

# The Gazette of India

## EXTRAORDINARY

PART II – Section 1

### PUBLISHED BY AUTHORITY

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.
- Powers of Central Government to issue directions
- (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.
- (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: Offences by companies.

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 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-

- a. “company” means any body corporate and includes a firm or other association of individuals; and
- b. “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.

Offences by  
Government  
Departments.

(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.

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

Exempt- ion from tax on wealth and income.	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. <span style="float: right;">27 of 1957 43 of 1961</span>
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.
Cogniz- ance 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;-  a. the salary and allowances payable to and the other conditions of service of the Chairperson and members under sub-section (5) of section 5; b. the powers and functions of the Chairperson under sub-section (1) of section 6; c. the procedure for conducting an inquiry made under sub-section (2) of section 7; d. the category of books of accounts or other documents which are required to be maintained under sub-section (3) of section 12; e. the period within which an application is to be made under sub-section (1) of section 15; f. the manner in which the accounts of the Authority shall be maintained under sub-section (1) of section 23; g. 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; h. 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 regulat- ions.	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:-  a. 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;
- b. the transaction of business at the meetings of the Authority under sub-section (4) of section 8;
- c. 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;
- d. matters in respect of which register is to be maintained by the Authority under clause (l) of sub-section (1) of section 11;
- e. 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 (1) of section 11;
- f. levy of fees and other charges under clause (p) of sub-section (1) of section 11.

Rules and regulations to  
laid before Parliament.

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.

13 of 1885  
17 of 1933

Application to  
certain laws.

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.

Power to remove  
difficulties.

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;

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.

Repeal and  
saving.

(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.

K. L. MOHANPURIA  
Secy. to the Govt. of India