

The following Bills, which will in due course be presented to Parliament for enactment, are published for general information.

## WIRELESS TELEGRAPHY

### EXPLANATORY MEMORANDUM

The advances made in the field of wireless telegraphy since the enactment of the present Wireless Telegraphy Ordinance in 1935, and the growing significance of wireless telegraphy in Nigeria, have brought about a need for a complete revision of that Ordinance. This Bill is designed to provide effective control in all spheres of wireless telegraphy, and to ensure that the means of control will not so far as can be foreseen be rendered inadequate by future developments.

2. Part I deals with matters of interpretation and in particular with the meaning of "wireless telegraphy" (clause 2).

3. Part II contains provisions for regulating the use, sale and hire of wireless telegraphy apparatus generally. The grant of licences in this connection would be discretionary except in the case of experimental licences, the grant of which to citizens of Nigeria would, as provided in clause 8, not normally be refused. Certain offences are provided for in this Part in connection with the use, sale, etc., of apparatus except in accordance with a licence (clauses 4 and 5), contravention of regulations (clause 9), and the sending of misleading messages and the interception and disclosure of messages (clause 10). Powers in connection with the examination and certification of operators are conferred on the Minister (clause 12).

4. Part III introduces new provisions designed to give the Minister the means of controlling radio interference to wireless telegraphy whether intentional or otherwise. Clause 13 provides for the making of regulations in connection with the radiation of electro-magnetic energy, contravention of which, if interference is or is likely to be caused would be grounds for the serving of a notice (clauses 14 and 15). Non-compliance with such a notice would constitute an offence, but provision is included for an appeal to a High Court against the notice.

5. Part IV contains miscellaneous provisions in connection with, among other things, the enforcement of and proceedings under the Act, and the declaration of an emergency and the emergency powers which such a declaration would entail.

6. The provisions of the Bill are expressly stated in clause 31 (5) not to apply in relation to broadcasting or television provided by the Government of a Region, these being matters which are constitutionally not within the legislative competence of the Federal Legislature. But the Federation is nevertheless constitutionally responsible for the allocation of wavelengths throughout Nigeria and special provisions for such allocation for Regional sound and television broadcasting services are contained in clause 31.

OLU AKINFOSILE,  
*Minister of Communications,  
Federation of Nigeria*

## WIRELESS TELEGRAPHY

## ARRANGEMENT OF CLAUSES

## Clause

## PART I—PRELIMINARY

1. Short title, commencement and application.
2. Meaning of wireless telegraphy.
3. General interpretation.

## PART II—REGULATION OF WIRELESS TELEGRAPHY

4. Licence required for use of wireless telegraphy apparatus.
5. Licence required for dealing in wireless telegraphy apparatus.
6. Grant of licences.
7. Fees and charges for licences.
8. Experimental licences.
9. Regulations as to wireless telegraphy.
10. Misleading messages and interception and disclosure of messages.
11. Territorial extent of preceding provisions.
12. Powers of Minister as to wireless personnel.

## PART III—PROVISIONS AS TO INTERFERENCE

13. Regulations as to radiation of electromagnetic energy, etc.
14. Enforcement of regulations as to use of apparatus.
15. Enforcement of regulations as to sales, etc., by manufacturers and others.
16. Deliberate interference.

## PART IV—GENERAL

17. Penalties.
18. Offences by bodies corporate.
19. Forfeiture.
20. Consent of Minister to prosecution.
21. Offences continued after conviction.
22. Civil proceedings.
23. Entry and search of premises, etc.
24. Provisions applicable on an occasion of emergency.
25. Onus of proof.
26. Saving as regards distress signals and electrical apparatus.
27. Protection of Government and public officers.
28. Conduct of proceedings.
29. Service of notices by post.
30. Miscellaneous regulations.
31. Government sound and television broadcasting services.
32. Validity of previous licenses.
33. Repeal.

# A BILL FOR

AN ACT TO MAKE NEW PROVISION FOR THE REGULATION OF WIRELESS  
TELEGRAPHY

[By Notice, see section 1]

BE IT ENACTED by the Legislature of the Federation of Nigeria in this present Parliament assembled and by the authority of the same as follows :—

## PART I—PRELIMINARY

1. (1) This Act may be cited as the Wireless Telegraphy Act, 1961, and shall come into operation on a day to be appointed by the Governor-General by notice in the Gazette.

(2) This Act shall have effect throughout the Federation.

2. In this Act, unless the context otherwise requires, “wireless telegraphy” means the emitting or receiving, over paths which are not provided by any material substance constructed or arranged for that purpose, of electro-magnetic energy of a frequency not exceeding three million megacycles a second, being energy which either—

(a) serves for the conveying of messages, sound or visual images (whether the messages, sound or images are actually received by any person or not), or for the actuation or control of machinery or apparatus ; or

(b) is used in connection with the determination of position, bearing or distance, or for the gaining of information as to the presence, absence, position or motion of any object or of any objects of any class,

and references to stations for wireless telegraphy and apparatus for wireless telegraphy shall be construed as references to stations and apparatus for the emitting or receiving as aforesaid of such electro-magnetic energy as aforesaid :

Title.

