

No.10-03/2020-Restg.
भारत सरकार Government of India
संचार मंत्रालय Ministry of Communications
दूरसंचार विभाग Department of Telecommunications
(Restructuring Section)

20, अशोक रोड, संचार भवन, नई दिल्ली-1
20, Ashoka Road, Sanchar Bhawan, New Delhi-1
Dated: 26.11.2021

ADVERTISEMENT

Subject: Appointment to the post of whole-time Member of Telecom Regulatory Authority of India (TRAI).

TRAI: The Telecom Regulatory Authority of India (TRAI) was established and is governed by the Telecom Regulatory Authority of India Act, 1997, to regulate the telecommunication services and to protect the interests of service providers and consumers of the telecom sector, to promote and ensure orderly growth of the telecom sector and for matters connected therewith or incidental thereto. Its functions include making recommendations on (i) measures to facilitate competition and promote efficiency in the operation of telecommunication services (ii) technological improvements in the services provided by the service providers and (iii) measures for the development of telecommunication technology and related matters. It has also to ensure compliance of terms and conditions of license, technical compatibility and effective inter-connection between different service providers, regulate arrangement amongst service providers of sharing their revenue derived from providing telecommunication services, lay down the standards of quality of service to be provided by the service providers and ensure the quality of service and conduct periodical survey to protect interest of the consumers and ensure effective compliance of universal service obligations.

Vacancy: There is one vacant post of whole-time Member in TRAI.

Terms of Appointment: The tenure of the post is for a term not exceeding three years or till the age of 65 years, whichever is earlier. As per Department of Expenditure, Ministry of Finance OM No.16-1/2017/E-III A dated 10th January, 2018, a whole-time Member of TRAI, shall be entitled to a pay package of Rs. 4,00,000/- (Rupees Four Lakh only) (without house and car) per month. An employee of the Government on his/her selection as whole-time Member, TRAI shall have to retire from service before joining TRAI.

Qualifications: The qualifications for appointment to the post as derived from Section 4 of the TRAI Act, are as follows:

A person having special knowledge of, and professional experience in telecommunication, industry, finance, accountancy, law, management or consumer affairs.

PROVIDED that such a person who is, or has been, in the service of Government shall not be appointed as a member unless such person has held the post of Secretary, or Additional Secretary, or the post of Additional Secretary and Secretary to the Government of India or any equivalent post in the Central Government or the State Government for a period of not less than three years.

Procedure for Selection: A Search-cum-Selection Committee (SCSC) will make recommendations for selection to the post. In addition to applications received through this advertisement, the Search-cum-Selection Committee will have the authority to consider any other names for the appointment to the post.

Application Procedure: Interested and eligible persons are requested to send their applications in the prescribed format only, which can be downloaded from the websites <http://www.dot.gov.in> or <http://www.dopt.gov.in> or <http://www.trai.gov.in>, alongwith copies of relevant documents to the following address, or scanned copy (PDF format only) of the same may be sent at email 'naveen.kumar71@gov.in' so as to reach this office **latest by 5:30 PM on 05/01/2022:**

Shri Naveen Kumar
Director (Restg.),
Room No. 1004, Sanchar Bhawan,
20, Ashoka Road, New Delhi-110001.
Telephone No. 011-23036428/23036178

Note1: Officers working in the Central or State Government, Autonomous/ Statutory organizations, Public Sector Undertakings etc. shall send their applications through proper channel.

Note2: Any application **received after due date** or '**not in prescribed format**' will not be entertained.


(Naveen Kumar)
Director (Restructuring)

APPENDIX

**APPLICATION FORMAT FOR THE POST OF WHOLE-TIME MEMBER IN
TELECOM REGULATORY AUTHORITY OF INDIA (TRAI), NEW DELHI**

(If space is insufficient against any item, please attach extra papers/sheets).

1. Name (in block letters):

First Name :

Middle Name :

Last Name :

Space for coloured
photograph duly
signed by candidate

2. Father's Name:

3. Marital Status:

4. Date of Birth (Please attach a copy of High School Certificate):

5. Age as on 31.12.2021:Years.....Months.....Days

**6. Name of Service of the candidate and total service in HAG or above
Scale (for serving/retired Govt. servants):**

7. Nationality:

**8. Address for correspondence (in block letters) indicating clearly the
PIN Code:**

9. Permanent Address (in block letters):

10. (a) Telephone and Fax Nos. (Off./Resi.):

(b) Mobile:

(c) e-mail ID:

11. Whether belonging to SC/ST/OBC :

(Please attach a copy of Caste Certificate)

12. Educational Qualifications (in reverse chronological order):

Name of University/ Equivalent Institution	Degree	Year of passing	Division/ % of marks obtained	Academic Distinction	Subject / Specialization

13. Employment Record (in chronological order starting with present post, list in reverse):

Name & address of employer	Designation, scale of pay and whether regular/ deputation/ adhoc	Period of service		Nature of work/ experience
		From	To	

14. Information related to special knowledge of, and professional experience acquired in respect of matters relating to telecommunication, industry, finance, accountancy, law, management or consumer affairs, including length of experience:

15. Publications, if any, in journals of national/international repute, with citation and index.

16. Awards/honours, if any:

17. Any other relevant information:

18. Declaration: -

I certify that the foregoing information is correct and complete to the best of my knowledge and belief and nothing has been concealed/distorted. If at any time, I am found to have concealed/distorted any material information; my appointment shall be liable to summary termination without notice.

Signature of the Candidate

Date:

Place:

(Note: Please attach self-attested copy of all relevant certificates.)

TO BE FORWARDED BY THE HEAD OF ORGANISATION/INSTITUTION

(IN RESPECT OF CANDIDATES WORKING UNDER GOVERNMENT/
AUTONOMOUS / STATUTORY / PUBLIC SECTOR UNDERTAKINGS ETC.)

Ministry/Department/Office of

Particulars furnished by _____ have been verified with
reference to service records and their correctness certified.

It is certified that no vigilance case is either pending or contemplated against
the above officer.

The Integrity Certificate in respect of the above officer is enclosed.

**(Signature & Designation of the
Forwarding Officer with Seal)**

Address:

Dated:

सं.10-03/2020-पुनर्गठन

भारत सरकार

संचार मंत्रालय

दूरसंचार विभाग

(पुनर्गठन प्रकोष्ठ)

20, अशोक रोड, संचार भवन, नई दिल्ली-1

दिनांक: 26 नवम्बर, 2021

विज्ञापन

विषय: भारतीय दूरसंचार विनियामक प्राधिकरण (ट्राई) में पूर्णकालिक सदस्य के पद पर नियुक्ति।

ट्राई: भारतीय दूरसंचार विनियामक प्राधिकरण (ट्राई) की स्थापना दूरसंचार सेवाओं को विनियमित करने और दूरसंचार क्षेत्र के सेवा प्रदाताओं और उपभोक्ताओं के हितों की रक्षा करने, दूरसंचार क्षेत्र को बढ़ावा देने और इसका सुव्यवस्थित विकास सुनिश्चित करने और इससे संबंधित अथवा आनुषंगिक मामलों के लिए की गई थी और यह भारतीय दूरसंचार विनियामक प्राधिकरण अधिनियम, 1997 द्वारा शासित है। इसके प्रकार्यों में (i) दूरसंचार सेवाओं के प्रचालन में प्रतिस्पर्धा और दक्षता को बढ़ावा देने के उपाय करना (ii) सेवा प्रदाताओं द्वारा प्रदान की गई सेवाओं में प्रौद्योगिकीय सुधार करना और (iii) दूरसंचार प्रौद्योगिकी विकास के उपायों और इससे संबंधित मामलों के संबंध में सिफारिशें करना सम्मिलित है। ट्राई को लाइसेंस की शर्तों और निबंधनों का अनुपालन सुनिश्चित करने, विभिन्न सेवा प्रदाताओं के बीच तकनीकी अनुकूलता और प्रभावी अंतर-संबंध सुनिश्चित करने, दूरसंचार सेवाएं प्रदान करने से अर्जित राजस्व को सेवा प्रदाताओं के बीच साझा करने की व्यवस्था को विनियमित करने, सेवा प्रदाताओं द्वारा उपलब्ध कराई जाने वाली सेवा के सेवा गुणवत्ता मानक निर्धारित करने तथा सेवा की गुणवत्ता सुनिश्चित करने और उपभोक्ताओं के हितों की रक्षा करने के लिए आवधिक सर्वेक्षण करने और सार्वभौमिक सेवा दायित्वों का प्रभावी अनुपालन सुनिश्चित करने की जिम्मेवारी भी सौंपी गई है।

