

LAWS OF BRUNEI

CHAPTER 54
TELECOMMUNICATIONS

12 of 1956
S 166/74

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CHAPTER 54
TELECOMMUNICATIONS

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TELECOMMUNICATIONS ACT

An Act to revise the law relating to telecommunications

Commencement: 1st November 1974 [S 166/74]

PART I

PRELIMINARY

1. This Act may be cited as the Telecommunications Act. Short title.
2. In this Act — Interpretation.
 - “local authority” includes a Municipal Board established under the Municipal Boards Act; Cap. 57.
 - “message” means any communication sent and received or made by telecommunication or given to a telecommunications officer to be sent by telecommunication or to be delivered;
 - “post” means a post, pole, standard, stay, strut or other aboveground contrivance for carrying, suspending or supporting a telecommunication line;
 - “telecommunication” means any system for the transmission, emission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, radio, visual or other electromagnetic systems;
 - “telecommunication authority” means the Director of Telecommunications or any telecommunications officer empowered by him to perform all or any of the functions conferred on the telecommunication authority under this Act;
 - “telecommunication line” means a wire or wires used for the purpose of a telecommunication, with

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

“telecommunications officer” means any person employed, either permanently or temporarily, in connection with a telecommunication established, maintained or worked by the Government or by a person licensed under this Act;

“telecommunication plant” means any building, apparatus, machinery, equipment, poles, lines, vehicles and any other appliances used for and in connection with telecommunications.

PART II

PRIVILEGES AND POWERS OF THE GOVERNMENT

Exclusive privilege and power to grant licences.

3. (1) The Government shall have the exclusive privilege of establishing, maintaining and working telecommunications within Brunei Darussalam.

(2) The exclusive privilege referred to in subsection (1) shall not extend to a telecommunication, other than a radio-communication as defined in section 35, contained wholly within a building or part of a building when such telecommunication is owned and operated by a person occupying that building or part of a building for his sole use and interest.

(3) His Majesty the Sultan and Yang Di-Pertuan in Council may grant a licence on such conditions and in consideration of such payments as may be prescribed to any person to establish, maintain or work a telecommunication within any part of Brunei Darussalam, and to place, lay, carry or maintain any posts, cables or wires for the purpose of such telecommunication on, along, through, under or across any land.

(4) His Majesty in Council may in any case under subsection (3), other than a case to which section 4 applies, delegate his power of issuing licences to the telecommunication authority, or to such officer or officers as he thinks fit and may appoint officers for the purpose of carrying into effect the provisions of this Part:

Provided that no delegation of the power of issuing licences shall effect the exercise of such power by His Majesty in Council.

(5) All such officers shall be deemed to be public servants within the meaning of the Penal Code.

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4. Where any person (hereinafter called "the petitioner") requests His Majesty to grant him a licence under the provisions of subsection (3) of section 3 and the granting of such licence would authorise the doing of work involving interference with any private right no such licence shall be granted until the following procedure has been duly observed, that is to say —

Procedure on application for licence authorising work involving interference with private rights.

(a) the petitioner shall prepare a plan of the area or areas over, along or under which the telecommunication line is to be laid and maintained and shall show on such plan the whole premises whether built or not which will be affected by the said undertaking, and the said plan shall be open to public inspection for a period of 3 weeks after the date of the notification hereinafter referred to shall have first been published;

(b) the petitioner shall after such plan has been prepared and is ready for inspection publish a notification during the said period twice in the *Gazette* and twice weekly in one newspaper and such notification shall be in such form as may be prescribed;

(c) the petitioner shall serve a notice on every owner of property affected by such plan stating that such plan has been prepared and requiring him to signify his assent or dissent thereto within one month from the date of service;

(d) any person affected by such plan may within the said period of 3 weeks or within one month from the date of such service deliver to the petitioner a written objection to any proposal contained therein;

(e) upon the request of the petitioner or of any person objecting under the provisions of paragraph (d) His Majesty may within 14 days thereof appoint a tribunal consisting of not more than 3 persons. The tribunal shall have power to determine its own proceedings and each member thereof shall be furnished by the petitioner with a copy of the plan, the notification and the objection;

