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[21]

REPUBLIC OF SOUTH AFRICA

**INDEPENDENT MEDIA
COMMISSION BILL**

(As introduced)

(MINISTER OF HOME AFFAIRS)

[B 161—93 (GA)]

REPUBLIEK VAN SUID-AFRIKA

**WETSONTWERP OP DIE
ONAFHANKLIKE
MEDIAKOMMISSIE**

(Soos ingedien)

(MINISTER VAN BINNELANDSE SAKE)

[W 161—93 (AS)]

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BILL

To establish a body to be known as the Independent Media Commission for the purpose of ensuring, during the period of the first national election for the National Assembly and other legislatures under the Constitution to be held after the commencement of this Act, the equitable treatment of political parties by broadcasting licensees and that State-financed publications and State information services do not advance the interests of any political party; to define the composition, powers, functions and duties of the said Commission; and to provide for incidental matters.

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:-

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WETSONTWERP

Om 'n liggaam bekend as die Onafhanklike Mediakommissie in te stel met die doel om te verseker dat, gedurende die tydperk van die eerste nasionale verkiesing vir die Nasionale Vergadering en ander wetgewers kragtens die Grondwet wat gehou staan te word na die inwerkingtreding van hierdie Wet, politieke partye regverdig deur uitsaailisensiehouers behandel word en dat Staatsgefinansierde publikasies en Staatsinligtingsdienste nie die belange van enige politieke party bevorder nie; om die samestelling, bevoegdhede, werksaamhede en pligte van genoemde Kommissie te bepaal; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

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	3. Hoofogmerke van Kommissie
	4. Samestelling van Kommissie en aanstelling van kommissarisse
	5. Persone bevoeg om kommissarisse te wees
10	6. Persone onbevoeg om kommissarisse te wees
	7. Ampstermyn van kommissarisse
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20	16. Aanstelling van deskundiges
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25	20. Politieke advertensies op klankuitsaaidienste gedurende verkiesingstydperk
	21. Regverdige behandeling van politieke partye deur uitsaailisensiehouers gedurende verkiesingstydperk
30	22. Staatsgefinansierde publikasies en Staatsinligtingsdienste
	23. Verhore
	24. Bevele en aanbevelings van Kommissie
	25. Uitgawes in verband met werksaamhede van Kommissie
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40	deur ooreenkoms tussen Republiek en enige staat of gebied voorheen deel van Republiek

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Definitions

1. In this Act, unless inconsistent with the context—

- (i) “Authority” means the Independent Broadcasting Authority established by section 3 of the Independent Broadcasting Authority Act, 1993; (xiii) 10
- (ii) “broadcasting” means a form of unidirectional telecommunication intended for the public or sections of the public or subscribers to any broadcasting service having appropriate receiving facilities, whether carried out by means of radio or any other means of telecommunication or any combination of the aforementioned, and “broadcast” shall be construed accordingly; (xxvi) 15
- (iii) “broadcasting licence” means a licence granted and issued by the Authority in terms of the Independent Broadcasting Authority Act, 1993, or deemed by that Act to have been so granted and issued to a person for the purpose of providing a defined category of broadcasting service; (xxviii) 20
- (iv) “broadcasting licensee” means the holder of a broadcasting licence; (xxix)
- (v) “broadcasting service” means a single defined service which consists in the broadcasting of television or sound material to the public or sections of the public or to the subscribers to such service, and includes the broadcasting of text; (xxvii) 25
- (vi) “chairperson” means the chairperson of the Commission referred to in section 4(1)(a) and includes any commissioner acting in the stead of the former in accordance with the provisions of section 11(2); (xxxiv) 30
- (vii) “Commission” means the Independent Media Commission established by section 2 and, in relation to the exercise or performance of any power, function or duty conferred or imposed upon the Commission by or in terms of this Act, includes any committee of the Commission acting under a delegation or authorization in terms of section 28; (x) 35
- (viii) “commissioner” means any member of the Commission referred to in section 4(1); (ix) 40
- (ix) “committee” means a committee established and appointed in terms of section 15; (viii)
- (x) “community” includes a geographically founded community or any group of persons or sector of the public having a specific, ascertainable common interest; (i) 45
- (xi) “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; 50
 - (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; (ii) 55
- (xii) “complainant” means an aggrieved political party contemplated in section 23(2); (v)
- (xiii) “Constitution Act” means the Constitution of the Republic of South Africa Act, 1993; (iii) 60

32. Toepassing van Wet ten opsigte van sekere private uitsaaiers elders gelisensieerd
 33. Toepassing van Wet in geval van botsing met ander wette
 34. Ontbinding van Kommissie, en beëindiging van Wet
 5 35. Hierdie Wet bind Staat en Staatspresident
 36. Kort titel en inwerkingtreding

