

CAP. 305.

CYPRUS

TELEGRAPHS

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1959

CHAPTER 305.

TELEGRAPHS.

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A LAW TO CONSOLIDATE AND AMEND THE LAW RELATING TO
THE ESTABLISHMENT, CONSTRUCTION, MAINTENANCE
AND WORKING OF TELEGRAPHS AND TELEGRAPH LINES
AND TELEPHONES AND TELEPHONE LINES.

[15th August, 1933.]

1949
Cap. 282.

PART I.

PRELIMINARY.

1. This Law may be cited as the Telegraphs Law. Short title.
2. In this Law— Interpreta-
tion.
 - “pole” means a post, standard, stay, strut or other above-ground contrivance for carrying, suspending or supporting a telegraph line and includes a tree used for the like purpose;
 - “street” means any public or private road, square, bridle-path, pathway, blind-alley, footway or open space;
 - “telegram” or “message” means any communication transmitted or intended to be transmitted by telegraph or to be delivered or intended to be delivered as a communication transmitted either wholly or partly by telegraph;
 - “telegraph” includes “telephone” and means an electric or magnetic telegraph, and includes appliances and apparatus for making, transmitting or receiving telegraphic, telephonic or other communications by means of electricity or magnetism, or by any agency of a like nature, with the aid of wires;
 - “telegraph company” means any company, corporation or persons carrying on the business of transmitting telegrams for the public or otherwise under whatever authority or in whatever manner either within or without the Colony such company, corporation or persons may act or be constituted;
 - “telegraph line” means a wire, wires, conductor or other means used for conveying, transmitting or distributing electricity for the purpose of communicating by telegraph, together with any casing, coating, tubing, pipe-covering or insulator enclosing, surrounding or supporting the same, and includes any portion of a telegraph line as herein defined;

" telegraph officer " means any person employed either permanently or temporarily by a person or telegraph company licensed by the Governor under the provisions of this Law;

" transmission " or " transmit " or " transmitting " or " transmitted " where used in relation to telegrams includes the reception as well as the sending of telegrams.

PART II.

PRIVILEGES AND POWERS OF THE GOVERNOR.

Exclusive privilege of Governor to establish, etc., telegraphs and telegraph lines.
Power to Governor to grant licences.

3. (1) The Governor shall have the exclusive privilege of establishing, constructing, maintaining and working telegraphs and telegraph lines within the Colony.

(2) The Governor may grant a licence, on such terms and conditions and in consideration of such payments as he thinks fit, to any person or telegraph company to establish, construct, maintain or work a telegraph or telegraph line within any part of the Colony and to place, lay, carry and maintain any poles or wires for the purpose of such telegraph or telegraph line in, along, through, across or under any street or immovable property.

Power to Governor to revoke licences.

(3) The Governor may, at any time, revoke any licence granted under this section on the breach of any of the terms or conditions therein contained or in default of payment of any consideration payable thereunder.

Saving.

(4) Every licence to establish, construct, maintain or work a telegraph granted under the provisions of any of the enactments hereby repealed* and subsisting at the time of the coming into operation of this Law, shall be deemed to have been granted under this Law, and every telegraph line or pole placed under, in, upon, over, along or across any street or immovable property for the purposes of such telegraph shall be deemed to have been placed in exercise of the powers conferred by, and after the due observance of all the requirements of, this Law.

Penalty

(5) If any person or telegraph company to whom a licence has been granted under this section breaks any term or condition contained in such licence, such person or telegraph company shall be guilty of an offence and shall be

*The following enactments were repealed by this Law: The Cyprus Telegraphs Order, 1904 and the Cyprus Telegraphs Amendment Order, 1913.

liable on conviction to a fine not exceeding one hundred pounds and to a further fine not exceeding fifty pounds for every week during which the breach of the term or condition continues.

4. (1) No person or telegraph company shall establish, construct, maintain, work or use for the purpose of transmitting telegrams any telegraph or telegraph line within the Colony except by virtue of a licence granted under section 3 of this Law.

Telegraphs or telegraph lines not to be established, etc., except by licence.

