



THE TELECOMMUNICATION ACT 2001

In accordance with the provisions of Article 90 (1) of the Constitution of the Republic of the Sudan 1998 , the President of the Republic hereby issued , and the National Assembly approved , the following Act:

Chapter 1 **Preliminary Provisions** **Title and Commencement**

1.This Act shall be titled: “ The Telecommunication Act 2001 “ and shall come into force as from the date of signature.

Repeal and Saving

2. (1) The following shall be repealed:

- (a)the Telecommunications Act 1974
- (b)the National Telecommunications Council Act 1994.

(2)Notwithstanding the repeal provided for in sub-section (1),all regulations , rules and orders made under any of the mentioned laws , shall remain in force as if they were made under this law until they are repealed or amended.

Adaptation of Positions

3.All persons licenced hereto, to install and operate a broadcast station ,a public or private telecommunication network , or use frequencies or import or trade in telecommunication equipment , shall adapt their positions according to the provisions of this Act in a period not exceeding three months from the date of signature of this Act .

Interpretation

4. In this Act unless the context otherwise requires:

- “Telecommunications” means transmitting , receiving signals, sounds , pictures or data by means of wires or wireless including audio and visual broadcast.
- “Director General “ means the Director General of the Corporation appointed under section 14 (1)
- “ Licence” means the licence issued by the board for the establishment or operation or management of broadcast station or private or public telecommunication network or for the use of frequencies or manufacture or for import of telecommunication equipment.
- “Private Network” means the telecommunication system that serves the needs of a single person or group of persons .
- “Public Network” means the telecommunication system providing public services to the public .
- “The Board” means the Board of Directors of the Corporation established under section 9.
- “Radio station” means the transmitter or receiver or group of transmitters / receivers and accessories thereto necessary for telecommunications .
- “Broadcasting station “ means any equipment used for audio /video broadcasting whether terrestrially ,via satellites or by cable.
- “Licencee “ means any person who obtains a written licence from the Board .
- “ Beneficiary “ means the person who uses and benefits from the public telecommunication service
- “The Corporation “ means the National Telecommunication Corporation established under section 6.
- “Competent Minister “ means the Federal Minister responsible for telecommunications .
- “ The Minister “ means the Federal Minister of Finance and National Economy.

Prevalence of this Act

5. The provisions of this Act shall supersede the provisions of any other law in case of contradiction between them to the extent that eliminates such contradiction.

Chapter II The Corporation Establishment , Headquarters and Supervision of the Corporation

6. (1) There shall be established a public corporation to be known as “ The National Telecommunication Corporation “ and shall have corporate personality , and the right to litigate in its own name .
- (2) The headquarters of the Corporation shall be in the State of Khartoum and it may establish branches thereof in the different States of the Sudan
- (3) The Corporation shall be responsible, to the Competent Minister ,in executing its duties , fulfilling its functions and exercising its powers in accordance with the basic directions issued by him for the purpose of the development of the information media mission and the of telecommunication systems.
- (4) The Competent Minister shall determine the directions and guidelines of the general policy of the Corporation according to the policies and plans of the State.

Objectives of the Corporation

7. The Corporation aims to achieve the following objectives ; namely to :
- (a) promote and regulate the telecommunication sector so as to conform to development and globalization .
 - (b) provide the appropriate environment favourable to promotion of the telecommunication services and the encouragement of investment in this field.
 - (c) ensure and diffuse free and constructive competition and recruit efficient and competent personnel in the field of telecommunications.
 - (d) ensure connectivity among the licensed telecommunication public networks.