Woordomskrywing

1. Tensy uit die samehang anders blyk, beteken in hierdie Wet—
- 10 (i) “gemeenskap” ook ’n geografies gefundeerde gemeenskap of enige groep persone of gedeelte van die publiek wat ’n bepaalde, vasstelbare gemeenskaplike belang het; (x)
- (ii) “gemeenskapsuitsaaidiens” ’n uitsaaidiens wat—
- 15 (a) ten volle beheer word deur ’n nie-winsgewende entiteit en bedryf word sonder winsoogmerk;
- (b) ’n bepaalde gemeenskap bedien;
- (c) lede van die gemeenskap wat deur hom bedien word of persone wat verbonde is met die belange van sodanige gemeenskap of dit bevorder, aanmoedig om deel te neem aan die uitsoek en voorsiening van programme wat in die loop van
- 20 sodanige uitsaaidiens uitgesaai gaan word; en
- (d) befonds kan word deur skenkings, toekennings, borgskappe of advertensie- of lidmaatskapsgelde, of deur enige kombinasie van die voormelde; (xi)
- (iii) “Grondwet” die Grondwet van die Republiek van Suid-Afrika, 25 1993; (xiii)
- (iv) “hierdie Wet” ook enige regulasie van tyd tot tyd uitgevaardig kragtens artikel 30; (xxxiii)
- (v) “klaer” ’n gegriefde politieke party beoog in artikel 23(2); (xii)
- 30 (vi) “klankradiostel” ’n apparaat ontwerp of aangepas om oorsendings wat in die loop van ’n uitsaaidiens uitgesaai word deur middel van radio te kan ontvang en in die vorm van klanke, maar nie ook in die vorm van beelde of ander sigbare tekens of seine nie, te kan weergee; (xxvi)
- (vii) “klankuitsaaidiens” ’n uitsaaidiens bestem om deur ’n klankradiostel ontvang te word; (xxv)
- 35 (viii) “komitee” ’n komitee ingestel en aangestel ingevolge artikel 15; (ix)
- (ix) “kommissaris” enige lid van die Kommissie bedoel in artikel 4(1); (viii)
- 40 (x) “Kommissie” die Onafhanklike Mediakommissie ingestel by artikel 2 en, met betrekking tot die uitoefening of uitvoering van enige bevoegdheid, werksaamheid of plig die Kommissie by of ingevolge hierdie Wet verleen of opgelê, ook enige komitee van die Kommissie wat uit hoofde van ’n delegasie of magtiging
- 45 ingevolge artikel 28 optree; (vii)
- (xi) “Onafhanklike Verkiesingskommissie” die Onafhanklike Verkiesingskommissie ingestel by artikel 2 van die Wet op die Onafhanklike Verkiesingskommissie, 1993; (xvi)
- (xii) “openbare uitsaaidiens”—
- 50 (a) enige uitsaaidiens deur die Suid-Afrikaanse Uitsaai-korporasie voorsien ooreenkomstig die bepalings van die Uitsaaiwet, 1976 (Wet No. 73 van 1976);
- (b) ’n uitsaaidiens voorsien deur enige ander statutêre liggaam; of
- 55 (c) ’n uitsaaidiens voorsien deur ’n persoon wat sy of haar inkomste ontvang, hetsy in die geheel of gedeeltelik, uit lisensiegelde hef ten opsigte van die lisensiering van persone in verband met klankradiostelle en in verband met televisiestelle, of van die Staat,
- en ook ’n kommersiële uitsaaidiens voorsien deur ’n persoon bedoel in paragraaf (a), (b) of (c) van hierdie omskrywing; (xxii)
- 60 (xiii) “Owerheid” die Onafhanklike Uitsaai-owerheid ingestel by ar-

- (xiv) "election" means the first election which, after the commencement of this Act, is conducted in terms of the Electoral Act, 1993, for the National Assembly or any other legislature contemplated in the Constitution Act; (xxxi)
- (xv) "election period" means the period commencing on the day immediately following upon the closing day determined under the Electoral Act, 1993, for the submission of lists of the nature referred to in the definition of "political party" in this section, and ending on the day immediately following upon the dissolution of the Independent Electoral Commission in terms of section 9 of the Independent Electoral Commission Act, 1993; (xxxii) 5 10
- (xvi) "Independent Electoral Commission" means the Independent Electoral Commission established by section 2 of the Independent Electoral Commission Act, 1993; (xi)
- (xvii) "party election broadcast" means a direct address or message broadcast free of charge on a broadcasting service and intended or calculated to advance the interests of any particular political party; (xiv) 15
- (xviii) "political advertisement" means an advertisement broadcast on a broadcasting service which is intended or calculated to advance the interests of any particular political party, for which advertisement the relevant broadcasting licensee has received or is to receive, directly or indirectly, money or any other consideration; (xv) 20
- (xix) "political party", except in the case of section 2(2), means any registered party as defined in section 1 of the Electoral Act, 1993, or any alliance of such registered parties (as the case may be), which, for the purpose of any particular election, has, before the commencement of the relevant election period, submitted its list of candidates for the National Assembly or other legislature contemplated in the Constitution Act; (xvi) 25 30
- (xx) "prescribed" means prescribed by regulation in terms of section 30; (xxxiii)
- (xxi) "private broadcasting service" means a broadcasting service operated for profit and controlled by a person who is not a public broadcasting licensee; (xvii) 35
- (xxii) "public broadcasting service" means—
 (a) any broadcasting service provided by the South African Broadcasting Corporation in accordance with the provisions of the Broadcasting Act, 1976 (Act No. 73 of 1976);
 (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 shall include a commercially operated broadcasting service provided by a person referred to in paragraph (a), (b) or (c) of this definition; (xii) 45
- (xxiii) "radio" means an electromagnetic wave propagated in space without artificial guide and having by convention a frequency lower than 3000 GHz; (xviii) 50
- (xxiv) "respondent" means any broadcasting licensee, publisher or State information service contemplated in section 23(2); (xix)
- (xxv) "sound broadcasting service" means a broadcasting service intended to be received by a sound radio set; (vii)
- (xxvi) "sound radio set" means any apparatus designed or adapted to be capable of receiving, by radio, the transmissions broadcast in the course of a broadcasting service and reproducing them in the form of sounds, but not also in the form of images or visible signs or signals; (vi) 55
- (xxvii) "State" includes the government and administration of any self-governing territory contemplated in the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971); (xx) 60
- (xxviii) "State-financed publication" means any newspaper, book, period-

