

BROADCASTING ACT 4 OF 1999

(English text signed by the President)

*[Assented To: 23 April 1999]
[Commencement Date: 30 June 1999]*

as amended by:

Independent Communications Authority of South Africa Act 13 of 2000
Broadcasting Amendment Act 64 of 2002
Prevention and Combating of Corrupt Activities Act 12 of 2004

ACT

To repeal the Broadcasting Act, 1976 (Act No. 73 of 1976), so as to establish a new broadcasting policy for the Republic; to amend certain provisions of the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993); to clarify the powers of the Minister in regard to policy formulation and the Authority's powers with respect to the regulation and licensing of the broadcasting system; to provide for classes of broadcasting activities in the public interest and for that purpose - to provide a Charter for the South African Broadcasting Corporation Ltd; to establish the Frequency Spectrum Directorate in the Department; to establish the South African Broadcasting Production Advisory Body; and to establish a human resource capacity in policy development; and to provide for matters connected therewith.

Preamble.—**NOTING** that the South African broadcasting system comprises public, commercial and community elements, and the system makes use of radio frequencies that are public property and provides, through its programming, a public service necessary for the maintenance of a South African identity, universal access, equality, unity and diversity;

ACKNOWLEDGING that the South African broadcasting services are owned and controlled by South Africans;

REALISING that the broadcasting system must reflect the identity and diverse nature of South Africa, is controlled and managed by persons or groups of persons from a diverse range of communities, including persons from previously disadvantaged groups, and must reflect the multilingual and diverse nature of South Africa by promoting the entire spectrum of cultural backgrounds, religious backgrounds and official languages in the Republic;

ENCOURAGING the development of South African expression by providing a wide range of programming that refers to South African opinions, ideas, values and artistic

creativity by displaying South African talent in radio and television programming and by making use of radio frequencies that are public property and that provide a public service necessary for the maintenance of national identity, universal access, equality, unity and diversity; and

RESOLVING to align the broadcasting system with the democratic values of the Constitution and to enhance and protect the fundamental rights of citizens:

[Preamble amended by s. 1 of Act 64/2002]

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CHAPTER I

FUNDAMENTAL PRINCIPLES AND INTERPRETATION

This Chapter sets out the fundamental principles and objects of this Act. Freedom of expression and the journalistic, creative and programming independence of the broadcasters and independence of regulation are identified as guaranteed by the Constitution. These principles recognise that the South African broadcasting system comprises public, commercial and community elements which make use of the radio frequencies that are public property and provides, through its programming, a public service necessary for the maintenance of South African identity, universal access, equality, unity and diversity.

This Chapter also contains definitions explaining the meaning of certain words for the purpose of the Act and provisions regarding the interpretation of the Act.

1. Definitions and interpretation

- (1) In this Act, unless the context otherwise indicates, radio, sound broadcasting service and television set have the meaning assigned thereto in the IBA Act, and -

“Advisory Body” means the South African Broadcast Production Advisory Body established in terms of [section 38](#) of this Act;

“appointing body” means the body charged with the appointment of members of the Board in terms of [section 13](#) of this Act;

“authorised inspector” means an authorised inspector appointed by the Corporation in terms of [section 27\(6\)](#) of this Act;

[Definition of “authorised inspector” inserted by s. 2 of Act 64/2002]

“Authority” means the Independent Communications Authority of South Africa established by [section 3](#) of the Independent Communications Authority of South Africa Act, 2000;

[Definition of “Authority” substituted by s. 23 of Act 13/2000]

“Board” means Board of the Corporation;

[Definition of “Board” substituted by s. 2 of Act 64/2002]

“broadcaster” means any legal or natural person who composes or packages television or radio programme services for reception by the public or sections of the public or subscribers to such a service irrespective of technology used;

[Definition of “broadcaster” substituted by s. 2 of Act 64/2002]

“broadcasting” means any form of unidirectional telecommunications intended for the public, sections of the public or subscribers to any broadcasting service having appropriate receiving facilities, whether carried by means of radio or any other means of telecommunication or any

combination of the aforementioned, and “broadcast” is construed accordingly;

“broadcasting licence” means a licence granted and issued by the Authority in terms of this Act or the IBA Act to a person for the purpose of providing a defined category of broadcasting service, or deemed by this Act or the IBA Act to have been so granted and issued;

[Definition of “broadcasting licence” substituted by s. 2 of Act 64/2002]

“broadcasting licensee” means the holder of a broadcasting licence;

“broadcasting service” means any service which consists of the broadcasting of television or sound broadcasting material to the public, sections of the public or to subscribers to such a service but does not include -

- (a) a service (including text service) that provides no more than data, or no more than text (with or without associated still images);
- (b) a service that makes programmes available on demand on a point to-point basis, including a dial-up service; and
- (c) a service or a class of service that the Minister determines, by notice in the *Gazette*, not to fall within this definition;

“broadcasting services frequency bands” means that part of the electromagnetic radio frequency spectrum which is allocated for the use of broadcasting services by the International Telecommunications Union (ITU), in so far as such allocation has been agreed to or adopted by the Republic;

“broadcasting signal distribution” means the process whereby the output signal of a broadcasting service is taken from the point of origin, being the point where such signal is made available in its final content format, from where it is conveyed to any broadcast target area by means of a telecommunication process and includes multi-channel distribution;

“broadcasting signal distribution licence” means a licence granted and issued by the Authority in terms of this Act or the IBA Act to a person for the purpose of providing signal distribution for broadcasting purposes, or deemed by this Act or the IBA Act to have been so granted and issued;

[Definition of “broadcasting signal distribution licence” substituted by s. 2 of Act 64/2002]

“broadcasting signal distribution licensee” means the holder of a broadcasting signal distribution licence;

“broadcasting signal distribution service” means a service whereby broadcasting signal distribution is provided;

[Definition of “broadcasting signal distribution service” inserted by s. 2 of Act 64/2002]

“business”, for the purposes of the definition of “record” and [section 27](#) means a person who uses a television set-

- (a) in the course of conducting his or her business;
- (b) in the course of engaging in commercial transactions;
- (c) as part of his or her activities for gain; or
- (d) on premises which are occupied for business purposes,

but excludes a dealer and lessor;

[Definition of “business” inserted by s. 2 of Act 64/2002]

“channel” means a single defined programming service of a licensee other than a video on demand programming service;

[Definition of “channel” substituted by s. 2 of Act 64/2002]

“commercial broadcasting service” means a broadcasting service operating for profit or as part of a profit entity but excludes any broadcasting service provided by a public broadcasting licensee;

“commercial service division” means the commercial service division of the Corporation contemplated in [section 9\(1\)\(b\)](#);

[Definition of “commercial service division” inserted by s. 2 of Act 64/2002]

“common carrier” means a service for broadcasting signal distribution as provided by Sentech Limited, established in terms of the Sentech Act, 1996;

“Companies Act” means the Companies Act, 1973 (Act No. 61 of 1973);

“community” includes a geographically founded community or any group of persons or sector of the public having a specific, ascertainable common interest;

“community broadcasting service” means a broadcasting service which -

- (a) is fully controlled by a non-profit entity and carried on for non-profitable purposes;
- (b) serves a particular community;
- (c) encourages members of the community served by it or persons associated with or promoting the interests of such community to participate in the selection and provision of programmes to be broadcast in the course of such broadcasting service; and

- (d) may be funded by donations, grants, sponsorships or advertising or membership fees, or by any combination of the aforementioned;

“Corporation” means the South African Broadcasting Corporation Limited upon conversion of the old Corporation in terms of [section 8A](#) of this Act;
[Definition of “Corporation” substituted by s. 2 of Act 64/2002]

“date of conversion” means the date determined by the Minister by notice in the *Gazette*, as stipulated in [section 8A](#)(1);
[Definition of “date of conversion” inserted by s. 2 of Act 64/2002]

“dealer” means a person who engages in the business of selling television sets;
[Definition of “dealer” inserted by s. 2 of Act 64/2002]

“Department” means the Department of Communications;

“direct to home broadcasting”
[Definition of “direct to home broadcasting” deleted by s. 2 of Act 64/2002]

“due diligence report” means the due diligence report to be prepared by the old Corporation in terms of [section 8A](#)(12)(a);
[Definition of “due diligence report” inserted by s. 2 of Act 64/2002]

“encryption” means a method for changing a broadcasting signal in a systematic way so that the signal would be unintelligible without a suitable receiving equipment;

“free-to-air service” means a service which is broadcast and capable of being received without payment of subscription fees;
[Definition of “free-to-air service” substituted by s. 2 of Act 64/2002]

“IBA Act” means the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993);

“incorporation date”
[Definition of “incorporation date” deleted by s. 2 of Act 64/2002]

“inventory” means the inventory to be prepared by the old Corporation and submitted to the Minister in accordance with the provisions of [section 8A](#)(13)(a);
[Definition of “inventory” inserted by s. 2 of Act 64/2002]

“lessor” means a person who engages in the business of renting out television sets;
[Definition of “lessor” inserted by s. 2 of Act 64/2002]

“licence” means a broadcasting licence or a broadcasting signal distribution licence;

[Definition of “licence” inserted by s. 2 of Act 64/2002]

“licence area” means the geographical target area of a broadcasting service as specified in the relevant broadcasting licence;

“licensee” means the holder of any licence granted and issued under this Act or the IBA Act or deemed by this Act or the IBA Act to have been so granted and so issued;

[Definition of “licensee” substituted by s. 2 of Act 64/2002]

“local content” has a meaning similar to the meaning set out in [section 53](#) of the IBA Act;

“local delivery service”

[Definition of “local delivery service” deleted by s. 2 of Act 64/2002]

“low power sound broadcasting service” means a community, private or public sound broadcasting service which radiates power not exceeding one watt;

“member” means executive and non-executive members of the Board referred to in [sections 12](#) and [13](#) of this Act;

“Minister” means the Minister charged with the administration of this Act;

“multi-channel distribution service” means a broadcasting signal distribution service that provides broadcasting signal distribution of more than one channel at the same time on the same signal, and **“multi-channel distributor”** is construed accordingly;

[Definition of “multi-channel distribution service” substituted by s. 2 of Act 64/2002]

“National Revenue Fund” means the Fund established by [section 213](#) of the Constitution;

“old Corporation” means the South African Broadcasting Corporation established in terms of the Broadcasting Act, 1976 (Act No. 73 of 1976);

