

CAP. 304.

CYPRUS

SUBMARINE TELEGRAPHS

CHAPTER 304 OF THE LAWS

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1959

CHAPTER 304.

SUBMARINE TELEGRAPHS.

ARRANGEMENT OF SECTIONS.

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TO CARRY INTO EFFECT AN INTERNATIONAL CONVENTION
FOR THE PROTECTION OF SUBMARINE TELEGRAPH CABLES.

1949
Cap. 166.

[30th April, 1888.]

Short title.

1. This Law may be cited as the Submarine Telegraph Law.

Interpre-
tation.

2. In this Law—

“master” includes every person having command or charge of a vessel;

“vessel” means every description of vessel used in navigation in whatever way it is propelled; and any reference to a vessel shall include a reference to a boat belonging to it.

Confirmation
of Conven-
tion.

First
Schedule.
Second
Schedule.

3. Subject to the provisions of this Law the articles of the Convention of the 14th of March, 1884, set out in the First Schedule, and referred to in this Law as the Convention, and also the Declaration set out in the Second Schedule, shall be of the same force as if they were enacted in the body of this Law.

4. (1) A person shall not unlawfully and wilfully, or by culpable negligence, break or injure any submarine cable to which the Convention for the time being applies, in such manner as might interrupt or obstruct in whole or in part telegraphic communication.

Punishment
for violation
of Article 2
of Conven-
tion.

(2) Any person who acts or attempts to act in contravention of this section shall be guilty of an offence; and on conviction—

(a) if he acted wilfully, shall be liable to imprisonment for a term not exceeding two years and to a fine in lieu of or in addition to such imprisonment; and

(b) if he acted by culpable negligence, shall be liable to imprisonment for a term not exceeding three months, and to a fine not exceeding twenty pounds either in lieu of or in addition to such imprisonment.

(3) Where a person does any act with the object of preserving the life or limb of himself or of any other person, or of preserving the vessel to which he belongs or any other vessel, and takes all reasonable precautions to avoid injury to a submarine cable, he shall not be deemed to have acted unlawfully and wilfully within the meaning of this section.

(4) A person shall not be deemed to have unlawfully and wilfully broken or injured any submarine cable, where in the *bona fide* attempt to repair another submarine cable injury has been done to the first mentioned cable, or it has been broken; but this shall not apply so as to exempt him from any liability under this Law or otherwise to pay the cost of repairing such breakage or injury.

(5) Any person who in any manner procures, counsels, aids, abets, or is accessory to the commission of any offence under this section, shall be liable to be tried and punished for the offence as if he had been guilty as a principal.

5. (1) All such Regulations as shall from time to time be made by Her Majesty in Council, for carrying into effect Articles 5 and 6 of the Convention shall have the same force in Cyprus as if they formed part of this Law; and any person guilty of a breach of such Regulations shall be liable to a fine not exceeding twenty pounds or to imprisonment not exceeding two months.

Application
of Regula-
tions for
carrying
into effect
Articles 5
and 6 of
Convention

(2) If any vessels engaged in the laying or repairing of a submarine cable to which the Convention for the time being

applies, interferes contrary to the said Regulations or articles with any vessel engaged in fishing, or if the operations of any vessel in connection with any such submarine cable are wilfully delayed so as to interfere with sea fishing, the master of the vessel, or the owner thereof, if it appear that he was in fault, shall be deemed guilty of a breach of the said Regulations, and may be punished accordingly.

Powers of
British and
foreign
officers.

6. (1) For the purpose of carrying into effect the Convention, a person commanding a ship of war of Her Majesty or of any foreign state for the time being bound by the Convention, or a ship specially commissioned for the purpose of the Convention by Her Majesty or by the Government of such foreign state, may exercise and perform the powers and duties vested in and imposed on him by any article in the First Schedule.

(2) Any person who obstructs any such officer in such exercise or performance, or refuses or neglects to comply with any demand or direction lawfully made or given by him in pursuance of this Law, shall be liable to a fine not exceeding fifty pounds, or to be imprisoned for a term not exceeding two months.

