

THE TELEGRAPH WIRES (UNLAWFUL POSSESSION) ACT, 1950

ARRANGEMENT OF SECTIONS

SECTIONS

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THE TELEGRAPH WIRES (UNLAWFUL POSSESSION) ACT, 1950

ACT NO. 74 OF 1950

[28th December, 1950.]

An Act to regulate the possession of telegraph wires and to provide for the punishment of the offence of unlawful possession thereof.

BE it enacted by Parliament as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Telegraph Wires (Unlawful Possession) Act, 1950.

(2) It extends to the whole of India.

(3) It shall come into force in any State on such date¹ as the Central Government may, by notification in the Official Gazette, appoint for such State, and different dates may be appointed for different States.

2. Definitions.—In this Act,—

(a) “prescribed” means prescribed by rules made under this Act;

²[(b) telegraph wire means any copper wire the diameter of which in millimetres, is—

(i) not less than 2.43 and not more than 2.53; or

(ii) not less than 2.77 and not more than 2.87; or

(iii) not less than 3.42 and not more than 3.52.]

3. Duty to declare possession of telegraph wires.—Every person in possession of telegraph wires shall, within six months from the commencement of this Act, make a declaration in writing, in such form and to such authority as may be prescribed, stating the quantity of telegraph wires in his possession.

4. Duty to have telegraph wires converted or sold.—Every person in possession of telegraph wires which exceed ten pounds in weight shall, within one year from the commencement of this Act, have the whole of the quantity as is in excess of ten pounds converted into ingots:

Provided that it shall be open to any such person to sell the whole or any part of the telegraph wires in his possession at such price and to such authority as may be prescribed.

³ [4A. **Prohibition of sale or purchase of telegraph wires.**—No person shall, after the commencement of the Telegraphs Wires (Unlawful Possession) Amendment Act, 1953 (53 of 1953), sell or purchase any quantity of telegraph wires except with the permission of such authority as may be prescribed.]

⁴[5. **Penalty for unlawful possession of telegraph wires.**—Whoever is found or is proved to have been in possession of any quantity of telegraph wires shall unless he proves that the telegraph wires came into his possession lawfully, be punishable,—

⁵[(a) for the first offence, with imprisonment for a term which may extend to five years, or with fine, or with both, and, in the absence of special and adequate reasons to be recorded in the judgment of the Court, the term of such imprisonment shall not be less than one year and such fine shall not be less than one thousand rupees;]

1. Came into force in the whole of India except the State of Jammu and Kashmir on 1st April, 1951, *vide* S.R.O. 364, dated the 9th March, 1951, *see* Gazette of India Part II, s. 3, in the State of Jammu and Kashmir on 15th July, 1954, *vide* S.R.O., 2251, dated the 1st July, 1954, *see* Gazette of India, Part II, s. 3, in Dadra and Nagar Haveli on 1st September, 1965, *vide* S.O. 2523, dated the 7th August, 1965, *see* Gazette of India, Part II, s. 3(ii).

This Act has been extended to the Union territory of Goa, Daman and Diu, *vide* S.O. 2735, dated 1st September, 1962, *see* Gazette of India Part II, s. 3(ii) (w.e.f. 1-9-1962); Dadra and Nagar Haveli by Reg. 6 of 1963, s. 2 and the Schedule I (w.e.f. 1-7-1965) and the Union territory of Pondicherry by Act 26 of 1968, s. 3 and Schedule.

2. Subs. by Act 44 of 1975, s. 2, for clause (b) (w.e.f. 7-8-1975).

3. Ins. by Act 53 of 1953, s. 3 (w.e.f. 30-12-1953).

4. Subs. by Act 15 of 1962, s. 2, for section 5 (w.e.f. 30-3-1962).

5. Subs. by Act 44 of 1975, s. 3, for clause (a) (w.e.f. 7-8-1975).

(b) for the second or a subsequent offence, with imprisonment for a term which may extend to five years and also with fine and in the absence of special and adequate reasons ¹[to be recorded in the judgment of the Court, the term of such imprisonment] shall not be less than two years and such fine shall not be less than two thousand rupees:

Provided that where a person has made a declaration under section 3 in relation to any quantity of telegraph wires, the burden of proving, in respect of the quantity so declared that it came into his possession lawfully, shall not be on such person.]

6. Penalty for contravention of provisions of section 3 or section 4.—Any person who fails to make a declaration as required by section 3 or ²[contravenes the provisions of section 4 or section 4A] shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both).

³**6A. Powers of search and seizure.**—(1) A police officer not below the rank of a sub-inspector may seize, or search any place and seize,—

(i) any telegraph wire;

(ii) any conveyance or animal used for the transport of such telegraph wire,

if a reasonable suspicion exists that any provision of this Act has been, or is being, or is about to be, contravened in respect of such telegraph wire.

(2) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches and seizure shall, so far as may be, apply to searches and seizures made under this section.

6B. Confiscation of telegraph wires, conveyances, etc.—Where any person has been convicted for the contravention of any of the provisions of this Act, the telegraph wires in relation to which the contravention has been made, and any conveyance or animal used for the transport of such telegraph wires, shall be liable to confiscation by the Court unless the owner of the conveyance or animal proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance or animal and that each of them had taken all reasonable precautions against such use:

Provided that where any such conveyance or animal is used for the transport of goods or passengers for hire, the owner of the conveyance or animal shall be given an option to pay in lieu of the confiscation of the conveyance or animal, a fine not exceeding the market price of the conveyance or animal on the date of seizure thereof or the value of the telegraph wires in relation to which the contravention has been made, whichever is less:

Provided further that any telegraph wires, so seized and confiscated shall be handed over by the Court to such authority as may be specified by the Central Government.]

7. Cognizance of offences.—⁴[(1) No Court shall take cognizance of any offence punishable under this Act, except on a report in writing of the facts constituting such offence made by a person who is a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).]

(2) No Court inferior to that of a presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

8. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to carry 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:—

(a) the form in which, and the authorities to which, declarations under section 3 may be made;

1. Subs. Act 44 of 1975, s. 3, for “to be mentioned in the judgment of the Court, such imprisonment” (w.e.f. 7-8-1975).

2. Subs. by Act 53 of 1953, s. 5, for “fails to comply with the provisions of section 4” (w.e.f. 30-12-1953).

3. Ins. by 44 of 1975, s. 4 (w.e.f. 7-8-1975).

4. Subs. by s. 5, *ibid.*, for sub-section (1) (w.e.f. 7-8-1975).

(b) the authorities to which, and the prices at which, telegraph wires may be sold under section 4.

¹[(3) Every rule made under this section 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 ²[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 both Houses agree that the rule should not be made, the rule 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.]

1. Ins. by Act 15 of 1962, s. 3 (w.e.f. 30-3-1962).

2. Subs. by Act 44 of 1975, s. 6, for “or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following” (w.e.f. 7-8-1975).