“person” has the meaning assigned to it in [section 2](#) of the Interpretation Act 1957 (Act No. 33 of 1957), and includes any department of state or administration in the national, provincial or local spheres of government;

[Definition of “person” inserted by s. 2 of Act 64/2002]

“prescribed” means prescribed by regulation;

“President” means the President of the Republic of South Africa;

“public broadcasting service” means -

- (a) any broadcasting service provided by the South African Broadcasting Corporation;
- (b) a broadcasting service provided by any other statutory body; or
- (c) a broadcasting service provided by a person who receives his or her revenue, either wholly or partly, from licence fees levied in respect of the licensing of persons in relation to sound radio sets and in relation to television sets, or from the State,

and must include a commercially operated broadcasting service provided by a person referred to in paragraph (a), (b) or (c) of this definition;

“public service division” means the public service division of the Corporation contemplated in [section 9\(1\)\(a\)](#);

[Definition of “public service division” inserted by s. 2 of Act 64/2002]

“Public Finance Management Act” means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

[Definition of “Public Finance Management Act” inserted by s. 2 of Act 64/2002]

“radio” means an electromagnetic wave propagated in space without artificial guide and having by convention a frequency of lower than 3 000 GHZ;

“record” means the information as prescribed which must be provided by a business or dealer or such information as is reasonably required by an authorised inspector in order to determine whether a business or dealer has complied with this Act;

[Definition of “record” inserted by s. 2 of Act 64/2002]

“Registrar” means the Registrar of Companies, as defined in the Companies Act;

[Definition of “Registrar” inserted by s. 2 of Act 64/2002]

“regulation” means a regulation made under [section 40](#) but excludes financial regulations made under [section 18](#);

[Definition of “regulation” inserted by s. 2 of Act 64/2002]

“satellite broadcasting service” means a service which is broadcast by transmitters situated on a satellite;

“sound broadcasting service” means a broadcasting service destined to be received by a sound radio set;

“sound radio set” means any apparatus designed or adapted to be capable of receiving by radio the transmissions broadcast by a broadcasting service, and reproducing them in the form of sounds, but not also in the form of images or other visible signs or signals;

“subscription broadcasting service” means a broadcasting service provided to an end user upon the payment of a fee;

“telecommunications” means any system or method of conveying signs, signals, sounds, communications or other information by means of electricity, magnetism, electromagnetic waves or any agency of a like nature, whether with or without the aid of tangible conductors, from one point to another, and the derivative noun **“telecommunication”** must be construed accordingly;

“television broadcasting service” means a broadcasting service consisting in the sending of visual images or other visible signals whether with or without accompanying sounds, where the visual images are such that sequences of them are seen as moving pictures;

“television licence” means a current and valid written licence issued in terms of this Act for the use of a television set;

[Definition of “television licence” inserted by s. 2 of Act 64/2002]

“television licence fee” means a fee prescribed in terms of this Act and payable for the use of a television set;

[Definition of “television licence fee” inserted by s. 2 of Act 64/2002]

“terrestrial broadcasting service” means a service that is broadcast from a transmitter situated upon the earth’s surface;

“transfer date”

[Definition of “transfer date” deleted by s. 2 of Act 64/2002]

“use” means the use or possession of a television set or permitting any other person to use or possess a television set and the words **“user”** and **“used”** are construed accordingly;

[Definition of “use” inserted by s. 2 of Act 64/2002]

- (2) Any interpretation of the provisions of this Act must be construed and applied in a manner which is consistent with freedom of expression and the journalistic, creative and programming independence of the broadcasters guaranteed by the Constitution.

- (3)

[Sub-s. (3) deleted by s. 2 of Act 64/2002]

2. Object of Act

The object of this Act is to establish and develop a broadcasting policy in the Republic in the public interest and for that purpose to -

- (a) contribute to democracy, development of society, gender equality, nation building, provision of education and strengthening the spiritual and moral fibre of society;
- (b) safeguard, enrich and strengthen the cultural, political, social and economic fabric of South Africa;
- (c) encourage ownership and control of broadcasting services through participation by persons from historically disadvantaged groups;
- (d) ensure plurality of news, views and information and provide a wide range of entertainment and education programmes;
- (e) cater for a broad range of services and specifically for the programming needs in respect of children, women, the youth and the disabled;
- (f) encourage the development of human resources and training, and capacity building within the broadcasting sector especially amongst historically disadvantaged groups;
- (g) encourage investment in the broadcasting sector;
- (h) ensure fair competition in the broadcasting sector;
- (i) ensure efficient use of the broadcasting frequency spectrum;
- (j) provide a clear allocation of roles and assignment of tasks between policy formulation, regulation and service provision as well as articulation of long-term and intermediate-term goals;
- (k) provide for a three tier system of public, commercial and community broadcasting services;
- (l) establish a strong and committed public broadcasting service which will service the needs of all South African society;
- (m) ensure that the commercial and community licences, viewed collectively, are controlled by persons or groups of persons from a diverse range of communities in South Africa;

- (n) ensure that broadcasting services are effectively controlled by South Africans;
- (o) integrate multi-channel distribution systems into the broadcasting framework;
- (p) provide access to signal distribution services for content providers;
- (q) provide access to signal distribution services for broadcast content receivers;
- (r) encourage the development of local programming content.

CHAPTER II

SOUTH AFRICAN BROADCASTING SYSTEM

This Chapter is of central significance to the Act, as it lays the basis that the South African broadcasting system is owned and controlled by South Africans. The National Government, acting through the Minister, is responsible for the achievement of this purpose and the constitutional mandate of broadcasting policy development. Being empowered to act on behalf of the nation, the Minister has the ultimate responsibility to fulfil certain obligations relating to use, protection and access to broadcasting resources.

3. South African broadcasting system

- (1) The South African broadcasting system -
 - (a) serves to safeguard, enrich and strengthen the cultural, political, social and economic fabric of South Africa;
 - (b) operates in the public interest and strengthens the spiritual and moral fibre of society;
 - (c) ensures that the broadcasting system is controlled by persons or groups of persons from a diverse range of communities in South Africa and within each element promotes ownership, control and management of broadcasting services by persons from historically disadvantaged groups;
 - (d) encourages fair competition in the provision of programmes and services.
- (2) Subject to subsection (1), the Minister is ultimately responsible to develop policy that is required from time to time.

- (3) Public and commercial broadcasting services must comply with international technical standards and the broadcasting system must be readily adaptable to scientific and technological advances.
- (4) The broadcasting system, as a whole, must provide educational programming, and where such programming is provided by a dedicated education service, must be extended throughout the Republic within the financial resources.
- (5) The programming provided by the South African broadcasting system must -
 - (a) be varied and comprehensive, providing a balance of information, education and entertainment meeting the broadcasting needs of the entire South African population in terms of age, race, gender, religion, interests and backgrounds;
[Para. (a) substituted by s. 3 of Act 64/2002]
 - (b) be varied and offer a range of South African content and analysis from a South African perspective;
 - (c) must be drawn from local, regional, national and international sources;
 - (d) provide a reasonable, balanced opportunity for the public to receive a variety of points of view on matters of public concern;
 - (e) provide a significant place for programmes produced by the independent production sector;
 - (f) comply with a code of conduct for broadcasting services as prescribed in terms of the IBA Act.
[Para. (f) substituted by s. 3 of Act 64/2002]
- (6) A range of programming in the Republic's official languages must be extended to all South Africans as circumstances permit.
- (7) The human resources development strategy for the broadcasting sector must be viewed holistically in terms of qualification standards, skills development, teaching, inter-relationships with the complementary sectors and the funding of the training system.

CHAPTER III

CLASSIFICATION OF BROADCASTING SERVICES

This Chapter emphasises the need to adopt a more comprehensive approach to broadcasting and broadcasting services to be in line with international practices and technological developments.

Part 1: Broadcasting licences

4. Licences

- (1) (a) Notwithstanding [section 39](#) of the IBA Act, an person who, immediately before the commencement of this Act, provided a broadcasting service without a broadcasting licence is deemed to have permission to continue to provide such service if such person applies to the Authority for the necessary licence within six months after the commencement of the Broadcasting Amendment Act, 2002.
- (b) The permission is deemed to continue until the Authority has refused the application or, in the event of a decision to grant the application, has issued the licence.
- (2) This section must not be construed to mean that a broadcasting service licensed to provide such service to a foreign country by the appropriate authority and whose signal is incidentally received in South Africa, is required to hold a broadcasting licence issued by the Authority.
- (3) Subject to subsection (5), a person who provides a licensed broadcasting service consisting of more than one channel may not include a channel in such a service unless the Authority, on application by such person, has authorised the channel.
- (4) The Authority must prescribe the procedure and the appropriate conditions for the authorisation of channels, which must include how channels are defined.
- (5) (a) Any person who immediately before the commencement of this Act provided an unlicensed broadcasting service consisting of more than one channel is deemed to have permission to continue to include those channels if such person applies to the Authority for the authorisation of the channels within three months after the publication of the regulations contemplated in subsection (4).
- (b) The permission is deemed to continue until the Authority has granted or refused such application.

[S. 4 substituted by s. 4 of Act 64/2002]

5. Classes of licences

- (1) Subject to the provisions of this Act, the Authority may, on such conditions as it may determine, issue a sound or television broadcasting service licence for a specified area in the following broadcasting service categories:

- (a) A public broadcasting service;
 - (b) a commercial broadcasting service; and
 - (c) a community broadcasting service.
- (2) Subject to this Act, broadcasting licences are categorised as-
- (a) free-to-air broadcasting service;
 - (b) terrestrial subscription broadcasting service;
 - (c) satellite subscription broadcasting service;
 - (d) cable subscription broadcasting service;
 - (e) low power sound broadcasting service; and
 - (f) any other class of licence prescribed by the Authority from time to time.
[Sub-s. (2) substituted by s. 5 of Act 64/2002]
- (3) Applications for broadcasting licences must be made in terms of the applicable provisions of the IBA Act and any regulations prescribed thereunder.
[Sub-s. (3) added by s. 5 of Act 64/2002]

CHAPTER IV

PUBLIC BROADCASTING SERVICE AND CHARTER OF CORPORATION

This Chapter provides for the incorporation of the Corporation and for the Charter. The Charter is dealt with by Parliament as part of the broad national policy framework. The Authority monitors and enforces compliance with the provisions of the Charter of the Corporation.