रिक्तियां: ट्राई में पूर्णकालिक सदस्य का एक पद रिक्त है।

नियुक्ति की शर्तें: इस पूर्णकालिक सदस्य का कार्यकाल तीन वर्ष से अधिक नहीं अथवा 65 वर्ष की उम्र तक, जो भी पहले हो, के लिए है। व्यय विभाग, वित्त मंत्रालय के दिनांक 10 जनवरी 2018 के कार्यालय ज्ञापन सं.16-1/2017/ई-IIIए के अनुसार ट्राई के पूर्णकालिक सदस्य 4,00,000/- रूपए (चार लाख रु.) प्रति माह के वेतन पैकेज के हकदार होंगे और सरकारी आवास अथवा परिवहन के हकदार नहीं होंगे। सरकारी कर्मचारी को, पूर्णकालिक सदस्य, ट्राई के रूप में चयनित होने पर, ट्राई में कार्याभार ग्रहण करने से पहले उस सेवा से सेवानिवृत्त होना होगा।

अर्हताएं: ट्राई अधिनियम की धारा 4 में उल्लिखित इस पद की नियुक्ति संबंधी अर्हताएं निम्नानुसार हैं:

ऐसा व्यक्ति जिसे, दूरसंचार, उद्योग, वित्त, लेखा पद्धति, विधि, प्रबंधन अथवा उपभोक्ता मामलों में विशेष ज्ञान एवं व्यवसायिक अनुभव है।

परंतु केवल ऐसे व्यक्ति को ट्राई के सदस्य के रूप में नियुक्त नहीं किया जाएगा जो मात्र सरकारी सेवा में हैं अथवा रहे हैं बल्कि ऐसे व्यक्ति को सदस्य के रूप में नियुक्त किया जाएगा जिसने सरकारी सेवा में सचिव अथवा अपर सचिव का पद अथवा भारत सरकार के अपर सचिव और सचिव का पद कम से कम तीन वर्षों तक धारित किया हो अथवा केंद्र सरकार अथवा राज्य सरकार में किसी समतुल्य पद पर कम से कम तीन वर्षों तक कार्य किया हो।

चयन की प्रक्रिया: उक्त पद के चयन हेतु सिफारिशें करने के लिए खोज-सह-चयन समिति का गठन किया जाएगा। इस विज्ञापन के माध्यम से प्राप्त आवेदनों के अलावा खोज-सह-चयन समिति को उक्त पद पर नियुक्ति के लिए किसी अन्य नाम पर विचार करने का प्राधिकार होगा।

आवेदन की प्रक्रिया: इच्छुक और योग्य व्यक्तियों से अनुरोध है कि वे अपने आवेदनों को संबंधित दस्तावेजों के साथ निर्धारित प्रारूप, जिसे वेबसाइट <http://www.dot.gov.in> अथवा <http://www.dopt.gov.in> अथवा <http://www.trai.gov.in> से डाउनलोड किया जा सकता है, में नीचे दिए गए पते पर भिजवाएं या आवेदन की स्कैन की हुई प्रति (केवल पी.डी.एफ. फॉर्मेट) को 'naveen.kumar71@gov.in' पर ई-मेल करें ताकि आवेदन कार्यालय को हर हालत में दिनांक **05.01.2022** को अपराह्न **5.30** बजे तक प्राप्त हो जाए।

श्री नवीन कुमार

निदेशक (पुनर्गठन)

कमरा नं. 1004, संचार भवन,

20, अशोक रोड, नई दिल्ली - 110001

टेलीफोन नंबर 011-23036428/23036178

नोट 1: केंद्र अथवा राज्य सरकार, स्वायत्त/सांविधिक संगठनों, सार्वजनिक क्षेत्र के उपक्रमों इत्यादि में कार्य कर रहे अधिकारी अपने आवेदन को उचित माध्यम से भेजें।

नोट 2: नियत तारीख के बाद या 'निर्धारित प्रारूप से इतर स्वरूप में' प्राप्त होने वाले किसी भी आवेदन पर विचार नहीं किया जाएगा।

(नवीन कुमार)

निदेशक

परिशिष्ट

भारतीय दूरसंचार विनियामक प्राधिकरण (ट्राई), नई दिल्ली में पूर्णकालिक सदस्य के पद के लिए आवेदन का
प्रारूप

(यदि किसी मद के सामने दिया गया स्थान पर्याप्त नहीं है तो कृपया अतिरिक्त पृष्ठ/शीट संलग्न करें)

1. नाम (स्पष्ट अक्षरों में):

पहला नाम :

मध्य नाम:

अंतिम नाम:

अभ्यर्थी द्वारा विधिवत रूप से हस्ताक्षरित फोटो के लिए स्थान
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2. पिता का नाम:

3. वैवाहिक स्थिति:

4. जन्म तिथि: (हाई स्कूल प्रमाणपत्र की प्रति संलग्न करें)

5. 31.12.2021 को आयु:वर्ष.....माह.....दिन

6. आवेदक की सेवा का नाम और एचएजी में कुल सेवा या वेतनमान (सेवारत/सेवानिवृत्त सरकारी कर्मचारियों हेतु)

7. राष्ट्रीयता:

8. पत्राचार का पता (स्पष्ट अक्षरों में) पिन कोड साफ-साफ दर्शाते हुए:

9. स्थायी पता (स्पष्ट अक्षरों में):

10. (क) दूरभाष एवं फैक्स नं. (कार्यालय/आवास) :

(ख) मोबाइल:

(ग) ई-मेल आईडी:

11. क्या अनुसूचित जाति/अनुसूचित जनजाति/अन्य पिछड़ा वर्ग से संबंधित है :

(कृपया जाति प्रमाणपत्र की प्रति संलग्न करें)

12. शैक्षणिक योग्यताएं (विपरीत कालानुक्रम में):

विश्वविद्यालय/समकक्ष संस्थान का नाम	डिग्री	उत्तीर्ण करने का वर्ष	प्राप्त की गई श्रेणी/अंकों का प्रतिशत	विशेष शैक्षिक योग्यता	विषय/विशेषज्ञता

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13. रोजगार रिकार्ड (वर्तमान पद से आरंभ होकर कालानुक्रम में विपरीत कालानुक्रम में):

नियोक्ता का नाम और पता	पदनाम, वेतनमान और नियुक्ति नियमित/प्रतिनियुक्ति/तदर्थ जो भी हो उल्लेख करें	सेवा की अवधि		कार्य का स्वरूप/अनुभव
		से	तक	

