a public telecommunication licensee to cut down or clear away any vegetation or any fence or other erection or to enter any building or upon any enclosure attached to any building.

[s. 23]

[PCh302s27]27. Power to erect, maintain telephone lines on any property

(1) A public telecommunication licensee may construct, erect, place, maintain, alter or remove telephone and telegraph lines and poles and radio link installations, in, on, over, under, along or across any land, building, road, railway, watercourse, harbour or branch of the sea:

Provided that—

(a) the public telecommunication licensee shall not acquire any right other than that of user only in the property in, on, over, under, along or across which the lines or poles or radio link installations are constructed, erected or placed;

(b) a public telecommunication licensee shall not construct, erect, place, alter, or remove any telephone or telegraph lines or poles or radio link installations in, on, over,

under, along or across any such a property unless it has given reasonable notice of its intention to exercise the powers to the owner or occupier of the property or to the local government authority having the control or management of the property.

(2) In the exercise of its powers under this section the public telecommunication licensee may—

(a) cut and remove all such trees and underwood as interfere or are likely to interfere with construction, erection, placing, maintenance, alteration or removal of any existing or proposed telephone or telegraph line or poles or radio link installations;

(b) utilise any tree or building for the construction, erection, placing or maintenance of any telephone or telegraph line or pole or radio link installations;

(c) open or break up any road and—

(i) alter the position of any pipe for the supply of the water, gas or compressed air, or the position of any drain not being a main drain, subject to subsection (3); or

(ii) require the owner of any electric supply line to alter the position of electric supply line to the satisfaction of the public telecommunication licensee; and if the position of the electric supply line is so altered from the position which had been approved in writing by the public telecommunication licensee, the cost of the alteration shall be borne by the public telecommunication licensee, subject to subsection (4).

(3) In any case where the public telecommunication licensee exercises powers under this paragraph it shall make arrangements to ensure that there shall not be any

undue interference with supply of water, gas or compressed air, or with maintenance of drainage or with continuance of telephonic or telegraphic telecommunication.

(4) Where an undertaker (as defined for the purposes of section 30) does not agree to alter the position of an electric supply line which, prior to the commencement of this Act has been laid in a position which has not been approved in writing, the public telecommunication licensee may refer the matter to the Minister responsible for lands and thereupon the provisions of subsections (5) and (6) of section 30 shall apply.

(5) Where the public telecommunication licensee exercises any power under this section in relation to any property under the control or management of a local government authority the authority may authorise the representative to execute the work to the satisfaction of the representative; and any reasonable expense to which the local government authority is put arising out of the exercise of the power and out of any supervision shall be borne by the public telecommunication licensee.

(6) Where the public telecommunication licensee, in exercise of any power under this section, constructs, erects, or places any telephone or telegraph line or pole or radio link installation in, on, over, under, along or across any—

(a) watercourse, harbour or branch of the sea, it shall be constructed, erected or placed as not to hinder or obstruct navigation;

(b) road or railway, it shall be so constructed, erected or placed as not to hinder, obstruct or interfere with, the passage along the road or railway.

(7) Where any damage is caused to the property by reason of the exercise of the powers conferred by this section, the owner or occupier of the property shall be entitled to

receive compensation for it from the public telecommunication licensee in accordance with this Act.

[s. 24]

[PCh302s28]28. Removal of telephone lines erected on any property

(1) Where any telephone or telegraph line or pole or radio link installation has under the provisions of this Act been constructed, erected or placed, in, on, over, under, along or across any property under the control or management of a local government authority and that authority considers it expedient, having regard to circumstances which have arisen since the line or pole or radio link installation was so constructed, erected or placed, that the line or pole or radio link installation should be removed or that its position should be altered, the authority may require the public telecommunication licensee to remove it or to alter its position, as the case may be, and—

(a) if the authority had agreed in writing to the position of the line or pole or radio link installation, then the public telecommunication licensee shall comply with the requirement and the cost of the removal or alteration shall be borne by the local authority;

(b) if the authority had not agreed in writing to the position of the line or pole or radio link installation, then—

(i) if the public telecommunication licensee agrees to the removal or alteration, as the case may be, the public telecommunication licensee shall comply with the requirement and the cost of the removal or alteration shall be borne by the public telecommunication licensee;

(ii) if the public telecommunication licensee does not agree to the removal or alteration, as the case may be, the matter shall be referred to the Minister responsible for lands and the decision of the Minister as to the removal or alteration and as to the payment or apportionment of the cost shall be final.

(2) Where any telephone or telegraph line or pole or radio link installation has under the provisions of this Act been constructed, erected or placed, on, over, under, along or across any property, other than property under the control or management of a local authority, and any person entitled to do so desires—

(a) to erect on the property a building which would interfere with the telephone or telegraph line or pole or radio link installation, either temporarily or permanently, he may require the public telecommunication licensee to remove it or to alter its position, as the case may be, and the public telecommunication licensee shall comply with the requirement and the cost of the removal or alteration shall be borne by the public telecommunication licensee, subject to subsection (3);

(b) to deal with the property in a manner, other than by the erection of a building, which renders it desirable that the line or pole or radio link installation should, either temporarily or permanently, be removed or that its position should be altered, he may require the public telecommunication licensee so as to remove it or to alter its position, as the case may be, and the public telecommunication licensee may either—

(i) comply with the requirement and agree that the cost of the removal or alteration shall be borne by the public telecommunication licensee;

(ii) comply with the requirement subject to the cost, or any part of it, of the removal or alteration being borne by the person and the deposit, with the public telecommunication licensee, of such sum in contribution to the cost as the public telecommunication licensee may require; or

(iii) refuse to comply with the requirement, in which event the person may apply to a Resident Magistrate within whose jurisdiction the property is situate for an order as to the removal or alteration and the payment of the cost; and that order shall be final.

(3) If the telephone or telegraph line or pole or radio link installation has been placed in its position in order to make the requisition, then the cost of the removal or alteration to provide telephone or telegraph services solely for the person shall be borne by that person.

[s. 25]

[PCh302s29]29. Power to enter and to prevent accidents

(1) Any authorised employee of the public telecommunication licensee may, for the purpose of preventing the occurrence of any accident, restoring the proper operation of any telephone or telegraph services provided by the public telecommunication licensee or repairing any damage caused by any accident enter upon any land and—

(a) cut down or remove any tree, underwood or other obstructions, not being a building, which endangers or interferes with or is likely to endanger or interfere with the telephone or telegraph lines or poles or radio link installation;

(b) execute such other works as may be necessary to prevent the occurrence of any accident or to restore the proper operation of telephone or telegraph services or to repair any damage caused as a result of any accident.

(2) Where any damage is caused to property by reason of the exercise of the powers conferred by subsection (1), the owner or occupier of the property shall subject to subsection (3) be entitled to receive compensation for it from the public telecommunication licensee in accordance with his Act.

