



TRISTAN DA CUNHA

REVISED EDITION OF THE LAWS, 2017

INFRASTRUCTURE AND PUBLIC UTILITIES

TELECOMMUNICATIONS (TRISTAN DA CUNHA) ORDINANCE, 1997¹

Ordinance T6 of 1997

In force 27 February 1997

No amendments to 1 November 2017

No subsidiary legislation to 1 November 2017

TELECOMMUNICATIONS (TRISTAN DA CUNHA) ORDINANCE, 1997

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AN ORDINANCE to make provision for the licensing and control of telecommunications and telecommunication apparatus and equipment.

PART 1
CONTROL OF TELECOMMUNICATIONS

Short title

1. This Ordinance may be cited as the Telecommunications (Tristan da Cunha) Ordinance, 1997.

Interpretation

2. In this Ordinance, unless the context otherwise requires—
 - “**Authority**” means the Telecommunications Authority;
 - “**Government**” means Her Majesty’s government in right of Tristan da Cunha;
 - “**licensee**” means the holder of a licence for the time being in force under this Ordinance;
 - “**message**” means any communication sent or received or made by telecommunication or given to a telecommunications officer to be sent by telecommunication or to be delivered;
 - “**radiocommunication**” means communication by radio waves;
 - “**sound broadcast receiving apparatus**” means an apparatus which is capable of receiving sound only, transmitted by means of radiocommunication or by wire for reception by the general public;
 - “**telecommunication**” means any transmission, emission or reception of signs, signals, writing, images, sounds or intelligence of any nature by visual means or by wire or radio waves or any other electromagnetic system;
 - “**telecommunication installation**” means any apparatus or equipment maintained for or in connection with a telecommunication service;
 - “**telecommunication officer**” means any person employed with a telecommunication service;
 - “**telecommunication service**” means the provision of facilities for use by members of the

public or by any person for the transmission or reception of messages or the provision on loan, lease or hire to members of the public or to any person of apparatus for telecommunications either within Tristan da Cunha or with any place outside Tristan da Cunha;

“**Telecommunications Authority**” means the Administrator.

Application to Crown

3. Except as otherwise expressly provided, this Ordinance does not bind the Crown or apply to any means of telecommunication established or maintained by the Crown or to any apparatus for telecommunication possessed or used by the Crown for the purpose of or in connection with any such means of telecommunication.

Saving of Crown rights

4. This Ordinance does not prevent the Crown from establishing and maintaining any means of telecommunication to the exclusion of all other persons.

Delegation of powers by Authority

5. The Authority may, in writing, delegate to any public officer, either generally or for any particular occasion and either by name or by reference to a public office, such of the Authority’s powers and functions under this Ordinance as the Authority considers necessary:

But no delegation made under this section precludes the Authority from exercising or performing at any time any of the powers or functions so delegated.

Power of Authority to grant licences

6. Subject to regulations made under section 23, the Authority may, in accordance with this Ordinance, grant to such persons as the Authority thinks fit licences to establish and maintain any means of telecommunication and to possess and use apparatus for radiocommunication or any apparatus of any kind that generates and emits radio waves.

Prohibition of establishment and maintenance of means of telecommunication, etc.

7. (1) Except under and in accordance with a licence granted by the Authority, no person may in Tristan da Cunha—

- (a) establish or maintain any means of telecommunication;
- (b) possess or use any apparatus for radiocommunication;
- (c) deal in the course of trade or business in apparatus or material for radiocommunication or in any component part of any such apparatus; or
- (d) demonstrate, with a view to sale in the course of trade or business, any apparatus or material for radiocommunication.

(2) The fact that the person from whom any apparatus for telecommunication is loaned, leased or hired, or the person maintaining a means of telecommunication of which other apparatus forms part or with which other apparatus is connected, is the holder of a licence granted under this Ordinance, does not exempt the person to whom the apparatus is loaned, leased or hired, or the person maintaining, possessing or using the apparatus forming

part of, or connected with, such means of telecommunication, as the case may be, from the necessity to obtain any licence or licences required under this Ordinance.