14. दूरसंचार, उद्योग, वित्त, लेखा कार्य, विधि, प्रबंधन से संबंधित मामलों अथवा उपभोक्ता मामलों के बारे में विशेष ज्ञान और प्राप्त व्यावसायिक अनुभव से संबंधित सूचना और ऐसे अनुभव की अवधि :

15. यदि राष्ट्रीय/अंतर्राष्ट्रीय ख्यातिप्राप्त जर्नल (पत्रिका) में प्रकाशन हो तो उद्धरण एवं सूचना सहित विवरण:

16. प्राप्त किया गया पुरस्कार/सम्मान, यदि कोई हो:

17. संबंधित कोई अन्य सूचना:

18. घोषणा:-

मैं प्रमाणित करता हूँ कि उपर्युक्त सूचना मेरी समझ और विश्वास के अनुसार सत्य और पूर्ण है और मेरे द्वारा कुछ भी छिपाया/गलत तरीके से पेश नहीं किया गया है। यदि कभी भी मेरे द्वारा किसी प्रमुख सूचना को छुपाने/गलत तरीके से पेश करना पाया जाता है तो मेरी नियुक्ति को बिना कोई नोटिस दिए समाप्त किया जा सकेगा।

अभ्यर्थी का हस्ताक्षर

दिनांक :

स्थान :

(नोट: कृपया सभी संबंधित दस्तावेजों की स्वप्रमाणित प्रति सलंगन करें।)

संगठन/संस्था के प्रमुख द्वारा अंग्रेषित किया जाए

(सरकारी/स्वायत्त/सांविधिक/सार्वजनिक क्षेत्र के उपक्रमों इत्यादि के अधीन कार्य कर रहे अभ्यर्थियों के संबंध में)

मंत्रालय/विभाग/ कार्यालय

.....

.....द्वारा प्रस्तुत किए गए विवरणों का सत्यापन सेवा रिकार्डों से किया गया है और प्रमाणित किया जाता है कि उक्त विवरण सही हैं।

यह प्रमाणित किया जाता है कि उपर्युक्त अधिकारी के खिलाफ न तो कोई सतर्कता मामला लंबित है और न ही चलाए जाने का विचार है।

उपर्युक्त अधिकारी से संबंधित सत्यनिष्ठा प्रमाण-पत्र संलग्न है।

(अंग्रेषित करने वाले अधिकारी का हस्ताक्षर
एवं पदनाम मोहर सहित)

पता :

दिनांक :

539
1

THE TELECOM REGULATORY AUTHORITY OF INDIA ACT, 1997

(24 of 1997)

[28th March, 1997]

An Act to provide for the establishment of the ¹[Telecom Regulatory Authority of India and the Telecom Disputes Settlement and Appellate Tribunal to regulate the telecommunication services, adjudicate disputes, dispose of appeals and to protect the interests of service providers and consumers of the telecom sector, to promote and ensure orderly growth of the telecom sector] and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Telecom Regulatory Authority of India Act, 1997.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 25th day of January, 1997.

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

(a) "appointed day" means the date with effect from which the Authority is established under sub-section (1) of section 3;

²[(aa) "Appellate Tribunal" means the Telecom Disputes Settlement and Appellate Tribunal established under section 14;]

(b) "Authority" means the Telecom Regulatory Authority of India established under sub-section (1) of section 3;

(c) "Chairperson" means the Chairperson of the Authority appointed under sub-section (3) of section 3;

(d) "Fund" means the Fund constituted under sub-section (1) of section 22;

(e) "Licensee" means any person licensed under sub-section (1) of section 4 of the Indian Telegraph Act, 1885 (13 of 1885) for providing specified public telecommunication services;

²[(ea) "licensor" means the Central Government or the telegraph authority who grants a licence under section 4 of the Indian Telegraph Act, 1885 (13 of 1885);]

1. Subs. by Act 2 of 2000, sec. 2, for "Telecom, Regulatory Authority of India to regulate the telecommunication services," (w.r.e.f. 24-1-2000).

2. Ins. by Act 2 of 2000, sec. 3 (w.r.e.f. 24-1-2000).

- (f) "member" means a member of the Authority appointed under sub-section (3) of section 3 and includes the Chairperson and the Vice-Chairperson;
- (g) "notification" means a notification published in the Official Gazette;
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "regulations" means regulations made by the Authority under this Act;
- (j) "service provider" means the ¹[Government as a service provider] and includes a licensee;
- (k) "telecommunication service" means service of any description (including electronic mail, voice mail, data services, audio tax services, video tax services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electromagnetic means but shall not include broadcasting services:

²[Provided that the Central Government may notify other service to be telecommunication service including broadcasting services.]

(2) Words and expressions used and not defined in this Act but defined in the Indian Telegraph Act, 1885 (13 of 1885) or the Indian Wireless Telegraphy Act, 1933 (17 of 1933) shall have the meanings respectively assigned to them in those Acts.

(3) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall in relation to that State be construed as a reference to the corresponding law, if any, in that State.

COMMENTS

To understand the meaning of 'licensee' sub-section (1) of section 4 of the Indian Telegraph Act, 1885 is reproduced below:

- (1) Within India, the Central Government shall have the exclusive privilege of establishing, maintaining and working telegraphs:

Provided that the Central Government may grant a licence, on such conditions and in consideration of such payments as it thinks fit, to any person to establish, maintain or work a telegraph within any part of India:

Provided further that the Central Government may, by rules made under this Act and published in the Official Gazette, permit, subject to such restrictions and conditions as it thinks fit, the establishment, maintenance and, working—

- (a) of wireless telegraphs on ships within Indian territorial waters and on aircraft within or above India, or Indian territorial waters and
- (b) of telegraphs other than wireless telegraphs within any part of India

1. Subs. by Act 2 of 2000, sec. 3, for "Government" (w.r.e.f. 24-1-2000).

2. Ins. by Act 2 of 2000, sec. 3 (w.r.e.f. 24-1-2000).

CHAPTER II

TELECOM REGULATORY AUTHORITY OF INDIA

3. Establishment and incorporation of Authority.—(1) With effect from such date as the Central Government may, by notification appoint, there shall be established, for the purposes of this Act, an Authority to be called the Telecom Regulatory Authority of India.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

¹(3) The Authority shall consist of a Chairperson, and not more than two whole-time members and not more than two part-time members, to be appointed by the Central Government.]

(4) The head office of the Authority shall be at New Delhi.

²4. Qualifications for appointment of Chairperson and other members.—The Chairperson and other members of the Authority shall be appointed by the Central Government from amongst persons who have special knowledge of, and professional experience in, telecommunication, industry, finance, accountancy, law, management or consumer affairs:

Provided that a person who is, or has been, in the service of Government shall not be appointed as a member unless such person has held the post of Secretary or Additional Secretary, or the post of Additional Secretary and Secretary to the Government of India or any equivalent post in the Central Government or the State Government for a period of not less than three years.]

5. Term of office, conditions of service, etc., of Chairperson and other members.—(1) Before appointing any person as the Chairperson or member, the Central Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such member.

³(2) The Chairperson and other members shall hold office for a term not exceeding three years, as the Central Government may notify in this behalf, from the date on which they enter upon their offices or until they attain the age of sixty-five years, whichever is earlier.

(3) On the commencement of the Telecom Regulatory Authority of India (Amendment) Act, 2000, a person appointed as Chairperson of the Authority and every other person appointed as member and holding office as such immediately before such commencement shall vacate their respective offices and such Chairperson and such other members shall be entitled to claim compensation not exceeding three months pay and allowances for the premature termination of the term of their offices or of any contract of service.]