Commence-  
ment.

Enactment.

Short title,  
commence-  
ment and  
application.

Meaning of  
wireless  
telegraphy.

Provided that where—

(i) a station or apparatus for wireless telegraphy cannot lawfully be used without a licence or could not lawfully be used without a licence but for regulations under this Act; and

(ii) any such electromagnetic energy as aforesaid which is received by that station or apparatus serves for the conveying of messages, sound or visual images; and 5

(iii) any apparatus is electrically coupled with that station or apparatus for the purpose of enabling any person to receive any of the said messages, sound or visual images, 10

the apparatus so coupled shall itself be deemed for the purpose of this Act to be apparatus for wireless telegraphy.

General  
interpretation.

3. (1) In this Act, unless the context otherwise requires—

“electric line” means a wire or wires, conductor or other means used for the purpose of conveying, transmitting or distributing electricity with any casing, coating, covering, tube, pipe or insulator enclosing, surrounding or supporting the same, or any part thereof, or any apparatus connected therewith for the purpose of conveying, transmitting or distributing electricity or electric currents; 15

“foreign aircraft” means an aircraft which is not registered in any country in the Commonwealth; 20

“foreign ship” means a foreign ship within the meaning of the Shipping and Navigation Ordinance;

“interference”, in relation to wireless telegraphy, means the prejudicing by any emission or reflection of electromagnetic energy of the fulfilment of the purposes of the telegraphy (either generally or in part, and, without prejudice to the generality of the preceding words, as respects all, or as respects any, of the recipients or intended recipients of any message, sound or visual image intended to be conveyed by the telegraphy), and the expression “interfere” shall be construed accordingly; 25 30

“licence” means a licence granted under subsection (1) of section 6, and “licensee” shall be construed accordingly;

“Minister” means the Minister charged with responsibility for matters relating to wireless telegraphy; 35

“ship” includes every description of vessel used in navigation not propelled by oars;

“station for wireless telegraphy” includes the wireless telegraphy apparatus of a vessel or aircraft;

“vessel” includes any ship or boat, or any other description of vessel used in navigation. 40

(2) Any reference in this Act to the sending or the conveying of messages includes a reference to the making of any signal or the sending or conveying of any warning or information, and any reference to the reception of messages shall be construed accordingly. 45

(3) References in this Act to apparatus on board a ship or vessel include references to apparatus on a kite or captive balloon flown from a ship or vessel.

## PART II.—REGULATION OF WIRELESS TELEGRAPHY

4. (1) No person shall establish or use any station for wireless telegraphy or install or use any apparatus for wireless telegraphy except under and in accordance with a licence in that behalf.

Licence required for use of wireless telegraphy apparatus.

5 (2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence.

10 5. (1) No person shall offer for sale, sell or have in his possession with a view to sale in the course of his business any installation, mechanism, instrument, material or other apparatus constructed for the purpose of or intended to be used for wireless telegraphy except under and in accordance with a licence in that behalf.

Licence required for dealing in wireless telegraphy apparatus.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence.

15 6. (1) The Minister may grant licences for the purposes of this Act in the prescribed form or in such other form for any particular case as he may approve and may renew licences so granted.

Grant of licences.

(2) The grant or renewal of a licence shall be in the discretion of the Minister.

20 (3) A licence may be issued subject to such terms, provisions and limitations as the Minister may think fit, including in particular in the case of a licence to establish a station, limitations as to the position and nature of the station, the purposes for which, the circumstances in which, and the persons by whom the station may be used, and the apparatus which may be installed or used therein, and, in the case of any  
25 other licence, limitations as to the apparatus which may be installed or used, and the places where, the purposes for which, the circumstances in which and the persons by whom the apparatus may be used.

(4) A licence shall, unless previously revoked, continue in force for such period as may be specified in the licence.

30 (5) A licence may be revoked, or the terms, provisions or limitations thereof varied, by a notice in writing of the Minister served on the holder of the licence or by a general notice applicable to licences of the class to which the licence in question belongs published in the Gazette.

35 (6) Where a licence has expired or has been revoked, it shall be the duty of the person to whom the licence was issued, and of every other person in whose possession or under whose control the licence may be, to cause the licence to be surrendered to the Minister if required by the Minister to do so, and any person who without reasonable excuse fails or refuses to comply with the provisions of this subsection shall be  
40 guilty of an offence :

Provided that this subsection shall not apply to a licence relating solely to apparatus not designed or adapted for emission (as opposed to reception).

45 (7) Nothing in this section shall authorize the inclusion in any licence relating solely to apparatus not designed or adapted for emission (as opposed to reception), of any term or provision requiring any person to concede any form of right of entry into any private dwelling house.