Functions and Powers of the Corporation

8. The Corporation shall have the following functions and powers namely to :

- (a) lay down the plans, policies and regulations for the provision of the telecommunication services and their establishment thereof on the national level taking into consideration the balanced development and the service of the social and national objectives.
- (b) approve the methods and cost of telecommunication services and regulate the tariffs of the services in coordination with entities providing such services and supervise them thereafter.
- (c) License the operation in the different fields of services and activities of telecommunications.
- (d) lay down the bases for the regulation, allocation and licensing the of the frequencies for wireless equipment wireless, systems and broadcasting stations, taking into consideration the security aspects relating thereto .
- (e) coordinate with the competent entities in relation to the assembly, import and manufacture of the different equipment and materials of the telecommunication systems.
- (f) set specifications of the systems , terminals and equipment used in the field of telecommunications and establish the necessary measurements and test procedures.
- (g) protect the obligations of the State and requirements thereof in the field of national security ,and defence, emergencies and regional and international policies in co-ordination with the entities providing the telecommunication services.
- (h) own premises and movable assets and sell thereof in the reasonable and nessasry amount for its businesses and dispose thereof in any legal manner.
- (i) employ employees deemed necessary according to the approved budget and according to the public service laws.

Chapter III
Management of the Corporation
Establishment And Constitution of the Board

9. (1) There shall be established a board for the management of the Corporation and to assume its affairs and to exercise on its behalf thereof all the duties and powers entrusted to the Corporation.
- (2) The Board shall be constituted, by a decision of the Council of Ministers upon a recommendation thereof, by the Competent Minister, as follows:
- (a) a none full time chairman .
 - (b) the Director General .
 - (c) a number of members representing the competent and concerned entities .
- (3) No combination of the post of the Chairman and the post of Director General shall take place.

Functions and Powers of the Board

10. (1) The Board shall have the following powers and functions; namely to:
- (a) lay down the general policy of the Corporation ,supervise, reviews its businesses , strive to achieve its objectives and exercise its powers thereof on sound grounds .
 - (b) manage the Corporation businesses and undertake its tasks and functions.
 - (c) appoint the employees of the Corporation in grade III and above .
 - (d) conclude contracts and agreements on behalf of the Corporation .
 - (e) approve the annual budget of the Corporation and refer to the competent authorities for approval.
 - (f) propose the terms and conditions of the service of the employees to the Competent Minister who shall , after approval of the Minister , refer the same to the Council of Ministers for approval.

- (g) form the technical committees needed to assist the Board in exercising the Corporation's duties and functions ,in the achievement of its objectives and in the practice of its functions and powers .
 - (h) prepare the regulatory and functional structure of the Corporation and refer to the Competent Minister for the completion of approval procedures thereto.
 - (i) receive complaints from any person against any service provider licensed by the Corporation and take measures for dealing with such complaints in accordance with the provisions of this Act and its By-laws
 - (j) issue the internal rules of proecture for organizing its work and meetings.
 - (k) any other functions or powers necessary for management of the Corporation.
- (2)The Board may delegate any of its powers to the Director General, his deputies , assistants or any of the members of the Board with such terms and conditions as the Board deems fit

Conditions of Membership

- 11.No person shall be eligible for membership of the Board unless he satisfies the following conditions, namely that :
- (a)he is a person enjoying legal capacity .
 - (b)he is Sudanese of good conduct and repute.
 - (c) he has not been declared bankrupt.
 - (e)his service has not been terminated due to incompetence.

Vacation of Office

- 12.The office of the member of the Board shall fall vacant in any of the following cases; namely: -
- (a)loss of any of the membership conditions mentioned in section (11).
 - (b) conviction for an offence involving honour or honesty .
 - (c)absence from three consecutive meetings without an acceptable excuse
 - (d)resignation.
 - (e)death

Remuneration of the Members of the Board

13. The members of the Board shall be paid such remuneration as may be specified by the Competent Minister and approved by the Minister.

Appointment of the Director General And Duties thereof

14. (1) The Director General shall be appointed by a decision of the President of the Republic on the recommendation of the Competent Minister.

