

WIRELESS AGREEMENT.

No. 37 of 1927.

An Act to approve the Agreement made between His Majesty's Government of the Commonwealth of Australia and Amalgamated Wireless (Australasia) Limited.

[Assented to 22nd December, 1927.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

Short title.

1. This Act may be cited as the *Wireless Agreement Act 1927*.

Approval of Agreement.

2. The Agreement made between His Majesty's Government of the Commonwealth of Australia and Amalgamated Wireless (Australasia) Limited (a copy of which is set forth in the Schedule to this Act) is approved.

Appropriation.

3. The Consolidated Revenue Fund is hereby appropriated for the purposes of this Act to the extent necessary for the purpose of carrying out the Agreement on the part of the Commonwealth.

THE SCHEDULE.

AN AGREEMENT made the fifteenth day of November One thousand nine hundred and twenty-seven between THE COMMONWEALTH OF AUSTRALIA (hereinafter called "the Commonwealth") of the one part and AMALGAMATED WIRELESS (AUSTRALASIA) LIMITED of Sydney in the State of New South Wales (hereinafter called "the Company") of the other part WHEREBY it is agreed as follows :—

PART I.—PRELIMINARY.

1. This Agreement shall have no force or effect and shall not be binding upon either party unless and until it is approved by the Parliament of the Commonwealth of Australia.

THE SCHEDULE—*continued.*

2. This Agreement shall commence and come into full force and effect upon the date upon which it is so approved by the Parliament of the Commonwealth of Australia.

3. This Agreement shall be read and construed as supplemental to and amending the existing Agreements between the same parties dated the 28th March 1922 and 20th August 1924 respectively, and unless the context otherwise requires, as one with the said existing Agreements.

4.—(1.) In this Agreement, unless the context otherwise requires—

“Commercial Wireless Services” includes wireless telegraphy, wireless telephony and all further developments of wireless transmission or reception for commercial purposes;

“Post and Telegraph Act” means the *Post and Telegraph Act* 1901–1923, and includes any amendments thereof;

“Principal Agreement” means the Agreement dated the 28th March 1922 made between the parties hereto as amended by the Agreement of the 20th August 1924 between the same parties;

“Wireless Telegraphy Act” means the *Wireless Telegraphy Act* 1905, and includes any amendments thereof;

“Wireless telephone broadcasting station” means a station operating under licence under the Wireless Telegraphy Act for the purpose of the transmission of speech or music intended for simultaneous reception by all listeners as distinct from point to point communication.

(2.) In this Agreement the words “terminal charges”, “transit charges” and “land-line charges” have the same meanings respectively as in the International Telegraph Convention and Regulations thereunder and the International Radio-Telegraph Convention and Regulations thereunder.

PART II.—PROVISIONS RELATING TO BROADCASTING AND TO THE USE OF PATENTS.

5.—(1.) This Part of this Agreement shall, subject to the provisions of Clause 11, continue in force for a period of five years from the first day of November 1927, and thereafter until determined by either party by notice given in accordance with the next succeeding sub-clause.

(2.) At any time after the expiration of four years from the commencement of this Part, either party to this Agreement may give to the other party twelve months' notice of its intention to determine this Part.

(3.) Unless determined at an earlier date in pursuance of Clause 11 this Part shall determine at the date specified in the notice.

6. The Company shall make its Australian patent rights available free of charge during the currency of this Part to—

(a) each wireless telephone broadcasting station in the Commonwealth and its Territories, for the purpose of the establishment and carrying on of wireless telephone broadcasting services; and

(b) each Broadcast listener and radio dealer and manufacturer licensed by the Commonwealth, to use, sell or manufacture, within the Commonwealth and its Territories any wireless receiving apparatus (including valves and all accessories), for the purpose of listening to the programmes of wireless telephone broadcasting stations in the Commonwealth and elsewhere:

Provided, however, that if the Commonwealth and the Company agree upon a form of licence agreement to be submitted for signature to the aforesaid users (other than broadcast listeners), then those users (other than broadcast listeners) shall be entitled to benefit under this Clause only while agreeing to be bound by such licence agreement.

7. The patent rights referred to in the foregoing clause are all Australian patent rights for inventions relating to wireless telephone broadcasting which, at any time during the currency of this Part, belong to or are controlled by the Company, or in respect of which the Company has power to grant licences or sub-licences.

8. Within thirty days after the close of each month commencing with the month of November, 1927 the Commonwealth shall pay to the Company the sum of three pence in respect of each person who was on the last day of that month licensed or otherwise permitted by the Commonwealth under the Wireless Telegraphy Act to listen to the transmission of wireless telephone broadcasting stations and whose licence or permit was in force.