Part 1: Public broadcasting service

6. Charter of Corporation

- (1) The Corporation must comply with the Charter as outlined in this part.
- (2) The Authority must monitor and enforce compliance with the Charter by the Corporation.

- (3) In terms of this Charter, the Corporation, in pursuit of its objectives and in the exercise of its powers, enjoys freedom of expression and journalistic, creative and programming independence as enshrined in the Constitution.
- (4) The Corporation must encourage the development of South African expression by providing, in South African official languages, a wide range of programming that-
 - (a) reflects South African attitudes, opinions, ideas, values and artistic creativity;
 - (b) displays South African talent in education and entertainment programmes;
 - (c) offers a plurality of views and a variety of news, information and analysis from a South African point of view;
 - (d) advances the national and public interest.
- (5) (a) The Board must prepare and submit to the Authority not later than three months after the date of conversion, policies that will ensure compliance with the Authority's Code of Conduct as prescribed and with the Corporation's licence conditions and with the objectives contained in this Act, including:
 - (i) News editorial policy;
 - (ii) programming policy;
 - (iii) local content policy;
 - (iv) educational policy;
 - (v) universal service and access policy;
 - (vi) language policy; and
 - (vii) religious policy.
- (b) The Corporation must notify the Authority in writing of any amendments to the policies referred to in paragraph (a) as soon as reasonably possible.

- (6) The Board must ensure that there is public participation in the development of the policies referred to in subsection (5) by inviting and considering public comment on such draft policies and by other means.
- (7) The Corporation must provide suitable means for regular inputs of public opinion on its services and ensure that such public opinion is given due consideration.
- (8) The Corporation must develop a Code of Practice that ensures that the services and the personnel comply with-
 - (a) the constitutional principle of equality;
 - (b) the equitable treatment of all segments of the South African population;
 - (c) the constitutional requirement of equitable treatment of all official languages;
 - (d) the rights of all South Africans to receive and impart information and ideas;
 - (e) the mandate to provide for a wide range of audience interests, beliefs and perspectives; and
 - (f) a high standard of accuracy, fairness and impartiality in news and programmes that deal with matters of public interest.

[S. 6 substituted by s. 6 of Act 64/2002]

CHARTER OF CORPORATION

Part 2: Establishment, incorporation, objectives and organisation of Corporation.

7.

[S. 7 repealed by s. 7 of Act 64/2002]

8. Objectives of Corporation

The objectives of the Corporation are -

- (a) to make its services available throughout the Republic;
- (b) to provide sound and television broadcasting services, whether by analogue or digital means, and to provide sound and television programmes of information, education and entertainment funded by advertisements, subscription, sponsorship, licence fees or any other means of finance;

- (c) to acquire from time to time a licence or licences for such period and subject to such regulations, provisions and licence conditions as may be prescribed by the Authority;
- (d) to provide, in its public broadcasting services, radio and television programming that informs, educates and entertains;
- (e) to be responsive to audience needs, including the needs of the deaf and the blind and account on how to meet those needs;
[Para. (e) substituted by s. 8 of Act 64/2002]
- (f) to provide other services, whether or not broadcasting or programme supply services, such services being ancillary services;
- (g) to provide television and radio programmes and any other material to be transmitted or distributed by the common carrier for free to air reception by the public subject to [section 33](#) of this Act;
- (h) to provide to other bodies by such means and methods as may be convenient, services, programmes and materials to be transmitted or distributed by such bodies and to receive from such other bodies services, programmes and materials to be transmitted by stations of the Corporation for reception as above;
- (i) to commission, compile, prepare, edit, make, print, publish, issue, circulate and distribute, with or without charge, such books, magazines, periodicals, journals, printed matter, records, cassettes, compact disks, video tapes, audio-visual and interactive material, whether analogue or digital and whether on media now known or hereafter invented, as may be conducive to any of the objects of the Corporation;
- (j) to establish and maintain libraries and archives containing materials relevant to the objects of the Corporation and to make available to the public such libraries and archives with or without charge;
- (k) to organise, present, produce, provide or subsidise concerts, shows, variety performances, revues, musical and other productions and performances and other entertainment whether live or recorded in connection with the broadcasting and programme supply services of the Corporation or for any purpose incidental thereto;
- (l) to collect news and information in any part of the world and in any manner that may be thought fit and to establish and subscribe to news agencies;
- (m) to carry out research and development work in relation to any technology relevant to the objects of the Corporation and to acquire by operation of law, registration, purchase, assignment, licence or otherwise copyright and

designs, trade marks, trade names and any other intellectual, industrial and commercial property rights;

- (n) to nurture South African talent and train people in production skills and carry out research and development for the benefit of audiences;
- (o) to develop, produce, manufacture, purchase, acquire, use, display, sell, rent or dispose of sound recordings and films and materials and apparatus for use in connection with such sound recordings and films;
- (p) to develop and extend the services of the Corporation beyond the borders of South Africa.

8A. Conversion

- (1) The old Corporation is, with effect from a date determined by the Minister by notice in the *Gazette*, which may be a date prior to the commencement of this Act, deemed to be a public company incorporated in terms of the Companies Act, to be known as the South African Broadcasting Corporation Limited.
- (2) The Corporation must have a share capital as contemplated in [section 19](#) of the Companies Act with the State as its sole shareholder with effect from the date of conversion.
- (3) The Minister must determine the memorandum and articles of association of the Corporation and must submit these to the Registrar at least a week prior to the date of the notice contemplated in subsection (1).
- (4) The Registrar must, on the date of the notice contemplated in subsection (1), register the memorandum and the articles of association of the Corporation in terms of [section 63](#)(1) of the Companies Act and issue a certificate of incorporation and a certificate to commence business to the Corporation, but no fees are payable in respect of such registration or issue.
- (5) With effect from the date of conversion the Companies Act applies to the Corporation as if it had been incorporated in terms of the Companies Act on that date, save to the extent stipulated in this Act.
- (6) [Sections 32, 44, 54\(2\), 60, 63\(2\), 64, 65, 66, 172, 190](#) and [344](#)(b) and (d) of the Companies Act do not apply to the Corporation.
- (7) All references in this Act to the conversion of the old Corporation must be construed as references to the conversion of the old Corporation into a public company having a share capital and having been incorporated in terms of the Companies Act as stipulated in subsection (2).

- (8) Neither the repeal of the Broadcasting Act, 1976 (Act No. 73 of 1976), nor the conversion of the old Corporation affects-
- (a) the continued corporate existence of the old Corporation with separate legal personality as from the date of its first establishment;
 - (b) any of the rights, assets, liabilities or obligations acquired or incurred by the old Corporation or on behalf of the old Corporation at any time before its conversion;
 - (c) the terms and conditions of service and accrued benefits of its employees; or
 - (d) the validity of any act lawfully performed by or on behalf of the old Corporation prior to the date of conversion.
- (9) With effect from the date of conversion-
- (a) any reference to the old Corporation in any contract, statute, licence or other written instrument is deemed to be a reference to the Corporation;
 - (b)
 - (i) any reference to the old Corporation in the patents register, trade marks register, design register, deeds register or any other register in the Republic is, with effect from the date of conversion, deemed to be a reference to the Corporation;
 - (ii) the relevant registrar must make such entries or endorsements in any register referred to in paragraph (i) or other documents in the registrar's office or submitted to the registrar as are necessary to give effect to the conversion;
 - (iii) no fees or other levies are payable in respect of such entries or endorsements.
- (10) Any legal proceedings instituted by or against the old Corporation prior to the date of conversion may, notwithstanding such conversion, be proceeded with by or against the Corporation subject to the law governing the prescription of claims.
- (11) (a) The Minister of Finance, after consultation with the Minister, must determine the tax values of the assets owned by the Corporation as at the date of conversion for the purpose of calculating any wear and tear or capital allowance or any deduction as contemplated in the Income Tax Act, 1962 (Act No. 58 of 1962).

- (b) The assets contemplated in paragraph (a) are for the purposes of [sections 11\(e\)](#), [12C](#) and [13](#) of the Income Tax Act, 1962 (Act No. 58 of 1962), deemed to have been brought into use for the first time at a cost equal to the value determined in terms of paragraph (a).
- (12)
 - (a) The old Corporation must before the date of conversion conduct a legal and financial due diligence investigation into the state of its affairs for the purposes of identifying and establishing the status of all its assets, rights, obligations and liabilities.
 - (b) The old Corporation must submit to the Minister, by not later than three months prior to the date of conversion, a legal and a financial due diligence report containing details of all of such assets, rights, obligations and liabilities and the implications of the contracts concluded by or on behalf of the old Corporation in respect of such assets, rights, obligations and liabilities.
- (13) The old Corporation must, after submitting the due diligence report to the Minister and before the date of conversion, submit to the Minister-
 - (a) an inventory of all its assets and liabilities;
 - (b) details of its financial policies relating to the allocation of such assets and liabilities between the public service division, the commercial service division and the shared group services of the Corporation; and
 - (c) details of its financial policies governing internal transfer pricing between the public service division, the commercial service division and the shared group services of the Corporation.
- (14) The Minister must submit a copy of the inventory referred to in subsection 13(a) to the National Treasury and the Auditor-General.
- (15)
 - (a) Any use by the public service division or the commercial service division of any asset allocated to another division of the Corporation must be accounted for in the respective financial records of the public service division and commercial service division to ensure that such use took place on an arm's length commercial basis.
 - (b) Any service rendered by or to the public service division or the commercial service division to or by another division of the Corporation must be accounted for in the respective financial records of

the public service division and commercial service division to ensure that such service was rendered on an arm's length commercial basis.

[S. 8A inserted by s. 9 of Act 64/2002]

9. Organisation

- (1) The Corporation must consist of two separate operational divisions, namely-
 - (a) a public service division; and
 - (b) a commercial service division.
- (2) The public and commercial service divisions must be separately administered and a separate set of financial records and accounts are to be kept in respect of each such division.