1. Subs. by Act 2 of 2000, sec. 4, for sub-section (3) (w.r.e.f. 24-1-2000).

2. Subs. by Act 2 of 2000, sec. 5, for section 4 (w.r.e.f. 24-1-2000).

3. Subs. by Act 2 of 2000, sec. 6, for sub-sections (2) and (3) (w.r.e.f. 24-1-2000).

(4) The employee of the Government on his ¹[selection as the Chairperson or whole-time member] shall have to retire from service before ²[joining as the Chairperson or a whole-time member].

(5) The salary and allowances payable to and the other terms and conditions of service of the Chairperson and ³[whole-time members] shall be such as may be prescribed.

(6) The salary, allowances and other conditions of service of the Chairperson or of a member shall not be varied to his disadvantage after appointment.

⁴[(6A) The part-time members shall receive such allowances as may be prescribed.]

(7) Notwithstanding anything contained in sub-section (2) ⁵[[***], a member may—

(a) relinquish his office by giving in writing to the Central Government notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 7.

⁶[(8) The Chairperson and the whole-time members shall not, for a period of two years from the date on which they cease to hold office as such, except with the previous approval of the Central Government, accept—

(a) any employment either under the Central Government or under any State Government; or

(b) any appointment in any company in the business of telecommunication services.]

(9) A vacancy caused to the office of the Chairperson or any other member shall be filled up within a period of three months from the date on which such vacancy occurs.

⁷[[***]

1. Subs. by Act 2 of 2000, sec. 6, for "selection as member" (w.r.e.f. 24-1-2000).

2. Subs. by Act 2 of 2000, sec. 6, for "joining as member" (w.r.e.f. 24-1-2000).

3. Subs. by Act 2 of 2000, sec. 6, for "other members" (w.r.e.f. 24-1-2000).

4. Ins. by Act 2 of 2000, sec. 6 (w.r.e.f. 24-1-2000).

5. The words "or sub-section (3)" omitted by Act 2 of 2000, sec. 6 (w.r.e.f. 24-1-2000).

6. Subs. by Act 20 of 2014, sec. 2(i), for sub-section (8) (w.r.e.f. 28-5-2014). Earlier sub-section (8) was amended by Act 2 of 2000, sec. 6 (w.r.e.f. 24-1-2000). Sub-section (8), before substitution by Act 20 of 2014, stood as under:

"(8) The Chairperson or any whole-time member ceasing to hold office as such, shall—

(a) be ineligible for further employment under the Central Government or any State Government; or

(b) not accept any commercial employment, for a period of one year from the date he ceases to hold such office;

Provided that nothing contained in this sub-section shall apply to the Chairperson or a member who has ceased to hold office under sub-section (3) and such Chairperson or member shall be eligible for re-appointment in the Authority or appointment in the Appellate Tribunal."

7. Explanation omitted by Act 20 of 2014, sec. 2(ii) (w.r.e.f. 28-5-2014). The Explanation, before omission, stood as under:

"Explanation.—For the purpose of this section, "commercial employment" means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in any field and includes also a director of a company or partner of a firm and it also includes setting up practice either independently or as partner of a firm or as an adviser or a consultant."

6. Powers of Chairperson and Vice-Chairperson.—(1) The Chairperson shall have powers of general superintendence and directions in the conduct of the affairs of the Authority and he shall, in addition to presiding over the meetings of the Authority, exercise and discharge such powers and functions of the Authority and shall discharge such other powers and functions as may be prescribed.

(2) The Central Government may appoint one of the members to be a Vice-Chairperson of the Authority who shall exercise and discharge such powers and functions of the Chairperson as may be prescribed or as may be delegated to him by the Authority.

7. Removal and suspension of member from office in certain circumstances.—(1) The Central Government may remove from office any member, who,—

- (a) has been adjudged an insolvent; or
- (b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or
- (c) has become physically or mentally incapable of acting as a member; or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest.

¹[(2) No such member shall be removed from his office under clause (d) or clause (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.]

8. Meetings.—(1) The Authority shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be provided by regulations.

(2) The Chairperson or, if for any reason, he is unable to attend a meeting of the Authority, Vice-Chairperson and in his absence, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority vote of the members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the person presiding, shall have a second or casting vote.

(4) The Authority may make regulations for the transaction of business at its meetings.

9. Vacancies, etc., not to invalidate proceedings of Authority.—No act or proceeding of the Authority shall be invalid merely by reason of—

1. Subs. by Act 2 of 2000, sec. 7, for sub-sections (2) and (3) (w.r.e.f. 24-1-2000).

- (a) any vacancy in, or any defect in the constitution of, the Authority; or
- (b) any defect in the appointment of a person acting as a member of the Authority; or
- (c) any irregularity in the procedure of the Authority not affecting the merits of the case.

10. Officers and other employees of Authority.—(1) The Authority may appoint officers and such other employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The salary and allowances payable to and the other conditions of service of the officers and other employees of the Authority appointed under sub-section (1) shall be such as may be¹ [prescribed]:

²[Provided that any regulation, in respect of the salary and allowances payable to and other conditions of service of the officers and other employees of the Authority, made before the commencement of the Telecom Regulatory Authority of India (Amendment) Act, 2000, shall cease to have effect immediately on the notification of rules made under clause (ca) of sub-section (2) of section 35.]

CHAPTER III

POWERS AND FUNCTIONS OF THE AUTHORITY

11. Functions of Authority.—³[(1) Notwithstanding anything contained in the Indian Telegraph Act, 1885 (13 of 1885), the functions of the Authority shall be to—

- (a) make recommendations, either *suo motu* or on a request from the licensor, on the following matters, namely:—
 - (i) need and timing for introduction of new service provider;
 - (ii) terms and conditions of licence to a service provider;
 - (iii) revocation of licence for non-compliance of terms and conditions of licence;
 - (iv) measures to facilitate competition and promote efficiency in the operation of telecommunication services so as to facilitate growth in such services;
 - (v) technological improvements in the services provided by the service providers;
 - (vi) type of equipment to be⁴ used by the service providers after inspection of equipment used in the network;
 - (vii) measures for the development of telecommunication technology and any other matter relating to telecommunication industry in general;
 - (viii) efficient management of available spectrum;

1. Subs. by Act 2 of 2000, sec. 8, for "determined by regulations" (w.r.e.f. 24-1-2000).

2. Ins. by Act 2 of 2000, sec. 8 (w.r.e.f. 24-1-2000).

3. Subs. by Act 2 of 2000, sec. 9, for sub-section (1) (w.r.e.f. 24-1-2000).

545 (7)

- (b) discharge the following functions, namely:—
- (i) ensure compliance of terms and conditions of licence;
 - (ii) notwithstanding anything contained in the terms and conditions of the licence granted before the commencement of the Telecom Regulatory Authority of India (Amendment) Act, 2000, fix the terms and conditions of inter-connectivity between the service providers;
 - (iii) ensure technical compatibility and effective inter-connection between different service providers;
 - (iv) regulate arrangement amongst service providers of sharing their revenue derived from providing telecommunication services;
 - (v) lay-down the standards of quality of service to be provided by the service providers and ensure the quality of service and conduct the periodical survey of such service provided by the service providers so as to protect interest of the consumers of telecommunication service;
 - (vi) lay-down and ensure the time period for providing local and long distance circuits of telecommunication between different service providers;
 - (vii) maintain register of interconnect agreements and of all such other matters as may be provided in the regulations;
 - (viii) keep register maintained under clause (vii) open for inspection to any member of public on payment of such fee and compliance of such other requirement as may be provided in the regulations;
 - (ix) ensure effective compliance of universal service obligations;
- (c) levy fees and other charges at such rates and in respect of such services as may be determined by regulations;
- (d) perform such other functions including such administrative and financial functions as may be entrusted to it by the Central Government or as may be necessary to carry out the provisions of this Act;