(f) objections shall be considered by the tribunal at a meeting of which the petitioner and the objectors shall be informed by notice in writing delivered by the tribunal to the petitioner and the objectors and service of the notice shall be deemed sufficient if the notice is delivered to the last known address of the petitioner and the objectors or left at the property deemed to be affected by the plan and notification. At such meeting the petitioner and any objector may appear in person or be represented by a duly authorised agent;

(g) the tribunal shall meet to consider objections not less than one week or more than 3 weeks after the appointment thereof by His Majesty;

(h) within 14 days after completing the hearing of the objections the tribunal shall submit to His Majesty in Council its findings in the form of a report together with one copy each of the plan, the notification and a schedule of the objections in a summary form which shall record the opinion of the tribunal as to each objection;

(i) His Majesty in Council may approve the said plan or may reject it, or may approve the said plan with such conditions and modifications as he may think fit. Approval or rejection of any plan shall be notified in the *Gazette* and such notification shall be conclusive

evidence that the said plan was duly prepared and approved or rejected as the case may be:

Provided that where no objection has been lodged within the time specified in paragraph (d) or where an objection has been lodged in respect of certain immovable property and not in respect of other immovable property, His Majesty in Council may, upon the expiration of the time so specified, forthwith grant such licence to the petitioner under subsection (3) of section 3 so far as such licence relates to the immovable property in respect of which no objection has been lodged within the specified time.

5. (1) On the occurrence of any public emergency or in the interest of the public safety, His Majesty or any officer specially authorised by him in this behalf may —

Special power
in emergency.

(a) take temporary possession of any telecommunication established, maintained or worked by any person licensed under this Act;

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

(c) order that any message or class of messages to or from any person or class of persons or relating to any specified subject shall not be transmitted or shall be intercepted or detained, or that any such message or messages or the records thereof shall be disclosed to an officer mentioned in the order.

(2) If any doubt arises as to the existence of a public emergency or whether any act done under subsection (1) was in the interest of public safety, a certificate signed by His Majesty and delivered to the person in charge of the telecommunication shall be conclusive proof on the point.

6. Where it appears to His Majesty that such a course is expedient in the public interest he may by warrant under his hand require any person who owns or controls any

Power to
require
production
of messages.

telecommunication to produce to him or to a person named in the warrant the originals and transcripts and records relating to either all messages, or messages of any specified class or description, or messages sent from or addressed to any specified person or place or sent to or received from any place out of Brunei Darussalam by means of any such telecommunication and all other papers relating to any such messages as aforesaid.

Power to make regulations.

7. (1) His Majesty in Council may make regulations for the conduct of all or any telecommunications established, maintained or worked by the Government or by persons licensed under this Act.

(2) Such regulations may provide for all or any of the following matters —

(a) the rates at which, and the other conditions and restrictions subject to which, messages shall be transmitted, and apparatus, equipment and plant may be hired;

(b) the precautions to be taken for preventing the improper interception or disclosure of messages;

(c) the period for which and the conditions subject to which messages and other documents belonging to or being in the custody of telecommunication officers shall be preserved;

(d) the fees to be charged for searching for messages or other documents in the custody of any telecommunication officer;

(e) all matters which under this Part may be prescribed.

(3) Such regulations may prescribe fines for any offence against the provisions thereof which shall not exceed the following limits —

(a) where the offender is a person licensed under this Act and is punishable for the breach, \$2,500, and in

the case of a continuing breach, a further fine of \$200 for every day or part of a day after the first day during which the breach continues;

(b) where the offender is a servant of a person licensed as aforesaid or any other person, one-fourth of the amount specified in paragraph (a).

8. His Majesty in Council may at any time revoke any licence granted under section 3 on the breach of any of the conditions therein contained or in default of payment of any consideration payable thereunder.

Revocation
of licences.

9. (1) The Government shall not be responsible for any loss or damage which may occur in consequence —

Government
not
responsible
for loss or
damage.

(a) of any telecommunication officer failing in his duty with respect to the receipt, transmission or delivery of any message; or

(b) of any failure of telecommunication plant.