(2) If any person or telegraph company acts in contravention of sub-section (1) hereof, such person or telegraph company shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds and to a further fine not exceeding fifty pounds for every week during which the telegraph or telegraph line in respect of which the offence has been committed is maintained or worked. Any such telegraph or telegraph line may, in addition to the penalties in this subsection prescribed, be ordered by the Court trying such offence to be forfeited to the use of Her Majesty.

Penalty.

5. (1) The Governor in Council may, from time to time, make Regulations to be published in the Gazette relating to the establishment, construction, conduct, protection, maintenance and working of all or any telegraphs or telegraph lines established, maintained or worked by any person or telegraph company licensed under the provisions of this Law.

Power to Governor in Council to make Regulations relating to establishment, etc., of telegraphs or telegraph lines.

(2) Regulations under this section may provide for all or any of the following, that is to say—

Scope of Regulations.

(a) the rates at which, and the other conditions and restrictions subject to which, telegrams shall be transmitted and delivered;

Provided that no Regulation made hereunder after the grant of a licence under section 3 of this Law shall, during the continuance of such licence, prejudicially affect the licensee thereunder or any rates by such licence fixed or authorized to be charged or taken;

(b) the order of precedence of telegrams, and the method of disposal of unclaimed and undelivered telegrams;

- (c) the precautions to be taken for preventing the improper interception or disclosure of telegrams;
- (d) the period for which, and the conditions subject to which, telegrams, and other documents or books belonging to, or being in the custody or under the control of, a person or telegraph company licensed under this Law or of a telegraph officer, shall be preserved;
- (e) the fees to be charged for searching for telegrams or other documents in the custody or under the control of a person or telegraph company licensed under this Law or of a telegraph officer;
- (f) fixing and determining the fees and rates to be charged for the use of any public telephone;
- (g) the installation of telephones in private houses, shops, or other buildings, the use of telephones so installed, and the charges and fees to be paid in respect of them;
- (h) the rentals and the conditions subject to which private telegraphs and telegraph lines or systems may be established;
- (i) the protection of telegraphs and telegraph lines from interference or injurious affection by electric light and power lines or works;
- (j) requiring owners and occupiers of immovable property to keep the trees and underwood on such property so cut as to prevent their touching or injuring any pole or telegraph line;
- (k) generally for the better carrying into effect of the provisions of this Law.

Regulations may prescribe penalties for breaches thereof.

(3) Regulations made under this section may provide for the imposition on offenders against the same of a fine not exceeding one hundred pounds for each breach and in case of a continuing breach a further fine not exceeding three pounds for each day during which the breach continues.

Power to Governor to take possession of telegraphs or lines, and to order

6. (1) On any public emergency or in the public interest the Governor or any person authorized generally or specially in this behalf by the Governor, may—

- (a) take temporary possession of any telegraph or telegraph line established, maintained or worked

by a person or telegraph company licensed under this Law; or

interception, disclosure or production of telegrams.

- (b) order that any telegram or class of telegrams to or from any person or class of persons, or relating to any particular subject brought for transmission by or transmitted or received by any person or telegraph company licensed under this Law or a telegraph officer, shall not be transmitted or shall be intercepted or detained or shall be disclosed to the Governor or any person designated by name or office in the order; or
- (c) require by order any person or telegraph company licensed under this Law or a telegraph officer to produce to the Governor or any person designated by name or office in the order the originals and transcripts, either of all telegrams, or of telegrams of any specified class or description, or of telegrams sent from or addressed to any specified person or place, being telegrams sent by means of telegraph from any place in the Colony to any place in or outside the Colony or received at any place in the Colony by means of telegraph from any place in or outside the Colony, and all other papers relating to any such telegrams.

(2) A certificate signed by the Governor shall be conclusive proof of the existence of a public emergency or that any act done under subsection (1) hereof was in the public interest.

Certificate by Governor to be conclusive proof.

(3) The Governor shall pay to the person or telegraph company concerned as compensation for any loss of profit sustained by such person or telegraph company by reason of the exercise by the Governor of the power conferred on him by sub-section (1) (a) hereof, out of the revenue of the Colony, such sum as may be settled between the Governor and the person or telegraph company concerned by agreement or, in case of difference, by arbitration, such arbitration to be conducted in the manner in this section provided.