50 7. (1) On the issue or renewal of a licence, and, where the regulations under this Act so provide, at such times thereafter as may be prescribed by the regulations, there shall be paid to the Minister, or

Fees and charges for licences.



such person as he may appoint, by the person to whom the licence is issued such sums as may be prescribed by regulations to be made by the Minister, and different provisions may be made in relation to different licences, according to the nature, terms, provisions, limitations and duration thereof.

(2) Where sums will or may become payable under subsection (1) subsequently to the issue or renewal of a licence, the Minister may, on the issue or renewal thereof, require such security to be given, by way of deposit or otherwise, for the payment of the sums which will or may become payable as he thinks fit.

Experi-  
mental  
licences.

8. (1) Subject to the provisions of this section, where an application for the grant or renewal of a licence is made to the Minister by a citizen of Nigeria and the Minister is satisfied that the only purpose for which the applicant requires the licence is to enable him to conduct experiments in wireless telegraphy for the purpose of scientific research, the Minister shall not refuse to grant or renew the licence and shall not revoke the licence when granted, and no sum shall be payable under regulations under this Act otherwise than on the issue or renewal of the licence.

(2) Nothing in subsection (1) shall limit the discretion of the Minister as to the terms, provisions or limitations which he attaches to any licence or his power to vary the terms, provisions or limitations of any licence.

(3) Nothing in subsection (1) shall prevent the Minister from refusing to grant or renew, or from revoking, any licence, if, whether before or after the grant or last renewal of the licence, the applicant has been convicted of any offence under this Part, whether in relation to the same or any other apparatus, or has contravened any of the terms, provisions or limitations of that or any other wireless telegraphy licence granted to him, or has been convicted under section 16 of using any apparatus for the purpose of interfering with any wireless telegraphy.

(4) Nothing in subsection (1) shall prevent the application of the provisions of section 24 to a holder of an experimental licence granted in pursuance of this section.

Regulations  
as to wire-  
less tele-  
graphy.

9. (1) The Minister may make regulations—

(a) prescribing the things which are to be done or are not to be done in connection with the use of any station for wireless telegraphy or wireless telegraphy apparatus, and, in particular, requiring the use of any such station or apparatus to cease on the demand in that behalf of any such persons as may be prescribed by or under the regulations;

(b) imposing on the person to whom a wireless telegraphy licence is issued with respect to any station for wireless telegraphy or wireless telegraphy apparatus, or who is in possession or control of any station for wireless telegraphy or wireless telegraphy apparatus, obligations as to permitting and facilitating the inspection of the station and apparatus, as to the condition in which the station and apparatus are to be kept and, in the case of a station or apparatus for the establishment, installation or use of which a wireless telegraphy licence is necessary, as to the production of the licence, or of such other evidence of the licensing of the station or apparatus as may be prescribed by the regulations;

(c) where sums are or may become due from the person to whom a wireless telegraphy licence is issued after the issue or renewal thereof, requiring that person to keep and produce such accounts and records as may be specified in the regulations ;

5 (d) requiring the person to whom a wireless telegraphy licence has been issued to exhibit at the station such notices as may be specified in the regulations ;

(e) for preserving the secrecy of communications by wireless telegraphy,

10 and different provisions may be made by any such regulations for different classes of case :

Provided that nothing in any such regulations shall require any person to concede any form of right of entry into a private dwelling house for the purpose of permitting or facilitating the inspection of any  
15 apparatus not designed or adapted for emission (as opposed to reception).

(2) Any person who contravenes any regulation made under this section, or causes or permits any station for wireless telegraphy or wireless telegraphy apparatus to be used in contravention of any such regulations, shall be guilty of an offence.

20 10. (1) No person shall—

(a) by means of wireless telegraphy, send or attempt to send, any message which, to his knowledge, is false or misleading and is, to his knowledge, likely to prejudice the efficiency of any safety of life service or endanger the safety of any person or of any vessel, aircraft or vehicle, and, in particular, any message which, to his knowledge,  
25 falsely suggests that a vessel or aircraft is in distress or in need of assistance or is not in distress or not in need of assistance ; or

Misleading messages and interception and disclosure of messages.

(b) otherwise than under the authority of the Minister, or in the course of his duty as a servant of the Crown, either—

30 (i) use any wireless telegraphy apparatus with intent to obtain information as to the contents, sender or addressee of any message (whether sent by means of wireless telegraphy or not) which neither the person using the apparatus nor any person on whose behalf he is acting is authorized by the Minister to receive ; or

35 (ii) except in the course of legal proceedings or for the purpose of any report thereof, disclose any information as to the contents, sender or addressee of any such message, being information which would not have come to his knowledge but for the use of wireless telegraphy apparatus by him or by another person.

40 (2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence.

11. (1) Subject to the provisions of this section, this Part of this Act shall apply—

Territorial extent of preceding provisions.

45 (a) to all stations and apparatus in Nigeria ;

(b) to any station or apparatus on board a ship outside Nigeria ; and

(c) to any apparatus outside Nigeria which was released in Nigeria.