(3) If any tree, underwood or other obstruction cut down or removed under subsection (1)(a) came into existence subsequent to the telephone or telegraph lines or poles or radio link installations being provided at the place, then no compensation shall be payable in respect of the entry and the cutting down or removal of the tree, underwood or other obstruction.

[s. 26]

[PCh302s30]30. Powers in relation to electricity undertakers

(1) Subject to subsection (7), any person who establishes or operates, whether or not under any enactment, any undertaking for the supply of light, heat or power by means of electricity (in this section referred to as "the undertaker") or any person who constructs, equips or operates a railway by means of electricity (in this section referred to as "the railway operator") shall, at least one month before erecting, placing or altering the position of any line or wire for the transmission of the electricity, forward to the public telecommunication licensee a notice in writing of his intention to execute the work together with a plan of the proposed work; and the undertaker or the railway operator

shall also give to the public telecommunication licensee all such other information as he may require in order to determine whether the work is likely to interfere unduly with any telephone or telegraph services provided by the public telecommunication licensee.

(2) Where an undertaker or the railway operator has given notice in writing in accordance with subsection (1), the public telecommunication licensee shall, within one month of the receipt of the notice, inform the undertaker or the railway operator in writing that the proposed work has either been approved or that in accordance with subsection (3), certain requirements are considered necessary to be effected or that the matter referred to in the notice is receiving attention; and in the event of no notification in writing being so given the position of any electric supply line specified in that notice given in accordance with subsection (1) shall, for the purposes of this Act, be deemed to have been approved in writing.

(3) If the public telecommunication licensee considers that the work is likely to interfere unduly with any telephone or telegraph services provided by the public telecommunication licensee, he may inform the undertaker or the railway operator of any requirements he may consider necessary to be effected by the undertaker or the railway operator in order to remove or lessen the anticipated interference; and in so doing the public telecommunication licensee shall have regard not only to the interests of the telephone or telegraph services but also to the interests of persons supplied or who may be supplied with electricity by the undertaker and of all persons using the facilities provided by the railway operator.

(4) If the undertaker or the railway operator does not agree to effect the requirements, or any altered requirements consequent upon any discussion between the public telecommunication licensee and the undertaker or the railway operator, the public telecommunication licensee may refer the matter to the Minister responsible for lands, and where the public telecommunication licensee so refers the matter the undertaker or the railway operator shall not, save in so far as may be agreed to by the public telecommunication licensee, proceed with the execution of the work until the Minister has given his decision under this section.

(5) Where any matter has been referred to the Minister responsible for lands under this section he may appoint any person or committee to investigate the matter and to make a report on it to him; and the public telecommunication licensee and the undertaker or the railway operator shall be entitled to be heard before the person or committee.

(6) After considering the report of the person or committee, the Minister responsible for lands may give such decision as he may think fit, and the decision may specify what requirements, if any, the undertaker or the railway operator shall comply with for executing the work; and that decision shall be final.

(7) A public telecommunication licensee may by notice in the Gazette specify general requirements to be observed by any undertaker or railway operator when erecting, placing or altering the position of any electric supply line; and in the notice the public telecommunication licensee may provide that it shall not be necessary—

(a) for any undertaker or railway operator effecting any specified class of work;

(b) for any specified class of undertaker or railway operator, to give to the public telecommunication licensee the notice referred to in subsection (1) if, in effecting any work, the undertaker or railway operator proposes to comply and does comply with the general requirements.

(8) A public telecommunication licensee shall at least one month before constructing, erecting, placing or altering the position of any truck telephone or telegraph line give notice of the proposed work in writing to any undertaker lawfully operating in the area in which the work is to be executed.

(9) The provisions of this section shall be in addition to and shall not derogate from the provisions of any law.

[s. 27]

[PCh302s31]31. Structures likely to interfere with telecommunications services

(1) Where any person erects any building or structure which is likely to cause interference with the telecommunications services the public telecommunication licensee may, unless the person has previously obtained the approval in writing of the public telecommunication licensee to the erection of the building or structure or has modified it to the satisfaction of the public telecommunication licensee, require the person to pay to the public telecommunication licensee the amount of any expenditure necessarily incurred by the public telecommunication licensee, in the removal of any telecommunications installation, apparatus or equipment or in order to prevent interference.

(2) An amount referred to in subsection (1) shall be a debt due to the public telecommunication licensee and may be used for and recovered in a court of competent jurisdiction.

(3) For the purposes of this section a building or structure shall be deemed to be likely to interfere with telecommunications services if it exceeds thirty-six metres in height measured from ground level.

[s. 28]

PART VI

POSTAGE STAMPS AND POSTAL CHARGES (ss 32-44)

[PCh302s32]32. Provision of postage stamps

(1) A public postal licensee may, subject to such directions as the Commission may give, cause postage stamps to be provided of such kinds and denoting such values as the licensee may determine for the purposes of this Act.

(2) Any postage stamp provided under this section shall be used for the prepayment of any postage or other sum chargeable under this Act in respect of any postal article, except where the public postal licensee determines that prepayment may be made in some other manner.

(3) All philatelic archival materials produced by a public postal licensee shall belong to the government and shall be kept in such custody as the Commission directs.

(4) For the purpose of subsection (3), "philatelic archival materials" include—

(a) philatelic stamps;

(b) artworks, proofs, progressive sheets, printed sheets and printing plates of philatelic stamps; and

(c) date-stamps, slogan dies and other artifacts used in connection with the production of philatelic stamps.

[s. 29]

[PCh302s33]33. Postage stamps to be used for prepayment and power to make rules

(1) Postage stamps provided under section 32 shall be used for the prepayment of postage or other fees or sums chargeable under this Act in respect of postal articles, except where the Commission directs that prepayment shall be made in some other way.

(2) The Commission may make rules for the use of postage stamps as prepayment of fees or other sums chargeable under any written law by any government agency for services rendered and for the recovery of the revenue thereof from the licensee.

[s. 30]

[PCh302s34]34. Exemption from postal charges

(1) The Commission may make rules as to the exemption of certain classes of persons from postal charges on letter-post items and from commission, fees or other charges payable for services rendered.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may exempt letter-post items for charitable purposes from postal charges.

[s. 31]

[PCh302s35]35. Power to make rules as to transmission by post of postal articles

(1) The Commission may make rules as to the transmission by post of postal articles.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) provide for the performance of supplementary services in respect of transmission by post of postal articles;

(b) prescribe the special charges or fees to be charged for the supplementary services provided;

(c) prohibit the transmission by post of postal articles not specified in section 36 or 37 or lay down special conditions on which articles, not specified in section 36 or 37, may be transmitted by post;

(d) provide for the payment of compensation for the loss or damage in course of transmission by post of postal articles, and the conditions under which such compensation may be paid and the limit of the amount of such compensation.

(3) For the purposes of this section, supplementary services include the registration, insurance and storage of postal articles, Poste Restante and any other form of supplementary service.