Provided that the recommendations of the Authority specified in clause (a) of this sub-section shall not be binding upon the Central Government:

Provided further that the Central Government shall seek the recommendations of the Authority in respect of matters specified in sub-clauses (i) and (ii) of clause (a) of this sub-section in respect of new licence to be issued to a service provider and the Authority shall forward its recommendations within a period of sixty days from the date on which that Government sought the recommendations:

Provided also that the Authority may request the Central Government to furnish such information or documents as may be necessary for the purpose of making recommendations under sub-clauses (i) and (ii) of clause (a) of this sub-section and that Government shall supply such information within a period of seven days from receipt of such request:

Provided also that the Central Government may issue a licence to a service provider if no recommendations are received from the Authority within the period specified in the second proviso or within such period as may be mutually agreed upon between the Central Government and the Authority:

Provided also that if the Central Government having considered that recommendation of the Authority, comes to a *prima facie* conclusion that such recommendation cannot be accepted or needs modifications, it shall, refer the recommendation back to the Authority for its reconsideration, and the Authority may within fifteen days from the date of receipt of such reference, forward to the Central Government its recommendation after considering the reference made by that Government. After receipt of further recommendation if any, the Central Government shall take a final decision.]

(2) Notwithstanding anything contained in the Indian Telegraph Act, 1885 (13 of 1885), the Authority may, from time to time, by order, notify in the Official Gazette the rates at which the telecommunication services within India and outside India shall be provided under this Act including the rates at which messages shall be transmitted to any country outside India:

Provided that the Authority may notify different rates for different persons or class of persons for similar telecommunication services and where different rates are fixed as aforesaid the Authority shall record the reasons therefor.

(3) While discharging its functions,¹[under sub-section (1) or sub-section (2)] the Authority shall not act against the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

(4) The Authority shall ensure transparency while exercising its powers and discharging its functions.

12. Powers of Authority to call for information, conduct investigations, etc.—(1) Where the Authority considers it expedient so to do, it may, by order in writing,—

- (a) call upon any service provider at any time to furnish in writing such information or explanation relating to its affairs as the Authority may require; or
- (b) appoint one or more persons to make an inquiry in relation to the affairs of any service provider; and
- (c) direct any of its officers or employees to inspect the books of account or other documents of any service provider.

(2) Where any inquiry in relation to the affairs of a service provider has been undertaken under sub-section (1),—

- (a) every officer of the Government Department, if such service provider is a department of the Government;
- (b) every director, manager, secretary or other officer, if such service provider is a company; or

1. Subs. by Act 2 of 2000, sec. 9, for "under sub-section (1)" (w.r.e.f. 24-1-2000).

- (c) every partner, manager, secretary or other officer, if such service provider is a firm; or
- (d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (b) and (c),

shall be bound to produce before the Authority making the inquiry, all such books of account or other documents in his custody or power relating to, or having a bearing on the subject-matter of such inquiry and also to furnish to the Authority with any such statement or information relating thereto, as the case may be, required of him, within such time as may be specified.

(3) Every service provider shall maintain such books of account or other documents as may be prescribed.

(4) The Authority shall have the power to issue such directions to service providers as it may consider necessary for proper functioning by service providers.

13. **Power of Authority to issue directions.**—The Authority may, for the discharge of its functions under sub-section (1) of section 11, issue such directions from time to time to the service providers, as it may consider necessary:

¹[Provided that no direction under sub-section (4) of section 12 or under this section shall be issued except on the matters specified in clause (b) of sub-section (1) of section 11.]

²[CHAPTER IV APPELLATE TRIBUNAL

14. **Establishment of Appellate Tribunal.**—The Central Government shall, by notification, establish an Appellate Tribunal to be known as the Telecom Disputes Settlement and Appellate Tribunal to—

(a) adjudicate any dispute—

- (i) between a licensor and a licensee;
- (ii) between two or more service providers;
- (iii) between a service provider and a group of consumers:

Provided that nothing in this clause shall apply in respect of matters relating to—

- (A) the monopolistic trade practice, restrictive trade practice and unfair trade practice which are subject to the jurisdiction of the Monopolies and Restrictive Trade Practices Commission established under sub-section (1) of section 5 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969);
- (B) the complaint of an individual consumer maintainable before a Consumer Disputes Redressal Forum or a

1. Ins. by Act 2 of 2000, sec. 10 (w.r.e.f. 24-1-2000).

2. Chapter IV (containing sections 14, 14A to 14N) substituted by Act 2 of 2000, sec. 11, for Chapter IV (w.r.e.f. 24-1-2000).

- Consumer Disputes Redressal Commission or the National Consumer Redressal Commission established under section 9 of the Consumer Protection Act, 1985 (68 of 1986);
- (C) dispute between telegraph authority and any other person referred to in sub-section (1) of section 7B of the Indian Telegraph Act, 1885 (13 of 1885);
- (b) hear and dispose of appeal against any direction, decision or order of the Authority under this Act.
- ¹[(c) exercise jurisdiction, powers and authority conferred on—
- (i) the Appellate Tribunal under the Information Technology Qualifications, Act, 2000 (21 of 2000); and
- (ii) the Appellate Tribunal under the Airports Economic Regulatory Authority of India Act, 2008 (27 of 2008).]

14A. Application for settlement of disputes and appeals to Appellate Tribunal.—(1) The Central Government or a State Government or a local authority or any person may make an application to the Appellate Tribunal for adjudication of any dispute referred to in clause (a) of section 14.

(2) The Central Government or a State Government or a local authority or any person aggrieved by any direction, decision or order made by the Authority may prefer an appeal to the Appellate Tribunal.

(3) Every appeal under sub-section (2) shall be preferred within a period of thirty days from the date on which a copy of the direction or order or decision made by the Authority is received by the Central Government or the State Government or the local authority or the aggrieved person and it shall be in such form, verified in such manner and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain any appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an application under sub-section (1) or an appeal under sub-section (2), the Appellate Tribunal may, after giving the parties to the dispute or the appeal an opportunity of being heard, pass such orders thereon as it thinks fit.

(5) The Appellate Tribunal shall send a copy of every order made by it to the parties to the dispute or the appeal and to the Authority, as the case may be.

(6) The application made under sub-section (1) or the appeal preferred under sub-section (2) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the application or appeal finally within ninety days from the date of receipt of application or appeal, as the case may be:

Provided that where any such application or appeal could not be disposed of within the said period of ninety days, the Appellate Tribunal shall record its reasons in writing for not disposing of the application or appeal within that period.

(7) The Appellate Tribunal may, for the purpose of examining the legality or propriety or correctness, of any dispute made in any application under sub-section (1), or of any direction or order or decision of the Authority referred to in the appeal preferred under sub-section (2), on its own motion or otherwise, call for the records relevant to disposing of such application or appeal and make such orders as it thinks fit.

1. Ins. by Finance Act, 2017 (7 of 2017), sec. 168(a).

14B. Composition of Appellate Tribunal.—(1) The Appellate Tribunal shall consist of a Chairperson and not more than two Members to be appointed, by notification, by the Central Government.

(2) The selection of Chairperson and Members of the Appellate Tribunal shall be made by the Central Government in consultation with the Chief Justice of India.

(3) Subject to the provisions of this Act,—

- (a) the jurisdiction of the Appellate Tribunal may be exercised by the Benches thereof;
- (b) a Bench may be constituted by the Chairperson of the Appellate Tribunal with one or two Members of such Tribunal as the Chairperson may deem fit;
- (c) the Benches of the Appellate Tribunal shall ordinarily sit at New Delhi and at such other places as the Central Government may, in consultation with the Chairperson of the Appellate Tribunal, notify;
- (d) the Central Government shall notify the areas in relation to which each Bench of the Appellate Tribunal may exercise its jurisdiction.