(2) No telecommunication officer shall be responsible for any such loss or damage unless he causes the same negligently, maliciously or fraudulently.

PART III

POWER TO PLACE TELECOMMUNICATION LINES AND POSTS

10. (1) The telecommunication authority may from time to time place and maintain a telecommunication line under, over, along or across, and posts in or upon, any immovable property.

Power to place
telecommuni-
cation lines
and posts.

(2) The telecommunication authority shall not exercise the powers conferred by this section except for the purposes of a telecommunication established or maintained by the Government, or to be so established or maintained, or licensed under subsection (3) of section 3.

(3) Neither the Government nor the telecommunication authority shall acquire any right other than that of user only in the property under, over, along, across, in or upon which the telecommunication authority places any telecommunication line or post.

(4) Except as hereinafter provided, the telecommunication authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority without the permission of that authority.

(5) In the exercise of the powers conferred by this section, the telecommunication authority shall do as little damage as possible and when it has exercised those powers in respect of any property other than property referred to in subsection (4) shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

Power to enter on property.

11. The telecommunication authority, its officers, servants and agents may at any time for the purpose of examining, repairing, altering or removing any telecommunication line or post, enter on the property under, over, along, across, in or upon which the line or post has been placed.

Provisions applicable to property vested in or under the control or management of local authorities

Power for local authority to impose conditions.

12. Any permission given by a local authority under subsection (4) of section 10 may be given subject to such reasonable conditions as that authority thinks fit to impose as to the payment of any expenses to which the authority will necessarily be put in consequence of the exercise of the powers conferred by that section, or as to the time or mode of execution of any work or as to any other thing connected with or relative to any work undertaken by the telecommunication authority under those powers.

13. When under the provisions of section 12 a telecommunication line or post has been placed by the telecommunication authority under, over, along, across, in or upon any property vested in or under the control or management of a local authority, and the local authority having regard to circumstances which have arisen since the telecommunication line or post was so placed considers it expedient that it should be removed or that its position should be altered, the local authority may require the telecommunication authority to remove it or alter its position, as the case may be.

Power for local authority to require removal of lines and posts.

14. (1) The telecommunication authority may, for the purpose of exercising the powers conferred upon it by this Act in respect of any property vested in or under the control or management of a local authority, alter the position thereunder of any pipe, not being a main pipe for the supply of gas or water, or of any drain, not being a main drain.

Power to alter position of pipes and drains.

(2) When the telecommunication authority desires to alter the position of any such pipe or drain, it shall give reasonable notice of its intention to do so, specifying the time at which it will begin to do so to the local authority, and when the pipe or drain is not under the control of the local authority to the person under whose control the pipe or drain is.

(3) A local authority or person receiving notice under subsection (2) may send a person to superintend the work, and the telecommunication authority shall execute the work to the reasonable satisfaction of the person so sent.

15. (1) If any dispute arises between the telecommunication authority and a local authority in consequence of the local authority refusing the permission referred to in subsection (4) of section 10, or prescribing any condition under section 12, or in consequence of the telecommunication authority omitting to comply with a requisition made under section 13, or otherwise in respect of the exercise of the powers conferred by this Act, it shall be determined by such officer as His Majesty may appoint either generally or specially in this behalf.

Dispute between authorities.

(2) An appeal from the determination of the officer so appointed shall lie to His Majesty in Council, whose order shall be final.

Provisions applicable to other property

Cases of
resistance or
obstruction.

16. (1) If the exercise of the powers mentioned in section 10 in respect of the property referred to in subsection (5) thereof is resisted or obstructed, a magistrate may, in his discretion, order that the telecommunication authority shall be permitted to exercise them.

Cap. 22.

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

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under subsection (5) of section 10, it shall, on application for that purpose by either of the disputing parties to a magistrate, be determined by him.

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

(5) Every determination of a dispute by a magistrate under subsection (3) or (4) shall be final:

Provided that nothing in this subsection shall affect the right of any person to sue for and recover the whole or any part of any

compensation paid by the telecommunication authority from the person who has received the same.