- tikel 3 van die Wet op die Onafhanklike Uitsaai-owerheid, 1993;
- (i)
- (xiv) “partyverkiesingsuitsending” ’n regstreekse redevowering of boodskap wat gratis op ’n uitsaaidiens uitgesaai word en bedoel of bereken is om die belange van enige bepaalde politieke party te bevorder; (xvii)
- (xv) “politieke advertensie” ’n advertensie uitgesaai op ’n uitsaaidiens wat bedoel of bereken is om die belange van enige bepaalde politieke party te bevorder, vir welke advertensie die betrokke uitsaailisensiehouer regstreeks of onregstreeks geld of enige ander teenprestasie ontvang het of staan te ontvang; (xviii)
- (xvi) “politieke party”, behalwe in die geval van artikel 2(2), enige geregistreerde party soos omskryf in artikel 1 van die Kieswet, 1993, of enige alliansie van sodanige geregistreerde partye (na gelang van die geval) wat, vir die doeleindes van enige bepaalde verkiesing, voor die aanvang van die betrokke verkiesingstydperk sy lys van kandidate vir die Nasionale Vergadering of ander wetgewer beoog in die Grondwet, voorgelê het; (xix)
- (xvii) “private uitsaaidiens” ’n uitsaaidiens wat met winsoogmerk bedryf word en beheer word deur ’n persoon wat nie ’n openbare uitsaailisensiehouer is nie; (xxi)
- (xviii) “radio” ’n elektromagnetiese golf wat in die ruimte voortgeplant word sonder kunsmatige geleier en wat volgens konvensie ’n frekwensie laer as 3 000 GHz het; (xxiii)
- (xix) “respondent” ’n uitsaailisensiehouer, uitgewer of Staatsinligtingsdiens beoog in artikel 23(2); (xxiv)
- (xx) “Staat” ook die regering en administrasie van enige selfregerende gebied beoog in die Grondwet van die Selfregerende Gebiede, 1971 (Wet No. 21 van 1971); (xxvii)
- (xxi) “Staatsgefinansierde publikasie” enige nuusblad, boek, tydskrif, pamflet, plakkaat of ander gedrukte stof, of enige ander voorwerp waarbinne of waarop klank vir reproduksie opgeneem is, wat in die geheel of gedeeltelik deur die Staat gefinansier word met die oog op die bevordering van Staatsbeleid of die beleid van ’n Staatsdepartement; (xxviii)
- (xxii) “Staatsinligtingsdiens” die Suid-Afrikaanse Kommunikasiediens en ook enige ander diens, organisasie of liggaam wat inligtingsdienste van ’n soortgelyke aard lewer en wat regstreeks of onregstreeks deur die Staat beheer word; (xxix)
- (xxiii) “telekommunikasie” enige stelsel of metode waardeur tekens, seine, klanke, kommunikasies of ander inligting by wyse van elektrisiteit, magnetisme, elektromagnetiese golwe of enige middel van ’n soortgelyke aard, van een punt na ’n ander oorgebring word, hetsy met of sonder die gebruik van tasbare geleiding; (xxx)
- (xxiv) “televisiestel” enige toestel ontwerp of aangepas om uitsendings te kan ontvang wat uitgesaai word in die loop van ’n televisieuitsaaidiens; (xxxii)
- (xxv) “televisie-uitsaaidiens” ’n uitsaaidiens wat bestaan uit die oorsending van beelde of ander sigbare seine, hetsy met of sonder bygaande klanke, waar die beelde sodanig is dat reekse daarvan as bewegende prente gesien word; (xxxii)
- (xxvi) “uitsaai” ’n vorm van eenrigting-telekommunikasie wat bedoel is vir die publiek of gedeeltes van die publiek of intekenaars op enige uitsaaidiens wat oor toepaslike ontvangsgeriewe beskik, hetsy by wyse van radio of enige ander wyse van telekommunikasie of enige kombinasie van die voormelde uitgevoer, en word “uitsaai” as werkwoord dienooreenkomstig uitgelê; (ii)
- (xxvii) “uitsaaidiens” ’n enkele omskrywe diens wat bestaan uit die uitsaai van televisie- of klankmateriaal aan die publiek of gedeeltes van die publiek of aan die intekenaars op sodanige diens, en sluit dit die uitsaai van tekstmateriaal in; (v)
- (xxviii) “uitsaailisensie” ’n lisensie deur die Owerheid toegestaan en uitgereik ingevolge die Wet op die Onafhanklike Uitsaai-

- ical, pamphlet, poster or other printed matter, or any other object in or on which sound has been recorded for reproduction, which is wholly or partly financed by the State for the purpose of the promotion of State policy or the policy of a department of State; (xxi) 5
- (xxix) "State information service" means the South African Communication Service and includes any other service, organization or body which provides information services of a similar nature and is directly or indirectly controlled by the State; (xxii) 10
- (xxx) "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" shall be construed accordingly; (xxiii) 15
- (xxxix) "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; (xxv) 20
- (xxxii) "television set" means any apparatus designed or adapted to be capable of receiving transmissions broadcast in the course of a television broadcasting service; (xxiv) 25
- (xxxiii) "this Act" includes any regulations made from time to time under section 30; (iv) and
- (xxxiv) "Transitional Executive Council" means the Transitional Executive Council established by section 2 of the Transitional Executive Council Act, 1993. (xxx)

Establishment of Independent Media Commission

2. (1) There is hereby established a juristic person to be known as the Independent Media Commission, which shall exercise and perform the powers, functions and duties conferred and imposed upon it by this Act. 30

(2) The Commission shall function without any political or other bias or interference and shall be wholly independent and separate from the State, the government and its administration or any political party, or from any other functionary or body directly or indirectly representing the interests of the State, the government or any political party. 35

Primary objects of Commission

3. The primary objects of the Commission shall be— 40

(a) to ensure equitable treatment of all political parties by broadcasting services; and

(b) to ensure that State-financed publications and State information services are not, directly or indirectly, used to advance the interests of any political party, whether directly or indirectly, 45

during the election period, so as to promote and contribute towards the creation of a climate favourable to free political participation and a free and fair election.

Constitution of Commission and appointment of commissioners

4. (1) The Commission shall consist of— 50

(a) a chairperson; and

(b) not more than six other members.

(2) (a) Each commissioner, including the chairperson, shall be appointed by the State President on the advice of the Transitional Executive Council with due regard to the provisions of this Act, with particular reference to the provisions of section 2(2).