(4) Notwithstanding anything contained in sub-section (2), the Chairperson of the Appellate Tribunal may transfer a Member of such Tribunal from one Bench to another Bench.

(5) If at any stage of the hearing of any case or matter it appears to the Chairperson or a Member of the Appellate Tribunal that the case or matter is of such a nature that it ought to be heard by a Bench consisting of two Members, the case or matter may be transferred by the Chairperson to such Bench as the Chairperson may deem fit.

14C. Qualifications for appointment of Chairperson and Members.—A person shall not be qualified for appointment as the Chairperson or a Member of the Appellate Tribunal unless he—

- (a) in the case of Chairperson, is, or has been, a Judge of the Supreme Court or the Chief Justice of a High Court;
- (b) in the case of a Member, has held the post of Secretary to the Government of India or any equivalent post in the Central Government or the State Government for a period of not less than two years or a person who is well versed in the field of technology, telecommunication, industry, commerce or administration.

14D. Term of office.—The Chairperson and every other Member of the Appellate Tribunal shall hold office as such for a term not exceeding three years from the date on which he enters upon his office:

Provided that no Chairperson or other Member shall hold office as such after he has attained,—

- (a) in the case of Chairperson, the age of seventy years;
- (b) in the case of any other Member, the age of sixty-five years.

14E. Terms and conditions of service.—The salary and allowances payable to and the other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member of the Appellate Tribunal shall be varied to his disadvantage after appointment.

14F. Vacancies.—If, for reason other than temporary absence, any vacancy occurs in the office of the Chairperson or a Member of the Appellate Tribunal, the Central Government shall appoint another person in accordance with the

provisions of this Act to fill the vacancy and the proceedings may be continued before the Appellate Tribunal from the stage at which the vacancy is filled.

14G. Removal and resignation.—(1) The Central Government may remove from office, the Chairperson or any Member of the Appellate Tribunal, who—

- (a) has been adjudged an insolvent; or
- (b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or
- (c) has become physically or mentally incapable of acting as the Chairperson or a Member; or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or a Member; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) Notwithstanding anything contained in sub-section (1), the Chairperson or a Member of the Appellate Tribunal shall not be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless the Supreme Court on a reference being made to it in this behalf by the Central Government, has, on an enquiry, held by it in accordance with such procedure as it may specify in this behalf, reported that the Chairperson or a Member ought on such ground or grounds to be removed.

(3) The Central Government may suspend from office, the Chairperson or a Member of the Appellate Tribunal in respect of whom a reference has been made to the Supreme Court under sub-section (2), until the Central Government has passed an order on receipt of the report of the Supreme Court on such reference.

¹[14GA. Qualifications, terms and conditions of service of Chairperson and Member.—Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.]

14H. Staff of Appellate Tribunal.—(1) The Central Government shall provide the Appellate Tribunal with such officers and employees as it may deem fit.

(2) The officers and employees of the Appellate Tribunal shall discharge their functions under the general superintendence of its Chairperson.

(3) The salaries and allowances and other conditions of service of such officers and employees of the Appellate Tribunal shall be such as may be prescribed.

14-I. Distribution of business amongst Benches.—Where Benches are constituted, the Chairperson of the Appellate Tribunal may, from time to time, by notification, make provisions as to the distribution of the business of the Appellate Tribunal amongst the Benches and also provide for the matters which may be dealt with by each Bench.

1. Ins. by Finance Act, 2017 (7 of 2017), sec. 168(b).

14J. Power of Chairperson to transfer cases.—On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairperson of the Appellate Tribunal may transfer any case pending before one Bench, for disposal, to any other Bench.

14K. Decision to be by majority.—If the Members of a Bench consisting of two Members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson of the Appellate Tribunal who shall hear the point or points himself and such point or points shall be decided according to the opinion of the majority who have heard the case, including those who first heard it.

14L. Members, etc., to be public servants.—The Chairperson, Members and other officers and employees of the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

14M. Transfer of pending cases.—All applications, pending for adjudication of disputes before the Authority immediately before the date of establishment of the Appellate Tribunal under this Act, shall stand transferred on that date to such Tribunal:

Provided that all disputes being adjudicated under the provisions of Chapter IV as it stood immediately before the commencement of the Telecom Regulatory Authority of India (Amendment) Act, 2000, shall continue to be adjudicated by the Authority in accordance with the provisions, contained in that Chapter, till the establishment of the Appellate Tribunal under the said Act:

Provided further that all cases referred to in the first proviso shall be transferred by the Authority to the Appellate Tribunal immediately on its establishment under section 14.

14N. Transfer of appeals.—(1) All appeals pending before the High Court immediately before the commencement of the Telecom Regulatory Authority of India (Amendment) Act, 2000, shall stand transferred to the Appellate Tribunal on its establishment under section 14.

(2) Where any appeal stands transferred from the High Court to the Appellate Tribunal under sub-section (1),—

- (a) the High Court shall, as soon as may be after such transfer, forward the records of such appeal to the Appellate Tribunal; and
- (b) the Appellate Tribunal may, on receipt of such records, proceed to deal with such appeal, so far as may be from the stage which was reached before such transfer or from any earlier stage or *de novo* as the Appellate Tribunal may deem fit.]

15. Civil court not to have jurisdiction.—No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

16. Procedure and powers of Appellate Tribunal.—(1) The Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, the Appellate Tribunal shall have powers to regulate its own procedure.

(2) The Appellate Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or a copy of such record or document, from any office;
- (e) issuing commissions for the examination of witnesses or documents;
- (f) reviewing its decisions;
- (g) dismissing an application for default or deciding it, *ex parte*;
- (h) setting aside any order of dismissal of any application for default or any order passed by it, *ex parte*; and
- (i) any other matter which may be prescribed.

(3) Every proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Appellate Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

17. Right to legal representation.—The applicant or appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Appellate Tribunal.

Explanation.—For the purposes of this section,—

- (a) "chartered accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (b) "company secretary" means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (c) "cost accountant" means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959), and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

- (d) "legal practitioner" means an advocate, *vakil* or an attorney of any High Court, and includes a pleader in practice.

18. Appeal to Supreme Court.—(1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908) or in any other law, an appeal shall lie against any order, not being an interlocutory order, of the Appellate Tribunal to the Supreme Court on one or more of the grounds specified in section 100 of that Code.

(2) No appeal shall lie against any decision or order made by the Appellate Tribunal with the consent of the parties.

(3) Every appeal under this section shall be preferred within a period of ninety days from the date of the decision or order appealed against:

Provided that the Supreme Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

19. Orders passed by Appellate Tribunal to be executable as a decree.—(1) An order passed by the Appellate Tribunal under this Act shall be executable by the Appellate Tribunal as a decree of civil court, and for this purpose, the Appellate Tribunal shall have all the powers of a civil court.

(2) Notwithstanding anything contained in sub-section (1), the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

20. Penalty for wilful failure to comply with orders of Appellate Tribunal.—If any person wilfully fails to comply with the order of the Appellate Tribunal, he shall be punishable with fine which may extend to one lakh rupees and in case of a second or subsequent offence with fine which may extend to two lakh rupees and in the case of continuing contravention with additional fine which may extend to two lakh rupees for every day during which such default continues.]

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

21. Grants by Central Government.—The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as are required to pay salaries and allowances payable to the Chairperson and the members and the administrative expenses including the salaries, allowances and pension payable to or in respect of officers and other employees of the Authority.