(2) Where anything is done or omitted to be done in contravention of the provisions of this Part of this Act as applied by this section, the captain or other person for the time being in charge of the ship shall, in  
50 the absence of evidence to the contrary, and without prejudice to the liability of any other person, be guilty of an offence against this Act.

(3) For the purposes of this section the Minister may in respect of any foreign ship or foreign aircraft while in Nigeria make regulations to restrict or control the use of any wireless telegraphy apparatus on board the foreign ship or foreign aircraft to such times or purposes as he may approve; and any regulation made under this subsection may provide for the imposition of a fine not exceeding in the case of any one offence the sum of £100 and, in any proper case, for the confiscation of the wireless telegraphy apparatus or any part thereof.

(4) In this section and for the avoidance of doubts—

“Nigeria” includes the territorial waters and air limits of Nigeria;

“ship” means any ship subject to the laws of Nigeria, and includes any type of Nigerian craft capable of becoming airborne.

Powers of  
Minister as  
to wireless  
personnel.

12. (1) The Minister may hold examinations to determine the competence of the persons examined to fill positions in connection with the operation of stations for wireless telegraphy or wireless telegraphy apparatus and may issue to persons successful at such examinations certificates of competence of such types as he may from time to time determine.

(2) Where the Minister is satisfied that any person has qualified in another country for a certificate of competence or authority to fill positions in connection with the operation of stations for wireless telegraphy or wireless telegraphy apparatus in that country, he may issue to that person a certificate of competence to fill similar positions in Nigeria.

(3) The Minister, if it appears to him that there are sufficient grounds so to do, may at any time revoke any certificate issued under subsection (2).

(4) Where any certificate granted under subsection (2) has ceased to be in force or has been revoked, it shall be the duty of the person to whom the certificate was issued, and of every other person in whose possession or under whose control the certificate may be, to cause the certificate to be surrendered to the Minister if required by the Minister so to do, and any person who without reasonable excuse fails or refuses to comply with the provisions of this subsection shall be guilty of an offence.

(5) The Minister may charge persons applying to take part in any examination under this section, and to applicants for, or for copies of, any certificates issued under this section, such fees, if any, as he may determine.

### PART III.—PROVISIONS AS TO INTERFERENCE

Regulations  
as to radia-  
tion of  
electro-  
magnetic  
energy, etc.

13. (1) The Minister may make regulations for both or either of the following purposes, that is to say—

(a) for prescribing the requirements to be complied with in the case of any apparatus to which this section applies if the apparatus is to be used;

(b) for prescribing the requirements to be complied with in the case of any apparatus to which this section applies if the apparatus is to be sold otherwise than for export, or offered or advertised for sale otherwise than for export, or let on hire or offered or advertised for letting on hire, by any person who in the course of business manufactures, assembles or imports such apparatus.



(2) The said requirements shall be such requirements as the Minister thinks fit for the purpose of ensuring that the use of the apparatus does not cause undue interference with wireless telegraphy, and may in particular include—

5 (a) requirements as to the maximum intensity of electro-magnetic energy of any specified frequencies which may be radiated in any direction from the apparatus while it is being used ; and

10 (b) in the case of an apparatus the power for which is supplied from electric lines, requirements as to the maximum electro-magnetic energy of any specified frequencies which may be injected into these lines by the apparatus,

and, in so far as appears to the Minister necessary or expedient in the case of the regulations in question, different requirements may be prescribed for different circumstances and in relation to different classes or descriptions of apparatus, different districts or places and different times of use.

15 (3) (a) The apparatus to which this section applies shall be such apparatus as may be specified in the regulations made thereunder, being apparatus generating, or designed to generate, or liable to generate fortuitously, electro-magnetic energy at frequencies of not more than three million megacycles per second, and not being wireless telegraphy apparatus.

20 (b) The references in this subsection to apparatus include references to any form of electric line, and other references in this Act to apparatus shall be construed accordingly.

25 (4) It shall not be unlawful for any person to use any apparatus to which this section applies or to sell any such apparatus or offer or advertise it for sale or let it on hire or offer or advertise it for letting on hire by reason only that it does not comply with the requirements applicable under any regulations made under this section, but the non-compliance shall be a ground for the giving of a notice under section 14 or section 15, as the case may be.

14. (1) If the Minister is of opinion—

35 (a) that any apparatus does not comply with the requirements applicable to it under regulations made for the purpose specified in paragraph (a) of subsection (1) of section 13 ; and

(b) that either—

40 (i) the use of the apparatus is likely to cause undue interference with any wireless telegraphy used for the purposes of any safety of life service or for any purpose on which the safety of any person or of any vessel, aircraft or vehicle may depend ; or

45 (ii) the use of the apparatus is likely to cause undue interference with any other wireless telegraphy and in fact has caused or is causing such interference in a case where he considers that all reasonable steps to minimize interference have been taken in relation to the station or apparatus receiving the telegraphy,

he may serve on the person in whose possession the apparatus is a notice in writing requiring that, after a date fixed by the notice, not being less than twenty-eight days from the date of the service thereof, the apparatus shall not be used, whether by the person to whom the notice is given or otherwise, or, if the Minister thinks fit so to frame the notice, shall only be used in such manner, at such times and in such circumstances as may be specified in the notice :

Enforcement  
of regula-  
tions as to  
use of  
apparatus.