(b) The appointments contemplated in paragraph (a) shall be made simultaneously, be made known by notice in the *Gazette* and be effective as from the date of publication of such notice. 55

- owerheid, 1993, of deur daardie Wet geag aldus toegestaan en uitgereik te wees aan 'n persoon ten einde 'n uitsaaidiens van 'n omskrewe kategorie te lewer; (iii)
- 5 (xxix) "uitsaailisensiehouer" die houer van 'n uitsaailisensie; (iv)
- (xxx) "Uitvoerende Oorgangsraad" die Uitvoerende Oorgangsraad ingestel by artikel 2 van die Wet op die Uitvoerende Oorgangsraad, 1993; (xxxiv)
- 10 (xxxi) "verkiesing" die eerste verkiesing wat na die inwerkingtreëding van hierdie Wet gehou word ingevolge die Kieswet, 1993, vir die Nasionale Vergadering en vir enige ander wetgewer beoog in die Grondwet; (xiv)
- (xxxii) "verkiesingstydperk" die tydperk wat 'n aanvang neem op die dag wat onmiddellik volg op die sluitingsdag kragtens die Kieswet, 1993, bepaal vir die voorlegging van lyste van die aard bedoel in die omskrywing van "politieke party" in hierdie artikel, en wat ten einde loop op die dag wat onmiddellik volg op die ontbinding van die Onafhanklike Verkiesingskommissie ingevolge artikel 9 van die Wet op die Onafhanklike Verkiesingskommissie, 1993; (xv)
- 15 (xxxiii) "voorgeskryf" voorgeskryf by regulasie ingevolge artikel 30; (xx) en
- 20 (xxxiv) "voorsitter" die voorsitter van die Kommissie bedoel in artikel 4(1)(a) en ook enige kommissaris wat in die plek van eersgenoemde optree ooreenkomstig die bepalings van artikel 11(2). (vi)

Instelling van Onafhanklike Mediakommissie

25 2. (1) Daar word hierby 'n regs persoon ingestel, bekend as die Onafhanklike Mediakommissie, wat die bevoegdhede, werksaamhede en pligte hom verleen en opgelê by hierdie Wet, uitoefen en uitvoer.

(2) Die Kommissie tree sonder enige politieke of ander vooroordeel of inmenging op en is geheel en al onafhanklik en afsonderlik van die Staat, die regering en sy administrasie of enige politieke party, of van enige ander funksionaris of liggaam wat die belange van die Staat, die regering of enige politieke party regstreeks of onregstreeks verteenwoordig.

30

Hoofogmerke van Kommissie

3. Die hoofogmerke van die Kommissie is om, gedurende die verkiesingstydperk—

35

- (a) regverdigte behandeling van alle politieke partye deur uitsaaidienste te verseker; en
- (b) te verseker dat Staatsgefinansierde publikasies en Staatsinligtingsdienste nie regstreeks of onregstreeks gebruik word om die belange van enige politieke party óf regstreeks óf onregstreeks te bevorder nie,
- 40 ten einde die skepping van 'n gunstige klimaat vir vrye politieke deelname en 'n vrye en regverdigte verkiesing te bevorder en daartoe by te dra.

Samestelling van Kommissie en aanstelling van kommissarisse

4. (1) Die Kommissie bestaan uit—

45

- (a) 'n voorsitter; en
- (b) hoogstens ses ander lede.

(2) (a) Elke kommissaris, met inbegrip van die voorsitter, word, met behoorlike inagneming van die bepalings van hierdie Wet en met besondere verwysing na die bepalings van artikel 2(2), deur die Staatspresident op advies van die Uitvoerende Oorgangsraad aangestel.

50

(b) Die aanstellings beoog in paragraaf (a) word gelyktydig gedoen, word by kennisgewing in die *Staatskoerant* bekend gemaak en neem 'n aanvang vanaf die datum van publikasie van sodanige kennisgewing.

Persons qualified to be commissioners

5. (1) The chairperson of the Commission shall be—
- (a) a judge or retired judge of the Supreme Court of South Africa; or
 - (b) a practising advocate or practising attorney of at least 5 years' standing or a magistrate with at least 10 years' appropriate experience. 5
- (2) At least two of the commissioners shall have experience in the field of the broadcasting media and at least one in the field of the printed media.
- (3) The commissioners shall—
- (a) be persons who, in the opinion of the Transitional Executive Council, are of high standing and merit and are suited to serve on the Commission by virtue of their qualifications, expertise and experience; 10
 - (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; 12
 - (c) when viewed collectively, represent a broad cross-section of the population of the Republic; and 15
 - (d) be persons who are committed to the objects and principles of this Act.

Persons disqualified from being commissioners

6. (1) A person shall not be appointed or remain a commissioner if such person— 20
- (a) is not a citizen of and not permanently resident in the Republic;
 - (b) at the relevant time holds, or during the preceding 12 months held, an office of profit under the State, subject to the provisions of section 5(1);
 - (c) at the relevant time is, or during the preceding 12 months was, a member of the Transitional Executive Council or Parliament or of any provincial government or the legislature of the Republic of Transkei, the Republic of Bophuthatswana, the Republic of Venda or the Republic of Ciskei or any self-governing territory, or if he or she so is or was a member of any local authority; 25
 - (d) at the relevant time is, or during the preceding 12 months was, an office-bearer or employee of any party, movement, organization or body of a party political nature; 30
 - (e) 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; 35
 - (f) or his or her spouse, partner or associate holds an office in or with or is employed by any person or company, organization or other body, whether corporate or incorporate, which has a direct or indirect financial interest of the nature contemplated in paragraph (e); 40
 - (g) is an unrehabilitated insolvent;
 - (h) is subject to an order of a competent court declaring such person to be mentally ill or disordered;
 - (i) is convicted, after the commencement of this Act, whether in the Republic or elsewhere, of any offence for which such person has been sentenced to imprisonment without the option of a fine; 45
 - (j) at any time prior to the 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 Corruption Act, 1992 (Act No. 94 of 1992); or 50
 - (ii) elsewhere, of any offence corresponding materially with any offence referred to in subparagraph (i); or
 - (iii) whether in the Republic or elsewhere, of any other offence involving dishonesty; or