(3) This section does not affect any public telephonic communication supplied by wire.

- (4) A licence is not required under subsection (1) in respect of—
- (a) any sound broadcast receiving apparatus;
 - (b) any material or component part of such sound broadcast receiving apparatus;
 - (c) any television receiver;
 - (d) any material or component part of a television receiver;
 - (e) any closed circuit television system consisting of a television transmitter unit, with or without an associated audio system, connected to reception units by wire or other material substance which does not cross a public street or unleased Crown land, if the system is operated solely for internal information or security communication purposes solely within premises occupied by the person operating the system or for private entertainment purposes in domestic premises occupied by such person.

Control of import of radiocommunication transmitting apparatus

8. Except under and in accordance with a permit granted by the Authority, no person may import into Tristan da Cunha any radiocommunication transmitting apparatus unless the person is the holder of a licence authorising the person to deal in the course of trade or business in such apparatus.

Control of use of radiocommunication apparatus on vessel in Tristan da Cunha waters

9. (1) Except as otherwise provided in this section, no radiocommunication apparatus on board a vessel (other than a ship of war) may be used while the vessel is in the waters of Tristan da Cunha even if a licence, whether granted under this Ordinance or under the law of any other territory, is in force in respect of such apparatus.

(2) When a vessel is under way in the waters of Tristan da Cunha, radio communication apparatus on board the vessel may be used to communicate on minimum power with the nearest coast station, or, if communication with the nearest coast station is impracticable and the safe navigation of the vessel so requires, with a more distant coast station or another vessel.

(3) Radiocommunication apparatus on board a vessel that is in the waters of Tristan da Cunha may be used, for the purpose of summoning assistance on the occasion of danger to the life of any person or to the vessel.

(4) A person who has been granted a licence for the purposes of section 7(1) to possess or use any apparatus for radiocommunication upon any vessel may, subject to the terms of the licence, use such apparatus in the waters of Tristan da Cunha for communication with the base station of the radiocommunication system of which the vessel is a mobile station or with another mobile station of that system.

(5) Apparatus for radiocommunication upon any vessel may be used to communicate with a signal station or any other station in connection with—

- (a) the services of a pilot or the piloting of a vessel;
- (b) the berthing and unberthing of a vessel;
- (c) the towing or salvage of a vessel; or
- (d) the supply of water or fuel to a vessel.

(6) Subject to the terms of any licence relating thereto granted in or outside Tristan da Cunha, a ship earth station may be used to communicate with any coast earth station by means of the maritime mobile satellite service provided by INMARSAT.

(7) With the permission in writing of the Authority, radiocommunication apparatus on board a vessel in the waters of Tristan da Cunha may be used for such period and for such purposes as the Authority permits.

(8) This section does not apply to the proper operation of—

- (a) any sound broadcast receiving apparatus; or
- (b) any television receiver.

(9) For the purposes of this section—

- (a) “**earth station**” means an earth station approved by INMARSAT;
- (b) “**INMARSAT**” means the International Maritime Satellite Organisation established under the Convention on the International Maritime Satellite Organisation (Inmarsat) (London 3 September 1976);
- (c) “**vessel**” includes any ship or boat or any other description of vessel used in navigation and for the avoidance of doubt includes a Tristan longboat.

No interference to telecommunications when apparatus on board vessel is used

10. Except where life or the safety of any vessel is at risk, section 9 does not authorise the use of any radiocommunication apparatus in such manner as to cause interference with any other means of telecommunication within Tristan da Cunha.