(2) The Director General shall be the chief executive in the Corporation responsible to the Board, and shall undertake the financial, administrative, and technical activities of the Corporation subject to the policies and directions set by the Board. Notwithstanding the generality of the foregoing, the Director General shall have the following functions and powers, namely to:

- (a) execute the duties designated thereto by the Board.
- (b) issue business licences in the different fields of the telecommunications services and activities as decided by the Board.
- (c) issue the licences for the use of frequencies and wireless equipment as decided by the Board.
- (d) undertake inspection, follow up and supervision of all telecommunication activities in the Sudan as decided by the Board.
- (e) represent the Corporation in regional and international conferences and meetings relating to the activities of the Corporation.
- (f) establish statistical information and data units in the different fields of telecommunications to assist in decision-making.
- (g) appoint the employees in the posts below grade three (III).
- (h) prepare the annual report on the progress of the work of Corporation together with the proposals of the annual budget and submit the same to the Board.

- (i) prepare the organizational structure of the Corporation and submit it to the Board for approval and submitting the same to the Council of Ministers for resolution .
- (3)The Director General may delegate any of his powers to any one of his assistants or to any committee constituted thereby with such terms and conditions as he deems appropriate.

Financial Resources of the Corporation

15.The financial resources of the Corporation shall consist of the following :

- (a) appropriation made thereto by the Federal and State Governments,
- (b) fees as may be collected from import licences and use of telecommunication equipment,
- (c) the returns of the advisory services rendered by the Board ,
- (d) any other fees obtained as a result of the services rendered by the Corporation.
- (e) loans, donations and gifts as approved by the Minister ,
- (f) any other resources to be approved by the Minister,

Annual Budget , Accounts and Audit

- 16 .(1)The Corporation shall have an annual budget to be prepared by the Director General according to the principles followed in the preparation of budgets of the State provided that the budget shall include the revenues and expenditures of the Corporation , and such budget shall be submitted to the Board for approval and for subsequent submission to the competent entities for resolution
- (2)The Corporation shall keep accurate, proper and complete accounts for the revenues and expenditures according to the proper accounting principles and the Corporation shall also keep the books relating to such accounts.
- (3)The General Auditing Chamber or any other certified auditor, approved by the Auditor General and under his supervision, shall audit the accounts of the Corporation at the end of every fiscal year .

Chapter IV
Telecommunications, Equipment and Radio Stations
Establishment , Possession and Use
Of Telecommunication Network

17. (1) No person shall possess, establish or operate any public or private telecommunication network save under licence issued thereto according to the provisions of this Act .
- (2) The following shall be exempted from application of sub- section (1):
- (a) telecommunication networks of the Peoples Armed Forces ,Police Forces and National Security Forces , within the limits of frequency band allocated thereto.
 - (b)The network for internal communications within the parts of the same building owned by one person.
- (3)The entities exempted according to sub– section (2) hereinabove shall not offer telecommunication services in a commercial manner save under licence to be issued thereto by the Board.

Wireless Equipment and Radio Stations

18. (1) No person shall possess, install , use , operate any wireless equipment or radio station inside the territories of Republic of the Sudan or on board of any plane or ship registered in Sudan save under licence obtained thereby according to the provisions of this Act .
- (2)The following shall be exempted from the provisions of sub - section (1)
- (a) the Armed Forces, Police Forces and National Security forces within the limits of frequency bands allocated thereto.
 - (b) foreign planes and ships in the regional waters .
 - (c)any other person as decided by the Board .

**The Shut-Down of the Wireless Equipment
or the Radio Station**

- 19.(1) The licensee , in case of the shut - down of the wireless equipment or the radio station , shall not use the same within the period of shut-down and shall inform the Director General about the method of disposal of such equipment or station whether by means of transfer of ownership or destruction thereof or by any other means to be approved by the Director General .

Radio Operator Certificate

20. No person shall be charged with the operation of any wireless equipment or radio station inside the territories of the Sudan or on board of any ship or plane registered in the Sudan unless he is a holder of a radio operator certificate issued thereto in accordance with the provisions of this Act and its By-laws.