22. Fund.—(1) There shall be constituted a fund to be called the Telecom Regulatory Authority of India General Fund and there shall be credited thereto—

- (a) all grants, fees and charges received by the Authority under this Act; and
- (b) all sums received by the Authority from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting—

- (a) the salaries and allowances payable to the Chairperson and members and the administrative expenses including the salaries, allowances and pension payable to or in respect of officers and other employees of the Authority; and
- (b) the expenses on objects and for purposes authorised by this Act.

23. Accounts and audit.—(1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General of India.

¹[*Explanation.*—For the removal of doubts it is hereby declared that the decisions of the Authority taken in discharge of its functions under clause (b) of sub-section (1) and sub-section (2) of section 11 and section 13, being matters appealable to the Appellate Tribunal, shall not be subject to audit under this section.]

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has, in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

24. Furnishing of returns, etc., to Central Government.—(1) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the telecommunication services, as the Central Government from time to time, require.

(2) The Authority shall prepare once every year in such form and at such time as may be prescribed, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

1. Ins. by Act 2 of 2000, sec. 12 (w.r.e.f. 24-1-2000).

CHAPTER VI
MISCELLANEOUS

25. Power of Central Government to issue directions.—(1) The Central Government may, from time to time, issue to the Authority such directions as it may think necessary in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

(2) Without prejudice to the foregoing provisions, the Authority shall, in exercise of its powers or the performance of its functions, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this subsection.

(3) The decision of the Central Government whether a question is one of policy or not shall be final.

26. Members, officers and employees of Authority to be public servants.—All members, officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

COMMENTS

Section 21 of the Indian Penal Code, 1860 is reproduced below:

21. "Public servant".—The words "public servant" denote a person falling under any of the descriptions hereinafter following, namely:—

First.—[Omitted]

Second.—Every commissioned officer in the Military, Naval or Air Forces of India;

Third.—Every Judge including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions;

Fourth.—Every officer of a Court of Justice (including a liquidator, receiver or commissioner) whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the court, and every person specially authorized by a Court of Justice to perform any of such duties;

Fifth.—Every juryman, assessor, or member of a panchayat assisting a Court of Justice or public servant;

Sixth.—Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority;

Seventh.—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

Eighth.—Every officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

Ninth.—Every officer whose duty it is, as such officer, to take, receive, keep or extend any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government, or to execute any revenue-process, or to investigate, or to report, on any matter affecting the pecuniary interests of the Government, or to make, authenticate or keep any document relating to the pecuniary interests of the Government, or to prevent the infraction of any law for the protection of the pecuniary interests of the Government;

Tenth.—Every officer whose duty it is, as such officer, to take, receive, keep or expand any property, to make any survey or assessment or to levy any rate of tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district;

Eleventh.—Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;

Twelfth.—Every person—

- (a) in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government;
- (b) in the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government Company as defined in section 617 of the Companies Act, 1956 (1 of 1956).

Illustration

A Municipal Commissioner is a public servant.

Explanation 1.—Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2.—Wherever the words “public servant” occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

Explanation 3.—The word “election” denotes an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of selection to which is by, or under, any law prescribed as by election.

27. *Bar of jurisdiction.*—No civil court shall have jurisdiction in respect of any matter which the Authority is empowered by or under this Act to determine.

28. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceedings shall lie against the Central Government or the Authority or any officer of Central Government or any member, officer or other employees of the Authority for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

29. *Penalty for contravention of directions of Authority.*—If a person violates directions of the Authority, such person shall be punishable with fine which may extend to one lakh rupees and in case of second or subsequent offence with fine which may extend to two lakh rupees and in the case of continuing contravention with additional fine which may extend to two lakh rupees for every day during which the default continues.

30. *Offences by companies.*—(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the

conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) "company" means any body corporate and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.

31. Offences by Government Departments.—(1) Where an offence under this Act has been committed by any Department of Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a Department of Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

32. Exemption from tax on wealth and income.—Notwithstanding anything contained in the Wealth-tax Act, 1957 (27 of 1957), the Income-tax Act, 1961 (43 of 1961), or any other enactment for the time being in force relating to tax on wealth, income, profits or gains, the Authority shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

33. Delegation.—The Authority may, by general or special order in writing, delegate to any member, officer of the Authority or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to settle dispute under Chapter IV and to make regulation under section 36) as it may deem necessary.

34. Cognizance of offences.—(1) No court shall take cognizance of any offence punishable under this Act or the rules or regulations made thereunder, save on a complaint made by the Authority.

(2) No court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate of first class shall try any offence punishable under this Act.

35. Power to make rules.—(1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the salary and allowances payable to and the other conditions of service of the Chairperson and members under sub-section (5) of section 5;
- ¹[(aa) the allowance payable to the part-time members under sub-section (6A) of section 5;]
- (b) the powers and functions of the Chairperson under sub-section (1) of section 6;
- (c) the procedure for conducting an inquiry made under sub-section (2) of section 7;
- ¹[(ca) the salary and allowances and other conditions of service of officers and other employees of the Authority under sub-section (2) of section 10;]
- (d) the category of books of account or other documents which are required to be maintained under sub-section (3) of section 12;
- ¹[(da) the form, the manner of its verification and the fee under sub-section (3) of section 14A;
- (db) the salary and allowances payable to and other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal under section 14E;
- (dc) the salary and allowances and other conditions of service of the officers and employees of the Appellate Tribunal under sub-section (3) of section 14H;
- (dd) any other power of a civil court required to be prescribed under clause (i) of sub-section (2) of section 16;]
- (e) the period within which an application is to be made under sub-section (1) of section 15;
- (f) the manner in which the accounts of the Authority shall be maintained under sub-section (1) of section 23;
- (g) the time within which and the form and manner in which returns and report are to be made to the Central Government under sub-sections (1) and (2) of section 24;
- (h) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

36. Power to make regulations.—(1) The Authority may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

1. Ins. by Act 2 of 2000, sec. 13 (w.r.e.f. 24-1-2000).

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

- (a) the times and places of meetings of the Authority and the procedure to be followed at such meetings under sub-section (1) of section 8, including quorum necessary for the transaction of business;
- (b) the transaction of business at the meetings of the Authority under sub-section (4) of section 8;

¹[***]

- (d) matters in respect of which register is to be maintained by the authority ²[under sub-clause (vii) of clause (b)] of sub-section (1) of section 11;
- (e) levy of fee and lay down such other requirements on fulfilment of which a copy of register may be obtained ³[under sub-clause (viii) of clause (b)] of sub-section (1) of section 11;
- (f) levy of fees and other changes ⁴[under clause (c)] of sub-section (1) of section 11;

37. Rules and regulations to be laid before Parliament.—Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

38. Application of certain laws.—The provisions of this Act shall be in addition to the provisions of the Indian Telegraph Act, 1885 (13 of 1885) and the Indian Wireless Telegraphy Act, 1933 (17 of 1933) and, in particular, nothing in this Act shall affect any jurisdiction, powers and functions required to be exercised or performed by the Telegraph Authority in relation to any area falling within the jurisdiction of such Authority.

39. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

1. Clause (c) omitted by Act 2 of 2000, sec. 14 (w.r.e.f. 24-1-2000).

2. Subs. by Act 2 of 2000, sec. 14, for "under clause (l)" (w.r.e.f. 24-1-2000).

3. Subs. by Act 2 of 2000, sec. 14, for "under clause (m)" (w.r.e.f. 24-1-2000).

4. Subs. by Act 2 of 2000, sec. 14, for "under clause (p)" (w.r.e.f. 24-1-2000).

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

40. Repeal and saving.—(1) The Telecom Regulatory Authority of India Ordinance, 1997 (Ord. 11 of 1997) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

MINISTRY OF COMMUNICATIONS

(Department of Telecommunications)

NOTIFICATION

New Delhi, the 26th June, 2000

G.S.R. 566(E).— In exercise of the powers conferred by clause (a) of sub-section (2) of section 35 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), and in supersession of the Telecom Regulatory Authority of India (Salaries, Allowances and other conditions of service of Chairperson and other Members) Rules, 1997, the Central Government hereby makes the following rules, namely:—

1. Short title and commencement:— (1) These rules may be called the Telecom Regulatory Authority of India (Salaries, Allowances and other Conditions of Service of Chairperson and whole-time Members) Rules, 2000.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. Definitions:— In these rules, unless the context otherwise requires, -
 - (a) "Act", means the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);
 - (b) "Authority", means the Telecom Regulatory Authority of India established under sub-section (1) of section 3 of the Act;
 - (c) "Chairperson", means the Chairperson of the Authority appointed under sub-section (3) of section 3 of the Act;
 - (d) "Member", means a whole-time Member of the Authority appointed under sub-section (3) of section 3 of the Act;
 - (e) All other words and expressions used herein but not defined shall have the same meanings respectively assigned to them in the Act.

3. (i) Salaries and allowances:-

(a) The Chairperson shall be paid a salary of Rs.30,000/- per month (fixed).

(b) The Member shall be paid a salary of Rs.26,000/- per month (fixed).

(c) Dearness Allowance and City Compensatory Allowance:- The Chairperson and a Member shall be entitled to draw dearness allowance and city compensatory allowance at the rate applicable to a Group 'A' officer of the Central Government drawing an equivalent pay:

Provided that in case of appointment of a person as the Chairperson or a Member who has retired from the service under Central Government or State Government and who is in receipt of, or has received or has become entitled to receive any retirement benefits by way of pension, gratuity, employers contribution to the Contributory Provident Fund or other forms of retirement benefits, the pay of such Chairperson or Member, shall be reduced by the gross amount of pension or employers contribution to the Contributory Provident Fund or any other form of retirement benefits, if any (except pension equivalent of gratuity), drawn or to be drawn by him:

Provided further that if a person who has retired from any service including service under Central Government or State Government, Public Sector Undertakings and/or Autonomous Bodies is appointed as the Chairperson or a Member, he shall be entitled to receive dearness allowance at the same rate as applicable to a Group 'A' officer of the Central Government drawing an equivalent pay, but he shall not be entitled to receive dearness relief on pension during the period he holds office as such Chairperson or a Member.

(ii) Leave:- The Chairperson or a Member shall be entitled to thirty days of earned leave for every year of service. The payment of leave salary during leave shall be governed by rule 40 of the Central Civil Services (Leave) Rules, 1972. The Chairperson or Member shall be entitled to encashment of fifty percent of earned leave to his credit at any time.

(iii) Provident Fund:- The Chairperson and a Member shall be entitled to subscribe to the Contributory Provident Fund which shall be governed by the Contributory Provident Fund Rules, 1962;

(iv) Travelling Allowance and Daily Allowance:- The Chairperson and a Member shall be entitled to travelling allowance and daily allowance for transportation of personal effects while on tour or on transfer (including the

journey undertaken to join the Authority or on the expiry of his term with the Authority to proceed to his home-town), at the same rates as applicable to Group 'A' officer of the Central Government drawing an equivalent pay.

(v) **Domestic official tours:-** The Chairperson and a Member, while on tour, shall be entitled to the facility of Government accommodation in guest houses or inspection bungalows run by the Central Government, wherever available, on payment of normal rent at outstations, as applicable to Group "A" Officers of the Central Government drawing an equivalent pay.

In case Government accommodation is not available while on domestic official tour, the Chairperson and a Member shall be entitled to stay in India Tourism Development Corporation hotels on a reimbursement basis and wherever India Tourism Development Corporation hotels are not available, in other hotels on reimbursement basis, re-imbursement in both cases being limited to lodging charges only, and on a single room occupancy basis;

(vi) **Leave Travel Concession:-** The Chairperson and a Member shall be entitled to leave travel concession at the same rate as applicable to Group 'A' officers of the Central Government drawing an equivalent pay;

(vii) **Medical Facilities:-** The Chairperson and a Member shall be entitled to medical treatment and hospital facilities, as provided in the Central Government Health Scheme and at places where the Central Government Health Scheme is not in operation, the Chairperson and a Member shall be entitled to facilities as provided in the Central Services (Medical Attendance) Rules, 1944;

(viii) **Official Visits Abroad:-** The Chairperson and a Member shall be entitled to undertake official visits abroad with the prior approval of the Minister of the Government of India in-charge of the Department of Telecommunications and after clearance from Ministry of External Affairs on the points relating to political affairs. The daily allowance and provision of hotel accommodation during the period of tour abroad shall be regulated in accordance with the Government instructions as applicable to officers of equal grade in the Government of India. Indian Missions abroad shall take care of arrangements and extend facilities as applicable to Group "A" officers of the Central Government drawing an equivalent pay;

(ix) **Conveyance facility:-** The Chairperson and a Member shall be entitled to conveyance facilities at par with those available to a Group 'A' officer of the Central Government drawing an equivalent pay;

(x) Accommodation:- (a) the Chairperson is entitled to rent free furnished residential accommodation at the rates specified by the Central Government from time to time for this purpose or house rent allowance at the rate of twelve and a half percent of his pay in lieu thereof; and

(b) a Member shall be entitled to residential accommodation as applicable to Group 'A' officers of the Central Government drawing an equivalent pay.

On demitting office, the Chairperson and Member shall be entitled to retention of residential accommodation for one month, on the same terms and conditions.

4. Oath of Office and Secrecy :- Every person appointed to be the Chairperson and Member shall, before entering upon their office, make and subscribe an Oath of Office and Secrecy, in the FORMS I and II annexed to these rules.

5. Interpretation :- If any question arises relating to the interpretation of these rules, the same shall be referred to the Central Government for its decision.

6. Residuary provision :- Matters relating to the terms and conditions of service of the Chairperson or a Member with respect to which no express provision has been made in these rules, shall be referred by the Authority to the Central Government for its decision, and the decision of the Central Government thereon shall be applicable to the Chairperson or Member, as the case may be.

7. Powers to relax :- The Central Government shall have power to relax any provision of these rules in respect of Chairperson or any other Member.

[F. No. 10-11/2000-TCO]

ANIL KUMAR, Jt. Secy.

FORM - I
(See rule 4)

Form of Oath of Office for the Chairperson/Members of the Telecom Regulatory Authority of India

I, _____, having been appointed as the Chairperson/Member (*cross out portion not applicable*) solemnly affirm and do swear in the name of God I will faithfully and conscientiously discharge my duties as the Chairperson/Member (*cross out portion not applicable*), of the Telecom Regulatory Authority of India, to the best of my ability, knowledge and judgement, without fear or favour, affection or ill-will.

Dated:

(Name of the Chairperson/Member)
TELECOM REGULATORY AUTHORITY OF INDIA

FORM - II
(See rule 4)

Form of Oath of Secrecy for the Chairperson/Members of the Telecom Regulatory Authority of India

I, _____, having been appointed as the Chairperson/ Member (*cross out portion not applicable*) do solemnly affirm and swear in the name of God that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as the Chairperson/Member (*cross out portion not applicable*) of the said Telecom Regulatory Authority of India, except as may be required for the due discharge of my duties as the Chairperson/Member (*cross out portion not applicable*).

Dated:

(Name of the Chairperson/Member)
TELECOM REGULATORY AUTHORITY OF INDIA

