



June 2024

Partial Notification of the Telecommunications Act, 2023

The Government of India, on June 21, 2024, notifies selected provisions of the Telecommunications Act, 2023 (“**Telecom Act**”), to be enforceable from June 26, 2024. Sections 1, 2, 10 to 30, 42 to 44, 46, 47, 50 to 58, 61 and 62 of the Telecom Act are enforced at present.

The Telecom Act aims to amend and consolidate the law relating to development, expansion and operation of telecommunication services and telecommunication networks; assignment of spectrum and for matters connected therewith. The Telecom Act repeals the existing colonial legislations such as the Indian Telegraph Act of 1885 and the Indian Wireless Telegraphy Act of 1933.

Provisions of the Telecom Act notified

The sections that have been brought into force with effect from June 26, 2024, are broadly as follows:

1. **Chapter I – ‘Preliminary’ (Sections 1 and 2)** - All the definitions under this chapter are notified.
2. **Chapter III – ‘Right of Way for Telecommunication Network’ (Sections 10 - 18)** - The definition of public entities is broadened to include government agencies, local bodies and public private partnership projects such as airports, seaports and highways. While the right of way framework typically covers public property, the provisions of the Telecom Act establish a complete framework with respect to private property as well, which is based on mutual agreement. The Telecom Act specifically provides that telecommunication infrastructure is to be distinct from the property it is installed upon. This aims to reduce disputes in instances of sale or lease of property.
3. **Chapter IV – ‘Standards, Public Safety, National Security and Protection of Telecommunication Networks’ (Sections 19 - 23)** - These provisions provide empower the central government, with the powers to set standards and conformity assessment measures for telecommunication services, telecommunication networks, and telecommunication security. Furthermore, on the occurrence of any public emergency or in the interest of public safety, including disaster management, the central government or state government or any officer authorised in their behalf may take temporary possession of any telecommunication service or telecommunication network from an authorised entity.
4. **Chapter V – ‘Digital Bharat Nidhi’ (Sections 24 - 26)** - These provisions state that the Universal Service Obligation Fund created under the Indian Telegraph Act, 1885, is to be the ‘*Digital Bharat Nidhi*’ from the enforcement of these provisions. The functions for which this fund may be discharged are laid down in the Telecom Act.

5. **Chapter VI – ‘Innovation and Technology Development’ (Sections 27 - 30)** - These provisions empower the central government to create regulatory sandboxes for the purpose of encouraging and facilitating innovation and technology development.
6. **Chapter IX – ‘Offences’ (Sections 42 - 44)** - It covers the various offences under the Telecom Act and prescribes the range of punishment to be awarded for the offence.
7. **Selected provisions under Chapter X – ‘Miscellaneous’ (Sections 46, 47, 50 - 58, 61 and 62)** - These include provisions which extend the jurisdiction of the Telecom Act to cover offences committed or contraventions made outside the borders of India, in case the offence involves a telecommunication service provider based in India or telecommunication equipment or telecommunication network located in India. Additionally, the Telecom Act grants the Central Government the power to enable the digital implementation of the provisions under the Telecom Act.

Conclusion

The partial enforcement of the Telecom Act is a welcome move towards a new era of post-colonial to govern the rapid advances in technology and telecommunication sectors. Though, one must bear in mind that only certain provisions under the Telecom Act have been enforced at present, and many essential provisions such as those governing the allocation of spectrum have not been enforced yet. To fully understand and appreciate the new Telecom Act, the entire statute along with its rules are required to be notified and enforced by the central government. To ensure a smooth transition from the erstwhile legislations to the Telecom Act, sections 61 and 62 of the Telecom Act have been enforced, which will provide continuation to the existing framework till rules are made under the new law, thus providing a conducive environment to the sector.

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This Prism has been prepared by:









Tony Verghese
Partner







Radhika Gupta
Principal Associate



Neethika Manoj
Junior Associate

		
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