Possession of telecommunication station or apparatus taken by Government in emergencies

11. (1) If, in the opinion of the Administrator, an emergency has arisen in which it is expedient for the public service that the Government of Tristan da Cunha should have control over telecommunication stations and telecommunication apparatus, the Administrator, by warrant under his or her hand, may –

- (a) direct or cause such telecommunication stations or apparatus as are specified in the warrant to be taken possession of and to be used for the service of the Government, and, subject thereto, for such ordinary service as may seem fit; or
- (b) direct and authorise such persons as the Administrator thinks fit to assume control of such telecommunication stations or apparatus as he or she specifies and in such manner as he or she directs.

(2) Any such warrant does not have effect for a longer time than one week from the issuing of it, but the Administrator may issue successive warrants from week to week for as long as, in his or her opinion, the emergency continues.

(3) The Government of Tristan da Cunha must pay to the owner of any telecommunication station or apparatus taken possession of under this section, as compensation for any loss of profit sustained by the owner by reason of the exercise of the powers conferred by this section, a sum fixed by agreement between the Government and the owner or, in case of difference, by arbitration.

PART II OFFENCES AND PENALTIES

Contravention of section 7 an offence

12. A person who contravenes section 7(1) commits an offence.
Penalty: A fine of £2000 or to imprisonment for 2 years.

Contravention of section 8 an offence

13. A person who contravenes section 8 commits an offence.
Penalty: A fine of £500 or imprisonment for 6 months.

Penalty in event of contravention of section 9

14. If there is a contravention of section 9, the master of the vessel or the person at whose direction the radiocommunication apparatus was used commits an offence.
Penalty: A fine of £500.

Transmitting or receiving messages, etc., by unlicensed means of telecommunication

15. A person who, knowing, or having reason to believe that a means of telecommunication is being maintained in contravention of this Ordinance, transmits or receives any message by such means of telecommunication or performs any service incidental to the transmission or reception of any such message or delivers any message for transmission by such means of telecommunication or takes delivery of any message sent thereby commits an offence.
Penalty: A fine of £500.

Transmission of false messages

16. A person who transmits, or causes to be transmitted, by telecommunication a message that the person knows to be false commits an offence.
Penalty: A fine of £250 or imprisonment for 3 months.

Penalty for contravention of order under section 19

17. A person who fails to comply with an order under section 19 commits an offence.
Penalty: A fine of £500 or imprisonment for 6 months.

Obstruction of Authority, etc.

18. A person who wilfully obstructs the Authority or any public officer in the exercise of any power conferred upon him or her by this Ordinance commits an offence. Penalty: A fine of £250 or imprisonment for 3 months.

PART III SUPPLEMENTARY AND MISCELLANEOUS

Power of Administrator to prohibit transmission of messages, etc.

19. Whenever the Administrator considers that the public interest so requires, the Administrator, or any public officer authorised in that behalf by the Administrator either generally or for any particular occasion, may order –

- (a) that any message or any class of message brought for transmission by telecommunication must not be transmitted; or
- (b) that any message or any class of messages brought for transmission, or transmitted or received or being transmitted, by telecommunication is to be intercepted or detained or disclosed to the Government or to the public officer specified in the order.

General provisions as to licences, etc.

20. (1) A licence granted under this Ordinance by the Authority is valid for such period, and is subject to the payment of such fee, annually or otherwise, as is specified in the licence, and is be subject to any conditions the Authority specifies. If the Administrator considers it desirable in the public interest, he or she may confer on the person to whom it is granted an exclusive right to maintain any service to the public in connection with which the licence is granted.

(2) A licence granted under this Ordinance by the Authority may, with the consent in writing of the person to whom it was granted, be amended by order of the Authority.

(3) Every licence granted under this Ordinance by the Authority is valid for the period or until the day prescribed by the regulations, and, except as otherwise provided by the regulations, may be renewed for a period of one year at a time.

(4) A licence, permit, permission or consent granted under this Ordinance by the Authority is subject to any conditions prescribed by or under the regulations and to any other conditions the Authority specifies on the grant or renewal of it, being conditions that the Authority considers necessary for the purpose of carrying out the objects of this Ordinance.