Compensation for loss of profit.

(4) Every arbitration under this section shall be conducted as follows—

Arbitration.

- (a) the Governor and the person or telegraph company concerned shall each, within fourteen days after

delivery by one to the other of a demand in writing for an arbitration, nominate an arbitrator;

- (b) the two arbitrators nominated shall, before entering on the arbitration, nominate an umpire;
- (c) if either party or arbitrator makes default in nominating an arbitrator or umpire within fourteen days after receiving from the other a demand in writing for such nomination, the Chief Justice may, on the request of the Governor, or the person or telegraph company concerned, by writing under his hand, nominate an arbitrator or umpire;
- (d) the arbitrators shall make their award within twenty-eight days after their nomination, otherwise the matter shall be left to be determined by the umpire;
- (e) the umpire shall make his award within twenty-eight days after notice from the arbitrators or one of them that the matter is left to be determined by him; or, on default, a new umpire shall be appointed as nearly as may be in manner aforesaid, who shall make his award within the like time, or, on default, be superseded; and so *toties quoties*.

Award. (5) The award of the arbitrators or umpire shall be final and conclusive.

Penalty. (6) Any person acting in contravention of this section or of any order made hereunder or refusing or neglecting to comply with such order shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding twelve months or to a fine not exceeding fifty pounds or to both such imprisonment and fine.

PART III.

POWER TO PLACE TELEGRAPH LINES AND POLES.

Power of person or telegraph company licensed under this Law or telegraph officer.

7. Subject to a general or special authority from the Governor previously obtained and to the provisions contained in this Part of this Law, a person or telegraph company licensed under this Law or a telegraph officer—

- (a) may enter upon any street or immovable property

for the purpose of constructing, placing, or maintaining a telegraph line or pole, or of examining, inspecting, repairing, altering or removing any telegraph line or pole so constructed, placed or maintained, and may there remain for such reasonable time and execute and do all such works or things as may be necessary for the purposes of this Law;

- (b) may survey and take levels of any immovable property or any part thereof;
- (c) may cut and remove on each side of any proposed or existing telegraph line all such trees and underwood as may interfere or be likely to interfere with the construction or proper working of such telegraph line;
- (d) may construct, place and maintain telegraph lines or poles under, in, upon, over, along or across any street or immovable property; and for such purpose may open or break up any street and alter the position thereunder of any pipe (not being a main) for the supply of water; and may alter or remove any telegraph line or pole so constructed or placed as aforesaid:

Provided that such person or telegraph company or telegraph officer shall, on the completion of such purpose, repair and make good the street so opened or broken up.

8. (1) A person or telegraph company licensed under this Law shall not be entitled to any right other than a right of user only in the street or immovable property under, in, upon, over, along or across which such person or telegraph company places any telegraph line or pole.

Person or telegraph company entitled to right of user only.

(2) If the person or telegraph company concerned shall, while exercising the right of user in subsection (1) hereof referred to, cause any direct loss or damage to the street or immovable property in or over which such right of user is being exercised, such person or telegraph company shall pay compensation to the owner of such street, if privately owned, or of such immovable property, or to the local or other authority exercising control over such street, if a public street, and such compensation shall be settled, awarded and paid in accordance with the provisions contained in this Part of this Law.

Compensation in respect of right of user in certain cases.

9. Every telegraph line or pole constructed or placed in, upon, over, along or across any street shall be so constructed

Streets not to be obstructed.

or placed as not to stop, obstruct, hinder or interfere with the passage along such street.

Notice before entry on street or immovable property.

10. (1) A person or telegraph company licensed under this Law or a telegraph officer shall not enter upon any street or immovable property for the purpose of constructing or placing any telegraph line or pole except by day, nor unless—

(a) with the consent in writing of the local or other authority exercising control over a public street, or

(b) the consent in writing of the owner or occupier of a street, if privately owned, or of immovable property,

until after one week's notice to such local or other authority, owner or occupier of the intention to construct or place such telegraph line or pole upon such street or immovable property shall have been given.

