

## Legislative Decree

Ref: 60

Date: 26/ 5/1394

# Legislative Decree

**President of the Government of Islamic Republic of Afghanistan,  
with regards to Approving Telecommunication Service Charge Law**

### **Article One:**

In pursuance of the provisions of Article 79 of the Afghan Constitution and based on the Cabinet Decision (number 15, dated 1394/05/03), I hereby sign this decree.

### **Article Two:**

The Minister of Justice and the Minister of Parliamentary Affairs are hereby assigned to present this decree to the National Council within a period of (30) days commencing from the first meeting of the National Council.

### **Article Three:**

This decree is enforceable with effect from the date of signing and shall be published in the Official Gazette together with Cabinet's Decision and the mentioned law.

Signed by

Mohammad Ashraf Ghani

President of Government of Islamic Republic of Afghanistan

**Design:**

# **Law of Telecommunication Service Charges**

## **First Chapter**

### **General Provisions**

#### **Base**

##### **Article First:**

This law is enforced based on the provision of forty second article of Afghanistan Constitution.

#### **Goals**

##### **Article Second:**

##### **The goals of this law are:**

- 1- Regulation of the affairs related to implementation of the telecommunication service charges
- 2- Establishing transparency in collecting telecommunication service charges from the customers through creating electronic billing system and connecting that to the communication networks.
- 3- Strengthen financial base of the Government.

##### **Terms:**

The following terms are expressing the below concepts of this law:

1 – Telecommunication Services: the services that provided to the customers in the forms of text, image, sound and other forms with using of wire, radio frequency, and/or optical energy by operator (communication services provider) and includes fixed phone services, mobile phone services (mobile), international roaming, domestic roaming , and leased circuits.

2 – Fixed Phone Services: provision of voice, image and text services with using of wire and cable phone network inside and outside of the country.

3 – Mobile Phone Service (Mobile): provision of voice, image, text and roaming services inside and outside of the country with the use of mobile network.

4 – International Roaming Services: provision of services by operator (telecommunication services provider) for expatriate subscribers inside of the country, and for domestic subscribers outside the country.

5 – Roaming Services inside of the territory: is providing services by operator for international subscriber inside of the country.

6 – International Roaming Services outside the country: are the services provided by domestic operator (telecommunication services provider) for the subscribers of networks outside the country.

7 – Leased circuits: Are the technical facilities whereby inbound and outbound voice, text and image communication services are provided to the subscribers based on signing contracts with state institutions, foreign organizations, and other domestic and foreign companies.

8 – Telecommunication Service Charges: it is the amount deducted by the operator (telecommunication services provider) according to the provisions of this law from the customers prepaid and postpaid airtime credit.

### **Enforcement Bodies**

#### **Article Four:**

Afghanistan Telecommunication Regularity Authority (ATRA) of the Telecommunication and Information Technology Ministry and the Financial Ministry are the enforcement bodies for the provisions of this law. Their duties and authorities will be organized in separate procedure.

### **Persons affected by the Telecom Services Charges**

#### **Article Five:**

Telecom service charges are applied on the following persons which includes Government and private sectors:

1 – The users of fixed phone, mobile phone (Mobile), second and third generation mobiles and other technologies related to mobile phones, international inbound roaming, international outbound roaming services and international roaming services outside of the country.

2 – The users of leased circuits inside (Inbound) and outside territory (Outbound).

## **Second Chapter**

### **Telecom Services Charges and its Collection**

#### **Telecom Services Charges**

##### **Article Six:**

(1) The telecom service charge is ten (10) percent.

(2) This service charge as mentioned in Article (1) of this article is applied as below:

1 – at the time of airtime top up in any account of the telecom system.

2 – at the time of monthly invoicing based on contract.

3 – while using leased circuits based on contract between provider and user.

- (3) Telecom Service Charges mentioned in Paragraph (1) of this Article can be amended as dependent on the financial position of the Government.

### **Imposition and Collection of Telecom Service Charges**

#### **Article Seven:**

- (1) Telecom Service Provider is obliged to impose the Telecom Service Charges and collect it as per the procedure which will be prepared by Telecom Regulatory Authority and Ministry of Finance.
- (2) Operator (Telecom Service Provider) is obliged to provide Computerized Financial Report (Real Time Data Management System) to ATRA and Ministry of Finance for approval.