(3) Any action, prosecution, or proceeding against any officer for any act done in pursuance or execution or intended execution of this Law, or in respect of any alleged neglect or default in the execution of this Law, shall not lie or be instituted unless it is commenced within twelve months next after the act, neglect, or default complained of.

(4) In any such action tender of amends before the action was commenced may, in lieu of or in addition to any other plea, be pleaded. If the action was commenced after such tender, or is proceeded with after payment into court of any money in satisfaction of the plaintiff's claim, and the plaintiff does not recover more than the sum tendered or paid, he shall not recover any costs incurred after such tender or payment, and the defendants shall be entitled to costs, to be taxed as between solicitor and client as from the time of such tender or payment.

(5) Any such action may be brought in any District Court in Cyprus.

Offence
where
deemed to
have been
committed.

7. For the purpose of giving jurisdiction under this Law, every offence shall be deemed to have been committed and every cause of complaint to have arisen either in the place in

which it was actually committed or arose, or in any place in which the offender or person complained against may be.

8. In all cases where any district within which any Court has jurisdiction under this Law is situate on the sea-coast every such Court shall for the purposes of this Law have jurisdiction over any ship or boat being or lying or passing off such coast, and over all persons on board such ships or for the time being belonging thereto, in the same manner as if such ship, boat or persons were within the limits of the original jurisdiction of such Court.

Jurisdiction
over ships
lying off
coast.

9. (1) Any document drawn up in pursuance of Article 7 or Article 10 of the First Schedule shall be admissible in any proceeding, civil or criminal, as *prima facie* evidence of the facts or matters therein stated.

Evidence.

(2) If evidence contained in any such document was taken on oath in the presence of the person charged in the evidence, and such person had an opportunity of cross-examining the person giving the evidence and of making his reply to the evidence, the officer drawing up the document may certify the said facts, or any of them.

(3) Any document or certificate in this section mentioned purporting to be signed by an officer authorized to act under the First Schedule for carrying into effect the Convention, shall be admissible in evidence without proof of the signature, and, if purporting to be signed by any other person, shall, if certified by any such officer to have been so signed, be deemed, until the contrary is proved, to have been signed by such other person.

(4) Any person who forges the signature of any such officer to any such document as above-mentioned, or makes use of any such document knowing the signature thereto to be forged, shall be guilty of an offence and liable to imprisonment for a term not exceeding two years.

10. Where any offence against this Law has been committed by means of a vessel, or of any boat belonging to a vessel, the master of the vessel shall until some other person is shown to have been in charge of and navigating the vessel or boat, be deemed to have been in charge of and navigating it, and be liable to be punished accordingly.

Liability of
masters of
vessels.

11. Nothing in this Law shall prevent any person from being liable to any proceeding, punishment or penalty other

Savings.

than is provided for any offence by this Law, so that no person be punished twice for the same offence; and nothing in this Law, nor any proceedings with respect to any matter therein mentioned, shall exempt a person from any liability in any action with reference to the same matter, so that no person shall be required to pay compensation twice in respect of the same injury.

Service.

12. Service of any summons or other matter in any legal proceedings under this Law shall be good service if made personally on the person to be served, or at his last place of abode; or if made by leaving it for him on board any ship to which he may belong, with the person being or appearing to be in command or charge of the ship.

Application
of penalties.

13. Any Court imposing any penalty under this Law may, if it thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong, or damage which he may have sustained by the act of default in respect of which the penalty is imposed, or to be applied in or towards payment of the expenses of the proceedings; and, subject to such directions or specific application as aforesaid, all such penalties recovered under this Law shall be paid into the Department of the Accountant-General and form part of the public revenue of Cyprus.

Continuance
of Law.

14. If the Convention ceases to be binding on Her Majesty, this Law shall cease to be of any effect.

FIRST SCHEDULE.

(Section 3.)

SUBMARINE TELEGRAPHS CONVENTION.