Persone bevoeg om kommissarisse te wees

5. (1) Die voorsitter van die Kommissie is—
- (a) 'n regter of afgetrede regter van die Hooggeregshof van Suid-Afrika; of
 - (b) 'n praktiserende advokaat of praktiserende prokureur wat minstens 5 jaar in die praktyk staan of 'n landdros met minstens 10 jaar toepaslike ondervinding.
- (2) Minstens twee van die kommissarisse moet beskik oor ondervinding van die uitsaaiwese en minstens een oor ondervinding van die gedrukte media.
- (3) Die kommissarisse moet—
- (a) persone wees wat, na die oordeel van die Uitvoerende Oorgangsraad, hoë aansien geniet en hoogs bekwaam is en wat uit hoofde van hul kwalifikasies, kundigheid en ondervinding geskik is om in die Kommissie te dien;
 - (b) persone wees wat verbind is tot regverdigheid, vryheid van spraak, die reg van die publiek om ingelig te word en openheid en verantwoordbaarheid deur diegene wat openbare ampte beklee;
 - (c) wanneer hulle gesamentlik beoordeel word, 'n breë deursnee van die bevolking van die Republiek verteenwoordig; en
 - (d) persone wees wat hulle verbind tot die oogmerke en beginsels van hierdie Wet.

Persone onbevoeg om kommissarisse te wees

6. (1) 'n Persoon word nie aangestel of bly nie aan as 'n kommissaris nie indien sodanige persoon—
- (a) nie 'n burger van die Republiek is nie en nie permanent daarin woonagtig is nie;
 - (b) op die betrokke tydstip 'n winsbetrekking in diens van die Staat beklee of dit gedurende die voorafgaande 12 maande beklee het, behoudens die bepalings van artikel 5(1);
 - (c) op die betrokke tydstip 'n lid is, of gedurende die voorafgaande 12 maande 'n lid was, van die Uitvoerende Oorgangsraad of die Parlement of van enige provinsiale regering of die wetgewende gesag van die Republiek van Transkei, die Republiek van Bophuthatswana, die Republiek van Venda of die Republiek van Ciskei of enige selfregerende gebied, of indien hy of sy van enige plaaslike owerheid aldus 'n lid is of was;
 - (d) op die betrokke tydstip 'n ampsdraer of werknemer van enige party, beweging, organisasie of liggaam van 'n partypolitieke aard is of dit gedurende die voorafgaande 12 maande was;
 - (e) regstreeks of onregstreeks, hetsy persoonlik of deur sy of haar gade, vennoot of medewerker, 'n regstreekse of onregstreekse finansiële belang het in die telekommunikasie-, uitsaai- of gedrukte media-bedryf;
 - (f) of sy of haar gade, vennoot of medewerker 'n amp beklee in of by of in diens is van enige persoon of maatskappy, organisasie of ander liggaam, hetsy 'n regspersoon al dan nie, wat 'n regstreekse of onregstreekse finansiële belang het van die aard beoog in paragraaf (e);
 - (g) 'n ongerehabiliteerde insolvent is;
 - (h) onder 'n bevel staan van 'n bevoegde hof waarby verklaar word dat sodanige persoon geestesgebrekig of -versteurd is;
 - (i) skuldig bevind word, na die inwerkingtreding van hierdie Wet, hetsy in die Republiek of elders, aan enige misdryf waarvoor sodanige persoon gevonnissen is tot gevangenisstraf sonder die keuse van 'n boete;
 - (j) te eniger tyd voor die inwerkingtreding van hierdie Wet skuldig bevind is, of te eniger tyd na sodanige inwerkingtreding skuldig bevind word—
 - (i) in die Republiek, aan diefstal, bedrog, vervalsing en uitgifte van 'n vervalste stuk, meened of 'n oortreding ingevolge die Wet op Korruptsie, 1992 (Wet No. 94 van 1992); of
 - (ii) elders, aan enige misdryf wat wesenlik ooreenstem met enige misdryf bedoel in subparagraaf (i); of
 - (iii) hetsy in die Republiek of elders, aan enige ander misdryf waarby oneerlikheid betrokke is; of

- (k) is or has been convicted of any offence under this Act.
 (2) For the purposes of subsection (1), "spouse" includes a *de facto* spouse.

Term of office of commissioners

7. (1) Subject to the provisions of this Act, the commissioners shall hold office until the dissolution of the Commission in terms of section 34(1). 5
 (2) A commissioner may at any time, upon at least three months' written notice tendered to the Transitional Executive Council, resign from office.

Removal from office

8. (1) Notwithstanding the provisions of section 7, a commissioner may be removed from office by the Transitional Executive Council on account of misconduct or inability to efficiently perform the duties of his or her office or by reason of his or her absence from three consecutive meetings of the Commission without the prior permission of the chairperson, except on good cause shown. 10
 (2) A commissioner shall not be removed from office in terms of subsection (1) except after due inquiry, and then only upon a decision to that effect by the Transitional Executive Council. 15

Vacancies in Commission

9. (1) There shall be a vacancy in the Commission—
 (a) if a commissioner becomes subject to a disqualification referred to in section 6; 20
 (b) when a commissioner's written resignation, tendered as contemplated in section 7(2), takes effect; or
 (c) if a commissioner is removed from office in terms of section 8.
 (2) A vacancy in the Commission shall be filled by the appointment of another commissioner by the Transitional Executive Council in terms of this Act as soon as may be reasonably practicable after the occurrence of such vacancy. 25

Remuneration and allowances

10. Commissioners shall be paid such remuneration and allowances as the Transitional Executive Council, in consultation with the Minister of State Expenditure, may determine. 30

Meetings of Commission

11. (1) The meetings of the Commission shall be held at such times and places as may be determined by resolution of the Commission whenever necessary so as to conduct its business expeditiously: Provided that the first meeting shall be held at such time and place as the chairperson may determine. 35
 (2) In the event of the chairperson being absent, the remaining commissioners shall from their number elect an acting chairperson, who, while he or she so acts, may exercise and perform all the powers, functions and duties of the chairperson.
 (3) The chairperson may at any time in his or her discretion convene a special meeting of the Commission, which shall be held at such time and place as the chairperson may direct: Provided that the chairperson shall, upon having been presented with a requisition for that purpose signed by at least two commissioners, call for a special meeting, and if the chairperson fails to convene a special meeting within 48 hours of such presentation, such two commissioners may, upon the expiration of such 48 hours, convene the special meeting. 40
 (4) The quorum for any meeting of the Commission shall be a majority of the total number of commissioners. 45
 (5) Subject to the provisions of subsection (4), a decision of the Commission shall be taken by resolution agreed to by the majority of the commissioners present at any meeting of the Commission, and in the event of an equality of votes 50

- (k) skuldig bevind is of word aan enige misdryf ingevolge hierdie Wet.
 (2) Vir die doeleindes van subartikel (1) beteken "gade" ook 'n *de facto*-gade.