[s. 32]

[PCh302s36]36. Transmission by post of anything injurious, prohibited

(1) No person shall send by post any article or thing which is likely to injure any person or any postal article in the course of transmission by post.

(2) Except as otherwise provided by rules made under this Act and subject to such conditions as may be prescribed, no person shall send by post any explosive, inflammable, dangerous, filthy, noxious or deleterious substance, any sharp instrument not properly protected, or any living creature which is either noxious or likely to injure any person or any postal article in course of transmission by post.

(3) Except under such rules as the Commission may make in this behalf, no person shall send by post opium, morphine, cocaine or any narcotic.

(4) Nothing in this section shall affect the provisions of any written law relating to deleterious drugs.

[s. 33]

[PCh302s37]37. Transmission by post of anything indecent, prohibited

No person shall send by post—

(a) any indecent or obscene printing, painting, photograph, lithograph, engraving, book or card, or any other indecent or obscene article;

(b) any postal article having thereon, or on the cover thereof, any words, marks or designs of an indecent, obscene, seditious, scurrilous, threatening or grossly offensive character;

(c) any postal article bearing any fictitious stamp or purporting to be prepaid with any postage stamp which has previously been used to repay any other postal article or which has been previously used in payment of any stamp duty;

(d) any other article which the Commission may by rule prohibit.

[s. 34]

[PCh302s38]38. Commission to make rules dealing with prohibited articles

The Commission may make such rules as the Commission shall think fit for preventing the sending and delivery of articles prohibited by section 36 or 37 and for detaining, disposing of, or destroying any such postal article sent or tendered for transmission by post.

[s. 35]

[PCh302s39]39. Obligation of licensee to inform the Commission

(1) Where any postal article sent by post is reasonably suspected by the licensee to be sent in contravention of this Act or of any rules made thereunder or of any other written law, the licensee shall immediately inform and hand over such postal article to the Commission or any authorised officer.

(2) On receiving the aforesaid information an authorised officer shall detain such postal article for opening and examination.

[s. 36]

[PCh302s40]40. Disposal of postal articles detained under this Act

(1) Subject to the provisions of this Act, if any postal article opened or examined under this Act is found to be in contravention of or have been posted in contravention of this Act or of any rules made thereunder or of any other written law, the Commission or authorised officer may direct that the postal article be returned to the sender or forwarded to its destination, in each case charged with such additional postage (if any) as the Commission prescribed unless otherwise dealt with under subsections (2), (3), (4) or (5) of this section.

(2) Any postal article sent by post in contravention of section 36 may, under the direction of the Commission or authorised officer, be forfeited and destroyed.

(3) Any postal article sent by post in contravention of section 37(a), (b), (c) or (d) may, under the direction of the Commission or authorised officer, be destroyed or returned to the sender.

(4) Any postal article sent by post in contravention of section 37(c) shall be dealt with as the Commission may direct.

(5) Notwithstanding any provisions in any written law to the contrary, if any postal article opened under this Act is found to be in contravention of the Customs (Management and Tariff) Act *, it shall be handed over to the Customs Department to be dealt with in accordance with that Act.

(6) Every postal article opened under this Act and found to contain any valuable or saleable enclosure shall, together with its contents, be safely kept pending its disposition under this section, and a list of any such postal articles together with a memorandum of the contents thereof shall be made and preserved.

(7) The detention, destruction or disposal under this Act of a postal article or its enclosure shall not relieve any person from liability for any offence under this Act or any other written law.

[s. 37]

[PCh302s41]41. Application of sections 36, 37, 38, 39 and 40

Sections 36, 37, 38, 39 and 40 shall apply to any article or thing sent from outside the United Republic in like manner as to any article or thing sent from within the United Republic.

[s. 38]

[PCh302s42]42. Power to make rules as to disposal of undelivered postal articles

(1) The Commission may make rules as to the disposal of postal articles which, for any reason, cannot be delivered, which articles are in this part referred to as "undelivered postal articles".

(2) Rules made under subsection (1) may—

(a) prescribe the period during which undelivered postal articles at a post office shall remain in that office;

(b) provide for the publication of lists of undelivered postal articles, or of any class of undelivered postal articles;

(c) provide for the manner in which undelivered postal articles shall be finally dealt with or disposed of.

[s. 39]

[PCh302s43]43. Power to provide for postal financial services and to make rules thereon

(1) The Commission may allow the licensee to carry out postal financial services on its own account or on behalf of government and non-government agencies and may make rules as to such services.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe for the scope and extent of such financial services.

(3) For the purposes of this section, "postal financial services" shall include money orders, postal orders, postal drafts, postal cheques, postal travellers' cheques, giro, cash-on-delivery, collection of bills, savings service, subscription to newspapers and periodicals and any other form of financial service.

[s. 40]

[PCh302s44]44. Special powers in emergency or in the national or public interest

(1) The President may, on occurrence of any event which gives rise to an emergency, or in the interest of national or public security, authorise the Commission to—

(a) suspend the licence of any licensee and take temporary possession of any post office or telecommunication facility under the control of any such licensee;

(b) withdraw either totally or partially the use of any postal service or telecommunication facility from any person or class of persons or from the public at large;
or

(c) order that any postal article or class of postal articles or any letter or class of letters to or from any person or class of persons or relating to any specific subject shall not be conveyed or shall be intercepted or detained and delivered to any officer mentioned in the order to be opened, examined or dealt with in such manner as the President may direct, or that any such postal article or postal articles or letter or letters or the contents thereof shall be disclosed to an office mention in the order.

(2) The President may also authorise any other officer employed by the government to carry out the powers conferred under paragraph (c) of subsection (1).

(3) The licensee shall give all necessary assistance whenever required to do so by an officer carrying out any of the powers conferred under this section.

[s. 41]

PART VII

FINANCIAL PROVISIONS (ss 45-47)

[PCh302s45]45. Funds and resources of the Commission

The funds and resources of the Commission shall consist of such sums as may be—

- (a) provided for the purposes of the Commission by Parliament;
- (b) payable to the Commission in the performance of its functions;
- (c) payable to the Commission by way of grants, donations, bequests or other contributions.

[s. 42]

[PCh302s46]46. Budget of Commission

(1) The Commission shall, prior to the commencement of each financial year, prepare and submit for the Minister's approval, a budget, in such form and containing such matters as the Minister may require, of its income and expenditure for such financial year.

(2) The Commission shall not incur any expenditure exceeding the amount provided for in the estimates except with the specific approval in writing by the Minister.

[s. 43]

[PCh302s47]47. Accounts and audit

(1) The Commission shall cause to be provided and kept proper books of account of the payments made into and out of the Fund.

(2) The accounts of the Commission shall be audited annually by the Tanzania Audit Corporation established by the Tanzania Audit Corporation Act *, or such other independent auditor as may be appointed by the Commission, and the audited accounts of the Commission shall be published together with the Annual Report of the Commission.