Convention for the preservation of telegraphic communications by means of submarine telegraphs made on the 14th of March, 1884, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, His Majesty the German Emperor, King of Prussia, His Excellency the President of the Argentine Confederation, His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary, His Majesty the King of the Belgians, His Majesty the Emperor of Brazil, His Excellency the President of the Republic of Costa Rica, His Majesty the King of Denmark, His Excellency the President of the Dominican Republic, His Majesty the King of Spain, His Excellency the President of the United States of America, His Excellency the President of the United States of Colombia, His Excellency the President of the French Republic, His Excellency the President of the Republic of Guatemala, His Majesty the King of the Hellenes, His

Majesty the King of Italy, His Majesty the Emperor of the Ottomans, His Majesty the King of the Netherlands, Grand Duke of Luxemburg, His Majesty the Shah of Persia, His Majesty the King of Portugal and the Algarves, His Majesty the King of Roumania, His Majesty the Emperor of all the Russias, His Excellency the President of the Republic of Salvador, His Majesty the King of Servia, His Majesty the King of Sweden and of Norway, and His Excellency the President of the Oriental Republic of the Uruguay.

The following is an English translation of the Convention with the omission of the formal beginning and end:—

Article 1.

The present Convention applies outside territorial waters to all legally established submarine cables landed on the territories, colonies, or possessions of one or more of the High Contracting Parties.

Article 2.

It is a punishable offence to break or injure a submarine cable, wilfully or by a culpable negligence, in such manner as might interrupt or obstruct telegraphic communication, either wholly or partially, such punishment being without prejudice to any civil action for damages.

This provision does not apply to cases where those who break or injure a cable do so with the lawful object of saving their lives or their ship, after they have taken every necessary precaution to avoid so breaking or injuring the cable.

Article 3.

The High Contracting Parties undertake that, on granting a concession for landing a submarine cable, they will insist, so far as possible, upon proper measures of safety being taken, both as regards the track of the cable and its dimensions.

Article 4.

The owner of a cable who, on laying or repairing his own cable, breaks or injures another cable, must bear the cost of repairing the breakage or injury, without prejudice to the application, if need be, of Article 2 of the present Convention.

Article 5.

Vessels engaged in laying or repairing submarine cables shall conform to the regulations as to signals which have been, or may be, adopted by mutual agreement among the High Contracting Parties, with the view of preventing collisions at sea.

When a ship engaged in repairing a cable exhibits the said signals, other vessels which see them, or are able to see them, shall withdraw to or keep beyond a distance of one nautical mile at least from the ship in question, so as not to interfere with her operations.

Fishing gear and nets shall be kept at the same distance.

Nevertheless, fishing vessels which see or are able to see a telegraph ship exhibiting the said signals shall be allowed a period of twenty-four hours at most within which to obey the notice so given, during which time they shall not be interfered with in any way.

The operations of the telegraph ship shall be completed as quickly as possible.

Article 6.

Vessels which see, or are able to see, the buoys showing the position of a cable when the latter is being laid, is out of order, or is broken, shall keep beyond a distance of one-quarter of a nautical mile at least from the said buoys.

Fishing nets and gear shall be kept at the same distance.

Article 7.

Owners of ships or vessels who can prove that they have sacrificed an anchor, a net, or other fishing gear in order to avoid injuring a submarine cable shall receive compensation from the owner of the cable.

In order to establish a claim to such compensation, a statement, supported by the evidence of the crew, should, whenever possible, be drawn up immediately after the occurrence; and the master must, within twenty-four hours after his return to, or next putting into port, make a declaration to the proper authorities.

The latter shall communicate the information to the consular authorities of the country to which the owner of the cable belongs, supported by the evidence of the crew, should, whenever possible, be drawn up immediately after the occurrence; and the master must, within twenty-four hours after his return to, or next putting into port, make a

Article 8.

The tribunals competent to take cognizance of infractions of the present Convention are those of the country to which the vessel on board of which the offence was committed belongs.

It is, moreover, understood that, in cases where the provisions in the previous paragraph cannot apply, offences against the present Convention will be dealt with in each of the Contracting States in accordance, so far as the subjects and citizens of those States respectively are concerned, with the general rules of criminal jurisdiction prescribed by the laws of that particular State, or by international treaties.

Article 9.