Ampstermyn van kommissarisse

7. (1) Behoudens die bepalings van hierdie Wet, beklee die kommissarisse hulle ampte totdat die Kommissie ingevolge artikel 34(1) ontbind word.
 (2) 'n Kommissaris kan te eniger tyd, na skriftelike kennisgewing van minstens drie maande ingedien by die Uitvoerende Oorgangsraad, uit sy of haar amp bedank.

Ampsbeëindiging

8. (1) Ondanks die bepalings van artikel 7, kan 'n kommissaris se amp deur die Uitvoerende Oorgangsraad beëindig word op grond van wangedrag of onvermoë om die pligte van sy of haar amp na behore te verrig of weens sy of haar afwesigheid van drie agtereenvolgende vergaderings van die Kommissie sonder die voorafgaande toestemming van die voorsitter, tensy gegronde redes aangevoer word.
 (2) Die amp van 'n kommissaris word nie ingevolge subartikel (1) beëindig nie behalwe na deeglike ondersoek, en dan alleenlik by besluit van die Uitvoerende Oorgangsraad te dien effekte.

Vakatures in Kommissie

9. (1) 'n Vakature in die Kommissie ontstaan—
 (a) indien 'n kommissaris onbevoeg word soos bedoel in artikel 6;
 (b) wanneer 'n kommissaris se skriftelike bedanking, ingedien soos beoog in artikel 7(2), van krag word; of
 (c) indien die amp van 'n kommissaris ingevolge artikel 8 beëindig word.
 (2) 'n Vakature in die Kommissie word gevul deur die aanstelling van 'n ander kommissaris deur die Uitvoerende Oorgangsraad ingevolge hierdie Wet so gou as wat na die ontstaan van sodanige vakature redelik doenlik is.

Besoldiging en toelaes

10. Kommissarisse word die besoldiging en toelaes betaal wat die Uitvoerende Oorgangsraad, in oorleg met die Minister van Staatsbesteding, bepaal.

Vergaderings van Kommissie

11. (1) Die vergaderings van die Kommissie word gehou op die tye en plekke soos by besluit van die Kommissie bepaal wanneer dit ook al nodig is ten einde sy sake spoedig af te handel: Met dien verstande dat die eerste vergadering gehou word op die tyd en plek wat die voorsitter bepaal.
 (2) Ingeval die voorsitter afwesig is, kies die oorblywende kommissarisse uit hulle geledere 'n waarnemende voorsitter, wat, terwyl hy of sy aldus waarneem, al die bevoegdhede, werksaamhede en pligte van die voorsitter kan uitoefen en verrig.
 (3) Die voorsitter kan te eniger tyd na goeëdukke 'n spesiale vergadering van die Kommissie belê, wat gehou word op die tyd en plek wat die voorsitter gelas: Met dien verstande dat die voorsitter, nadat 'n versoek onderteken deur minstens twee kommissarisse aan hom vir dié doel voorgelê is, 'n spesiale vergadering moet byeenroep, en indien die voorsitter in gebreke bly om 'n spesiale vergadering binne 48 uur vanaf sodanige voorlegging te belê, kan sodanige twee kommissarisse by die verstryking van sodanige 48 uur die spesiale vergadering belê.
 (4) Die kworum vir enige vergadering van die Kommissie is 'n meerderheid van die totale getal kommissarisse.
 (5) Behoudens die bepalings van subartikel (4), word 'n besluit van die Kommissie geneem by wyse van 'n resoluëie waarmee die meerderheid van die kommissarisse teenwoordig by enige vergadering van die Kommissie hul instemming betuig, en in die geval van 'n staking van stemme betreffende enige

regarding any matter, the chairperson shall have a casting vote in addition to his or her deliberative vote.

(6) The Commission may, in its discretion, allow members of the public to attend any meeting thereof.

(7) (a) The Commission shall cause minutes to be prepared and kept of the proceedings of every meeting and cause copies of such minutes to be circulated to all the commissioners. 5

(b) The minutes prepared in terms of paragraph (a), when signed at a subsequent meeting of the Commission by the chairperson, shall in the absence of proof of error therein be deemed to be a true and correct record of the proceedings which they purport to minute and shall, at any proceedings in terms of this Act or before a court of law or any tribunal or commission of inquiry, constitute *prima facie* evidence of the proceedings of the Commission and the matters they purport to minute. 10

Disclosure of conflicting interests 15

12. (1) Subject to the provisions of subsection (2), a commissioner shall not vote nor in any other manner participate in the proceedings at any meeting of the Commission nor be present at the venue where such a meeting is held if, in relation to any matter before the Commission, he or she has any interest which precludes him or her from performing his or her functions as commissioner in a fair, unbiased and proper manner. 20

(2) If at any stage during the course of any proceedings before the Commission it appears that a commissioner has or may have any interest which may cause such a conflict of interests to arise on his or her part—

(a) such commissioner shall forthwith and fully disclose the nature of his or her interest and leave the meeting so as to enable the remaining commissioners to discuss the matter and determine whether such commissioner is precluded from participating in such meeting by reason of a conflict of interests; and 25

(b) such disclosure and the decision taken by the remaining commissioners regarding such determination, shall be recorded in the minutes of the meeting in question. 30