Provided that if the Minister is satisfied that the use of the apparatus in question is likely to cause undue interference with any wireless telegraphy used for the purposes of any safety of life service or for any purpose on which the safety of any person or of any vessel, aircraft or vehicle may depend, the date to be fixed by the notice may be the date of the service thereof. 5

(2) A notice under subsection (1) may be revoked or varied by a subsequent notice in writing by the Minister served on the person in whose possession the apparatus then is :

Provided that where a notice under this subsection has the effect of imposing any additional restrictions on the use of the apparatus, the provisions of subsection (1) relating to the coming into force of notices shall apply in relation to the notice as if it had been a notice served under subsection (1). 10

(3) (a) Where notice has been given under subsection (1), any person having possession of or any interest in the apparatus to which the notice relates may within twenty-eight days appeal to the High Court having jurisdiction in that part of the Federation where the apparatus is situated at the time when the notice was given, and the High Court may, upon the application of such person made at the time of filing the appeal, direct that the Minister's notice shall not operate until a particular date not later than the termination of the appeal : 15 20

Provided that where the Minister in writing under his hand, or the Director of Posts and Telegraphs in writing, certifies to the High Court that the continued use of the apparatus in question is likely to cause interference with any wireless telegraphy used for the purpose on which the safety or life service or the safety of any person, vessel, aircraft or vehicle may depend, the High Court may not alter the date upon which the directive in the Minister's notice shall operate. 25

(b) This subsection applies in relation to a notice under subsection (1) which has been varied by a subsequent notice as it applies in relation to a notice which has not been so varied. 30

(4) On any such appeal, the High Court may, if it thinks it expedient so to do, call in the aid of one or more assessors specially qualified, and may hear and determine the appeal wholly or in part with their assistance. 35

(5) On any such appeal, the High Court shall hear the Minister and the person at whose instance the appeal was made and any other person appearing to them to be interested who desires to be heard, and has, in accordance with the rules regulating the procedure of the appeal, procured himself to be made a party to the appeal, and if the High Court is satisfied that the apparatus in question complies with the requirements applicable to it under the regulations it shall direct the Minister to revoke the notice and the Minister shall revoke the notice accordingly. 40

(6) A direction given under subsection (5) may be absolute, or may be conditional on such steps being taken in relation to the apparatus, or on the apparatus being made to comply with such requirements as may be specified in the direction, and any question whether or not these steps have been taken or, as the case may be, whether or not the apparatus has been made to comply with those requirements shall, on the application of the Minister or of any person having possession of or any interest in the apparatus, be determined by the Court. 45 50

(7) Any person, who, knowing that a notice of the Minister under this section is in force with respect to any apparatus, uses that apparatus, or causes or permits it to be used, in contravention of the notice, shall be guilty of an offence.

15. (1) If the Minister is of opinion that any apparatus does not comply with the requirements applicable to it under regulations made for the purpose specified in paragraph (b) of subsection (1) of section 13, he may serve on any person who has manufactured, assembled or imported the apparatus in the course of business a notice in writing prohibiting him from selling the apparatus, otherwise than for export, or offering or advertising it for sale, otherwise than for export, or letting it on hire or offering or advertising it for letting on hire.

Enforcement of regulations as to sales, etc., by manufacturers and others.

(2) Where a notice has been served under subsection (1), the person on whom the notice has been served may appeal against the same to the High Court having jurisdiction in that part of the Federation where the apparatus is situated at the time when the notice was given.

(3) On any such appeal, the High Court may, if it thinks it expedient so to do, call in the aid of one or more assessors specially qualified, and may hear and determine the appeal wholly or in part with their assistance.

(4) On any such appeal, the High Court shall hear the Minister and the person at whose instance the appeal was made and any other person appearing to it to be interested who desires to be heard and has, in accordance with the rules regulating the procedure of the appeal, procured himself to be made a party to the appeal, and, if it is satisfied that the apparatus in question complies with the requirements applicable to it under the regulations, shall direct the Minister to revoke the notice and he shall revoke it accordingly :

Provided that the making by the High Court of a direction under this subsection shall not, where the apparatus is subsequently altered, prevent the Minister from serving a fresh notice under subsection (1) with respect to the apparatus and the refusal by the High Court to make a direction under this subsection shall not, where the apparatus is subsequently altered, prevent the Minister from revoking the notice or the person on whom the notice was served from instituting a further appeal under subsection (2).

(5) Where a notice has been served under subsection (1), the person on whom the notice has been served shall, if he contravenes the provisions of the notice without the notice having been previously revoked by the Minister, be guilty of an offence.