THE SCHEDULE—*continued.*

9.—(1.) The Company agrees, during the currency of this Part, to make all its Australian patent rights available free of charge to the Commonwealth in connexion with the manufacture or use of any plant or apparatus, provided that such plant or apparatus is—

- (a) manufactured, and used exclusively, by the Commonwealth ; or
- (b) manufactured by, and purchased from, the British Government, and used exclusively by the Commonwealth ; or
- (c) purchased by the Commonwealth from the Company, and used exclusively by the Commonwealth.

(2.) The patent rights to which this clause applies include not only the patent rights to which Clauses 6 and 7 of this Agreement apply, but also all other Australian patent rights for inventions relating to wireless telegraphy or wireless telephony, which at any time during the currency of this Part belong to or are controlled by the Company, or in respect of which the Company has power to grant licences or sub-licences :

Provided that, where the patent rights in question are patent rights which the Company is not entitled to use without payment of royalty, the Commonwealth shall be liable to pay the royalty which would be payable by the Company if the use by the Commonwealth were use by the Company.

10. The Company agrees, during the currency of this Part, to grant a licence free of royalty, to each newspaper published in the Commonwealth and each wireless telephone broadcasting station in the Commonwealth, which makes application therefor, to use any or all of the patents to which Clauses 6, 7 and 9 of this Agreement apply, for the purpose of receiving the official news bulletins issued by the British Government and transmitted by Rugby or any other transmitting station in Great Britain.

11.—(1.) The Company agrees to prosecute as expeditiously as possible to judgment the actions which have already been instituted by it in Australia for infringement of patent rights which actions it is agreed are for infringement of patent rights substantially important in connexion with wireless broadcasting.

(2.) The Company agrees that, unless within twelve months from the commencement of this Agreement, judgment in its favour (otherwise than by consent) is given by the Court of final resort upon the issues raised prior to the date of this Agreement by the pleadings in one or more of the actions referred to in sub-clause (1.) of this Clause, it will, within the aforesaid period of twelve months commence an action or actions in New Zealand for infringement of the New Zealand equivalents of the Australian patents involved in the actions referred to in sub-clause (1.) of this Clause or other patents substantially important in connexion with wireless broadcasting, and will, unless and until there has been given in favour of the Company in the Australian actions, such a judgment as is specified in this sub-clause, prosecute such action or actions as expeditiously as possible.

(3.) If the Company fails to comply with the obligations imposed upon it by sub-clause (2.) of this Clause to take proceedings in New Zealand for infringement of patent rights, this Part of this Agreement shall cease and determine at the expiration of the aforesaid period of twelve months.

(4.) If the Company—

- (a) fails, in the Court of final resort, in the actions referred to in sub-clause (1.) of this Clause ; or
- (b) fails, in the Court of final resort, in the action or actions for infringement (if any) which it takes in New Zealand,

this Part of this Agreement shall cease and determine as from the date of such failure :

Provided that if, before any such failure as is contemplated in paragraph (b) of this sub-clause occurs, there has been given in favour of the Company such a judgment as is specified in sub-clause (2.) of this Clause, this Part of this Agreement shall continue in force.

(5.) In this Clause the words “ Court of final resort ” mean the Court to which either of the parties to the said actions respectively resorts, or, if the judgment of that Court is appealed from, the final Court to which an appeal is taken.

(6.) For the purposes of this Clause any action which is conducted by or on behalf of the Company, or in which the Company gives or has given an indemnity to the plaintiff, shall be deemed to be an action by the Company.

THE SCHEDULE—*continued.*

PART III.—GENERAL PROVISIONS.

12.—(1.) The Company shall retain all stations taken over by it under Clause 5 (*h*) of the Principal Agreement (hereinafter referred to as the “said Stations”) and shall complete, within three years from the commencement of this Part, the reorganization of the said stations, including the modernization of the equipment of the said stations, and shall continue to operate those stations in accordance with the Principal Agreement and this Agreement.

(2.) In lieu of the method of payment for the said stations which is set out in Clause 6 of the Principal Agreement, the Company shall, on completion of the transfer of the said stations, pay to the Commonwealth the amount of the assets valuation thereof namely the sum of £56,500, the method of payment to be by deduction from payments due by the Commonwealth to the Company.