(3) The Minister shall cause to be laid before the National Assembly within six months after the close of the financial year of the commission an Annual Report covering the activities of the Commission for the year together with—

(a) a statement of the Commission's income and expenditure during the financial year;

(b) a statement of the assets and liabilities of the Commission on the last day of such financial year;

(c) a statement of the auditor's report.

[s. 44]

PART VIII

OFFENCES AND PENALTIES IN RELATION TO POSTAL SERVICES (ss 48-64)

[PCh302s48]48. Penalty for contravention of sections 17 and 18

Any person who—

(a) conveys, otherwise than in accordance with the terms of a valid licence, any letter or postal article as detailed under section 19(1) of this Act;

(b) performs any service incidental to conveying, otherwise than in accordance with the terms of a valid licence, any letter or postal article as aforesaid;

(c) sends or tenders or delivers in order to be sent otherwise than in accordance with the terms of a valid licence, any letter or postal article as aforesaid;

(d) makes a collection of letters or postal articles as aforesaid for the purpose of sending them otherwise than in accordance with the terms of a valid licence, commits an offence and shall, on conviction be liable, in the case of a first offence, to a fine not exceeding one hundred thousand shillings and in the case of a subsequent offence, to a fine not exceeding one hundred and fifty thousand shillings.

[s. 45]

[PCh302s49]49. Penalty for contravention of sections 36 and 37

Any person who, in contravention of section 36 or 37, sends or tenders or makes over in order to be sent by post any postal article or other thing commits an offence and shall on conviction be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding one year, or to both.

[s. 46]

[PCh302s50]50. Penalty for defiling or injuring letter boxes

Any person who places in or against any letter box provided by the licensee for the reception of postal articles any fire, match or light, or any explosive, dangerous, filthy, noxious, or deleterious substance or any fluid, or commits a nuisance in or against any

such letter box, or does anything likely to injure any such letter box or its appurtenances or contents, commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding one year, or to both.

[s. 47]

[PCh302s51]51. Penalty for affixing without authority anything to, or disfiguring, a post office

Any person who without due authority affixes any placard, advertisement, notice, list, document, board or other thing in or on, or paints, tars, or in any way disfigures, any post office, commits an offence and shall, on conviction be liable to a fine not exceeding twenty thousand shillings.

[s. 48]

[PCh302s52]52. Penalty for unlawfully detaining mails or opening mail bags

Any person who, except under the authority of this Act or in obedience to the order in writing of the Minister or the Commission's officer or the direction of a competent Court, detains the mail or any postal article in the course of transmission by post or on any pretence opens a mail bag in course of transmission by post commits an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand shillings.

[s. 49]

[PCh302s53]53. Penalty for wilfully retaining postal articles or mail bags

Any person who fraudulently retains or unlawfully secretes or makes away with or keeps or detains or when required by an authorised officer neglects or refuses to deliver

up any postal article in the course of transmission by post which ought to have been delivered to any other person, or a mail bag containing a postal article, commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred thousand shillings or to both.

[s. 50]

[PCh302s54]54. Penalty for unlawfully diverting letters

Any person who, wilfully and maliciously with intent to injure any other person, either opens or causes to be opened any letter which ought to have been delivered, or does any act whereby the due delivery of a letter to any person is prevented or impeded, commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding six months, or to a fine not exceeding thirty thousand shillings or to both.

[s. 51]

[PCh302s55]55. Penalty for unlawfully disclosing contents of postal articles

Any person who reveals, discloses or in any way makes known the contents of any postal article opened under the authority of this Act, except so far as may be necessary for the purpose of returning the same or so far as may be authorised by the commission in writing, commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding one year, or to a fine not exceeding fifty thousand shillings or to both.

[s. 52]

[PCh302s56]56. Penalty for making fictitious stamps

(1) Any person who—

(a) makes or knowingly utters, deals in, hawks, distributes, or sells any fictitious stamp or knowingly uses for postal purposes any fictitious stamp;

(b) has in his possession without lawful excuse any fictitious stamp;

(c) makes, or without lawful excuse has in his possession, any die, plate, instrument or materials for making any fictitious stamp; or

(d) makes, issues or send by post any stamped or embossed envelope, wrapper, card, form or paper in limitation of one issued under the authority of the licensee, commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

(2) Any stamp, die, plate, instrument or materials found in the possession of any person in contravention of this Act may be seized and shall be forfeited.

(3) Forfeiture under this section may be declared by a Magistrate's Court, and all things forfeited shall be dealt with as the Court directs and the proceeds (if any) thereof paid into the Consolidated Fund.

(4) Nothing in this section shall be held to exempt any person from any punishment to which he may be liable under any other law.

[s. 53]

[PCh302s57]57. Prohibition of false notice as to reception of letters

Any person who, without authority from the Commission, places or maintains in or on any house, wall, door, window, box, pillar, or other place, belonging to him or under his control, any of the following words, letters, or marks—

- (a) the words "post office" or "postal office";
- (b) the words "letter box", accompanied with words, letters, or marks, which signify or imply or may reasonably lead the public to believe that it is a post office letter box;
- (c) any words, letters, or marks which signify or imply or may reasonably lead the public to believe that any house or place is a post office, or that any box is a post office letter box,

commits an offence and shall, on conviction be liable to a fine not exceeding thirty thousand shillings on first conviction and, on a subsequent conviction, to a fine not exceeding three thousand shillings for every day during which the offence so continues.

[s. 54]

[PCh302s58]58. Offences by officers, employee or agent of a public postal licensee

Any officer, employee or agent of a public postal licensee who—

- (a) destroys or throws away any postal articles in the course of transmission by post or anything contained therein;
- (b) steals or otherwise dishonestly misappropriates or secretes any postal article in the course of transmission by post or anything contained therein;
- (c) except in obedience to an order under the hand of the Minister or the direction of a court, wilfully opens or causes to be opened contrary to his duty any mail bag or postal article in the course of transmission by post or wilfully detains or delays or causes to be detained or delayed the mail bag or postal articles;

(d) issues or causes to be issued a document specified for use in connection with the remittance of money with fraudulent intent;

(e) fraudulently puts any wrong official mark on a postal article;

(f) fraudulently alters, removes or causes to disappear any official mark on a postal article;

(g) being entrusted with the delivery of any postal article, knowingly demands or receives any sum of money which is not chargeable under this Act;

(h) sends by post, or puts into any mail bag any postal article upon which postage has not been paid or charged intending thereby to defraud the public postal licensee of the postage on the postal article;

(i) being entrusted with the preparation or custody of any document relating to the public postal licensee, fraudulently prepares the document incorrectly, or alters, or secretes or destroys the document; or

(j) being employed to carry or deliver any mail bag or postal article in the course of transmission by post does any act with intent to induce the belief that he has visited a place, or delivered a postal article or mail bag, which he has not visited or delivered,

commits an offence and shall be liable on conviction for an offence under—

(i) paragraphs (a), (b), (c) or (d) to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding three years or to both; and

(ii) paragraphs (e), (f), (g), (h), (i) or (j) to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

[s. 55]

[PCh302s59]59. Penalty for breach of licence

Any licensee who without lawful excuse fails to comply with any term or condition expressed in the license commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand shillings for every breach.