[S. 9 substituted by s. 10 of Act 64/2002]

Part 3: Public service

10. Public service

- (1) The public service provided by the Corporation must -
 - (a) make services available to South Africans in all the official languages;
 - (b) reflect both the unity and diverse cultural and multilingual nature of South Africa and all of its cultures and regions to audiences;
 - (c) strive to be of high quality in all of the languages served;
 - (d) provide significant news and public affairs programming which meets the highest standards of journalism, as well as fair and unbiased coverage, impartiality, balance and independence from government, commercial and other interests;
 - (e) include significant amounts of educational programming, both curriculum-based and informal educative topics from a wide range of social, political and economic issues, including, but not limited to, human rights, health, early childhood development, agriculture, culture, religion, justice and commerce and contributing to a shared South African consciousness and identity;
[Para. (e) substituted by s. 11 of Act 64/2002]
 - (f) enrich the cultural heritage of South Africa by providing support for traditional and contemporary artistic expression;

- (g) strive to offer a broad range of services targeting, particularly, children, women, the youth and the disabled;
 - (h) include programmes made by the Corporation as well as those commissioned from the independent production sector; and
 - (i) include national sports programming as well as developmental and minority sports.
- (2) The public service provided by the Corporation may draw revenues from advertising and sponsorships, grants and donations, as well as licence fees levied in respect of the licensing of persons in relation to television sets, and may receive grants from the State.
- (3) The old Corporation shall, be no later than three months prior to the date of conversion, submit to the Minister for approval -
 - (a) a proposed budget in respect of the public service division listing revenue, expenditure, borrowings and appropriation of funds for the financial year following the date of conversion; and
 - (b) a three year business plan containing details of operational plans, marketing and financial plans and policies prepared in compliance with the objectives of the public service of the Corporation and in compliance with the general objectives of this Act covering the public service obligation of the Corporation in respect of the conduct of the business of the public service division for the three financial years following the date of conversion.

[Sub-s. (3) added by s. 11 of Act 64/2002]
- (4) The Board must-
 - (a) keep proper and accurate books and records of the financial affairs of the public service division separately from those of the commercial service division;
 - (b) procure in addition to the annual financial statements of the Corporation drawn up in terms of [section 20](#), audited annual financial statements prepared in respect of the public service division in accordance with generally accepted accounting practice separately from those in respect of the commercial service division; and
 - (c) submit to the Minister within four months after the end of the financial year of the Corporation-

- (i) an annual written report on the activities of the public service division during the financial year of the Corporation preceding the date of the report;
 - (ii) the financial statements of the public service division for the preceding financial year of the Corporation in question after the statements have been audited by the auditors of the Corporation; and
 - (iii) the report of the auditors on the financial statements of the public service division for the financial year of the Corporation.
- [Sub-s. (4) added by s. 11 of Act 64/2002]

Part 4: Commercial services

11. Commercial services

- (1) The commercial services provided by the Corporation must -
 - (a) be subject to the same policy and regulatory structures as outlined in this Act for commercial broadcasting services;
 - (b) comply with the values of the public broadcasting service in the provision of programmes and service;
 - (c) commission a significant amount of their programming from the independent sector;
 - (d) subsidise the public services to the extent recommended by the Board and approved by the Minister; and
 - (e) be operated in an efficient manner so as to maximise the revenues provided to its shareholder.

[S. 11 renumbered to 11(1) by s. 12 of Act 64/2002]
- (2) The Corporation must, by not later than a date three months prior to the date of conversion, submit to the Minister for approval-
 - (a) a proposed budget in respect of the commercial service division listing revenue, expenditure, borrowings and appropriation of funds for the financial year following the date of conversion; and
 - (b) a three-year business plan containing details of operational plans, marketing and financial plans and policies prepared in compliance with the objectives of the commercial service of the Corporation and in compliance with the general objectives of this Act covering the commercial service obligation of the Corporation in respect of the

conduct of business of the commercial service division for the three financial years following the date of conversion.

[Sub-s. (2) added by s. 12 of Act 64/2002]

(3) The Board must-

- (a) keep proper and accurate books and records of the financial affairs of the commercial service division separately from those of the public service division;
- (b) procure in addition to the annual financial statements of the Corporation drawn up in terms of [section 20](#), audited annual financial statements prepared in respect of the commercial service division in accordance with generally accepted accounting practice separately from those in respect of the public service division; and
- (c) submit to the Minister within four months after the end of the financial year of the Corporation-
 - (i) an annual written report on the activities of the commercial service division during the financial year of the Corporation preceding the date of the report;
 - (ii) the financial statements of the commercial service division for the preceding financial year of the Corporation in question after the statements have been audited by the auditors of the Corporation; and
 - (iii) the report of the auditors on the financial statements of the commercial service division for the financial year of the Corporation.

[Sub-s. (3) added by s. 12 of Act 64/2002]

Part 5: Governance of Corporation

12. Composition of Board

The Board consists of -

- (a) twelve non-executive members;
- (b) the Group Chief Executive Officer, the Chief Operations Officer and the Chief Financial Officer or their equivalents, who are the executive members of the Board.

[Para. (b) substituted by s. 13 of Act 64/2002]

- (c)

[Para. (c) deleted by s. 13 of Act 64/2002]

13. Members of Board

- (1) The twelve non-executive members of the Board must be appointed by the President on the advice of the National Assembly.
- (2) The non-executive members of the Board must be appointed in a manner ensuring -
 - (a) participation by the public in a nomination process;
 - (b) transparency and openness; and
 - (c) that a shortlist of candidates for appointment is published, taking into account the objects and principles of this Act.
- (3) The President must designate one of the members of the Board referred to in subsection (2) as the chairperson and another member as a deputy chairperson, both of whom must be non-executive members of the Board.
- (4) The members of the Board must, when viewed collectively -
 - (a) be persons who are suited to serve on the Board by virtue of their qualifications, expertise and experience in the fields of broadcasting policy and technology, broadcasting regulation, media law, frequency planning, business practice and finance, marketing, journalism, entertainment and education, social and labour issues;
 - (b) be persons who are committed to fairness, freedom of expression, the right of the public to be informed, and openness and accountability on the part of those holding public office;
 - (c) represent a broad cross-section of the population of the Republic;
 - (d) be persons who are committed to the objects and principles as enunciated in the Charter of the Corporation.
- (5) The members of the Board must hold office for such period as the President may determine which period must not exceed five years.
- (6) The deputy chairperson referred to in subsection (3) must, when the chairperson is absent or unable to perform his or her duties, act in his or her stead and when so acting, exercise or perform any function of the chairperson.

- (7) Every appointment of a member of the Board must be published in the *Gazette*.
- (8) A member of the Board appointed to fill a casual vacancy must hold office for the unexpired portion of the period for which the vacating member was appointed.
- (9) The Board of the old Corporation as constituted on the date of conversion constitutes the first Board of the Corporation.
[Sub-s. (9) substituted by s. 14 of Act 64/2002]
- (10) Nine members of the Board, which must include the chairperson or the deputy chairperson, will constitute a quorum at any meeting of the Board.
- (11) The Board controls the affairs of the Corporation and must protect matters referred to in [section 6](#) (2) of this Act.
- (12) The Board-
 - (a) must establish a public service subcommittee and a commercial service subcommittee-
 - (i) to report to the Board on the extent to which the public service division and the commercial service division have achieved their objectives during the relevant period; and
 - (ii) to perform such other functions regarding the organisation of the Corporation into the public service division and the commercial service division, respectively, as may be delegated to them by the Board; and
 - (b) may establish such other subcommittees as it deems appropriate from time to time.
[Sub-s. (12) added by s. 14 of Act 64/2002]
- (13) The Board is the accounting authority of the Corporation.
[Sub-s. (13) added by s. 14 of Act 64/2002]

14. Executive committee

- (1) The affairs of the Corporation are administered by an executive committee consisting of the Group Chief Executive Officer, Chief Operating Officer, Chief Financial Officer and no more than 11 other members.
- (2) The executive committee is accountable to the Board.

- (3) The executive committee must perform such functions as may be determined by the Board.

[S. 14 substituted by s. 15 of Act 64/2002]

15. Removal from office

The appointing body may remove a member from the office on account of misconduct or inability to perform his or her duties efficiently after due inquiry and upon recommendation by the Board.

16. Disqualification

- (1) A person will not qualify to be appointed to the Board if such person -
- (a) is not a citizen of and not permanently resident in the Republic;
 - (b) is subject to an order of a competent court declaring such person to be mentally ill or disordered;
 - (c) is convicted, after the commencement of this Act, whether in the Republic or elsewhere, of any offence for which such person is sentenced to imprisonment without the option of a fine;
 - (d) at any time prior to the date of commencement of this Act was convicted, or at any time after such commencement is convicted -
 - (i) in the Republic, of theft, fraud, forgery and uttering a forged document, perjury, or an offence in terms of the Prevention of Corruption Act, 1958 (Act No. 6 of 1958) the Corruption Act, 1992 (Act 94 of 1992), Part 1 to 4, or [section 17, 20](#) or [21](#) (in so far as it relates to the aforementioned offences) of [Chapter 2](#) of the Prevention and Combating of Corrupt Activities Act, 2004; [Subpara. (i) substituted by s. 36 of Act 12/2004]
 - (ii) elsewhere, of any offence corresponding materially with any offence referred to in subparagraph (i);
 - (iii) whether in the Republic or elsewhere, of any other offence involving dishonesty;
 - (e) has been convicted of an offence under this Act.

17. Disclosure of conflict of interests

- (1) A person may not be appointed on the Board, unless the necessary disclosure has been made that such person -

- (a) directly or indirectly, whether personally or through his or her spouse, partner or associate, has a direct or indirect financial interest in the telecommunications, broadcasting or printed media industry;
 - (b) or his or her spouse, partner or associate, holds an office in or is employed by any company, organisation or other body, whether corporate or incorporate, which has a direct or indirect financial interest of the nature contemplated in paragraph (e).
- (2) If at any stage during the course of any proceedings before the Board it appears that any Board member has or may have an interest which may cause such conflict of interest to arise on his or her part -
 - (a) such Board member must forthwith fully disclose the nature of his or her interest and leave the meeting so as to enable the remaining Board members to discuss the matter and determine whether such Board member is precluded from participating in such meeting by reason of a conflict of interest; and
 - (b) such disclosure and the decision taken by the remaining Board members regarding such determination, must be recorded in the minutes of the meeting in question.
- (3) If any Board member fails to disclose any interest as required by subsection (2) or, subject to the provisions of that subsection, if he or she is present at the venue where a meeting of the Board is held or in any manner whatsoever participates in the proceedings of the Board, the relevant proceedings of the Board will be null and void.