17. (1) When under the provisions of section 16 a telecommunication line or post has been placed by the telecommunication authority under, over, along, across, in or upon any property, not being property vested in or under the control or management of a local authority, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telecommunication line or post should be removed to another part thereof or to a higher or lower level or altered in form, he may require the telecommunication authority to remove or alter the line or post accordingly.

Owner of property may require removal of line or post.

(2) If compensation has been paid under subsection (5) of section 10, he shall, when making the requisition, tender to the telecommunication authority the amount requisite to defray the expense of the removal or alteration or half of the amount paid as compensation, whichever is the smaller sum.

(3) If the telecommunication authority omits to comply with the requisition, the person making it may apply to a magistrate within whose jurisdiction the property is situated to order the removal or alteration.

(4) The magistrate may, in his discretion, reject the application or make an order, absolute or subject to conditions, for the removal of the telecommunication line or post to any other part of the property or to a higher or lower level or for the alteration of its form, and the order so made shall be final.

18. (1) Where in the opinion of the telecommunication authority, there is at any time danger or suspected danger that any tree (which term in this section includes undergrowth) standing or lying near a telecommunication line may interrupt or interfere with telecommunications or cause damage to any telecommunication line, the telecommunication authority may cause the tree to be felled or dealt with in such other manner as will, in his opinion, avert the danger.

Removal of trees dangerous to or obstructing telecommunication lines or communications.

(2) Where a tree, which has been felled or otherwise dealt with under subsection (1), was in existence before the telecommunication line was placed, erected or installed, the telecommunication authority may pay to any person interested in the tree such sum as may be agreed by way of compensation; and in default of agreement shall report the matter to a magistrate, who after giving an opportunity of being heard to all persons interested, shall award, and if necessary shall apportion, such compensation as he thinks reasonable and such award shall be final.

(3) In the event of the owner or occupier of any land felling or clearing any tree or vegetation adjacent to any telecommunication line, such owner or occupier shall give to the telecommunication authority notice in writing of his intention so to do and shall take all such reasonable precautions as the telecommunication authority may require for the protection of such telecommunication line.

(4) If any such owner or occupier fails to give notice as hereinbefore provided, or having given notice fails to take such precautions as the telecommunication authority may have required, he shall be liable to pay to the telecommunication authority all costs and expenses incurred in repairing the line and re-establishing communication. The certificate of the telecommunication authority shall be conclusive evidence of the amount of such costs and expenses.

(5) If the amount due for such costs and expenses be not paid within 7 days after demand the telecommunication authority may report the same to a magistrate and such amount may be recovered in the same way as if it were a fine imposed by such magistrate.

(6) If any trees or vegetation are felled or cleared upon land adjacent to any telecommunication line it shall be presumed until the contrary is proved that such trees or vegetation were felled or cleared by the owner or occupier of the land or by his servants or agents acting as such.

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

Existing line and posts deemed to be placed under this Act.

20. This Part shall apply to a person licensed under subsection (3) of section 3 to place, lay, carry or maintain any posts, cables or wires on, along, through, under or across any land, as though references to “the telecommunication authority” wherever appearing in this Part were references to such person so licensed.

Application of Part III to a person licensed under section 3.

PART IV

PENALTIES

21. Any person who establishes, maintains or works a telecommunication within Brunei Darussalam otherwise than as permitted under section 3 or breaks any condition contained in licence granted under that section, shall be guilty of an offence: Penalty, a fine of \$5,000, and a further fine of \$2,000 for every week or part thereof during which the line is maintained or worked or the breach of the condition continues.

Unlicensed telecommunication or breach of licence.

22. Any person who, knowing or having reason to believe that a telecommunication has been established or is maintained or worked in contravention of this Act, transmits or receives any message by such telecommunication or performs any service incidental thereto, or delivers any message for transmission by such telecommunication, or accepts delivery of any message sent thereby, shall be guilty of an offence: Penalty, a fine of \$200.

Using unlicensed telecommunications.

23. Any person who —

(a) enters any part of a telecommunication office of the Government or any part of an office of a person licensed under this Act without the permission of the telecommunication officer in charge;

Intrusion or trespass or obstruction.