[s. 56]

[PCh302s60]60. Offences by body corporate

Where an offence under this Act has been committed by a body corporate, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer of the body corporate or was purporting to act in such capacity shall, as well as such body corporate, be deemed to have committed that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all due diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

[s. 57]

[PCh302s61]61. General penalty

Any person who contravenes any provision of this Act or any rules made thereunder commits an offence and, if no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding one hundred thousand shillings.

[s. 58]

[PCh302s62]62. Penalty for abetting, or attempting to commit offences

Any person who abets the commission of any offence punishable under this Act, or attempts to commit any offence so punishable, shall, on conviction, be liable to the penalty provided for that offence.

[s. 59]

[PCh302s63]63. Resident Magistrate's Court to have full jurisdiction

Notwithstanding the provisions of any written law to the contrary, the Court of Resident Magistrate may try any offence under this Act or any rules made under it and may impose the full penalty for such offence.

[s. 60]

[PCh302s64]64. Power of Director-General to compound certain offences

Where any person admits that he has committed an offence against this Act or any rules made under it, the punishment of which is a fine not exceeding fifty thousand shillings the Director-General may compound such offence by collecting from that person such sum of money as the Director-General may see fit, not exceeding fifty per centum of the maximum amount of fine to which that person would have been liable on conviction, and no person having made such payment shall be thereafter prosecuted in relation to the offence so compounded.

[s. 61]

PART IX

OFFENCES AND PENALTIES IN RELATION TO TELECOMMUNICATION SERVICES (ss 65-84)

[PCh302s65]65. Unlawful operation of telecommunication system

(1) Subject to this section and sections 17 and 18, any person who establishes, installs, maintains, provides or operates a telecommunication system or service within the United Republic without a licence granted under sections 17 and 18 or otherwise infringes the powers conferred upon the Commission by section 9 commits an offence.

(2) A person who commits an offence under this section shall be liable on conviction to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding three years or to both and, in the case of continuing offence, to a further fine not exceeding ten thousand shillings for every day or part thereof during which the offence continues after conviction.

(3) In the case of an offence in relation to a telecommunication system or service not extending beyond the United Republic every person operating the system or service (or, if different people run different parts of it, each of them) commits an offence and, in the case of an offence in relation to a telecommunication system or service extending beyond the United Republic, the person or every person operating that portion of such system or service within the United Republic (or, if different people operate different parts of the system or service, each of them) commits an offence and shall be similarly liable.

(4) Where the commission by any person of an offence under this section is due to the act or default of some other person, that other person commits an offence; and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.

(5) In any proceedings for an offence under this section, it shall, subject to subsection (6), be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(6) Where the defence provided by subsection (5) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

[s. 62]

[PCh302s66]66. Prohibitions in respect of radiocommunication and telecommunication equipment

(1) No person shall—

- (a) offer for sale, sell or possess for sale any telecommunication equipment; or
- (b) possess any radiocommunication equipment,

except and in accordance with a licence granted under section 9 or any regulations made under this Act.

(2) Any person who contravenes or fails to comply with subsection (1) commits an offence.

[s. 63]

[PCh302s67]67. Penalty for unlicensed radio station Act No. 15 of 2001 s. 7

(1) Any person who establishes, installs, maintains, provides or operates a radiocommunication system or service or any radiocommunication equipment in any place or on board any vessels, aircraft or in any vehicle in the United Republic without a licence granted under section 9 or any regulations made under this Act commits an offence.

(2) Any person who is in possession of any radiocommunication equipment shall be deemed, until the contrary is proved, to have operated the same.

(3) The occupier of any dwelling house or premises in which is installed any radiocommunication equipment in respect of which a licence is not in force commits an offence.

(4) It shall be a defence in any proceeding for an offence under subsection (3) that the occupier was not aware and could not with reasonable diligence have become aware of the existence in the dwelling house or premises of the radiocommunication equipment.

(5) Any person convicted of an offence under this section shall be liable to a fine of not less than the equivalent in Tanzanian Shillings of 5,000 USD or to imprisonment for a term not exceeding one year or to both that fine and imprisonment.

[s. 64]

[PCh302s68]68. Exemption from sections 65, 66 and 67

Subject to such conditions as the Commission may impose, sections 65, 66 and 67 shall not apply to any person who has been issued with a licence for the installation or working of any telecommunication equipment under the provisions of any written law in force in any country which is a party to a treaty or any other arrangement to which the United Republic is a party pursuant to which licences issued under the written laws in

force in each country for the installation or working of any telecommunication equipment are recognised as having force in the other country.

[s. 65]

[PCh302s69]69. Powers of search and seizure

(1) Any police officer not below the rank of an assistant superintendent of police or any employee authorised by the Commission may, if he has reasonable grounds for believing that a telecommunication system or service has been established, installed, maintained, operated or provided in contravention of this Act or any regulations made thereunder or in breach of any licence issued by the Commission or that any telecommunication equipment used is of a type that is not approved by the Commission under section 24—

(a) in the case of any telecommunication equipment or any telecommunication system or service, other than any radiocommunication system or service, enter and inspect any place in which the telecommunication equipment is used or the telecommunication system or service is established, installed, maintained, operated or provided, and may seize any telecommunication system or equipment found therein which appears to be used for or in connection with telecommunication; and

(b) in the case of any radiocommunication system or service, enter any place in the United Republic or stop or board any vessel, aircraft or vehicle and inspect any place therein and may seize any radiocommunication system or equipment found therein which appears to be used for or in connection with radiocommunications.

(2) Where any police officer not below the rank of assistant superintendent or any employee authorised by the Commission has reasonable grounds for believing that an offence has been or is being committed under section 65, 66 and 67, he may seize any telecommunication system or equipment or any radiocommunication system or equipment used in the commission of the offence.

(3) If there is no prosecution with regard to any equipment or system seized under this section, the equipment or system shall be taken and deemed to be forfeited to the Commission unless a claim is made within two months from the date of seizure.

(4) Any person asserting that he is the owner of the equipment or system may personally or by his authorised agent give written notice to the Commission that he claims the same.

(5) On receipt of the notice, the Commission may direct that the equipment or system be released or may refer the matter to a Resident Magistrate's Court or a District Court.

(6) The Resident Magistrate's Court or the District Court may proceed to the examination of the matter and upon examination shall order that the equipment or system be forfeited or released.

