

The Telecom Regulatory Authority of India Act, 1997

No. 24 of 1997

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Secy. to the Govt. of India

CHAPTER I

Preliminary

- a. This Act may be called the Telecom Regulatory Authority of India Act, 1997.
- b. It extended to the whole of India.
- c. It shall be deemed to have come into force on the 25th day of January, 1997.;

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

- a. "appointed day" mean the date with effect from which the Authority is established under sub-section (1) of section 3;
- b. "Authority" means the Telecom Regulatory Authority of India established under sub-section (1) of section 3;
- c. "Chairperson" means the Chairperson of the Authority appointed under sub-section (3) of section 3;
- d. "Fund" means the Fund constituted under sub-section (1) of 22;
- e. "Licencee" means any person licenced under sub-section (1) of section 4 of the Indian Telegraph Act, 1885 for providing specified public telecommunication services;
- f. "member" means a member of the Authority appointed under sub-section (3) of section 3 and includes the Chairperson and Vice-Chairperson ;
- g. "notification" means a notification published in the Official Gazette;
- h. "prescribed" means prescribed by rules made under this Act;
- i. "regulations" means regulations made by the Authority under this Act;

- j. "service provider" means the Government and includes a licensee;
- k. "telecommunication service" means service of any description (including electronic mail, voice mail, data services, audio tex service, video tex services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electro-magnetic means but shall not include broadcasting services.

(2) Words and expressions used and not defined in this Act but defined in the Indian Telegraph Act, 1885 or the Indian Wireless Telegraphy Act, 1933 shall have the meanings respectively assigned to them in those Acts.

(3) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall in relation to that State be construed as a reference to the corresponding law, if any, in that State.

CHAPTER II

Telecom Regulatory Authority of India

Establishment and incorporation of Authority	3 (a) With effect from such date as the Central Government may, by notification appoint, there shall be established , for the purposes of this Act, an Authority to be called the Telecom Regulatory Authority of India. (b) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable , and to contract, and shall, by the said name, sue or be sued. (c) The authority shall consist of a Chairperson, and not less than two, but not exceeding six members , to be appointed by the Central Government (d) The head office of the Authority shall be at New Delhi.	
Qualifications for appointment of Chairperson and other Members.	4 (a) The Chairperson shall be a person who is or has been a Judge of the Supreme Court or who is or has been Chief Justice of a High Court . (b) A Member shall be a person who has special knowledge of, any professional experience, in telecommunication, industry, finance, accountancy, law, management and consumer affairs; Provided that a person who is or has been in the service of Government shall not be appointed as a member unless	

	such person has held the post of Secretary or Additional Secretary, or the post of Additional Secretary and Secretary to the Government of India or any equivalent post in the Central Government or the State Government for a period of three years.	
	5 (a) Before appointing any person as the Chairperson or Member, the Central Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such member. (b) The Chairperson shall hold office for a term of five years from the date on which he enters upon his office . (c) A member shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty five years, whichever is earlier. (d) The employee of the Government on his selection as member shall have to retire from service before joining as a member. (e) The salary and allowances payable to and the other terms and conditions of service of the Chairperson and other members shall be such as may be prescribed. (f) The salary, allowances and other conditions of service of the Chairperson or of a member shall not be varied to this disadvantage after appointment. (g) Notwithstanding anything contained in sub-section (2) or sub-section (3), a member may- relinquish his office by giving in writing to the Central Government notice of not less than three months; or be removed from his office in accordance with the provisions of section 7. (h) The Chairperson or any other member ceasing to hold office as such, shall- be eligible for further employment under the Central Government or any State Government; or not accept any commercial employment, for a period of two years from the date he ceases to hold such office. (i) A vacancy caused to the office of the Chairperson or any other member shall be filled up within a period of three months from the date on which such vacancy occurs. Explanation - For the purposes of this section, "commercial employment" means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in any field and includes	Term of office conditions of service, etc., of Chair-person and other members.

	also a director of a company or partner of a firm and it also includes setting up practice either independently or as partner of a firm or as an adviser or a consultant.	
	6 (a) The Chairperson shall have powers of general superintendence and directions in the conduct of the affairs of the Authority and he shall, in addition to presiding over the meetings of the Authority, exercise and discharge such powers and functions of the Authority and shall discharge such other powers and functions as may be prescribed. (b) The Central Government may appoint one of the members to be a Vice-Chairperson of the Authority who shall exercise and discharge such powers and functions of the Chairperson as may be prescribed or as may be delegated to him by the Authority.	Powers of Chairperson and Vice-Chairperson
	7 (1) The Central Government may remove from office any member, who,- - has been adjudged an insolvent; or - has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or - has become physically or mentally incapable of acting as a member ; or - has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or - has so abused his position as to render his continuance in office prejudicial to be public interest. (2) Notwithstanding anything contained in sub-section (1), no member shall be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless the Supreme Court on a reference being made to it in this behalf by the Central Government, has, on an enquiry, held by it in accordance with such procedure as prescribed in this behalf, reported that the member ought on such ground or grounds to be removed. (3) The Central Government may suspend from office a member in respect of whom a reference has been made to the Supreme Court under Sub-Section (2) until the Central Government has passed an order on receipt of the report of the Supreme Court on such reference.	Removal and suspension of member from office in certain circum-stance
Meetings	8 (1) The Authority shall meet at such times and places, and shall observe such rules of procedures in regard to the	