(3) If any commissioner 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 Commission is held or in any manner whatsoever participates in the proceedings of the Commission, the relevant proceedings of the Commission shall be null and void. 35

Proceedings of Commission not invalid in certain circumstances

13. Subject to the provisions of section 12, a decision taken by the Commission or any act performed under the authority of such a decision shall not be invalid merely by reason of any irregularity in the appointment of a commissioner or a vacancy in the Commission or the fact that any person not entitled to sit as a commissioner sat as such at the time when such decision was taken, provided such decision was taken by a majority of the commissioners present at the time and entitled so to sit and the said commissioners at the time constituted a quorum. 40 45

Staff of Commission

14. (1) (a) The Commission shall appoint a suitably qualified and experienced person as chief administrative officer for the purpose of assisting the Commission, subject to its directions and control, in the performance of all financial, administrative and clerical functions and work arising from the application and administration of this Act. 50

(b) The Commission shall appoint such other staff as it deems necessary with a view to assisting it with all such work as may arise through the exercise and performance of its powers, functions and duties in terms of this Act.

aangeleentheid het die voorsitter 'n beslissende stem benewens sy of haar beraadslagende stem.

(6) Die Kommissie kan na goeë dunde lede van die publiek toelaat om enige vergadering daarvan by te woon.

5 (7) (a) Die Kommissie moet notule van die verrigtinge van elke vergadering laat opstel en hou en laat afskrifte van sodanige notule aan al die kommissarisse versprei.

(b) Die notule ingevolge paragraaf (a) opgestel, word, nadat dit by 'n volgende vergadering van die Kommissie deur die voorsitter onderteken is, by 10 gebrek aan bewys van foute daarin geag 'n ware en korrekte weergawe te wees van die verrigtinge wat dit heet te notuleer en is, by enige verrigtinge ingevolge hierdie Wet of voor 'n gereghof of enige tribunaal of kommissie van ondersoek, *prima facie*-bewys van die verrigtinge van die Kommissie en die aangeleenthede 15 wat dit heet te notuleer.

15 Openbaarmaking van botsende belange

12. (1) Behoudens die bepalings van subartikel (2), mag 'n kommissaris nie stem of op enige ander wyse deelneem aan die verrigtinge van enige vergadering van die Kommissie of teenwoordig wees by die plek waar sodanige vergadering 20 gehou word nie indien hy of sy, met betrekking tot enige aangeleentheid voor die Kommissie, enige belang het wat hom of haar verhinder om sy of haar werksaamhede as 'n kommissaris op 'n regverdige, onbevooroordeelde en behoorlike wyse te verrig.

(2) Indien dit in enige stadium in die loop van enige verrigtinge voor die Kommissie blyk dat 'n kommissaris enige belang het of mag hê wat so 'n botsing 25 van belange van sy of haar kant kan veroorsaak—

(a) moet sodanige kommissaris onverwyld die aard van sy of haar belang ten volle openbaar en die vergadering verlaat ten einde die oorblywende kommissarisse in staat te stel om die aangeleentheid te bespreek en te bepaal of sodanige kommissaris op grond van 'n botsing van 30 belange uitgesluit is van deelname aan sodanige vergadering; en

(b) word sodanige openbaarmaking en die besluit geneem deur die oorblywende kommissarisse betreffende sodanige bepaling, opgeneem in die notule van die betrokke vergadering.

(3) Indien enige kommissaris versuim om enige belang te openbaar soos vereis 35 by subartikel (2) of, behoudens die bepalings van daardie subartikel, indien hy of sy teenwoordig is by die plek waar 'n vergadering van die Kommissie gehou word of op enige wyse hoegenaamd deelneem aan die verrigtinge van die Kommissie, is die betrokke verrigtinge van die Kommissie nietig.

Verrigtinge van Kommissie nie ongeldig in sekere omstandighede

40 13. Behoudens die bepalings van artikel 12, is 'n besluit geneem deur die Kommissie of enige handeling verrig op gesag van sodanige besluit nie ongeldig nie bloot vanweë enige onreëlmatigheid in die aanstelling van 'n kommissaris of 'n vakature in die Kommissie of die feit dat enige persoon wat nie geregtig is om 45 as 'n kommissaris op te tree nie, as sodanig opgetree het op die tydstip waarop sodanige besluit geneem is, mits sodanige besluit geneem is deur 'n meerderheid van die kommissarisse wat op dié tydstip teenwoordig was en geregtig was om aldus op te tree en bedoelde kommissarisse op daardie tydstip 'n kworum was.

Personeel van Kommissie

50 14. (1) (a) Die Kommissie stel 'n persoon wat oor gepaste kwalifikasies en ervaring beskik aan as hoof-administratiewe beampte om die Kommissie by te staan, onderworpe aan sy voorskrifte en beheer, by die uitvoering van alle finansiële, administratiewe en klerklike werksaamhede en werk wat uit die toepassing en administrasie van hierdie Wet voortspruit.

(b) Die Kommissie stel die ander personeel aan wat hy nodig ag ten einde hom 55 by te staan met al die werk wat voortspruit uit die uitoefening en verrigting van sy bevoegdhede, werksaamhede en pligte ingevolge hierdie Wet.

(2) The staff of the Commission shall receive such remuneration, allowances and other employment benefits and shall be appointed on such terms and conditions and for such periods as the Commission may determine, subject to the provisions of section 34(1).

(3) In exercising its powers in terms of subsection (2), the Commission shall consult with the Minister of State Expenditure. 5

Establishment of committees of Commission

15. (1) The Commission shall establish the following two committees, namely—

(a) a broadcasting committee, which shall assist the Commission in the exercise and performance of its powers and functions contemplated in section 17(1)(a); and 10

(b) a State-financed publication and State information services committee, which shall assist the Commission in the exercise and performance of its powers and functions contemplated in section 17(1)(b).

(2) The Commission may establish such other committees for such purposes as it may deem necessary with a view to assisting it in the effective exercise and performance of any of its other powers, functions and duties in terms of this Act. 15

(3) The Commission shall from its number designate a chairperson for each committee.