### **Subscribers List**

#### **Article Eight:**

Operator (telecom services provider) is obliged to present lists of Post-Paid subscribers, contractors and users of its leased circuits to the Ministry of Finance and Afghanistan Telecommunication Regulatory Authority.

### **Delivery of Telecom Services Charges**

#### **Article Nin:**

- (1) Operator (telecom services provider) is required to transfer telecom services charges after approval of the report mentioned in Item (2) of Article Seven of this law within fifteen (15) days after the completion of each month to the Government revenues account and present the report to the Ministry of Finance and Afghanistan Telecommunication Regulatory Authority.
- (2) Telecom Services Charges are deducted from the total of airtime top up.
- (3) Whenever the telecom services are provided through monthly invoices and leased circuits, Telecom Service Charges are applied to the total of bill amounts. .

### **Creation of Electronic Billing System**

#### **Article Ten:**

Afghanistan Telecommunication Regularity Authority in collaboration with Ministry of Finance is setting up a Real Time Data Management System for the purpose of ensuring transparency in collection of the Telecom Service Charges and other Government revenues and for monitoring and control purposes.

### **Operator's (telecom service provider) Obligations**

#### **Article Eleven :**

- (1) For the purpose of collecting and supervising the Telecom Service Charges and its monitoring, the Operator (telecom service provider) is required to prepare technical terms and standards for connecting of electronic billing system and its accessories to its related telecom networks.
- (2) Afghanistan Telecommunication Regulatory Authority is managing and controlling the electronic billing system in the country.

3. Telecom Operator (telecom services provider) is obliged to facilitate monitoring and controlling of Network Operation and Monitoring Center and make the billing electronic systems available to auditors/investigators of Ministry of Finance and Afghanistan Telecommunication Regulatory Authority.

4. Telecom Operator (telecom services provider) is liable to make available the auditors/investigators of Ministry of Finance and Afghanistan Telecommunication Regulatory Authority all the requested information which are demanded by them and make available to them.

5. Telecom Operator (telecom service provider) is liable to keep and save all the documents and records related to telecommunications services charges/fees at least for seven (7) years.

6. Telecom Operator (telecom services provider) is liable to include the specified amount of the telecommunications services charges/fees in all mobile scratch cards, monthly invoices and/or telecommunications services expense bills.

### **Violations and Conformities**

#### **Article Twelve**

In case of violation by any operator (telecom service provider), is obliged to pay fines as follows:

1. In the event the financial reports indicating transfer of collected revenues of telecommunications service charges/fees provided to Ministry of Finance and Telecommunications Services Regulatory Authority (ATRA) are false or deceitful, the operator will be fined fifty (20) million AFS
2. In the event illegal technical measures were taken for the concealment of financial facts about the collecting income of the telecommunications services charges/fees, the operator will be fined ten (50) million AFS.

(2). In the event an operator (telecom service provider) does not transfer the deducted telecommunication services charges (fees) as specified in paragraph (1) of Article (9) of this law in the specified timeframe to the bank account of the government or pay the deducted charges less than the total collected charges, in addition to the payment of the original charges, the operator will be obliged to pay additional 0.10% fine for each day delay.

(3). If the violations set forth in parts (1 and 2) of paragraph (1) of this Article, are repeated by the operator (telecom service provider), the operator is obliged to pay twice as much as the fines anticipated here.

## **Chapter Three**

### **Final Provisions**

#### **Enactment of Procedures**

Article Thirteen:

Afghanistan Telecommunications Regulatory Authority and Ministry of Finance are entitled to enact regulations and procedures which are not in violation to the provisions of this law.

#### **Measures for Collecting the Charges/fees**

Article Fourteen

Operator (telecom service provider) is obliged, from the date of enforcement of this law, to take necessary measures to collect the telecommunications services charges/fees up to 15 Sunbola of 1394 [5<sup>th</sup> September 2015].

#### **Notice for Collecting Charges/Fees**

Article fifteen:

Ministry of Finance is obliged, to inform public about the collecting of telecommunications services charges/fees through the mass media.

#### **Enforcement**

##### **Article sixteen**

This law is enforceable from the date of signing and shall be published in the Official Gazette.