	transaction of business at its meetings (including quorum at such meetings) as may be provided by regulations. (2) The Chairperson or, if for any reason, he is unable to attend a meeting of the Authority, Vice-Chairperson and in his absence , any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting. (3) All questions which come up before any meeting of the Authority shall be decided by a majority vote of the members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the person presiding, shall have a second or casting vote. (4) The Authority may make regulations for the transaction of business at its meetings.	
Vacancies, etc, not to invalidate proceedings of Authority.	9. No act or proceeding of the Authority shall be invalid merely by reason of- any vacancy in, or any defect in the constitution of, the Authority; or any defect in the appointment of a person acting as a member of the Authority; or any irregularity in the procedure of the Authority not affecting the merits of the case.	
Officers and other employees of Authority.	10. (1) The Authority may appoint officers and such other employees as it considers necessary for the efficient discharge of its functions under this Act. (2) The salary and allowances payable to and the other conditions of service of the officers and other employees of the Authority appointed under sub-section (1) shall be such as may be determined by regulations.	

CHAPTER III

Powers and Functions of the Authority

Functions of Authority	11. (1) Notwithstanding anything contained in the Indian Telegraph Act, 1885 the functions of the Authority shall be to- recommend the need and timing for introduction of new service provider; recommend the terms and conditions of licence to a service provider; ensure technical compatibility and effective inter-connection between different service providers;	
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	regulate arrangement amongst service providers of sharing their revenue derived from providing telecommunication services; ensure compliance of terms and conditions of licence; recommend revocation of licence for non-compliance of terms and conditions of licence; laydown and ensure the time period for providing local and long distance circuits of telecommunication between different service providers; facilitate competition and promote efficiency in the operation of telecommunication services so as to facilitate growth in such services; protect the interest of the consumers of telecommunication service; monitor the quality of service and conduct the periodical survey of such provided by the service providers; inspect the equipment used in the network and recommend the type of equipment to be used by the service providers; maintain register of interconnect agreements and of all such other matters as may be provided in the regulations; keep register maintained under clause (l) open for inspection to any member of public on payment of such fee and compliance of such other requirements as may be provided in the regulations; settle disputes between service providers; render advice to the Central Government in the matters relating to the development of telecommunication technology and any other matter reliable to telecommunication industry in general; levy fees and other charges at such rates and in respect of such services as may be determined by regulations; ensure effective compliance of universal service obligations; perform such other functions including such administrative and financial functions as may be entrusted to it by the Central Government or as may be necessary to carry out the provisions of this Act.	
13 of 1885	(2) Notwithstanding anything contained in the Indian Telegraph Act, 1885, the Authority may, from time to time, by order, notify in the Official Gazette the rates at which the telecommunication services within India and outside India shall be provided under this Act including the rates at which messages shall be transmitted to any country outside India; Provided that the Authority may notify different rates for	Powers of Authority to call or information conduct invest-igations,

	different persons or class of persons for similar telecommunication services and where different rates are fixed as aforesaid the Authority shall record the reasons therefor. (3) While discharging its functions under sub-section (1), the Authority shall not act against the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality. (4) The Authority shall ensure transparency while exercising its powers and discharging its functions.	etc
	12. (1) Where the Authority considers it expedient so to do, it may, by order in writing. call upon any service provider at any time to furnish in writing such information or explanation relating to its affairs as the Authority may require; or appoint one or more persons to make an inquiry in relation to the affairs of any service provider; and direct any of its officers or employees to inspect the books of account or other documents of any service provider. (2) Where any inquiry in relation to the affairs of a service provider has been undertaken under sub-section (1)- every officer of the Government Department, if such service provider is a department of the Government; every director, manager, secretary or other officer, if such service provider is a company; or every partner, manager, secretary or other officer, if such service provider is a firm; or every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (b) and (c), shall be bound to produce before the Authority making the inquiry, all such books of account or other documents in his custody or power relating to, or having a bearing on the subject-matter of such inquiry and also to furnish to the Authority with any such statement or information relating thereto, as the case may be, required of him, within such time as may be specified. (3) Every service provider shall maintain such books of account or other documents as may be prescribed. (4) The Authority shall have the power to issue such directions to service providers as it may consider necessary for proper functioning by service providers.	