Harmful Operation

21. If the operation of any wireless equipment or radio station or electrical appliance resulted in the failure or interference with another equipment or station or caused harm to any telecommunication services , the Director General shall notify, with the approval the Board, the person who caused such harm in writing to undertake the necessary rectifications and remove the causes of harm within the period specified by the Board on the said notification.

**Import, Manufacture and Trade
In the Wireless Equipment and
Telecommunication Equipment**

- 22.(1) The manufacture , assembly , trade or installation of wireless equipment and telecommunication equipment shall not be made save after obtaining a licence in this respect according to the provisions of this Act.
- (2) The customs authorities shall not release any telecommunication or wireless equipment unless the importer obtains a licence in this respect from the Corporation. Telephone and fax sets for personal use are exempted from this provision.

Chapter V
Licensing and Fees
Licensing

- 23.(1) The Licence application shall be forwarded by those concerned to the Director General in the manner specified by the By-laws.
- (2) The approval of the Competent Minister shall be obtained in the case of application for a broadcast station licence..
- (3) Any licence issued according to the provisions of this Act shall be subject to the conditions specified by the Board .
- (4) Any licence after being issued shall not be amended or transferred save after obtaining the written approval of the Board .
- (5) The By-laws shall specify the validity of the licence and its renewal .

Fees

- 24.(1) The licensee , whom the licence is issued in his name, shall be responsible for payment of the fees specified by the Board from time to time .
- (2)The following shall be exempted from the prescribed licence Fees:
- (a) diplomatic missions and organizations according to the policy of reciprocity,
- (b) any other entity exempted by a decision issued by of the Competent Minister on a recommendation from the Board in this respect.

Amendment of the Licence Conditions

- 25.(1) The Board may amend any of the licence conditions subject to the procedures specified by the By-laws .
- (2) Any aggrieved person from the decision issued by of the Board amending the conditions on which the licence had been issued, may appeal to the Competent Minister whose decision in this respect shall be final .

**The Use of Wireless Equipment,
Radio and Broadcast Stations**

- 26.(1) The use of any wireless equipment, radio station or broadcast station shall be subject to the conditions specified by the Board at the issue of the licence , and such conditions shall in particular include the location of the station, type , the frequencies allocated for use , the personnel employed, the date of licence and payment of the prescribed fees.
- (2) The licensee shall not use any broadcast station or wireless equipment or frequency for any other purpose not specified in the licence.
- (3) No person shall, after issue of the licence, make any amendment in the details or purposes for which the licence was issued save with a written approval from the Board .

**Disposal of Wireless Equipment , Frequencies,
Radio and Broadcast Stations**

- 27.The licensee shall not transfer the ownership of the wireless equipment , radio stations , broadcast stations or frequency licenced thereto ,or lease the same or dispose thereof in any other manner save after obtaining a written approval from the Corporation according to what is specified by the By-laws.

Cancellation of the Telecommunication licence

- 28.(1)The Director General shall cancel the telecommunication licence in any of the following cases :
- (a) Licensee's non- payment of the prescribed fees for renewal of the licence at the specified time without acceptable excuse,
- (b) Licensee's contravening of the conditions included in the licence.
- (c) Licensee's liquidation of his business , declaration of his bankruptcy or loss of his legal capacity.
- (d) any other reasons where the Competent Minister or the Board believes that such reasons have impact on the security and public order of the State .

(2)The Director General may cancel the licence for any specific service or in any specified area in any of the following cases,if :

- (a) the licensee commits any contravention of the provisions of this Act and its By-laws.
- (b) the licensee harmed other persons or refuses to adapt his positions after being given a written notice By the Board to that effect ,
- (c) the licensee did not execute the decision of the Board in a period exceeding thirty days from the date of notice mentioned in paragraph (b)
- (d) the services of the licensee were below the required standard , and complaints have been lodged against him and the corretness of which has been verified by the Board.
- (e) the licensee was notified twice within a period of six consecutive months .
- (f) there are necessary or exceptional reasons , as the Director General may judge appropriate .