Where owner or occupier not found:

(2) If the owner or occupier of any street, privately owned, or of immovable property, cannot after reasonable inquiry be found, it shall be sufficient if the person or telegraph company licensed under this Law or the telegraph officer cause not less than one week's notice of his intention to enter upon such street or immovable property to be posted in some conspicuous place thereon, and after the expiration of the time mentioned in such notice the person or telegraph company or telegraph officer may exercise all powers vested in him as effectually as if notice had been given on the owner or occupier of such street or immovable property.

Compensation in certain cases.

11. In exercise of the powers conferred by this Part of this Law, the person or telegraph company licensed under this Law or the telegraph officer shall do as little damage as possible and such person or telegraph company shall pay compensation to any person or local or other authority to whom any direct loss or damage has been caused in consequence of the exercise of such powers, and such compensation shall be settled, awarded and paid in accordance with the provisions contained in this Part of this Law.

Manner of determining amount of compensation in case of dispute.

12. (1) If any dispute arises as to the amount of compensation payable under this Part of this Law, such amount shall be settled and awarded by the Court having jurisdiction in the place where the street or immovable property

in respect of which such compensation is payable is situate, upon an application made to such Court by either party.

- (2) In every application under this section the Court—
- (a) may reject the application or determine the amount of compensation payable or refer the matter to arbitration with the Court as umpire, and
 - (b) may determine the costs of the proceedings and the fees or expenses of the arbitration, and
 - (c) may order by whom such costs, fees or expenses should be paid.

Powers of Court.

13. (1) When under the provisions of this Law a telegraph line or pole has been constructed or placed under, in, upon, over, along or across any street or immovable property, and any local or other authority or person entitled to do so desires to deal with that street or immovable property in such a manner as to render it necessary or convenient that the telegraph line or pole should be removed to another part thereof or to a higher or lower level or altered in form, such local or other authority or person may by notice in writing require the person or telegraph company concerned to remove or alter the telegraph line or pole accordingly.

Removal or alteration of telegraph line or pole.

(2) If the compensation has been paid in respect of such telegraph line or pole, the person or local or other authority making such requisition shall, when making the same, tender to the person or telegraph company concerned the amount requisite to defray the expense of the removal or alteration, and no further or other compensation shall be payable by the person or telegraph company concerned in respect of such removal or alteration.

Tender when compensation has been paid, and provision that no further compensation is payable.

(3) If the person or telegraph company concerned omits within a reasonable time to comply with the requisition, the person or local or other authority making it may apply to the Court having jurisdiction in the place in which the telegraph line or pole is situate to order the removal or alteration.

Application to Court.

- (4) In every application under this section, the Court—
- (a) may reject the application or make an order, absolutely or subject to conditions, for the removal of the telegraph line or pole to any other part of the street or immovable property or to a

Powers of Court.

higher or lower level or for the alteration of its form, and

- (b) may determine the costs of the proceedings, and
- (c) may order by whom such costs shall be paid.

Rules of Court.

14. The Governor, with the advice and assistance of the Chief Justice, may from time to time by writing under the hand and official seal of the Governor and the hand of the Chief Justice make Rules of Court for regulating the practice and procedure (including scales of fees and costs) in respect of proceedings under sections 12 and 13 of this Law.

PART IV.

PROVISIONS RELATING TO TELEGRAMS.

Telegrams not to be divulged on trial of any issue.

15. Except as hereinafter provided, no person employed in or about the working of any telegraph shall on the trial of any issue, or of any matter or question, or on any inquiry before any Court, or before any person having by law authority to take evidence, be competent or compellable to give evidence of the contents of any telegram transmitted or conveyed or presented to be transmitted or conveyed by such telegraph, nor to produce under any writ of subpoena, summons or order the original of such telegram signed by or on behalf of the sender.

Exceptions.

16. The provisions of the last preceding section shall not apply—

- (a) if the person by or to whom any such telegram shall have been sent or addressed notifies in writing to the person or telegraph company licensed under this Law that he desires such evidence or production; or
- (b) if such evidence or production is required or authorised under any other Law; or
- (c) to any criminal proceedings.

In any of the above cases such evidence may be given or production made by the person or telegraph company licensed under this Law or by a telegraph officer.

Transcript of telegrams to be evidence.