(3.) As from 28th March, 1927, the Commonwealth shall pay to the Company as a contribution towards the maintenance of the said stations an annual subsidy of £45,000 per annum, and the Company shall pay to the Commonwealth thirty per centum of the revenue earned by the Company in the continuance of the services which were carried on by the said stations at the commencement of the Agreement made on the 28th day of March 1922 between the parties to this Agreement.

(4.) For the purposes of the last preceding sub-clause revenue earned by the Company from traffic of a kind which would at the commencement of the Principal Agreement have been carried on by one or more of the said stations, but which is diverted by the Company to another station, shall be deemed to be revenue earned by the Company in the continuance of the services which were carried on by the said stations at the commencement of the Agreement made on the 28th day of March, 1922, between the parties to this Agreement.

(5.) The second paragraph of Clause 7 of the Principal Agreement is amended by omitting the words “seven years” and inserting in their stead the words “five years”.

13. In operating the stations referred to in the Principal Agreement, and in establishing and operating any new stations which may be licensed by the Commonwealth, the Company shall comply with the provisions of any International Radio Convention, International Telegraph Convention, and International Convention for the Safety of Life at Sea, to which the Commonwealth is for the time being a party, and the Wireless Telegraphy Act. In particular, the Company shall comply, as from 28th March, 1923, with the requirements of the Telegraph Convention and the Radio Convention concerning the fixing and the payment to the Commonwealth of terminal or transit or land line charges on all messages received at or despatched from the Company's wireless stations.

14.—(1.) Clauses 4 and 13 of the Principal Agreement are hereby defined to mean that the Company is entitled, subject to the terms of the licences granted or to be granted by the Commonwealth to the Company, and to the provisions of any International Radio Convention, or International Convention for the Safety of Life at Sea to which the Commonwealth is for the time being a party, and to the Wireless Telegraphy Act, to establish and operate commercial wireless services between Australia and ships at sea, between Australia and commercial or private aircraft (except aircraft trading or operating exclusively within Australia), between Australia and any Territory under the authority of the Commonwealth (not being part of the Commonwealth), and between Australia and other countries, and to negotiate and enter into agreements for the conduct of such wireless services, and in such cases the licences and permits (other than licences for wireless telephone broadcasting stations and dealers' licences) shall be free of charge.

(2.) Nothing in this clause shall affect the provisions of the Principal Agreement as regards feeder stations or the development and manufacture or sale of wireless apparatus by the Company.

(3.) Notwithstanding anything contained in sub-clause (1.) of this Clause the Commonwealth retains the right to determine whether or not any service which the Company proposes to carry on in addition to the proposed services between Australia and Fiji and any service which is in existence at the date on which this Agreement is approved by the Parliament are necessary in the public interest.

(4.) Clause 5 (*h*) of the Principal Agreement is hereby defined as including an obligation on the Company to transmit and receive all official meteorological messages, and such messages shall in each year be transmitted and received by the Company without charge until the number of words contained in those messages exceeds by five per centum the number of words contained in similar messages transmitted and received by the Company free of charge during the previous year.

THE SCHEDULE—*continued.*

(5.) Notwithstanding anything in Clause 11 of the Principal Agreement, the fixation of all rates for traffic to be charged by the Company shall be subject to the approval of the Commonwealth.

(6.) Clause 15 of the Principal Agreement is hereby defined to mean that the Commonwealth shall not impose any conditions or restrictions of any kind upon the Company which exceed the conditions and requirements of the International Radio Convention, the International Telegraph Convention, the Wireless Telegraphy Act and the Post and Telegraph Act, and no Department of the Commonwealth shall carry on any commercial wireless service in competition with the Company.

(7.) Clauses 17 and 18 of the Principal Agreement are to be read and construed as if the words "the Prime Minister" and "the Prime Minister of the Commonwealth" were deleted and the words "the Minister for the time being administering the Wireless Telegraphy Act" were substituted therefor.

(8.) Clause 4 of the agreement of 20th August, 1924, between the parties to this Agreement is to be read and construed as if the words "and will pay to the Postmaster-General such amounts as may be due at standard tariff rates in respect of messages handled by the Post Office" were deleted.

15.—(1.) The Commonwealth shall, if so requested by the Company, provide for the Company the necessary land line connexions for the operation of its wireless stations and shall transmit over the internal communication service of the Commonwealth any overseas messages handed in by the public at any post office or handed over to the Commonwealth by the Company for such transmission and the Company shall pay to the Commonwealth for such lines and such services the usual rates charged by the Commonwealth.

Provided that no charge shall be made to the Company for lines from the Company's coastal stations to the local post office, or, at the Company's option, to the Company's local office, and provided that in all cases where terminal, transit or land line charges are paid to the Commonwealth in accordance with Clause 13 of this Agreement no further charge shall be made for transmission of messages over the internal communication service of the Commonwealth.