Non-Acceptance of New Subscriptions

29. The licensee shall not accept any new subscriptions from the date of cancellation of the licence save to such extent necessary for the trasfer of the subscribers to another licensed person and after the written approval of the Director General .

Delivery of the licence

30.The licensee or the person who possesses the licence or the licence is under his supervision shall deliver the same to the Corporation at the end of the period of the licence or cancellation thereof.

Chapter V 1
Public Telecommunication Services
Submission of Reports

31. The Licensee of a Public Telecommunication Service shall submit an annual report to the Director General showing therein the technical, administrative and financial matters that guarantee the provision of services in the required standard and shall provide the Director General with any other informations and data relating to the services in a periodic or exceptional manner at the time specified by the Director General .

Amendment of the Prices of the Public
Telecommunication Services

32.(1) The licensee shall not amend the prices of the public telecommunication services save under approval of the Board.

(2) The licensee shall make the approved prices known to the public one month before coming into force.

Agreements

33.(1) The licensee shall deposit at the Corporation any local , regional or international agreements with any other party immediately after being signed.

(2) Notwithstanding the provisions of sub-section (1) ,no Government utility or entity shall sign any agreement in relation to telecommunications unless the approval of the Competent Minister is obtained . The Ministry of defence shall be exempted from this provision .

Eavesdropping of Telephone Conversations

34.(1) No person shall break into ,eavesdrop , or monitor telephone conversations save under a decision from the attorney of prosecution or the competent judge.

(2) If the person providing the services discovers, after the monitoring or the control made under sub-section (1), that the source of nuisance is one of the users of his services, he shall submit a report to the attorney of prosecution or the competent judge .

Chapter VII
Inspection and Supervision
Adherence to the Licence Conditions

35. For the purpose of inspection, the Corporation may ascertain that the licensee is adhering to the conditions of the licence, provided that the Director General shall take all the necessary procedures for inspection. Notwithstanding the generality of the foregoing, the Director General shall take the following procedures, namely to:
- (a) carry out inspection of the locations of telecommunication network, telecommunication equipment and broadcast stations .
 - (b) examine the technical records and systems being followed for billing.
 - (c) revise the standard of the service rendered and its effectiveness .

Power of Inspection , Supervision
And Detection of Contraventions

- 36.(1) The authorized officials of the Corporation shall undertake the power of inspection and supervision within the territories of the State , on board of all ships in the regional waters and on board of all landing planes at Sudanese air ports for the purpose of: :
- (a) supervision of the radio equipment, radio stations, broadcast stations and frequencies to ascertain the proper use and operation thereof.
 - (b) detection of the non- licensed equipment, frequencies and stations.
 - (c) subjection of the equipment to immediate examination in or outside the location thereof.
 - (d) examination of the licence and documents
 - (e) supervision of any activity contravening the provisions of this Act.

- (2) The official authorized for the execution of the provisions of this Act and its By-laws and orders shall have the right to enter and inspect the factories, commercial places, stores, planes and ships in the regional waters at any time to detect any contravention to the provisions of this Act.
- (3) Notwithstanding the provisions of sub-section (2) above, entry and inspection of private residences shall not take place save under an order issued by the attorney of prosecution or the competent judge.
- (4) (a) Lien of items which are not liable to be licensed, provided that the equipment which can be licensed shall be kept until licensed.

(b) If the equipments under lien are not licensed or their owner thereof does not request their recovery within the period to be specified by the Board, the Board may obtain an order from the court for the confiscation of such equipment.
- (5) The authorized official during his entry, inspection and detection of contraventions may seek the assistance of the Police Forces or any person present and such person shall offer the necessary assistance to that effect.
- (6) The contravening person or entities shall be given a receipt which shall contain the type of the equipment detained in contravention of the provisions of this Act and such equipment shall be delivered to the Corporation until a decision regarding the contravention is taken.