16. (1) Any person who wilfully uses any apparatus for the purpose of interfering with any wireless telegraphy shall be guilty of an offence.

Deliberate interference.

(2) This section shall apply whether or not the apparatus in question is wireless telegraphy apparatus or apparatus to which any of the preceding provisions of this Part apply, and whether or not any notice under section 14 or section 15 has been given with respect to the apparatus, or, if given, has been varied or revoked.

## PART IV—GENERAL

## Penalties.

17. Subject to the provisions of Part II relating to offences committed in relation to apparatus on board foreign ships or foreign aircraft, any person committing any offence under this Act—

(a) shall, if the offence is under Part II and consists either— 5

(i) in the installation or use, otherwise than under and in accordance with a licence, of any apparatus not designed or adapted for emission (as opposed to reception); or

(ii) in a failure or refusal to cause any licence or authority to be surrendered to the Minister, 10

be liable, in the case of the first such offence, to a fine of ten pounds, and, in the case of any subsequent such offence, to a fine of fifty pounds;

(b) shall, if the offence is under Part III and consists in the use, or in the causing or permitting of the use, or in the selling, offering or advertising for sale, letting on hire or offering or advertising for letting on hire, of apparatus in contravention of a notice of the Minister, not being apparatus the use of which is likely to cause undue interference with any wireless telegraphy used for the purposes of any safety of life service or any purpose on which the safety of any person or of any vessel, aircraft or vehicle may depend, be liable, in the case of the first such offence, to a fine of ten pounds, and, in the case of any subsequent such offence, to a fine of fifty pounds; 15 20

(c) shall, in the case of any other offence, be liable to imprisonment for three months or to a fine of one hundred pounds or to both such imprisonment and such a fine. 25

Offences by  
bodies  
corporate.

18. (1) Where any offence under this Act has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance, and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and in all the circumstances. 30 35

(2) In this section, the expression "director", in relation to any body corporate established directly by or under any enactment for the purpose of carrying on any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body. 40

## Forfeiture.

19. Where a person is convicted of an offence under this Act consisting in any contravention of any of the provisions of Part II in relation to any station for wireless telegraphy or any wireless telegraphy apparatus or in the use of any apparatus for the purpose of interfering with any wireless telegraphy, the court may, in addition to any other penalty, order all or any of the apparatus of the station, or, as the case may be, of the apparatus in connection with which the offence was committed, to be forfeited to the Minister. 45

Consent of  
Minister to  
prosecution.

20. (1) Except as otherwise expressly provided in this Act, no criminal proceedings for an offence under this Act shall be instituted, except with the consent of the Minister. 50



(2) Nothing in subsection (1) shall prevent the institution of proceedings for an offence under this Act by or in the name of the Director of Public Prosecutions of the Federation in accordance with the provisions of the Constitution of the Federation in any case in which he thinks it proper that proceedings should be so instituted.

21. Without prejudice to the right to bring separate proceedings for contraventions of this Act taking place on separate occasions, a person who is convicted of an offence under this Act consisting in the use of any station or apparatus, or in a failure or refusal to cause any licence or authority to be surrendered, shall, where the use, or failure or refusal continues after the conviction, be deemed to commit a separate offence in respect of every day on which the use, failure or refusal so continues.

Offences continued after conviction.

22. Nothing in the preceding provisions of this Part shall limit any right of any person to bring civil proceedings in respect of the doing or apprehended doing of anything rendered unlawful by any provision of this Act, and, without prejudice to the generality of the preceding words, compliance with the provisions of this Act contraventions of which are declared to be an offence under this Act shall be enforceable by civil proceedings by the Crown for an injunction or for any other appropriate relief.

Civil proceedings.

23. (1) If a magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act has been or is being committed, and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vessel, aircraft or vehicle so specified, he may grant a search warrant authorizing any person or persons authorized in that behalf by the Minister and named in the warrant, with or without any constables, to enter, at any time within one month from the date of the warrant, the premises specified in the information, or as the case may be, the vessel, aircraft or vehicle so specified and any premises upon which it may be, and to search the premises, or, as the case may be, the vessel, aircraft or vehicle, and to examine and test any apparatus found on the premises, vessel, aircraft or vehicle.

Entry and search of premises, etc.

(2) If a magistrate is satisfied upon an application supported by sworn evidence—

(a) that there is reasonable ground for believing that, on any specified premises or in any specified vessel, aircraft or vehicle, apparatus to which section 13 applies is to be found which does not comply with the requirements applicable to it under regulations made under that section; and

(b) that it is necessary to enter those premises or that vessel, aircraft or vehicle, for the purpose of obtaining such information as will enable the Minister to decide whether or not to serve a notice under section 14 or section 15; and