(5) A licence, permit, permission or consent granted under this Ordinance may at any time be cancelled or withdrawn by the Authority, or suspended by the Authority for such period, not exceeding 12 months, as the Authority specifies, in the event of any contravention by the licensee, or the person to whom the permit, permission or consent was granted, as the case may be, of this Ordinance or of any condition to which the licence, permit, permission or consent is subject. Any such licence may be cancelled or suspended at any time by the Administrator if he or she considers that the public interest so requires.

(6) If any licence, permit, permission or consent granted under this Ordinance is cancelled, withdrawn or suspended, no part of any fee or other sum paid in respect of it or under it is to be refunded.

Power of Authority

21. (1) The Authority, or any public officer authorised in writing for the purpose by the Authority (“**authorised officer**”), may—

- (a) arrest any person whom the Authority or authorised officer reasonably suspects of being guilty of an offence under this Ordinance;
- (b) subject to subsection (2), enter and search any place, or board and search any vessel (other than a ship of war) or search any vehicle, in which the Authority or the officer reasonably suspects that there is anything liable to seizure under paragraph (c);
- (c) seize, remove and detain—
 - (i) anything in respect of which the Authority or the officer reasonably suspects that an offence under this Ordinance has been committed;
 - (ii) anything that appears to the Authority or the officer to be or to be likely to be, or to contain, evidence of an offence under this Ordinance.

(2) If satisfied by information on oath that there are reasonable grounds for suspecting that there is in any premises used for dwelling purposes anything that is liable to seizure under subsection (1)(c), a magistrate may issue a warrant authorising the premises to be entered and searched by the Authority or authorised officer, and no premises used for dwelling purposes may be entered or searched under this Ordinance except pursuant to the warrant of a magistrate issued under this subsection.

- (3) The Authority or authorised public officer may—
- (a) break open any outer or inner door of any place that the Authority or officer is empowered or authorised by or under this Ordinance to enter and search;
 - (b) forcibly board any vessel or vehicle that the Authority or officer is empowered by this Ordinance to board and search;
 - (c) remove by force any person or thing obstructing any arrest, detention, search, inspection, seizure or removal that the Authority or officer is empowered by this Ordinance to make;
 - (d) detain any person found in any place that the Authority or officer is empowered or authorised by or under this Ordinance to search until such place has been searched; and
 - (e) detain any vessel that the Authority or officer is empowered by this Ordinance to board and search, and prevent any person from approaching or boarding such vessel until it has been searched.

Forfeiture

22. A magistrate or a court may, upon application by or on behalf of the Authority or by any public officer, order that any apparatus in respect of which there has been a contravention or attempted contravention of this Ordinance is to be forfeited to the Crown, whether or not proceedings have been taken against any person in respect of the contravention or attempted contravention.

Regulations

- 23.** (1) The Governor may by regulations provide for—
- (a) the control and conduct of means of telecommunication;
 - (b) the operation and use of apparatus for telecommunication;
 - (c) the conditions and restrictions subject to which messages may be transmitted or received;
 - (d) the licences and permits that may be granted by the Authority and the fees payable on the grant or renewal of any such licences or permits;
 - (e) the examination of persons in connection with the operation of apparatus for radiocommunication and the grant and endorsement of certificates of competency in the operation of such apparatus and the fees payable in respect of any such operation;
 - (f) the issue of certificates of competency in radiocommunication and authorities to operate, authorising persons to hold positions on radiocommunications stations and the cancellation or suspension of any such authority.

(2) Regulations made under this section may provide that contravention of specified provisions of them is an offence and may provide penalties therefor, not exceeding a fine of £500 and imprisonment for 6 months.

Exemption

24. The Administrator may by order exempt any person or any class of persons from this Ordinance or from any provisions of it the Administrator thinks fit.