[s. 66]

[PCh302s70]70. Using unlawful telecommunication system or service

Any person who knowingly or having reason to believe that a telecommunication system or service has been established, installed, maintained, operated or provided in contravention of this Act, whether or not such system or service is connected to or

provided through a public telecommunication licensee's installation or plant, uses the system or service for communication or for performing any service incidental thereto or delivers any message for transmission by the system or service or accepts delivery of any message sent shall be guilty of an offence.

[s. 67]

[PCh302s71]71. Obstruction of public telecommunication or postal licensees

(1) Any person who—

(a) while on any premises used for the purposes of the business of a public telecommunication licensee or a public postal licensee, intentionally obstructs the course of business of the licensee concerned; or

(b) assaults or intentionally obstructs or incites anyone to obstruct or impedes an officer or employee of a public telecommunication licensee or a public postal licensee in the performance of his duties, commits an offence.

[s. 68]

[PCh302s72]72. Intentional damage to installation or plant used for telecommunications

Any person who, with intent to—

(a) prevent or obstruct the transmission or delivery of any message;

(b) commit mischief, damages, removes, tampers with or touches any installation or plant or any part thereof used for telecommunications services belonging to

a public telecommunication licensee, or interferes with the radiocommunication service or system of a public telecommunication licensee,

commits an offence and shall be liable on conviction to a fine not exceeding three hundred thousand shillings, or to imprisonment for a term not exceeding three years or to both.

[s. 69]

[PCh302s73]73. Offences by officer, employee or agent of public telecommunication licensees

(1) Any officer, employee or agent of a public telecommunication licensee who—

(a) wilfully secretes, makes away with or alters any message or record of any message; or

(b) except in obedience to an order under the hand of the Minister or the direction of a court, wilfully omits to transmit or intercepts or acquaints himself with or detains any message or part thereof or deliberately causes a call or connection to be disconnected or not to be connected,

commits an offence and shall be liable on conviction to fine not exceeding three hundred thousand shillings, or to imprisonment for a term not exceeding three years or to both.

(2) Paragraph (b) of subsection (1) shall not apply—

(a) to any act or thing done by an officer, employee or agent of a public telecommunication licensee for or in connection with the installation of a telecommunication line, equipment or the operation or maintenance of a telecommunication system; or

(b) to the tracing of the origin of any telephone call at the request of the subscriber of a telecommunication service.

[s. 70]

[PCh302s74]74. Fraudulent use of telecommunication system

Any person who dishonestly uses or permits another person to use any telecommunication service provided by a public telecommunication licensee with intent to avoid payment of any charge applicable to the provision of that service commits an offence and is liable on conviction to a fine not exceeding three hundred thousand shillings, or to imprisonment for a term not exceeding three years or to both.

[s. 71]

[PCh302s75]75. Prohibition of unauthorised international call back communication
Act No. 2 of 1996

(1) No person shall make an unauthorised international call back communication.

(2) Any person who makes an unauthorised international call back communication commits an offence and shall be liable on conviction to a fine not exceeding five million shillings or to a term of imprisonment not exceeding three years or to both that fine and imprisonment, and in the case of a subsequent offence an additional fine not exceeding five hundred thousand shillings in respect of every unauthorised call back communication made after the first conviction.

(3) In this section "unauthorised call back communication" means a telephone communication originating in the United Republic addressed to a recipient abroad through a telephone exchange centre located outside the United Republic, contrived to make it

appear that the communication originated outside the United Republic, for the purpose of avoiding the payment of any charge due to the Tanzania Telecommunications Company Limited in respect of a telephone communication originating in the United Republic.

[s. 71A]

[PCh302s76]76. Sending false message

Any person who transmits or causes to be transmitted a message which he knows to be false or fabricated commits an offence and shall on conviction be liable—

(a) in the case where the false or fabricated message contains any reference to the presence in any place or location of a bomb or other thing liable to explode or ignite, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding seven years or to both; and

(b) in any other case, to a fine not exceeding three hundred thousand shillings, or to imprisonment for a term not exceeding three years or to both.

[s. 72]

[PCh302s77]77. Fraudulent retention of messages

Any person who fraudulently retains or wilfully secretes, makes away with or detains a message or record of a message which ought to have been delivered to some other person or being required by a public telecommunication licensee to deliver up any such message or record thereof neglects or refuses to do so commits an offence and shall be liable on conviction to a fine not exceeding three hundred thousand shillings, or to imprisonment for a term not exceeding three years or to both.

[s. 73]

[PCh302s78]78. Protection of installation or plant used by public telecommunication or postal licensee

(1) No person shall, without the written approval of a public telecommunication licensee or a public postal licensee, as the case may be—

(a) lay or carry any mains, pipes, conduits, circuits or wires in, along, through, across, over or under any street or place in a manner which is likely to interfere with or cause damage to any installation or plant used for telecommunications or for postal services;

(b) perform any work of laying installing, construction or maintaining any telecommunication line or equipment used or intended for use with any equipment or telecommunication system or for postal services;

(c) affix any placard, advertisement, notice or other thing in or on, paint, tar or in any way disfigure any installation or plant used for telecommunications or for postal services.

(2) Subject to subsection (3), any approval under subsection (1) may be granted or withheld by the licensee concerned or may be granted upon such terms and conditions as the licensee concerned thinks fit to impose.

(3) Any dispute relating to the withholding of any approval under subsection (1), or the terms and conditions attached to the granting of such approval, shall be referred to the Commission whose decision shall be final.

(4) Where the commission by any person of an offence under subsection (1) is due to the act or default of some other person, that other person commits an offence; and that

person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.

(5) In any proceedings for an offence under subsection (1), it shall, subject to subsection (6), be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(6) Where the defence provided by subsection (5) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending three clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

(7) Any person who contravenes or fails to comply with subsection (1) commits an offence and shall, in addition to the forfeiture of any equipment seized, be liable on conviction to a fine not exceeding one hundred thousand shillings and, in the case of a continuing offence, to a further fine not exceeding five thousand shillings for every day or part thereof during which the offence continues after conviction.

[s. 74]

[PCh302s79]79. Prohibition of false notice relating to public telecommunication installation or plant

Any person who, without the permission of a public telecommunication licensee, places or maintains in or on any house or place belonging to him or under his control, any word, letter or mark which signifies or implies or may reasonably lead the public to believe

that the house or place is part of a public telecommunication licensee's installation or plant, commits an offence.

[s. 75]

[PCh302s80]80. Charging for use of services provided by public telecommunication and postal licensees

(1) No person for whom a public telecommunication or postal licensee has provided any telecommunication or postals service, shall without the written approval of the licensee concerned demand, collect or receive payment from any other person for the use of the service by that person.

(2) Any person who has been granted any approval under subsection (1) shall only demand, collect or receive such charges, rates or fees as may be approved by the public telecommunication or postal licensee, for the use of the service by any other person.

(3) Any person who contravenes or fails to comply with subsection (1) or (2) commits an offence.