(b) enters a fenced enclosure, building or room of such a telecommunication office in contravention of any regulations or notice not to do so;

(c) refuses to quit such enclosure, building or room on being requested to do so by any telecommunication officer or servant employed therein; or

(d) wilfully obstructs or impedes any such officer or servant in the performance of his duty,

shall be guilty of an offence: Penalty, a fine of \$2,000.

Unlawful attempt to learn contents of messages.

24. Any person who does any of the acts mentioned in section 23, with the intention of unlawfully learning the contents of any message or of committing any offence punishable under this Act, shall be guilty of an offence: Penalty, in addition to the fine to which he is liable under section 23, imprisonment for 18 months.

Intentional damage to telecommunication.

25. Any person who, intending —

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

(b) to intercept or to acquaint himself with the contents of any message; or

(c) to commit mischief,

damages, removes, tampers with or touches any telecommunication plant, shall be guilty of an offence: Penalty, imprisonment for 5 years and a fine of \$20,000.

Offences by telecommunication officers.

26. Any telecommunication officer, or any person not being a telecommunication officer but having official duties connected with any office which is used as a telecommunication office, who —

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

(b) wilfully and otherwise than in obedience to an order of His Majesty or of an officer specially authorised by him to make the order, omits to transmit or intercepts or detains any message or any part thereof, or otherwise than in pursuance of his official duty or in obedience to the direction of a competent court, discloses the contents or any part of the contents of any message or record of any message to any person not entitled to receive the same; or

(c) divulges the purport of any message to any person not entitled to become acquainted with the same,

shall be guilty of an offence: Penalty, imprisonment for 3 years and a fine of \$16,000.

27. Any telecommunication officer who transmits or allows to be transmitted by telecommunication any message on which the charge prescribed by His Majesty in Council or by a person licensed under this Act, as the case may be, has not been paid, intending thereby to defraud the Government or that person, shall be guilty of an offence: Penalty, imprisonment for 3 years and a fine of \$16,000.

Fraudulently
sending
messages.

28. Any telecommunication officer, or other person having official duties connected with any telecommunication office, who is guilty of any act of drunkenness, carelessness or other misconduct whereby the correct transmission, or the delivery of any message is impeded or delayed, or any telecommunication officer who loiters or delays in the transmission or delivery of any message, shall be guilty of an offence: Penalty, imprisonment for 6 months and a fine of \$2,500.

Misconduct.

29. Any person who transmits or causes to be transmitted by telecommunication a message which he knows to be false or fabricated shall be guilty of an offence: Penalty, imprisonment for 5 years and a fine of \$24,000.

Sending false
messages.

30. 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 telecommunication officer to deliver up any

Fraudulent
retention of
message.

such message or record thereof neglects or refuses to do so, shall be guilty of an offence: Penalty, imprisonment for 3 years and a fine of \$16,000.

Refusal or neglect to produce message.

31. Any person who, on being required under section 6 to produce any original or transcript of a message or any record or paper relating to a message, refuses or neglects to do so, shall be guilty of an offence: Penalty, imprisonment for 6 months and a fine of \$2,500.

Telecommunication officers deemed public servants.

32. (1) A telecommunication officer shall be deemed a public servant within the meaning of sections 161, 162, 163, 164 and 165 of the Penal Code.

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(2) In the said section 161 the word “Government” shall for the purposes of this Act deemed to include a person licensed under this Act.

Cap. 22.

PART V

RADIOCOMMUNICATION

Exemption.

33. The provision of this Part shall not apply to officers or men of the Royal Brunei Police Force on the Royal Brunei Malay Regiment, and other armed forces for the time being in Brunei Darussalam, or any visiting forces present for the time being in Brunei Darussalam by virtue of any written law or by virtue of any lawful arrangement made by or on behalf of Brunei Darussalam using radiocommunication apparatus in the performance of their official duties, or to radiocommunication apparatus so used.

Interpretation.