Chapter VIII
General Provisions
Connectivity of Licenced
Telecommunications Networks

37. The licensee shall connect any other telecommunications networks licenced or equipment approved by the Board for use, in accordance with the rules specified by the Board in coordination with both parties.

Shut – off Wireless Equipment

38.(1) The Board may shut off any of the wireless equipment for any reasons it deems necessary or exceptional .

(2) The decision issued under the provisions of sub-section (1) shall be appealed to the Competent Minister whose decision in this respect shall be final.

Formation of the Technical Committee
And Functions thereof

39.(1) The Board shall form a technical committee for wireless communication as follows:

- (a) representative of the National Telecommunication Corporation... Charrman.
- (b) representative of the Military Intelligence Member
- (c) representative of the Internal Security Bureau.....“
- (d) representative of the Signal Corps.....“
- (e) representative of the Ministry of Interior.....“

(2) The committee shall have the following functions ,namely to:

- (a) submit to the Board the recommendations relating to the applications for wireless equipment and renewal thereof.

- (b) set internal rules of procedures to organize its meetings .
- (c) any other functions as specified by the Board
- (3) The committee shall, with the approval of the Board , appoint a rapporteur thereof.
- (4) The Board shall specify the remuneration of the chairman and members of the committee and its rapporteur.

Temporary cessation **Of Audio And Visual Broadcast**

- 40.(1) The Competent Minister may issue a resolution for the cessation the broadcasting of any material if it is contravening local or international agreements or the contractual rights of any person.
- (2) The Competent Minister may issue a resolution suspending audio / visual broadcast of any radio station equipment licensed under the provisions of this Act , for a determined period if he considers that the continuity of this broadcast contravenes the requisites of public interest , national security or intrinsic cultural characteristics.

Free Competition in the Field of Public **Telecommunications Networks**

41. In accordance of the provisions of this Act and its By-laws, the public telecommunication services shall be provided through free competition by persons with efficiency and competence in establishing telecommunication networks.

Adherence to International laws

42. The licensee shall adhere to the obligations of the international laws in the field of telecommunications and audio or visual broadcast specially in the areas of frequencies , international agreements for compatibility and interoperability of systems , quality and standards of services and international criteria for tariffication .

Penalties

- 43.(1) The Board may impose, on any person who contravenes the provisions of this Act or its By-laws any penalties specified in the By-laws.

(2) The Competent Minister may impose any of the penalties specified in the By-laws on any licensee in case of his contravention to the directions or basic principles laid down by the Competent Minister.

Punishments

44.(1) Notwithstanding any other severe punishment provided for in any other law, any person who commits any contravention to the provisions of this Act or the By-laws or orders shall be punished with imprisonment for a period not exceeding six months or with a fine or with both.

(2) In all cases, in which any contravention to this Act is committed, the court may order the:

(a) confiscation of the equipment for the benefit of the Corporation.

(b) cancellation of the licence.

Consideration of Contraventions

45. The court of the second grade judge or any other higher court shall be competent to consider the contraventions specified in this Act.

Power to Issue By-laws

And Orders

46.(1) The Board with the approval of the competent Minister shall issue the necessary By-laws and orders for the enforcement of the provisions of this Act. Notwithstanding the generality of the foregoing, such By-laws and orders may include :

(a) licence applications

(b) licensing conditions

(c) obligations of the licensee

(d) regulation of the use of frequencies and their allocation..

- (e) procedures of inspection and submission of reports.
 - (f) forms of licences.
 - (g) fees in return of services rendered in accordance with provisions of this Act.
 - (h) penalties to be imposed for the contravention of the provisions of this Act or its ensuing By-laws.
- (2) Subject to the provisions of section 10 (1) (f), the Board may issue the terms and conditions of service of the employees of the Corporation.