Part 6: Financial matters

18. Financial regulations

- (1) The Corporation must draw up proper financial regulations concerning the manner in which the financial affairs of the Corporation must be managed.
- (2) Such regulations must be approved by the Minister after consultation with the Minister of Finance.
- (3) The Corporation must make such regulations known in a manner it deems fit.
- (4) The Corporation must open and maintain an account with a bank registered as such in the Republic, or with any other financial institution so registered and approved by the Minister of Finance.

- (5) The Corporation may with the approval of the Minister invest any surplus funds of the Corporation.
- (6) The surplus referred to in subsection (5) must at the end of a financial year, be carried over to the next financial year and form part of the budget of the Corporation for that financial year.
- (7) Any dividends received by the State must be paid into the National Revenue Fund.

19.

[S. 19 repealed by s. 16 of Act 64/2002]

20. Financial year and annual financial statements

- (1) Subject to the provisions of [section 285](#) of the Companies Act, the financial year of the Corporation commences on 1 April and ends on 31 March of the following year.
- (2) In addition to the annual financial statements to be drawn up in terms of the Companies Act the Minister may direct the Corporation to draw up annual statements in a form determined by him or her.
- (3) The annual financial statements must be tabled by the Minister in the National Assembly.

21. Rights and obligations

- (1) The Corporation may not by virtue of the powers conferred upon it by this Act do anything for which a licence is required in terms of the IBA Act or the Telecommunications Act, 1996 (Act No. 103 of 1996), unless it has obtained the licence in question and complies with the conditions thereof.
- (2) Notwithstanding anything to the contrary contained in the IBA Act, or any other law, the Corporation is entitled, against payment of the annual fees which the Authority may from time to time determine, to be issued with a licence contemplated in subsection (1)
- (3) The Corporation must provide the Authority with all necessary and relevant information for the purpose of monitoring compliance with the Charter.

22. Amendment of broadcasting licences

- (1) The Corporation must, within six months after the date of commencement of the Broadcasting Amendment Act, 2002, or the conversion date, whichever is the later, apply to the Authority for such amendments to its existing licences as are necessary in order to reflect the reorganisation of the Corporation into

the public service division and the commercial service division and its related obligations in terms of this Act and the IBA Act.

- (2) The relevant provisions of the IBA Act apply with the necessary changes to the applications referred to in subsection (1) but, irrespective of the contents of the application of the Corporation, the Authority may impose any appropriate licence conditions which are necessary in order to reflect the reorganisation of the Corporation into the public service division and the commercial service division and its related obligations in terms of this Act and the IBA Act.

[S. 22 substituted by s. 17 of Act 64/2002]

22A. Regional television services

- (1) In the performance of its public service mandate under [section 10](#)(1)(a) and (b), the Corporation must, within nine months of the commencement of the Broadcasting Amendment Act, 2002, apply to the Authority in terms of [section 41](#)(4) of the IBA Act, read with [section 45](#)(2) of that Act, to license it to provide additional television services which broadcast-
 - (a) regionally;
 - (b) in such official languages as are appropriate, having regard to language usage within respective regions served by the proposed services;
 - (c) so as to ensure that between these regional services, broadcasting in the languages of Sepedi, Sesotho, Setswana, siSwati, TshiVenda, Xitsonga, Afrikaans, isiNdebele, isiXhosa and isiZulu is provided on an equitable basis.
- (2) The regional services provided by the Corporation must be funded by money appropriated by Parliament and may draw revenues from grants, donations and sponsorship.
- (3) The Authority must determine the extent to which these services may draw revenues from advertising.
- (4) The Corporation must draw up proper financial regulations for these services consistent with [section 18](#).

[S. 22A inserted by s. 18 of Act 64/2002]

23. Borrowing powers

The Corporation must not borrow money without prior written approval of the Minister and the Minister of Finance.

24. Accounts

- (1) The Corporation must keep proper account of all moneys received or expended by it and of all its assets, liabilities and financial transactions.
- (2) The Corporation must as soon as practicable after the end of each financial year, prepare statements of accounts and a balance sheet showing in appropriate detail the revenues and expenditure of the Corporation during that financial year, and its assets and liabilities as at the end of each financial year.
- (3) The Corporation must in its accounts referred to in subsection (2) reflect separately the accounts of the public and commercial services.
- (4) The Board must ensure that the Corporation complies with the Public Finance Management Act in relation to accounting procedures by public entities.

[Sub-s. (4) added by s. 19 of Act 64/2002]

25. Auditing

- (1) In addition to the annual financial statements to be prepared in terms of the Companies Act and also in terms of the Public Finance Management Act the Corporation must cause its books and accounts to be audited annually by a person registered as an accountant and auditor under the Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991), and appointed as auditor of the Corporation.

[Sub-s. (1) substituted by s. 20 of Act 64/2002]

- (2) The Board must produce and lay before the auditor all books and accounts of the Corporation with all vouchers in support thereof, and all books, papers and writings relating thereto which are in its possession or control.
- (3) For the purposes of the audit the auditor may hear and receive evidence upon oath, and may by written notice under his hand require any person to appear before him in person at a time and place stated in such notice, to give information or produce any books or document necessary for the audit.
- (4) Any person appearing in terms of such a notice must be paid such witness fees and allowances as he or she would have been entitled to if such person appeared in a magistrate's court as a witness.
- (5) The auditor must -
 - (a) disallow any payment made without proper authority according to law, and report the disallowance to the Board;
 - (b) charge against the person who made or authorised the payment in question, so much of the payment as is not condoned by the Board;

- (c) charge against the person responsible therefore -
 - (i) as much of the amount of any deficiency or loss arising from negligence or misconduct of that person as is not condoned by the Board;
 - (ii) as much of any amount which ought to have been but was not brought into account by that person as is not condoned by the Board, provided that no amount must be condoned where such deficiency or loss is the result of theft or fraud by that person,and certify in every case that the amount so charged is correct.
- (6) Any amount so charged and certified by the auditor must be paid by the person against whom it has been charged to the Corporation within fourteen days after it was so certified, and, if not so paid, may be recovered from that person as a debt by the Corporation.
- (7) It must be the duty of the auditor, in addition to his or her ordinary duties as an auditor, to certify not less than once in every year -
 - (a) whether or not, in his or her opinion -
 - (i) the accounts of the Corporation are in order;
 - (ii) such accounts present a true and correct view of the financial position of the Corporation and of its transactions;
 - (iii) due provision has been made for the redemption and repayment of loans raised by the Corporation;
 - (iv) the value of the assets of the Corporation has been correctly stated; and
 - (b) whether or not all his or her requirements and recommendations as auditor have been complied with and carried out.
- (8) The expenses of or incidental to any audit must be borne by the Corporation.

Part 7: Staffing of Corporation

26. Staff of Corporation

- (1) The Corporation may engage such officers and other employees as it may deem necessary for the attainment of its objects, and may determine their

duties and salaries, wages, allowances or other remuneration and their other conditions of service in general.

(2) The Corporation may -

- (a) establish a housing fund or in any other manner provide for housing to its officers and other employees on such terms and conditions as it may determine;
- (b) establish or support associations or institutions for the promotion of the interests of its officers and other employees of their dependants;
- (c) establish or support aid funds for the rendering of assistance to its officers and other employees or their dependants under such circumstances as it may approve;
- (d) establish a bursary fund to finance or assist in financing in the interest of the Corporation the training or further training of existing or prospective officers and other employees of the Corporation; and
- (e) provide for its officers, other employees and pensioners or their dependants, by means of insurance with an insurance company or by means of a pension or provident fund or in any other manner, pecuniary benefits upon retirement or termination of service or at any other time.

(3)

[Sub-s. (3) deleted by s. 21 of Act 64/2002]

(4)

[Sub-s. (4) deleted by s. 21 of Act 64/2002]

(5)

[Sub-s. (5) deleted by s. 21 of Act 64/2002]

(6)

[Sub-s. (6) deleted by s. 21 of Act 64/2002]

(7)

[Sub-s. (7) deleted by s. 21 of Act 64/2002]

27. Television licenses

- (1) (a) No person may use an television set unless such person is in possession of-

- (i) a television licence issued by the Corporation against payment of the prescribed fee for each television set so used, unless exempted by regulation; or
 - (ii) a written exemption pursuant to the regulations; or
 - (iii) written confirmation, issued by the lessor of the television set in question that such person is a person to whom that television set has been rented, or otherwise made available in accordance with this Act.
 - (b) No business, dealer or lessor may use any television set unless -
 - (i) such business, dealer or lessor is in possession of a television licence issued against payment of a prescribed fee in terms of this Act for each television set so used, unless exempted by regulation;
 - (ii) such television set is used in accordance with such licence; and
 - (iii) such business, dealer or lessor is able to produce such licence on demand.
 - (c) A user who is required to be in possession of a television licence must possess all the categories of television licences as prescribed, which pertain to such use.
- (2) Subsection (1) does not apply to a person who manufactures or repairs television sets, or who acts in the execution of his or her duties in the service of such a person, in so far as he or she uses any television set manufactured or repaired by him or her, in or on the premises where it was manufactured or repaired or on any other premises approved by the Corporation, for the purposes of testing such a television set.
- (3) Any person who contravenes subsection (1) is, in addition to payment of the prescribed licence fee, liable-
- (a) to pay to the Corporation by way of a penalty an amount equal to double the amount of the applicable prescribed licence fee; or
 - (b) in the event of a user proving that he or she had used the television set for a period of less than one year, to pay to the Corporation, by way of a penalty, in respect of every month or part of a month during which such a person had failed to take out such television licence, an amount equal to 10% of the applicable prescribed television licence fee: Provided that

the total amount of the penalty may not exceed the amount of such television licence fee, unless otherwise prescribed.

(4) A dealer who sells or alienates a television set to a person who is not in possession of a television licence and who is not exempted from the obligation to be in possession of a television licence, is liable to pay a penalty of R3 000 or such higher amount as may be prescribed, but such penalty may not exceed R10 000 in respect of each television set sold or alienated to such person.

(5) Notwithstanding subsections (3) and (4), any person who-

- (a) contravenes or fails to comply with any provision of this section or any regulations pertaining to television licence matters; or
- (b) after an authorised inspector, referred to in subsection (6), has produced his or her written authority to such person fails, without good reason, to comply with any lawful demand made by that authorised inspector,

is guilty of an offence in relation to each television set in respect of which the offence is committed and is liable upon conviction to a fine not exceeding R500 in relation to each such offence or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(6) (a) The Corporation may appoint any person as an authorised inspector.