34. (1) In this Part —

“Hertzian waves” means electromagnetic waves between 10Kc/s and 3,000,000 Mc/s;

“local aircraft” means any aircraft registered in Brunei Darussalam;

“local vessel” means any ship registered in a port of Brunei Darussalam, or any vessel licensed to be

used in the tidal waters of Brunei Darussalam, or any unlicensed vessel habitually kept in Brunei Darussalam or the territorial waters thereof;

“radiocommunication” means any telecommunication by means of Hertzian waves;

“radiocommunication apparatus” means any apparatus or any component part thereof capable of being used or being adapted for the transmission or reception of Hertzian waves;

“radiocommunication station” means a separate transmitter or receiver or a combination of transmitters and receivers including the accessory equipment required for carrying on a definite radiocommunication service;

“vehicle” means any vehicle whether mechanically propelled or not;

(2) Subject to regulations made under section 39, nothing in this Part shall prevent any person from making or using electrical apparatus for actuating machinery or for any purpose other than the transmission or reception of messages or other communications whatsoever.

35. (1) The Government shall have the exclusive privilege of establishing any radiocommunication station and of installing and working any radiocommunication apparatus for the purpose of —

Exclusive
privilege.

(a) transmitting messages or other communications whatsoever by radiocommunication within Brunei Darussalam and receiving messages or other communications whatsoever so transmitted;

(b) transmitting messages or other communications whatsoever by radiocommunication from Brunei Darussalam to any place, ship or aircraft outside Brunei Darussalam; or

(c) receiving in Brunei Darussalam messages or other communications whatsoever transmitted by radiocommunication from any place, ship or aircraft outside Brunei Darussalam.

(2) His Majesty in Council may fix the rates at which, and the conditions and restrictions subject to which, messages or other communications may be transmitted or received by radiocommunication or delivered after receipt to the person to whom they are addressed.

Grant of
licences.

36. (1) His Majesty in Council may, whenever he deems it expedient to do so, licence the establishment of any radiocommunication station or the installation or working of any radiocommunication apparatus in any place in Brunei Darussalam or on board any vessel or local aircraft or in any vehicle.

(2) His Majesty in Council may, whenever he deems it expedient to do so, issue to any person who holds a licence under subsection (1) a licence to work any radiocommunication apparatus for all or any of the purposes mentioned in section 35.

(3) His Majesty in Council may delegate his power of issuing licences to the telecommunication authority, or to such officer or officers as he thinks fit and may appoint officers for the purpose of carrying into effect the provisions of this Part:

Provided that no delegation of the power of issuing licences shall affect the exercise of such power by His Majesty in Council.

(4) All such officers shall be deemed to be public servants within the meaning of the Penal Code.

Prohibitions.

37. (1) No person shall —

(a) establish any radiocommunication station or install or work any radiocommunication apparatus in any place in Brunei Darussalam or on board any local vessel or local aircraft or in any vehicle; or

(b) offer for sale, sell, or have in his possession with a view to sale radiocommunication apparatus or material,

except under and in accordance with a licence granted under this Part.

(2) Every such licence shall be in such form and for such period as His Majesty in Council determines and shall contain such terms, conditions and restrictions, on and subject to which the licence is granted, as His Majesty in Council considers desirable in the public interest.

(3) Any person who is in possession of any radiocommunication apparatus intended for transmitting or receiving messages by radiocommunication shall be deemed until the contrary is proved to have worked the same.

(4) The occupier of any dwelling-house or premises in which is installed any radiocommunication apparatus for receiving any messages by radiocommunication in respect of which a licence is not in force shall be guilty of an offence: Penalty, a fine of \$4,000.

(5) It shall be a defence to a prosecution for an offence against subsection (4) 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 apparatus in question.

38. (1) Any person who establishes a radiocommunication station or installs or works any radiocommunication apparatus without a licence shall be guilty of an offence: Penalty, imprisonment for 5 years and a fine of \$24,000, and in either case shall be liable to forfeit any radiocommunication apparatus installed or worked without a licence.

Penalty for unlicensed station.