(c) that access to the premises, vessel, aircraft or vehicle for the purpose of obtaining such information as aforesaid has, within fourteen days before the date of the application to the magistrate, been demanded by a person authorized in that behalf by the Minister and producing sufficient documentary evidence of his identity and authority, but has been refused,



the magistrate may issue a written authorization under his hand empowering any person or persons authorized in that behalf by the Minister and named in the authorization, with or without any police officers, to enter the premises, or, as the case may be, the vessel, aircraft or vehicle and any premises on which it may be and to search the premises, vessel, aircraft or vehicle with a view to discovering whether any such apparatus as aforesaid is situate thereon or therein, and, if he finds or they find any such apparatus thereon or therein, to examine and test it with a view to obtaining such information as aforesaid :

Provided that an authorization shall not be issued under this subsection unless either—

(i) it is shown to the magistrate that the Minister is satisfied that there is reasonable ground for believing that the use of the apparatus in question is likely to cause undue interference with any wireless telegraphy used for the purposes of any safety of life service or any purpose on which the safety of any person or of any vessel, aircraft or vehicle may depend ; or

(ii) it is shown to the magistrate that not less than seven days' notice of the demand for access was served on the occupier of the premises, or, as the case may be, the person in possession or the person in charge of the vessel, aircraft or vehicle, and that the demand was made at a reasonable hour and was unreasonably refused.

(3) Where under this section a person has a right to examine and test any apparatus on any premises or in any vessel, aircraft or vehicle, it shall be the duty of any person who is on the premises, or is in charge of, or in attendance on the vessel, aircraft or vehicle, to give him any such assistance as he may reasonably require in the examination or testing of the apparatus.

(4) Any person who—

(a) obstructs any person in the exercise of the powers conferred on him under this section ; or

(b) fails or refuses to give any such person any assistance which he is under this section under a duty to give to him ; or

(c) discloses, otherwise than for the purposes of this Act or of any report of proceedings thereunder, any information obtained by means of the exercise of powers under this Act, being information with regard to any manufacturing process or trade secret,

shall be guilty of an offence, and criminal proceedings for an offence under paragraph (c) of this subsection may be instituted without the consent of the Minister.

Provisions  
applicable  
on an occa-  
sion of  
emergency.

24. If on the occasion of any emergency or in the public interest the Governor-General declares that the Government of the Federation shall have control over the transmission or reception of messages by wireless telegraphy, then, after publication of a notice to that effect in the Gazette and until further notice, the following provisions shall apply—

(a) the Minister may by order prohibit for such period and to such extent as may be specified in the order the use of wireless telegraphy on board such vessels, aircraft or vehicles as may be specified in the order in or over Nigeria or the territorial waters adjacent thereto ;

(b) the Minister, or any public officer authorized in writing by the Minister, may—

(i) take possession of any apparatus for wireless telegraphy installed on any station for wireless telegraphy licensed under this Act or forming part of the stock of a wireless dealer licensed under this Act and use such apparatus for official purposes ; or

(ii) place any person in control of any such apparatus ; or

(iii) direct the licensee or person in charge of such apparatus to submit to him all or any communications tendered for transmission or received by means of the apparatus ; or

(iv) stop or delay or direct the licensee or person in charge of such apparatus to stop or delay the transmission or delivery of any such communications or to deliver them to him ; or

(v) direct the licensee or person in charge of such apparatus to comply with all such directions as he may think fit to give with reference to the transmission or receipt of communications by means of the apparatus ;

(c) there shall be payable to the licensee of such apparatus for any damage to the apparatus arising in consequence of the exercise of the powers conferred by this section such compensation as in the opinion of the Minister may be reasonable ;

(d) the Minister may, notwithstanding anything contained in a licence issued under this Act, by order, prohibit for such time as may be specified in the order any licensee from communicating with any station for wireless telegraphy licensed by or belonging to any country which is at war.

(e) the captain or person in charge of any vessel, aircraft or vehicle in relation to which any order or direction under this section is contravened and any person who contravenes any order or direction under this section shall be guilty of an offence.

25. Any person who is in possession of any apparatus for wireless telegraphy shall be deemed, until the contrary is proved, to have used the same.

Onus of proof.

26. Nothing in this Act shall be deemed to prevent—

(a) the use by a vessel or aircraft in distress, of any means at its disposal to attract attention, make known its position and obtain help ; or

(b) any person from making or using electrical apparatus for actuating machinery or for any purpose other than that of wireless telegraphy.

Saving as regards distress signals and electrical apparatus.

27. Neither the Government of the Federation, nor the Minister, nor any public officer shall be liable or responsible for an infringement by a licensee, in the exercise of his licence, of copyright in any work or of any patent for an invention or for any breach of the law arising out of the exercise of the licence, and nothing in this Act shall affect the liability of the licensee in respect of any such act done by him.

Protection of Government and public officers.

28. Subject to the provisions of section 20 of this Act, any public officer employed in the Ministry for which the Minister is responsible or for the time being performing duties in relation to that Ministry may conduct any prosecution or other proceedings under or in connection with this Act, whether criminal or civil.

Conduct of proceedings.

Service of  
notices by  
post.

Miscella-  
neous regula-  
tions.