(b) An authorised inspector may-

- (i) require a person who is required in terms of subsection (1) to be in possession of a television licence to produce such television licence for inspection;
- (ii) require a person who uses a television set, or a person who is the owner or occupier of any premises on which a television set is used, to produce such television set for examination, in order to determine whether the provisions of this Act have been complied with;
- (iii) require a person who uses a television set to furnish his or her identity document or licence registration number, whichever is applicable;
- (iv) require a person who uses a television set, or a person who is the owner or occupier of any premises on which a television set is used, to furnish such information as may be prescribed or

necessary in order to determine whether this Act has been complied with;

- (v) require a business, dealer or lessor to produce records relating to transactions involving television sets for inspection, and make extracts therefrom or copies thereof;
 - (vi) enter upon any land, in so far as this may be necessary, in order to exercise a power conferred on him or her by this Act: Provided that entry may not be gained to a residence after dark without a warrant or the occupier's permission.
- (7) A television licence is not transferable, save as may be prescribed.
 - (8) All television licence fees collected by the Corporation must be used by the Corporation solely for the public service to be provided by the Corporation.
 - (9) To enable the Corporation to establish and maintain a national database register listing all sales of new television sets in the Republic, dealers, lessors and businesses must provide the Corporation with all information prescribed in respect of sales of new television sets.

[S. 27 substituted by s. 22 of Act 64/2002]

28. Annual report

- (1) The Board must furnish to the Minister, on or before 30 September in each year, a report on the work of the Corporation of the previous financial year, together with a balance sheet and a complete statement of revenue and expenditure for that financial year audited by the auditor referred to in [section 25](#), and the report of that auditor, and must give particulars as to -
 - (a) the book value of all classes of property owned by the Corporation;
 - (b) the amount of securities for loans still outstanding, and the interest thereon, whether paid or unpaid;
 - (c) the position of every fund established in terms of this Act;
 - (d) the expenses of management and administration and all other expenses of the Corporation;
 - (e) the erection and construction, repair, improvement or alteration of any plant, equipment or building, and the cost thereof;
 - (f) the price or rent of any land or any other immovable property acquired or hired;

- (g) any other matters which the Minister may require the Board to deal with.
- (2) The Minister must table every report furnished in terms of subsection (1) in Parliament, within seven days after receiving it if Parliament is in session, or, if Parliament is not in session, within seven days after the commencement of its next ensuing session.
- (3) The Board must ensure that the Corporation complies with the provisions of the Public Finance Management Act relating to the preparation and submission of annual reports by public entities.
[Sub-s. (3) added by s. 23 of Act 64/2002]

CHAPTER V

COMMERCIAL BROADCASTING SERVICES

Part 1: Licence requirements and objectives

29. Requirement to hold a licence

Any person intending to offer a commercial broadcasting service must hold a separate licence for each broadcasting service they provide.

30. Objectives

- (1) Commercial broadcasting services when viewed collectively -
 - (a) must as a whole provide a diverse range of programming addressing a wide section of the South African public;
 - (b) must provide, as a whole, programming in all South African official languages;
 - (c) may provide programming in languages other than South African official languages, where the Authority is convinced that such services can be commercially viable;
 - (d) must within a reasonable period of time be extended to all South Africans and provide comprehensive coverage of the areas which they are licensed to serve.
- (2) The programming provided by free-to-air broadcasting services must as a whole -

- (a) reflect the culture, character, religion, needs and aspirations of the people in the regions that they are licensed to serve subject to licence conditions;
[Para. (a) substituted by s. 24 of Act 64/2002]
 - (b) provide an appropriate significant amount of South African programming according to the regulations of the Authority;
 - (c) include news and information programmes on a regular basis, including discussion on matters of national and regional, and, where appropriate local, significance; and
 - (d) meet the highest standards of journalistic professionalism.
- (3) The programming provided by commercial subscription broadcasting services must be subject to licence conditions determined by the Authority.
 - (4) The programming provided by free-to-air television broadcasting services must as a whole include levels of South African drama, documentaries and children's programmes that reflect South African themes, literature and historical events, as prescribed by regulation.
 - (5) The Authority may make regulations on the amount of South African programming and other matters which reflect these circumstances, bearing in mind the objects of this Act.
 - (6) Subscription broadcasting services may draw their revenues from subscriptions, advertising and sponsorships. In no case may advertising or sponsorships, or a combination thereof, be the largest source of revenue.
 - (7) Subscription broadcasting services may not acquire exclusive rights for the broadcast of national sporting events, as identified in the public interest from time to time by the Authority in consultation with the Minister and the Minister of Sport and in accordance with the regulations determined by the Authority through a public process.
 - (8) A subscription broadcasting service must contribute to South African television and music content in terms of regulations prescribed by the Authority.

[Sub-s. (8) added by s. 24 of Act 64/2002]

Part 2: Subscription broadcasting service

31. Subscription television service

- (1)

[Sub-s. (1) deleted by s. 25 of Act 64/2002]

- (2) The Authority must as soon as reasonably possible conduct a licensing process for licences classified under section 5(2)(c), (d) and (f).
[Sub-s. (2) substituted by s. 25 of Act 64/2002]
- (3) Pursuant to an inquiry in terms of [section 28](#) of the IBA Act, the Authority must issue recommendations as to whether [sections 49](#) and [50](#) of the IBA Act are applicable to broadcasting services carrying more than one channel and the extent and terms upon which such sections must apply.
[Sub-s. (3) added by s. 25 of Act 64/2002]
- (4) [Sections 49](#) and [50](#) of the IBA Act must not apply to such broadcasting services until the Authority has issued such a recommendation and that recommendation has been submitted to the Minister for tabling in the National Assembly, and has been adopted by the National Assembly.
[Sub-s. (4) added by s. 25 of Act 64/2002]

CHAPTER VI

COMMUNITY BROADCASTING SERVICES

32. Community broadcasting services

- (1) Despite the provisions of this Act or any other law, a community broadcasting service licence may be granted by the Authority in the following categories:
 - (a) Free-to-air radio broadcasting service;
 - (b) free-to-air television service.
- (2) The licence of a community broadcasting service must be held by a licensee.
- (3) The licensee referred to in subsection (2) must be managed and controlled by a board which must be democratically elected, from members of the community in the licensed geographic area.
- (4) The programming provided by a community broadcasting service must reflect the needs of the people in the community which must include amongst others cultural, religious, language and demographic needs and must -
 - (a) provide a distinct broadcasting service dealing specifically with community issues which are not normally dealt with by the broadcasting service covering the same area;
 - (b) be informational, educational and entertaining;

- (c) focus on the provision of programmes that highlight grassroots community issues, including, but not limited to, developmental issues, health care, basic information and general education, environmental affairs, local and international, and the reflection of local culture; and
 - (d) promote the development of a sense of common purpose with democracy and improve quality of life.
- (5) All surplus funds derived from the running of a community broadcasting station must be invested for the benefit of the particular community and monitored by the Authority, which has the power to audit the financial records of the services.
- (6) The Authority must conduct a public inquiry to determine priorities within the community radio sector.
- (7) The Authority must conduct an investigation into the viability and impact of community television, including -
- (a) definition of community television;
 - (b) access to frequencies;
 - (c) sustainability;
 - (d) ownership and control; and
 - (e) legal framework.
- (8) As soon as possible after conducting the investigation referred to in subsection (10) the Authority must submit a report to the Minister and Parliament.

CHAPTER VII

SIGNAL DISTRIBUTION AND MULTI-CHANNEL DISTRIBUTIONS

Part 1: Signal distribution and objectives

33. Signal distribution

- (1) The Authority must conduct an inquiry to determine the licence conditions, obligations, and tariff structure for signal distribution including the regulatory regime for multi-channel distribution services and convergence.
- (2)

[Sub-s. (2) deleted by s. 26 of Act 64/2002]

(3)

[Sub-s. (3) deleted by s. 26 of Act 64/2002]

34. Objectives

- (1) All signal distribution services and broadcasting services, whether through terrestrial frequencies, satellite or telecommunication facilities within the borders of the Republic or from the Republic to other countries will be required to hold a licence issued by the Authority.
- (2) Subject to licence conditions determined by the Authority the signal distribution sector must -
 - (a) prioritise the provision of broadcasting channels licensed in South Africa;
 - (b) provide universal access for all South Africans to broadcast services;
 - (c) provide a diversity of type of broadcast services and content;
 - (d) deliver public services, including educational, commercial and community services;
 - (e) roll-out relevant infrastructure for regional services;
 - (f) be open and interoperable, harmonised with the Southern African region, and be able to meet international distribution standards.
 - (g) the provision of efficient delivery of programming using the most effective technologies available at reasonable cost.
[Para. (g) added by s. 27 of Act 64/2002]
- (3) The Authority must in a licensing process promote the participation by South Africans in the broadcasting signal distribution sector, provide employment and training for South Africans and ensure the payment of licence fees.
- (4)
 - (a) An person who immediately before the commencement of this Act, provides a
broadcasting signal distribution service without a broadcasting signal distribution licence is deemed to have permission to provide such service if such person applies to the Authority for the licence within six months after the commencement of the Broadcasting Amendment Act, 2002.
 - (b) The permission remains until the Authority has refused the licence or, in the event of a decision to grant the application, has issued the licence.

[Sub-s. (4) added by s. 27 of Act 64/2002]

Part 2: Multi-channel distributors

35. Multi-channel distributors

- (1) Multi-channel distributors must hold a licence issued by the Authority.
[Sub-s. (1) substituted by s. 28 of Act 64/2002]
- (2) Multi-channel distributors may carry other signals, domestic or foreign, upon approval by the Authority.

36. Objectives

- (1) The objectives of the multi-channel delivery system are to -
 - (a) give priority to the carriage of South African programming services and, in particular, to the carriage of South African services;
 - (b) provide efficient delivery of programming using the most effective technologies available at reasonable cost;
 - (c) carry original programming, including local programming, where the Authority considers it appropriate.
- (2) The multi-channel delivery system must carry out its objectives on such terms and conditions as are determined by the Authority to achieve the objectives of this Act.