Prosecutions for infractions provided against by Articles, 2, 5 and 6, of the present Convention shall be instituted by the State, or in its name.

Article 10.

Offences against the present Convention may be verified by all means of proof allowed by the legislation of the country of the Court. When the officers commanding the ships of war, or ships specially commissioned for the purpose by one of the High Contracting Parties, have reason to believe that an infraction of the measures provided for in the present Convention has been committed by a vessel other than a vessel of war they may demand from the captain or master the production of the official documents proving the nationality of the said vessel. The fact of such document having been exhibited shall then be endorsed upon it immediately. Further, formal statements of the facts may be prepared by the said officers, whatever may be the nationality of the vessel incriminated. These formal statements shall be drawn up in the form and in the language used in the country to which the officer making them belongs; they may be considered, in the country where they are adduced, as evidence in accordance with the laws of that country. The accused

and the witnesses shall have the right to add, or to have added, thereto, in their own language, any explanations they may consider useful. These declarations shall be duly signed.

Article 11.

The proceedings and trial in cases of infraction of the provisions of the present Convention shall always take place as summarily as the laws and regulations in force will permit.

Article 12.

The High Contracting Parties engage to take or propose to their respective Legislatures the necessary measures for insuring the execution of the present Convention, and especially for punishing, by either fine or imprisonment, or both, those who contravene the provisions of Articles 2, 5 and 6.

Article 13.

The High Contracting Parties will communicate to each other laws already made, or which may hereafter be made, in their respective countries relating to the object of the present Convention.

Article 14.

States which have not signed the present Convention may adhere to it on making a request to that effect. This adhesion shall be notified through the diplomatic channel to the Government of the French Republic, and by the latter to the other Signatory Powers.

Article 15.

It is understood that the stipulations of the present Convention do not in any way restrict the freedom of action of belligerents.

Article 16.

The present Convention shall be brought into force on a day to be agreed upon by the High Contracting Powers.

It shall remain in force for five years from that day, and unless any of the High Contracting Parties have announced, twelve months before the expiration of the said period of five years, its intention to terminate its operation; it shall continue in force for a period of one year, and so on from year to year.

If one of the Signatory Powers denounce the Convention, such denunciation shall have effect only as regards that Power.

Article 17.

The present Convention shall be ratified, and the ratifications exchanged at Paris with as little delay as possible, and, at the latest, at the expiration of a year.

Additional Article.

The stipulations of the Convention concluded under to-day's date for the protection of submarine cables shall be applicable, in conformity with Article 1, to the colonies and possessions of Her Britannic Majesty, with the exception of those hereinafter mentioned, namely:—

Canada.	Queensland.
Newfoundland.	Tasmania.
The Cape.	South Australia.
Natal.	Western Australia.
New South Wales.	New Zealand.
Victoria.	

Provided always, that the stipulations of the above Convention shall be applicable to any of the above-named colonies or possessions on whose behalf notice to the effect shall have been given by Her Britannic Majesty's Representative at Paris to the French Minister for Foreign Affairs.

Each of the above-named colonies or possessions which may have acceded to the said Convention shall be at liberty to withdraw from it in the same manner as the Powers parties to it. In the event of any of the said colonies or possessions desiring to withdraw from the Convention, a notification to that effect shall be made by Her Britannic Majesty's Representative at Paris to the French Minister for Foreign Affairs.

SECOND SCHEDULE.

(Section 3.)

SUBMARINE TELEGRAPH DECLARATION.

Certain doubts having been raised as to the meaning of the word "wilfully" used in article two of the convention of the fourteenth of March, one thousand eight hundred and eighty-four it is understood that provision in respect of penal responsibility contained in the said article does not apply to cases of breakage or injury caused accidentally or of necessity in the repair of a cable when all precautions have been taken to avoid such breakage or injury.

It is equally understood that article four of the convention had no other object, and is to have no other effect, than to empower the competent tribunals of each country to decide in conformity with their laws and according to the circumstances the question of the civil responsibility of the owner of a cable who in laying or repairing his own cable breaks or injures another cable, as well as the consequences of such responsibility if it is recognised as existing.