29. Any notice given under the provisions of this Act may be served by post.

30. Without prejudice to any other power in this Act, the Minister may make regulations prescribing or providing for—

(a) the form of licences and the conditions to which licences shall be subject, and different forms and conditions may be prescribed for different classes of licence ; 5

(b) the conditions precedent to the grant of any particular class of licence ;

(c) the fees payable for the issue or renewal of any particular class of licence ; 10

(d) the conduct of any examinations held under section 12, the qualifications and remuneration of examiners conducting such examinations ;

(e) the prohibition of the use in connection with any station for wireless telegraphy or wireless telegraphy apparatus of such call signals or means of identification as may be specified in the regulations ; 15

(f) the exemption from the provisions of this Act of stations for wireless telegraphy or wireless telegraphy apparatus of such classes or descriptions as may be specified in the regulations ; 20

(g) carrying out and giving effect to purposes incidental to any of the foregoing.

Government  
sound and  
television  
broadcasting  
services.

31. (1) In the discharge of the executive authority of the Federation in relation to the allocation of wavelengths for wireless broadcasting and television transmission, the Minister after consultation with the Director-General of Communications may grant to the Government of a Region licences to provide sound or television broadcasting services transmitting on such wavelengths as may be allocated. 25

(2) A licence granted under subsection (1) shall be subject to such conditions as the Minister may see fit to impose for the purpose of— 30

(a) ensuring a proper and efficient allocation of wavelengths throughout Nigeria ; or

(b) giving effect to or ensuring compliance with the terms of any international convention relating to wireless telegraphy to which the Federation is a signatory ; or 35

(c) avoiding undue interference with wireless telegraphy whether inside or outside Nigeria,

but save as aforesaid a licence so granted shall not be subject to any conditions. 40

(3) Except in so far as it may in the opinion of the Minister be necessary or expedient for any of the purposes mentioned in subsection (2) so to do, the Minister shall not, if application for the grant of a licence under subsection (1) is made to him by the Government of a Region, refuse to grant a licence to that Government. 45

(4) If, in the opinion of the Minister, it is necessary or expedient for any of the purposes mentioned in subsection (2) to cancel the allocation in a licence granted under subsection (1) of a wavelength or alter a wavelength allocated in a licence so granted or alter or add to the conditions of a licence so granted, he may by notice in writing cancel or amend the licence accordingly. 50

(5) A sound or television broadcasting service shall be provided by the Government of a Region only under and in accordance with a licence granted under subsection (1), but except as provided in this section, the provisions of this Ordinance shall not apply in relation to  
5 broadcasting or television provided by the Government of a Region.

32. Any licence granted under any of the provisions of the Wireless Telegraphy Ordinance hereby repealed and in force immediately before the coming into operation of this Act shall cease to have effect unless renewed in accordance with the provisions of this Act.

Validity of  
previous  
licences.

10 33. The Wireless Telegraphy Ordinance is repealed.

Repeal.  
Cap. 233.  
of the 1948  
Revised  
Editions of  
the Laws.

## EXPORT PRODUCE (FEDERAL POWERS)

### EXPLANATORY MEMORANDUM

The object of this Bill is to empower the Minister to prescribe grades and standards of quality for any produce intended for export, other than produce purchased by a Regional Marketing Board, after consultation with the Produce Inspection Board and the Government of any Region affected.

Similar powers were originally vested in the Produce Inspection Board established under the provisions of the Produce Inspection Ordinance, 1950. This Board, however, ceased to exist when the Produce (Enforcement of Export Standards) Ordinance, 1959, came into operation on the 1st December, 1959, and the powers with which it was vested have not since been transferred to any other person or body.

ZANNA B. DIPCHARIMA,  
*Minister of Commerce and Industry*

## EXPORT PRODUCE (FEDERAL POWERS)

### ARRANGEMENT OF CLAUSES

#### *Clause*

1. Short title and application.
2. Power to prescribe grades, etc., for produce.



## A BILL

FOR

AN ACT TO CONFER SUNDRY POWERS IN RELATION TO CERTAIN PRODUCE  
INTENDED FOR EXPORT.

[ ]

Commence-  
ment.

BE IT ENACTED by the Legislature of the Federation of Nigeria  
in this present Parliament assembled and by the authority of the same as  
follows :—

1. This Act may be cited as the Export Produce (Federal Powers)  
Act, 1961, and shall be of Federal application.

Short title,  
etc.

2. (1) Notwithstanding the provisions of any other Act, the  
Federal Minister for the time being charged with responsibility for  
external trade after consultation with the Produce Inspection Board and  
the Government of any Region affected as the case may be, from time  
to time may make regulations prescribing grades and standards of quality  
for any produce intended for export, not being produce for export  
purchased by a Regional Marketing Board.

Power to  
prescribe  
grades, etc.,  
for produce.

(2) For the purposes of this section, the expressions "produce"  
and "Produce Inspection Board" have the meanings assigned by sections  
3 and 4 of the Produce (Enforcement of Export Standards) Ordinance,  
1959.

No. 21 of  
1959.