[s. 76]

[PCh302s81]81. Compensation for damage to public telecommunication or postal licensee's installation or plant

(1) Any person who wilfully removes, destroys or damages any installation or plant used for telecommunications or postal services commits an offence and shall be liable on conviction to a fine not exceeding three hundred thousand shillings, or to imprisonment for a term not exceeding three years or to both.

(2) Notwithstanding subsection (1), any person who damages or suffers to be damaged any cable of a telecommunication system belonging to or under the management or control of a public telecommunication or postal licensee commits an offence and shall be liable on conviction to a fine not exceeding three hundred thousand shillings, or to imprisonment for a term not exceeding three years or to both.

(3) Where an offence under subsection (2) is committed by any person acting as the agent or employee of another person, or being otherwise subject to the supervision or instructions of another person for the purposes of any employment in the course of which the offence was committed, that other person shall, without prejudice to the liability of the first-mentioned person, be liable under that subsection in the same manner and to the same extent as if he had personally committed the offence unless he proves to the satisfaction of the court that the offence was committed without his consent or connivance or that it was not attributable to any neglect on his part.

(4) In any proceedings for an offence under subsection (2), it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

[s. 77]

[PCh302s82]82. Compensation for damage caused to public telecommunication or postal installation or plant

(1) Any person who removes, destroys or damages, whether wilfully, negligently, accidentally or otherwise, the installation or plant used for telecommunications or postal services shall, in addition to any penalty for which he is liable for an offence under this

Act, be liable to pay compensation for the damage he has done and the compensation shall be recoverable by civil action or suit before any court of competent jurisdiction.

(2) Subject to subsection (1), any court before which a person is charged with an offence under this Act may assess the compensation payable under this section and may make an order for the payment of the same.

(3) Any order under subsection (2) may be enforced as if it were a judgment in a civil action or suit.

[s. 78]

[PCh302s83]83. Penalty for removing any mark denoting used device for telephone purposes

(1) Any person who, with fraudulent intent, erases or removes from any device, any mark put or impressed upon the device denoting that the same has been used, or sells or uses any such device commits an offence and shall be liable on conviction to a fine not exceeding three hundred thousand shillings, or to imprisonment for a term not exceeding three (3) years or to both.

(2) For the purpose of this section, "device" means any device provided for use by a public telecommunication licensee for accessing any telecommunication equipment of the licensee to enable the telecommunication service of the licensee to be used.

[s. 79]

[PCh302s84]84. Failure to disconnect equipment not approved under section 24

Where—

(a) any person has under his control a telecommunication system or equipment connected to the telecommunication system or equipment of a public telecommunication licensee which is of a type not approved by the Commission under section 24;

(b) the Commission has given to the person a written notice stating that—

(i) the telecommunication system or equipment under his control is of a type that has not been approved by the Commission under section 24;

(ii) that person must disconnect the telecommunication system or equipment from the telecommunication system or equipment of the public telecommunication licensee within such period as specified in the notice; and

(c) a person has failed to comply with such notice,
that person commits an offence.

[s. 80]

FIRST SCHEDULE

CONSTITUTION AND PROCEEDINGS OF COMMISSION

(Section 4)

1. Composition of the Commission

The Commission shall consist of such members appointed in accordance with section 4.

2. Tenure of office

(1) A member of the Commission shall hold office for a term not exceeding 3 years, and on such terms and conditions as shall be set out in the instrument of his appointment and shall be eligible for reappointment.

(2) A member may be removed from office only for cause.

3. Vice-Chairman

The Members of the Commission shall elect a Vice-Chairman from amongst their number and any member elected as Vice-Chairman shall, subject to his continuing to be a member, hold office for a term of one year from the date of his election, and shall be eligible for re-election.

4. Resignation

A member of the Commission may resign his office at any time by giving not less than one month's notice to the Minister

5. Commission may delegate function

The Commission may, in writing, authorise any member or officer of the Commission to exercise any power or perform any function conferred on the Commission by this Act.

6. Vacation of office

The seat of a member of the Commission shall become vacant—

(a) on his death;

(b) if he becomes in any manner disqualified for membership of the Commission;

- (c) if he resigns his seat;
- (d) if his appointment is revoked in accordance with this Act; or
- (e) if he becomes bankrupt.

7. Filling of vacancies

If a vacancy occurs in the membership of the Commission, the Minister may, subject to paragraph 1, appoint any person to fill the vacancy and the person so appointed shall hold office for so long as the member in whose place he is appointed would have held office.

8. Disqualification from membership

No person shall be eligible to be appointed or to remain a member of the Commission who—

- (a) is an undischarged bankrupt or has made any arrangement with his creditors;
- (b) is incapacitated by physical or mental illness; or
- (c) is otherwise unable or unfit to discharge the functions of a member.

9. Disclosure of interest by members

(1) Subject to subparagraph (2), if a member of the Commission has a pecuniary interest, direct or indirect, in any contract, proposed contract or other matter which is before any meeting of the Commission he shall at that meeting declare the nature of his interest and shall not take part in the consideration or discussion of, or vote on any question with respect to, that contract or other matter, and if the Chairman or the person

presiding at that meeting so directs, he shall withdraw from the meeting during the consideration or discussion.

(2) For the purposes of subparagraph (1), a general notice given to the members of the Commission by a member to the effect that he is an officer or member of a specified corporation or a member of a specified firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that corporation or firm shall be deemed to be a sufficient declaration of interest in relation to any contract so made if it specifies the nature and extent of his interest in the specified corporation or firm and his interest is not different in nature or greater in extent than the nature and extent so specified in the general notice at the time any contract is so made, but no such notice shall be of effect unless either it is given at a meeting of the Commission or the member takes reasonable steps to ensure that it is brought up and read at the next meeting of the Commission after it is given.

(3) For the purposes of this paragraph, a pecuniary interest of a spouse, parent, son or a daughter or an adopted son or daughter or member shall be treated as a pecuniary interest of the member.

(4) For the purposes of determining whether there is a quorum, a member shall be treated as being present at a meeting notwithstanding that under this paragraph, he cannot vote or has withdrawn from the meeting.

10. Sealing of documents

(1) All deeds, documents and other instruments requiring the seal of the Commission shall be sealed with the common seal of the Commission in the presence of

any two officers of the Commission duly authorised by the Commission to act in that behalf and shall be signed by those officers and such signing shall be sufficient evidence that the common seal of the Commission has been duly and properly affixed and that seal is the lawful common seal of the Commission.

(2) The Commission may by resolution or otherwise appoint an officer or employee of the Commission or any other agent, either generally or in a particular case, to execute or sign on behalf of the Commission any agreement or other instrument not under seal in relation to any matter coming within the powers of the Commission.

11. Fees and allowances payable to members of Commission

There shall be paid to the members of the Commission, out of the funds of the Commission, such fees and allowances as the Minister may determine, on the recommendation of the Commission.

12. Quorum

(1) The Commission shall ordinarily meet for the despatch of business at such times and places as the Chairman may appoint.