(2) If a magistrate is satisfied by information on oath that there is reasonable ground for believing that a radiocommunication station has been established or that any radiocommunication apparatus has been installed or worked

without a licence in a place in Brunei Darussalam or on board any local vessel or local aircraft, he may grant a search warrant to any police officer to enter and inspect the station, place, local vessel or local aircraft and to seize any apparatus which appears to him to be used or intended to be used for radiocommunication therein.

(3) A police officer may seize any apparatus which is found by him in any vehicle and which appears to him to be used or intended to be used without a licence for radiocommunication therein.

Power to make
regulations.
[S 5/89]

39. (1) His Majesty in Council may make regulations to provide for —

(a) the forms of licences and the manner in which applications for licences under this Part are to be made;

(b) the terms, conditions and restrictions on and subject to which such licences are granted and the duties of licensees;

(c) the fees payable on the grant of any such licence;

(d) the working and use of radiocommunication apparatus;

(e) the licensing of dealers in and the sale or transfer of radiocommunication apparatus;

(f) the working or using of any radiocommunication apparatus in any vehicle or on board any vessel, whether local or foreign, while in the territorial waters of Brunei Darussalam;

(g) the working or using of any radiocommunication apparatus on any aircraft, whether local, British or foreign, while in or over Brunei Darussalam or the territorial waters thereof;

(h) the examination and issue of certificates of proficiency to radiocommunication operators;

(i) the secrecy of radiocommunications;

(j) electrical interference with the working or using of any radiocommunication apparatus and the requirements to be complied with in the case of any apparatus to prevent or reduce such interference; or

(k) all matters which by this Part are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Part.

(2) Any of such regulations may provide penalties, not exceeding a fine of \$4,000, for breach of any of the provisions thereof.

(3) No regulations made in respect of the matters described in paragraphs (f) and (g) of subsection (1) shall apply to the use of radiocommunication for the purpose of making or answering signals of distress.

40. If on the occurrence of any public emergency or in the interest of public safety or tranquillity, His Majesty in Council is of opinion that the Government should have control over the transmission or reception of messages by radiocommunications, then after publication of notice to that effect in the *Gazette* and until further notice, the use of radiocommunication at any radiocommunication station and by any installation or apparatus for radiocommunication in Brunei Darussalam or on board any vessel in the territorial waters of Brunei Darussalam or on any aircraft in or over Brunei Darussalam or its territorial waters or in any vehicle shall be subject to such orders, rules or regulations as His Majesty in Council may make, either before or after the occurrence of the emergency, and such orders, rules or regulations may —

Control of
apparatus in
an emergency.

(a) prohibit or regulate such use in all cases or in such cases as may be deemed desirable; or

(b) provide for —

- (i) the taking possession of, the control of or the usage for official purposes of all radiocommunication stations and apparatus, and the payment of compensation for any damage caused thereby;
- (ii) the stopping, delaying and censoring of all messages received, transmitted or submitted for transmission;
- (iii) the carrying out of any other purpose which His Majesty in Council thinks necessary:

Provided that nothing in such orders, rules or regulations shall apply to the use of radiocommunication for the purpose of making or answering signals of distress.

Licences for experimental purposes.

41. (1) When an applicant for a licence proves to the satisfaction of His Majesty that the sole object of obtaining the licence is to enable him to conduct experiments in radiocommunication, a licence for that purpose may be granted in accordance with the regulations made under section 39 and may not be subject to any rent or royalty.

(2) The expression “rent or royalty” in subsection (1) does not include fees charged in respect of the grant or renewal of licences.

Penalty for breach of conditions of licence.

42. (1) Every omission or neglect to comply with, and every act done or attempted to be done contrary to this Part or any regulation made thereunder, or in breach of the conditions and restrictions subject to or upon which any licence has been issued, shall be guilty of an offence: Penalty, a fine of \$4,000 and any article used in connection with such offence shall be forfeited.

(2) In the case of a conviction involving a fine the court inflicting such fine may direct, on the application of the officer

conducting the prosecution, that any part not exceeding one-half thereof shall be paid to any person who has given such information as had led to the conviction of the offender or offenders, or if there are more than one such person may direct that it be divided amongst them in such proportions as the Court deems fit.