CHAPTER VIII

FREQUENCY SPECTRUM DIRECTORATE

37. Frequency Spectrum Directorate

- (1) There is established within the Department a Frequency Spectrum Directorate.
- (2) The Frequency Spectrum Directorate and its support staff must operate as a directorate of the Department and must report to the Minister through the Director-General.
- (3) The Frequency Spectrum Directorate must be impartial in the performance of its functions.
- (4) The Frequency Spectrum Directorate is vested with policy development of the radio frequency spectrum and must undertake technological and economic

research of the radio frequency spectrum to ensure the efficient use of the spectrum.

- (5) In accordance with subsection (2) the Frequency Spectrum Directorate is vested with the responsibility for the overall research of the use of the radio frequency spectrum to meet the needs of the users thereof.
- (6) The Frequency Spectrum Directorate in the performance of its functions must co-operate with the relevant bodies where applicable.

CHAPTER IX

ADVISORY BODY TO MINISTER

38. South African Broadcast Production Advisory Body

- (1) The Minister must establish a South African Broadcast Production Advisory Body to advise him or her on how the development, production and display of local television and radio content can be supported.
- (2) The terms and conditions of allowances, composition and meetings applicable to the Advisory Body by virtue of its appointment in terms of subsection (1) must be as determined by the Minister in concurrence with the Minister of Finance.
- (3) The Advisory Body must advise the Minister on how to encourage, facilitate and offer guidance and advice in respect of any scheme and to promote -
 - (a) the production of broadcast materials that meet the cultural needs of South Africans;
 - (b) the screening and airplay of South African content in television and radio, respectively;
 - (c) awareness of local content in South African and foreign markets;
 - (d) distribution and exhibition of local content in foreign markets;
 - (e) the correction of imbalances in the local content production industry;
 - (f) human resource development to provide skills and training of local content providers;
 - (g) co-productions and the concluding of international agreements.

- (4) The Advisory Body must, after consultation with the National Film and Video Foundation and the broadcasting industry, make recommendations for the Minister to determine after consultation with the Minister of Arts, Culture, Science and Technology, the Minister of Trade and Industry and the Minister of Finance -
- (a) policy and strategies to give effect to the production and display of local content;
 - (b) financing strategies to support the production and display of local content;
 - (c) supply-side measures and initiatives to support the production of local content;
 - (d) policies to enhance the production of local content for the multi-channel and digital broadcasting environment.

CHAPTER X

SKILLS DEVELOPMENT

This Chapter relates to the use of broadcasting as a resource in support of both the formal and informal education. The need for the broadcasting system as a whole to offer programming which is informative and increase the public understanding of development is emphasised.

39. Human resources development

All licensees licensed in terms of the IBA Act and the provisions of this Act must comply with the provisions of the national policy regarding skills development and specific human resource development conditions determined by the Authority .

CHAPTER XI

GENERAL

40. Regulations

- (1) The Minister may, by notice in the *Gazette*, make regulations regarding -
- (a) any notice required or permitted to be issued by the Minister in terms of this Act; and
 - (b) any administrative or procedural matter which it is necessary to prescribe in order to give effect to the provisions of this Act.

- (c)
 - (i) the television licence fee which is payable for an television licence issued in terms of this Act, including the manner of payment and the collection thereof, penalties and ancillary costs;
 - (ii) the period of validity of a television licence;
 - (iii) the purpose for which and the place where a television set may be used;
 - (iv) different categories of television licences which any user of a television set may be required to possess;
 - (v) the duty to keep, maintain and furnish records and information, including a duty to supply the Corporation with such records and information as may be prescribed;
 - (vi) exemptions from the obligation to be in possession of a television licence; and
 - (vii) the transferability of a television licence.
[Para. (c) added by s. 29 of Act 64/2002]
- (2) No regulation may be made under subsection (1) on any matter falling within the functions of the Authority in terms of this Act, the IBA Act or any other law.

41. Repeal and amendment of laws

- (1) The laws specified in [Schedule 1](#) are repealed or amended to the extent indicated in the third column thereof.
- (2) Any regulation, license, appointment, designation, determination or other thing which was made, issued or done under a law repealed by this section and which could be made, issued or done, under any provision of this Act, is deemed to have been made, issued or done under the last-mentioned provision and remains in force until repealed or amended.

42. Application of this Act

In the event of conflict between the provisions of this Act and any other law relating to broadcasting, the provisions of this Act must prevail.

43. Short title and commencement

- (1) This Act is called the Broadcasting Act, 1999, and comes into operation on a date determined by the President by proclamation in the *Gazette*.
- (2) Different dates may be fixed for the coming into operation of different sections of this Act by proclamation in the *Gazette*.

Schedule

LAWS AMENDED OR REPEALED

<i>No. and year of law</i>	<i>Short title</i>	<i>Extent of amendment or repeal</i>
Act No. 73 of 1976	Broadcasting Act, 1976	The repeal of the whole
Act No. 153 of 1993	Independent Broadcasting Act, 1993	<p>In this Act, unless the context otherwise indicates, broadcasting, broadcasting signal distribution, broadcasting service, encryption, private broadcasting service, public broadcasting service, community, broadcasting services frequency bands, have the meaning assigned thereto in section 1 of the Broadcasting Act of 1998.</p> <p>1. Amendment of section 1 by the insertion of the following definitions:</p> <p>(a) " 'low power sound broadcasting service' means a community, private or public sound broadcasting service which radiates power not exceeding one watt;"</p> <p>(b) " 'National Revenue Fund' means the Fund established by section 213 of the Constitution;"</p> <p>(c) " 'financial interest' means interest that may not have voting rights attached to it but which gives the person or entity a financial interest directly via shares or indirectly via an agreement giving it the power to have control of the licensee or effective say over the affairs of the licensee."</p> <p>2. Amendment of section 1 by the substitution for the definition of</p>