17. The transcript of every telegram after transmission shall, before delivery thereof to the person to whom the same is addressed, be stamped or initialled by the telegraph

officer receiving the same for delivery, and such transcript purporting to have been so stamped or initialled shall be admissible in every Court and in every judicial proceeding as *prima facie* evidence of the matter therein contained being the same as that stated in the original telegram left for transmission, and of such original telegram having been duly signed and delivered for transmission by the person by whom the same purports to be signed, and it shall not be necessary to prove the signature of the person purporting to have signed such original telegram, or that the same was left at any telegraph office for transmission, nor to prove the stamp or initials of the telegraph officer receiving such transcript for delivery.

18. A telegraph officer may refuse to transmit any telegram which in his opinion contains anything in its contents, address or signature of a blasphemous, obscene or libellous nature, or anything repugnant to law or decency.

Telegrams that may be refused transmission.

19. No person or telegraph company licensed under this Law or telegraph officer shall be liable to any criminal proceedings, or to a suit for damages, by reason of his having in the course of his business or employment transmitted or conveyed or taken part in transmitting or conveying by telegraph any libel.

Person or telegraph company licensed under this Law or telegraph officer not liable for transmission of libel.

20. No claim or demand against a person or telegraph company licensed under this Law or a telegraph officer shall arise by reason of any error in, or omission from, any telegram, or delay in the transmission of any telegram, nor for any delay in the delivery, nor for the misdelivery or non-delivery, of any telegram, nor for omitting to send or receive any telegram, from whatever cause, other than malice or fraud of such person or telegraph company or telegraph officer, the error, omission, delay, misdelivery or non-delivery shall arise.

Non-liability of person or telegraph company licensed under this Law or telegraph officer in certain cases.

PART V.

MISCELLANEOUS.

21. (1) Any person who—
 (a) wilfully and unlawfully or maliciously—
 (i) destroys, damages or removes any telegraph, telegraph line or pole, or

Offences and penalties.

Interference with telegraphs, telegraph

lines or poles, obstructing transmission of telegrams, transmitting false telegrams and fraudulently retaining telegrams.

- (ii) prevents or obstructs the transmission or delivery of a telegram by any telegraph; or
- (b) transmits or causes to be transmitted by telegraph a message which he knows to be false or fabricated; or
- (c) fraudulently retains, or wilfully secretes, makes away with or detains a message which ought to have been delivered to some other person, or being required by a telegraph officer to deliver up any such message, neglects or refuses to do so,

shall be guilty of an offence and on conviction shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding one hundred pounds or to both such imprisonment and fine.

Negligently injuring telegraphs, telegraph lines or poles.

(2) Any person who negligently destroys or damages any telegraph, telegraph line or pole shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five pounds.

Assisting in the working of unlicensed telegraphs.

(3) Any person who, knowing or having reason to believe that a telegraph has been established or is maintained or worked in contravention of this Law—

- (a) transmits or receives any message by that telegraph; or
- (b) performs any service incidental thereto; or
- (c) delivers any message for transmission by such telegraph; or
- (d) accepts delivery of any message sent thereby,

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding twenty pounds.

Telegraph officer maliciously or fraudulently omitting or delaying to transmit or deliver telegrams.

- (4) Any telegraph officer who—
- (a) maliciously or fraudulently omits or delays to transmit or deliver any telegram; or
- (b) by any malicious or fraudulent act or omission prevents or delays the transmission or delivery of any telegram,

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding twenty pounds.

Telegraph officer wilfully secreting, intercepting or detaining

- (5) Any telegraph officer who—
- (a) wilfully secretes, makes away with or alters any message which he has received for transmission or delivery; or

- (b) wilfully, and otherwise than in obedience to an order of the Governor under this Law or in accordance with the provisions of this Law, intercepts or detains any message or any part thereof, or discloses the contents or any part of the contents of any message to any person not entitled to receive the same; or
- (c) divulges the purport of any telegraphic signal to any person not entitled to become acquainted with the same,

message or disclosing contents thereof or divulging telegraphic signals.

shall be guilty of an offence and on conviction shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding one hundred pounds or to both such imprisonment and fine.