(2) At every meeting of the Commission, one half of the number of members shall constitute a quorum.

(3) A decision at a meeting of the Commission shall be adopted by a simple majority of the members present and voting except that in the case of an equality of votes, the Chairman of the meeting shall have a casting vote.

(4) Where not less than two members of the Commission request the Chairman by notice in writing signed by them to convene a meeting of the Commission for any purpose

specified in the notice, the Chairman shall, within 7 days from the receipt of the notice, convene a meeting for that purpose.

13. Vacancies

The Commission may act notwithstanding any vacancy in its membership.

14. Procedure at meetings

Subject to this Act, the Commission may make rules regulating its own procedure generally and, in particular, regarding the holding of meetings, the notice to be given of such meetings, the proceedings thereat, the keeping of minutes, the custody, production and inspection of such minutes, and the opening, keeping, closing and auditing of accounts.

15. Appointment of committees and delegation of powers

(1) The Commission may, in its discretion, appoint from among its own members or other persons who are not members of the Commission such number of committees as it thinks fit consisting of members or other persons or members and other persons for purposes which in the opinion of the Commission, would be better regulated and managed by means of such committees.

(2) The Commission may, subject to such conditions or restrictions as it thinks fit, delegate to any such committee or the Chairman or the Director-General, all or any of the powers, functions and duties vested in the Commission by this Act or any regulations made thereunder, and a power, function or duty so delegated may be exercised or performed by such committee or the Chairman or the Director-General, as the case may be, in the name and on behalf of the Commission.

(3) The Commission may, subject to such conditions or restrictions as it thinks fit, delegate to any officer or employee thereof or any other person all or any of its powers, functions and duties vested in the Commission by this Act or any regulations made thereunder; and any power function or duty so delegated may be exercised or performed by the officer or employee or other person in the name and on behalf of the Commission.

(4) The Commission may continue to exercise a power conferred upon it, or perform a function or duty under this Act or any regulations made thereunder, notwithstanding the delegation of the power, function or duty under this paragraph.

SECOND SCHEDULE

POWERS OF COMMISSION

(Section 5(3))

Powers of the commission are—

1. To grant radio frequency licences for telecommunication purposes and to supervise and enforce compliance with the provisions of such licences.

2. To grant licences for operating postal services and to supervise and enforce compliance with the provision of such licences.

3. To give directions to any person granted a licence under this Act or any regulations made thereunder.

4. To levy such charges and fees for the granting of licences, radio frequency spectrum rights, administration of radio frequency spectrum registrations, equipment approvals and other services provided by the Commission as may in its opinion be appropriate.

5. To give general guidelines in determination of tariffs.
6. To lay down standards and codes of conduct to be observed by all operators and users of telecommunication and postal systems and services.
7. To regulate the interconnection of and access to systems of operators of telecommunication and postal systems and services.
8. To control and regulate the management and allocation of numbering plans and schemes for telecommunication and postal systems and services.
9. To control and regulate interference to telecommunications system in the United Republic by radiowaves or electrical or other means.
10. To control and regulate the importation for sale, dealing in and use of telecommunication equipment.
11. To utilise all the property of the Commission, movable and immovable, in such manner as the Commission may think expedient including the raising of loans by mortgaging such property.
12. To lease or let, with or without taking a premium, any property vested in or acquired by it or to grant easements, rights of way, temporary licences or other rights or privileges over, under, through or in respect of any land or building belonging to or vested in the Commission upon such terms and conditions as the Commission may think fit.
13. To carry out such other works or activities as may appear to the Commission to be requisite, advantageous or convenient in pursuance of its regulatory role with a view to making the best use of any of the assets of the Commission.

14. To engage in conjunction with other authorities, international agencies or organisations in matters of regulation for the purposes of promoting telecommunication and postal systems and services.

15. To enter into all such contracts for the supply of goods or materials or for the execution of works or any other contract as may be necessary for the discharge of its duties and functions under this Act.

16. To receive and process complaints by users of telecommunication and postal services.

17. To impose sanctions set by regulations for the violation by any licensed operator of any law or under the terms of its licence.

18. To conduct administrative processes and hearings to resolve technological issues; inter-carrier disputes, user complaints or other matters which affect the structure and functioning of the telecommunications or postal sectors of the United Republic.

19. To promulgate regulations so as to implement the telecommunications and postal policies of this Act.

20. To ensure the proper maintenance of accounting systems by all licensed operators.

21. To guarantee equal access to monopoly or other licensed telecommunications or postal networks.

22. To homologate and establish a process for authorisation of equipment permitted to be connected to the telecommunications network in the United Republic.

23. To provide standards (in addition to regulations) for the operation of concessions and other types of licences.

24. To research and report on new technologies.

25. To keep the government apprised of obligations under international telecommunications treaties.

26. To oversee compliance with international telecommunications treaties.

27. To cooperate technically with the government and to define strategic policy.

28. To promote national technological development.

29. To propose international telecommunications and postal policy to the government.

30. To prepare policies for development of the national technology.

31. To create criteria for the opening and restructuring of services as and where appropriate and to ensure the compatibility of public systems, interconnection and quality of service.

32. To resolve issues of interconnection between networks where the operators involved are not able to reach agreement on terms of interconnection.

33. To inform the public of reports, studies and regulations as and when published.

34. To announce in a local gazette and invite comment by interested parties on new contemplated regulation or policies.

35. To publish the filing of applications for provision of services and installation of equipment for publication in a local gazette and invite and take into consideration comments by interested parties when taking decisions on such applications.

36. To do field investigations concerning–

(a) compliance by licensed operators with the law and the terms of their licences;

(b) any allegation that a non-licensed operator is providing service;

(c) any complaints filed by or against licensed or non-licensed operators;

(d) ensuring that licensed operators are providing only those services permitted by their licences;

(e) periodic measuring of quality of service;

(f) periodic sampling of users as to quality and extent of service.

37. To receive review and evaluate accounting and other reports required to be filed by operators.

38. To raise public awareness to the structure and regulation of the telecommunications and postal sectors.

39. To conduct or to supervise the conduct of proficiency examinations which are conditional to the grant of licences by the Commission.

40. To receive donations and contributions from any source and raise funds by all lawful means.

41. To do any other act or thing incidental to any of its functions.

THIRD SCHEDULE

REGULATIONS

(Section 25(3))

Subsidiary Legislation under the Tanzania Posts and Telecommunications Corporation Act *:

1. The Tanzania Postal Regulations *.
2. The Tanzania Radio Call Service Regulations *.
3. The Tanzania Telex Regulations *.
4. The Tanzania Telephone (Privately Owned System) Regulations * .
5. The Tanzania Radiocommunications (Limitation of Radio Interference) *.
6. The Tanzania Telegraph Regulations *.
7. The Tanzania Radio Communication Regulations *.
8. The Tanzania Telephone Regulations *.
9. The Tanzania Citizen Band Radio Communications Regulations *.