

THE RESTRICTION OF THE IMPORTATION AND THE LICENSING OF JAMMERS/JAMMING EQUIPMENT IN SEYCHELLES

1. What is a Jammer?

Jammers or jamming equipment are devices which are intended to prevent radio-frequency (radio) equipment from receiving and transmitting the signals relevant to their function (i.e. jammers are used to wilfully interfere with other radiocommunication/wireless systems). There are several types of jammers depending on the signals to be blocked. There are GPS, mobile phone, video-link and wireless LAN jammers. A mobile phone jammer for example prevents the mobile phone within its range of operation from receiving signals from the base stations of mobile operators. As a result, the mobile phone does not attempt to transmit to a base station, even though it may be within the base station's range. Mobile phone jammers are commonly used in places where the use of mobile phones is prohibited such as hospitals, conference rooms, schools, theatres, etc.

2. Typical Range of Operation of Jammers

Depending on the output power of operation, a jammer's effective coverage can range from a few metres to several kilometres. A higher output power will result in a more effective coverage.

3. Legality of Radiocommunication Equipment in Seychelles

Sections 16 and 106 of the **Communications Act, 2023 (Act 3 of 2023)** (the Act) forbids the possession, deployment and operation of a radiocommunication equipment or use any part of the radio frequency spectrum without a licence, unless exemption from requirement of licence is granted under section 38 of the Act.

Licences are usually granted subject to terms and conditions, which must be complied with, such as the radiocommunication equipment must be restricted to the assigned frequency or frequencies and should not cause interference as per the Act.

4. Legality of Interfering to Communications

Article 22(1) of the Constitution of Seychelles states that: *“Every person has a right to freedom of expression and for the purpose of this article this right includes the freedom to hold opinions and to seek, receive and impart ideas and information without interference.”* However, this right to freedom of expression without interference under Article 22(1) may be subject to such restrictions as per Article 22(2) of the Constitution, which indicates that such restrictions are necessary in a democratic society. Nevertheless, Article 22(2) indicates that these restrictions from the freedom of expression should be prescribed by a law and has to be in the interest of defence, public safety, public order and maintaining the authority and independence of the courts or the National Assembly, etc. One of the restrictions that may be subjected to the freedom of expression is to cause interference to communications, and in the context of radiocommunication systems such interference may be done through the use of jamming equipment.

Should a person wish to use a jammer in Seychelles, then the purpose to interfere with communications must satisfy one of the provisions of Article 22(2) and in line with that provision there must be a law which empowers that person to interfere with communications.

As per section 110 of the Act, a person shall not wilfully and unlawfully interfere with a broadcasting service, electronic communications service, electronic communications network service or radio communication service as in doing that person will be **committing an offence under the Act** and shall be liable, on conviction, to a fine not exceeding SCR700,000 or to an imprisonment not exceeding 2 years or both such fine and imprisonment and shall also be liable to an additional fine of SCR10,000 for every day during which the offence continues. In addition, as per section 147 (2) (m) of the Act, a person who wilfully and unlawfully interferes with a broadcasting service, electronic communications service, electronic communications network service or radio communication service **commits an offence under the Act** and shall be liable, on conviction, to the penalty indicated above.

In light of Article 22 of the Constitution, and sections 110 and 147 (2) (m) of the Act, 2023:

**IT IS THEREFORE PROHIBITED TO POSSESS AND OPERATE ANY JAMMING
EQUIPMENT IN SEYCHELLES UNLESS LEGALLY EMPOWERED TO DO SO UNDER
THE CONSTITUTION AND THE ACT.**

5. Why the Prohibition of Jammers?

The use of jammers can place members of the public in great danger. Jammers can prevent calls to emergency numbers such as “999” and other emergency/alert calls such as fire, medical services etc. from getting through. Therefore, the prohibition of the possession and the operation of jammers are to protect the public and ensure access to emergency and other critical public communication services without interference. In the case of GPS jamming the safety risks are high because GPS is used for navigation, rescue services and in tracking devices.

6. International Best Practice for Jammers

The use of jammers by civilians is prohibited in several countries around the world. Countries in which jammers are prohibited include the United States of America, Australia, Mauritius and several European countries.

7. The Lawful use of Jammers in Seychelles

All radiocommunication equipment, including broadcasting or telecommunication jamming equipment (jammer) are restricted goods under the ‘Customs Management (Prohibited and Restricted Goods) Regulations, 2023’. As such, permission must be sought from SCRA **prior** to importation of a jammer.

To be in line with Article 22 of the Constitution and to avoid committing an offence under sections 110 and 147 (2) (m) of the Act, the person has to be empowered under an applicable law to cause harmful interference and must obtain a licence under the ‘Licences (Broadcasting and Telecommunication) Regulations, 2021’ to possess and operate the jammer. Before a licence is granted to possess and operate the jammer, the Minister of Home Affairs shall be consulted.

As per the ‘Licences (Broadcasting and Telecommunication) Regulations, 2021’, the licence fee for jammer is SCR 1,000.00 per meter per annum, per jammer based on the maximum operational interference range or radius of the jammer.

8. Alternatives to Jammers

There are several legal alternatives to jammers. For mobile phone jammers for example, the alternative, legal way for hospitals, conference rooms, schools, theatres etc. to restrict the use of mobile phones within their premises is by education and publicity in informing users to keep their mobile phones switched off when requested to do so. This may be assisted by the use of mobile phone detectors at entrances that, without transmitting any interfering signal, give visible and/or audible warnings if a nearby mobile phone is active (ON).