Powers of Authority to issue directions.	13. The Authority may, for the discharge of its functions under sub-section (1) of section 11, issue such directions from time to time to the service providers, as it may consider necessary.	
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CHAPTER V

Finance, Accounts and Audit

Grants by Central Government.	21. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as are required to pay salaries and allowances payable to the Chairperson and the members and the administrative expenses including the salaries, allowances and pension payable to or in respect of officers and other employees of the Authority.	
Fund	22. 1) There shall be constituted a Fund to be called the Telecom Regulatory Authority of India General Fund and there shall be credited thereto- All grants, fees and chargers received by the Authority under this Act; and All sums received by the Authority from such other sources as may be decided upon by the Central Government. The Fund shall be applied for meeting- The salaries and allowances payable to the Chairperson and members and the administrative expenses including the salaries, allowances and pension payable to or in respect of officers and other employees of the Authority; and The expenses on objects and for purposes authorised by this Act.	
Accounts and Audit	23. (1) The Authority shall maintain proper accounts and other relevant records and prepared an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India. (2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such auditor shall be payable by the Authority to the Comptroller and Auditor-General of India. (3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges and authority in connection with such audit as the	

	Comptroller and Auditor-General generally has, in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority. (4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.	
Furnishing of returns, etc. to Central Government.	24. (1) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the telecommunication services, as the Central Government from time to time require. (2) The Authority shall prepare once every year in such form and at such time as may be prescribed , an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government. (3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.	

CHAPTER VI

Miscellaneous

	25. (1) The Central Government may, from time to time , issue to the Authority such directions as it may think necessary in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality. (2) Without prejudice to the foregoing provisions, the Authority shall, in exercise of its powers or the performance of its functions, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time: Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.	Powers of Central Government to issue directions
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	(3) The decision of the Central Government whether a question is one of policy or not shall be final.	
45 of 1860	26. All members, officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act to be public servants within the meaning of section 21 of the Indian Penal Code.	Members, officers and employees of Authority to be public servants.
	27. No civil court shall have jurisdiction in respect of any matter which the Authority is empowered by or under this Act to determine.	Bar of jurisdiction
	28. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Authority or any officer of Central government or any member, officer or other employees of the Authority for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.	Protection of action taken in good faith.
	29. If a person violates directions of the Authority, such person shall be punishable with fine which may extend to one lakh rupees and in case of second or subsequent offence with fine which may extend to two lakh rupees and in the case of containing contravention with additional fine which may extend to two lakh rupees for every day during which the default continues.	Penalty for contravention of directions of Authority.
	30. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in such sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a	Offences by companies.

	company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. Explanation – For the purposes of this section- "company" means any body corporate and includes a firm or other association of individuals; and "director", in relation to a firm, means a partner in the firm.	
	31. (1) Where an offence under this Act has been committed by any Department of government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the Commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.	Offences by Government Departments.
Exempt- ion from tax on wealth and income.<	32. Notwithstanding anything contained in the Wealth-tax Act, 1957, the Income Tax Act, 1961, or any other enactment for the time being in force relating to tax on wealth, income, profits or gains, the Authority shall not be liable to pay wealth-tax , income tax or any other tax in respect of their wealth, income, profits or gains derived.	27 of 1957 43 of 1961
Delegat- ion	33. The Authority may, by general or special order in writing, delegate to any member, officer of the Authority or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to settle dispute under Chapter IV and to make regulation under section 36	

	as it may deem necessary.	
Cognizance of offences.	34. (1) No court shall take cognizance of any offence punishable under this Act or the rules or regulations made thereunder, save on a complaint made by the Authority. (2) No court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate of first class shall try any offence punishable under this Act.	
Power to make rules.	35. (1) The Central government may, by notification, make rules for carrying out the purposes of this Act. (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely;- the salary and allowances payable to and the other conditions of service of the Chairperson and members under sub-section (5) of section 5; the powers and functions of the Chairperson under sub-section (1) of section 6; the procedure for conducting an inquiry made under sub-section (2) of section 7; the category of books of accounts or other documents which are required to be maintained under sub-section (3) of section 12; the period within which an application is to be made under sub-section (1) of section 15; the manner in which the accounts of the Authority shall be maintained under sub-section (1) of section 23; the time within which and the form and manner in which returns and report are to be made to the Central Government under sub-section (1) and (2) of section 24; any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules;	
Power to make regulations.	36. (1) The Authority may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of Act. (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:- the times and places of meetings of the Authority and the procedure to be followed at such meetings under sub-section (1) of section 8, including quorum necessary	

	for the transaction of business; the transaction of business at the meetings of the Authority under sub-section (4) of section 8; the salaries and allowances payable to and the other conditions of service of officers and other employees of the Authority under sub-section (2) of section 10; matters in respect of which register is to be maintained by the Authority under clause (l) of sub-section (l) of section 11; levy of fee and lay down such other requirements on fulfilment of which a copy of register may be obtained under clause (m) of sub-section (l) of section 11; levy of fees and other charges under clause (p) of sub-section (1) of section 11.	
	37. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.	Rules and regulations to laid before Parliament.
13 of 1885 17 of 1933	38. The provisions of this Act shall be in addition to the provisions of the Indian Telegraph Act, 1885 and the Indian Wireless Telegraphy Act, 1933 and , in particular nothing in this Act shall affect any jurisdiction, powers and functions required to be exercised or performed by the Telegraph Authority in relation to any area falling within the jurisdiction of such Authority.	Application to certain laws.
	39. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty;	Power to remove difficulties.

	Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act. (2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.	
Ord. 11 of 1997	40. (1) The Telecom Regulatory Authority of India Ordinance 1997 is hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.	Repeal and saving.

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