(2.) In this Clause "overseas messages" means messages received from or intended for transmission to—

- (a) a ship; or
- (b) a place outside Australia; or
- (c) commercial or private aircraft (other than aircraft trading or operating exclusively within Australia).

16.—(1.) The Company shall be entitled at all times, subject to the requirements of the Post and Telegraph Act, to accept from and deliver to the public through its own offices and agencies any overseas messages intended for transmission or received for delivery through its commercial wireless services and to relay such messages from one part of the Commonwealth to another through its wireless stations and/or land line connexions as it may consider most expedient, and where necessary, to a ship at sea, subject to payment of the terminal and/or transit charges, and the Company shall also be entitled to exchange, free of terminal, transit and land line charges, service messages among its wireless stations, but the Company shall not, otherwise than as provided in this Agreement, transmit or receive inland messages unless required by the Commonwealth in cases of interruption to line circuits.

(2.) In this Clause—

"Overseas messages" means messages received from, or intended for transmission to—

- (a) a ship; or
- (b) a place outside Australia; or
- (c) commercial or private aircraft (other than aircraft trading or operating exclusively within Australia);

"Service messages" means not only service telegrams as defined in the Regulations under the International Telegraph Convention and in the Regulations under the International Radio Convention, but also includes any messages relating to the general conduct and supervision of the service, and to experimental work carried on by the Company.

17. The Company shall at all times, subject to the conditions of the necessary licence, be permitted to conduct research and experimental work for the further

THE SCHEDULE—*continued.*

development of wireless and to establish and operate wireless stations and apparatus for the purpose of such research and experimental work, provided that the Company shall take all reasonable precautions to avoid interference with other wireless services.

18.—(1.) All the stations and services licensed in accordance with this Agreement and the Wireless Telegraphy Act shall be subject to inspection by any officer of the Commonwealth thereto authorized in writing by the Minister for the time being administering the Wireless Telegraphy Act, and the Company shall supply to the Commonwealth such particulars of the traffic as the Commonwealth from time to time requires.

(2.) Any information obtained by any authorized officer in pursuance of sub-clause (1.) of this Clause shall be used only for the purpose of the administration of the Wireless Telegraphy Act, and the Post and Telegraph Act, and this Agreement, or any proceeding relating thereto.

19. In any wireless telephone service licensed by the Commonwealth and established by the Company in accordance with Clause 14 of this Agreement, the Company shall have the same facilities as herein provided for wireless telegraph services, and the Company shall pay the aforesaid terminal and/or transit charges in the case of written messages, and in the case of personal conversation between members of the public the Company shall pay such terminal charges as are fixed by the Commonwealth.

PART IV.—OTHER PROVISIONS.

20. Clause 20 of the Principal Agreement shall apply in like manner in relation to any disagreement arising between the Commonwealth and the Company under this Agreement as it applies in relation to disagreements arising under the Principal Agreement.

21. All rights granted to the Commonwealth or to any broadcasting station, broadcast listener, radio dealer, manufacturer, or newspaper, under Part II. of this Agreement shall cease immediately upon the determination of that Part, and the Company shall thereafter be at liberty to demand royalties from all users of patent rights of the Company and to institute and carry on proceedings to prevent infringement of the patents.

Provided that no demand shall be made or proceedings instituted in respect of any use of the patents which occurs during the currency of Part II. of this Agreement and is in accordance with that Part.

22. Nothing in this Agreement shall be construed to prevent the Company establishing and carrying on any other wireless service under licence from the Commonwealth.

23. The Company agrees that it will not, without the consent of the Commonwealth, appoint to or engage for its service any person who is not a natural born British subject, and that it will use its best endeavours to induce all its present and future officers and employees to become members of the Reserve branch of the Defence Force.

IN WITNESS whereof the parties hereto have executed these presents the day and year first above mentioned.

SIGNED, SEALED AND DELIVERED by the
 Right Honorable Stanley Melbourne
 Bruce, Prime Minister of the Common-
 wealth of Australia, for and on behalf
 of the said Commonwealth, in the
 presence of
 GEO. S. KNOWLES.

} S. M. BRUCE (L.S.)

The Common Seal Amalgamated Wireless
 (Australasia) Limited was hereunto
 affixed by Sir George Mason Allard
 and Ernest E. Fisk two Directors of
 the Company in the presence of
 J. F. WILSON.

} G. MASON ALLARD
 E. T. FISK
 (L.S.)