		<p>"election period" of the following definition:</p> <p>" 'election period' means the period commencing with the date on which the election day is proclaimed and ending on the day immediately following upon the day on which candidates of any of the political parties are declared elected.".</p> <p>3. Amendment of section 2 by the substitution for "private" to "commercial", wherever it appears.</p> <p>4. Amendment of section 10 by the substitution for subsection (4) of the following subsection:</p> <p>"(4) The quorum for any meeting of the Council shall be four councillors or a majority of the total number of councillors holding office at the time, whichever is the greater.".</p> <p>5. Substitution for section 13 of the following section:</p> <p>"General powers and functions of Authority</p> <p>13. (1) Without derogation from the generality of the provisions of section 3, the Authority shall, in addition to powers conferred upon it elsewhere in this Act, or by any other law, have the power--</p> <p>(a) to administer the statutory scheme for granting, renewing and amending of broadcasting licences;</p> <p>(b) to manage broadcasting services frequency bands and other parts of the radio frequency spectrum properly delegated to it by the Minister as outlined in section 29 of this Act;</p> <p>(c) to make regulations consistent with section 2 of the Broadcasting Act, 1998, as set out in section 78 of this Act;</p> <p>(d) to design and implement broadcasting conditions of licence</p>
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		<p>consistent with the objectives set out in section 2 of the Broadcasting Act, 1998, for different categories of broadcasting service, including, but not limited to conditions relating to-</p> <ul style="list-style-type: none"> (i) local content requirements; (ii) programme requirements, (iii) coverage obligations; (iv) language service provision; (v) ownership and control compliance; (vi) compliance with the Code of Conduct for Broadcasting Services; and (vii) empowerment of historically disadvantaged groups; <p>(e) to specify the frequency characteristics of broadcasting services;</p> <p>(f) to undertake inquiries on all matters within its jurisdiction, including the holding of public hearings;</p> <p>(g) to submit an annual report to the Minister on all matters within its jurisdiction, including, but not limited to -</p> <ul style="list-style-type: none"> (i) the audited report set out in section 20 of this Act; (ii) the issuance, renewal and amendment of licences as set out in section 20 (3) (c) of this Act; (iii) compliance with standards; (iv) spectrum planning and allocation; (v) progress on meeting local content requirements; (vi) details of all inquiries undertaken within the year; (vii) statistical overview of the broadcasting environment; (viii) a status quo of the organisation of the Independent Broadcasting Authority, including its executives from the rank of Head
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		<p>of Department and above;</p> <p>(h) to monitor the broadcasting industry to ensure compliance with broadcasting laws and regulations as well as with community standards in programming, as set out in section 66 of this Act;</p> <p>(i) to conduct research in all matters affecting broadcasting in order to perform its regulatory role;</p> <p>(j) each year to publish a proposed regulatory agenda for the ensuing three years;</p> <p>(k) to make recommendations to the Minister for amendments to this Act and the Broadcasting Act, 1998, so as to align them with the current industry and public policy environment;</p> <p>(l) to review and consider any technical matters relating to broadcasting referred to it by the Minister and to make recommendations to the Minister with respect thereto;</p> <p>(m) to be consulted by the Minister with regard to any matters to be put before Parliament pursuant to requests made under paragraph (g);</p> <p>(n) to hold public hearings.</p> <p>(2) The President shall, on the advice of the National Assembly, appoint the chairperson of the Authority."</p> <p>6. Insertion of the following section after section 13:</p> <p>"General role and powers of Minister</p> <p>13A. (1) No acquisition or disposal of State broadcasting assets is valid unless it is approved by the Minister.</p> <p>(2) The Minister may direct the Authority-</p> <p>(a) to undertake any special investigation and inquiry on any</p>
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		<p>matter within its jurisdiction and to report to the Minister thereon;</p> <p>(b) to determine priorities for the development of broadcasting services;</p> <p>(c) to consider any matter within its jurisdiction placed before it by the Minister for urgent consideration.</p> <p>(3) Any special investigation or inquiry contemplated in subsection (2) (a) shall be financed by money appropriated to the Authority for that purpose.</p> <p>(4) The Minister shall, before a direction contemplated in subsection (2) is issued, consult the Authority.</p> <p>(5) (a) Subject to paragraphs (c) and (d) the Minister may issue to the Authority policy directions of general application on matters of broad national policy consistent with the object mentioned in section 2 of the Broadcasting Act, 1998, in relation to--</p> <p>(i) the radio frequency spectrum, for the purposes of planning broadcasting and other services;</p> <p>(ii) the universal service coverage targets of the public broadcasting services;</p> <p>(iii) the Republic's obligations and undertakings under international treaties and conventions, including technical standards and frequency matters;</p> <p>(iv) the application of new technologies that interface with broadcasting;</p> <p>(v) government regulations on financial, revenue and expenditure controls.</p> <p>(b) The Authority, in performing its functions in terms of this Act, must consider any policy direction issued by the Minister under paragraph (a).</p>
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		<p>(c) No such direction may be issued regarding the granting of a licence or regarding the amendment, suspension or revocation of a licence.</p> <p>(d) No such direction may be issued which interferes with the independence of the Authority or which affects the powers and functions of the Authority.</p> <p>(6) The Minister shall, before a policy direction contemplated in subsection (5) is issued-</p> <p>(a) consult the Authority;</p> <p>(b) in order to obtain the view of interested persons, cause the text of such direction to be published in the <i>Gazette</i> together with a notice declaring his or her intention to issue that direction and inviting interested persons to lodge written representations in relation to the direction in the manner specified in such notice within 30 days from the date of the notice;</p> <p>(c) refer the proposed direction for comment to the committees of Parliament appointed for the purpose of considering matters relating to broadcasting.</p> <p>(7) The provisions of subsection (6) shall not apply in respect of any amendment by the Minister of a policy direction in consequence of comments or representations received by him or her pursuant to consultation, publication or reference in terms of that subsection.</p> <p>(8) A policy direction issued under this section may be amended, withdrawn or substituted by the Minister, and the provisions of this section shall apply, with the necessary changes, in relation to any such amendment, withdrawal or</p>
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		<p>substitution.</p> <p>(9) The Minister shall table in Parliament the annual or any other reports of the Authority.</p> <p>7. Amendment of section 14 by the substitution for subsections (1) and (3) of the following subsections:</p> <p>"(1) The Council shall appoint a suitably qualified and experienced person as chief executive officer of the Authority for the purpose of assisting the Council, subject to the latter's direction and control in the performance of all financial, administrative and clerical functions and work arising from the application and administration of this Act.</p> <p>(3) Subject to the provisions of subsection (4), the Authority may pay to the persons in its employ, or provide them with, such remuneration, allowances, bonuses, subsidies, housing benefits, pensions and other employment benefits as is consistent with the public sector."</p> <p>8. Amendment of section 15 by the substitution for subsection (1) of the following subsection:</p> <p>"(1) (a) The operating and capital costs of the Authority shall be financed from money appropriated by Parliament from time to time for that purpose.</p> <p>(b) The Authority shall utilise any money contemplated in paragraph (a) in accordance with the statement of estimated expenditure referred to in paragraph (c).</p> <p>(c) The Authority-</p> <p>(i) shall in each financial year, at a time determined by the Minister, submit a statement of estimated income and expenditure for the following financial year to the</p>
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		<p>Minister for his or her approval, granted in consultation with the Minister of Finance;</p> <p>(ii) may in any financial year submit adjusted statements of estimated income and expenditure to the Minister for his or her approval, granted in consultation with the Minister of Finance; and</p> <p>(iii) may retain application fees for administration purposes.".</p> <p>9. Repeal of section 16.</p> <p>10. Amendment of section 17 by the substitution for subsection (2) of the following subsection:</p> <p>"(2) Cheques drawn on the Authority shall have been duly issued and signed on its behalf if issued under the joint signatures of any two members of the staff of the Authority as designated by the chairperson from time to time.".</p> <p>11. Substitution for section 18 of the following section:</p> <p>"Investment of surplus moneys</p> <p>18. All fees and penalties received in terms of section 67 shall be paid into the National Revenue Fund.".</p> <p>12. Section 40 is hereby repealed.</p> <p>13. Amendment of section 41-</p> <p>(a) by the substitution for subsection (6) of the following subsection:</p> <p>"(6) Within 30 days of receipt of any application in terms of this section, the Authority shall cause to be published in the <i>Gazette</i> a notice containing all the material particulars of the application and inviting interested persons to lodge written representations in relation to the application in the manner specified in such notice within 30 days or such shorter period as from the date of such notice as may be determined by the Authority, which may not be less than 10 days.";</p>
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		<p>(b) by the substitution for subsection (8) of the following subsection:</p> <p>"(8) The applicant shall submit his or her written response (if any) to any representations lodged in terms of subsection (7) to the Authority within 60 days of the date of the notice contemplated in subsection (6), and shall at the same time furnish proof to the satisfaction of the Authority that he or she has sent by registered post or delivered a copy of such written response to the person having made such representations.";</p> <p>(c) by the insertion after subsection (8) of the following subsection, with subsection (9) becoming subsection (10):</p> <p>"(9) Save for representations made under subsection (6), the response of the applicant under subsection (8) and such further information as the applicant furnishes under subsection (5) within the period specified under that subsection, no application may be amended or varied and no supplementary or additional documents may be filed after the publication of the notice under subsection (6), except with the written permission of the Authority granted upon application and upon such terms and conditions as Council may determine.".</p> <p>14. Insertion of the following section after section 41:</p> <p>"41A. (1) Notwithstanding the provisions of sections 41, 42, 44 and 47 the Authority may on such terms and conditions as it may determine, issue a licence to provide a low power sound broadcasting service.</p> <p>(2) The Authority shall prescribe</p>
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		<p>the requirements and procedures applicable to applications for such licences.".</p> <p>15. Amendment of section 42- (a) by the substitution for subsection (1) of the following subsection: "(1) Save as provided in section 41A in respect of applications for broadcasting licences received by the Authority, a notice of which has been published under section 41 (6), it shall at its discretion hold a hearing as provided for in this section.";</p> <p>(b) by the substitution for paragraph (c) of subsection (3) of the following paragraph: "(c) the Authority, after having considered the application, the representations (if any) made in accordance with the provisions of that subsection, the applicant's written response thereto (if any), any other information furnished in terms of section 41 and any other evidence admitted by the Authority, shall within a reasonable time grant or refuse the application and shall subsequently provide written reasons for its decision by notice in the <i>Gazette</i> and give notice of the availability of the reasons at the office of the Authority.".</p> <p>16. Amendment of section 48 by the substitution for paragraph (b) of subsection (1) of the following paragraph: "(b) have financial interest or interest either in voting shares or paid-up capital in a private broadcasting licensee exceeding twenty percent".</p> <p>17. Amendment of sections 48, 49, 50 and 54 by the substitution of "private" with "commercial", wherever it appears.".</p>
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		<p>18. Amendment of section 50 by the substitution for subsection (2) of the following subsection:</p> <p>(2) (a) No person who controls a newspaper may acquire or retain a financial control in both a radio and TV licence.</p> <p>(b) No person who is in a position to control a newspaper may be in a position to control a radio or television licence in an area where the newspaper has an average ABC circulation of 20% of the total newspaper readership in the area, if the licence area of the radio licensee overlaps substantially with the said circulation area of the newspaper.</p> <p>(c) Substantial overlap shall be interpreted to mean an overlap by 50% or more.</p> <p>(d) A 20% shareholding in a radio or television licence shall be deemed to constitute control.</p> <p>(e) The shareholding and financial structures of commercial broadcasting licensees will form part of the annual reports submitted to the authority."</p> <p>19. Amendment of section 54-</p> <p>(a) by the substitution for paragraphs (b) and (c) of the following paragraphs:</p> <p>"(b) in the case of a public and a private sound broadcasting licence, shall be six years;</p> <p>(c) in the case of a community sound or television broadcasting licence which is not a temporary community broadcasting licence within the contemplation of section 47A, shall be four years; and";</p> <p>(b) by the insertion of the following paragraph:</p> <p>"(d) in the case of a low power sound broadcasting licence shall be such period not exceeding three</p>
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		<p>years as the Authority may determine,".</p> <p>20. Amendment of section 63 by the substitution for subsections (2) and (3) of the following subsections:</p> <p>"(2) A complaint contemplated in subsection (1) shall be lodged with the Authority for consideration by the Broadcasting Monitoring and Complaints Committee.</p> <p>(3) For the purposes of subsection (2), a complaint may be delivered by hand, sent by registered post, faxed, or communicated telephonically to the Authority, which shall record and transcribe such complaint.".</p> <p>21. Amendment of section 66A by the substitution for subsections (3) and (4) of the following subsections:</p> <p>"(3) (a) No person shall use any apparatus for the reception of any broadcast by a pay-television service which has been licensed in terms of section 46, unless such person has been authorized by such licensee to do so.</p> <p>(b) No person shall assist any other person in receiving, in conflict with paragraph (a), any broadcast by a pay-television service.</p> <p>(c) No person shall have in his or her possession any equipment, object or electronic data intended to be used for the reception, in conflict with paragraph (a), of any broadcast by a pay-television service.</p> <p>(d) For the purposes of paragraph (b), "assist" shall include but shall not be limited to manufacturing, distributing, letting, selling or supplying any equipment, object or electronic data intended by the manufacturer, distributor, lessor,</p>
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		<p>seller or supplier, as the case may be, to be used or applied, either by itself or in conjunction with any other object, for the reception, in contravention of paragraph (a), of anything broadcast by a broadcasting service.</p> <p>(4) Any person who contravenes subsection (1) or (3) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years."</p> <p>22. Amendment of section 67 by the substitution for subsection (2) (h) (ii) and (iii) of the following subparagraphs:</p> <p>"(ii) in the case of a contravention of sections 32, 39 and 74, to a fine not exceeding R1 000 000 per day;</p> <p>(iii) in the case of a contravention of section 71 (1), and in the case of an offence contemplated in paragraph (d) of this subsection, to a fine not exceeding R100 000."</p> <p>23. Amendment of section 69 by the addition of the following paragraphs in subsection (1):</p> <p>"(c) delegate to a committee of the Council, established pursuant to section 23 of this Act the power to hold hearings in respect of inquiries under section 28 and in respect of applications to grant, renew, amend or transfer any licence;</p> <p>(d) delegate to any committee acting in terms of subsection (c) shall as soon as reasonably possible after it has held an inquiry or hearing, provide the Council with transcripts of the proceedings together with a written report on the proceedings, oral evidence and representations. The Council shall after due consideration, decide the matter and provide written reasons as</p>
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		<p>prescribed in section 42 (3) (c); (e) the common carrier for broadcasting signal distribution shall provide signal distribution facilities to be used for emergency sound broadcasting services to the extent that they are deemed necessary in the public interest by the Minister. The common carrier shall comply with the conditions imposed by the Authority.".</p> <p>24. Section 80 is hereby repealed.</p>
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