(4) A committee shall have two or more additional members, as may be determined by the Commission, who— 20

(a) are not subject to any of the disqualifications of the nature contemplated in section 6; and

(b) on account of their qualifications, expertise and experience in relation to the mandate or terms of reference of the relevant committee, are suited to serve thereon. 25

(5) Whenever the office of a member of a committee becomes vacant, the Commission shall appoint a person to fill the vacancy.

(6) The provisions of sections 5(3), 10, 11, 12, 13 and 25 shall *mutatis mutandis* apply in respect of any committee, and for that purpose any reference to the Commission shall be construed as a reference to the committee in question. 30

(7) The Commission may at any time extend, limit or dissolve any such committee.

Appointment of experts

16. (1) The Commission may appoint as many experts, including experts from other countries, as it may deem necessary with a view to assisting it in the exercise and performance of its powers, functions and duties and for the performance of any work arising therefrom. 35

(2) The terms, conditions, remuneration and allowances applicable to any expert by virtue of his or her appointment in terms of subsection (1), and the work to be performed or service to be rendered by virtue of such appointment, shall be as determined in a written agreement entered into for that purpose between the Commission and the expert concerned. 40

(3) Upon having performed the work or completed the service pursuant to the agreement contemplated in subsection (2), the expert concerned shall submit a report in regard thereto to the Commission for its consideration. 45

(4) The Commission, on receipt of the report referred to in subsection (3), may refer the matter back to the expert—

(a) for such further attention as may be determined by the Commission;

(b) to perform such further functions as the Commission may deem necessary or desirable. 50

Powers and functions of Commission

17. (1) The Commission, in order to achieve the objects of this Act, shall—

(a) monitor all broadcasting services in the Republic and enforce compliance by broadcasting licensees with the provisions of this Act relating to— 55

(2) Die personeel van die Kommissie ontvang die besoldiging, toelaes en ander diensvoordele en word aangestel op die bedinge en voorwaardes en vir die tydperke wat die Kommissie bepaal, behoudens die bepalings van artikel 34(1).

(3) By die uitoefening van sy bevoegdhede ingevolge subartikel (2) moet die Kommissie die Minister van Staatsbesteding raadpleeg.

Instelling van komitees van Kommissie

15. (1) Die Kommissie moet die volgende twee komitees instel, naamlik—

(a) 'n uitsaaikomitee, wat die Kommissie bystaan by die uitoefening en verrigting van sy bevoegdhede en werksaamhede beoog in artikel 17(1)(a); en

(b) 'n Staatsgefinansierde publikasie- en Staatsinligtingsdienste-komitee, wat die Kommissie bystaan by die uitoefening en verrigting van sy bevoegdhede en werksaamhede beoog in artikel 17(1)(b).

(2) Die Kommissie kan die ander komitees instel vir die doeleindes wat hy nodig ag ten einde hom by te staan by die behoorlike uitoefening en verrigting van enige van sy ander bevoegdhede, werksaamhede en pligte ingevolge hierdie Wet.

(3) Die Kommissie wys uit eie geledere 'n voorsitter vir elke komitee aan.

(4) 'n Komitee het twee of meer addisionele lede soos deur die Kommissie bepaal, wat—

(a) nie onderworpe is aan enige van die onbevoegdhede van die aard beoog in artikel 6 nie; en

(b) vanweë hulle kwalifikasies, kundigheid en ondervinding met betrekking tot die mandaat of opdrag van die betrokke komitee, geskik is om daarin te dien.

(5) Wanneer die amp van 'n lid van 'n komitee vakant raak, stel die Kommissie 'n persoon aan om die vakature te vul.

(6) Die bepalings van artikels 5(3), 10, 11, 12, 13 en 25 is *mutatis mutandis* van toepassing ten opsigte van enige komitee, en vir dié doel word enige verwysing na die Kommissie uitgelê as 'n verwysing na die betrokke komitee.

(7) Die Kommissie kan te eniger tyd enige sodanige komitee uitbrei, beperk of ontbind.

Aanstelling van deskundiges

16. (1) Die Kommissie kan soveel deskundiges, met inbegrip van deskundiges van ander lande, aanstel as wat hy nodig ag ten einde die Kommissie by te staan by die uitoefening en verrigting van sy bevoegdhede, werksaamhede en pligte en vir die verrigting van enige werk wat daaruit voortspruit.

(2) Die bedinge, voorwaardes, besoldiging en toelaes van toepassing op enige deskundige uit hoofde van sy of haar aanstelling ingevolge subartikel (1), en die werk wat verrig of diens wat gelewer moet word uit hoofde van sodanige aanstelling, is soos bepaal in 'n skriftelike ooreenkoms wat tussen die Kommissie en die betrokke deskundige vir dié doel aangegaan word.

(3) By afhandeling van die werk of voltooiing van die diens uit hoofde van die ooreenkoms beoog in subartikel (2), moet die betrokke deskundige 'n verslag in verband daarmee aan die Kommissie voorlê vir sy oorweging.

(4) Die Kommissie kan, by ontvangs van die verslag bedoel in subartikel (3), die aangeleentheid na die deskundige terugverwys—

(a) vir die verdere aandag wat die Kommissie bepaal;

(b) om die verdere werksaamhede te verrig wat die Kommissie nodig of wenslik ag.

Bevoegdhede en werksaamhede van Kommissie

17. (1) Ten einde die oogmerke van hierdie Wet te bereik, moet die Kommissie gedurende die verkiesingstydperk—

(a) alle uitsaaidienste in die Republiek moniteer en nakoming, deur lisensiehouers, van die bepalings van hierdie Wet wat betrekking het op—

(i) party election broadcasts and political advertisements; and
 (ii) equitable treatment of all political parties; and
 (b) monitor all State-financed publications and State information services, during the election period in accordance with the provisions of this Act, and shall exercise and perform such other powers and functions as may be assigned to it by this Act. 5

(2) The Commission shall inform the Transitional Executive Council and the Independent Electoral Commission of any matter which has come to its knowledge in the exercise and performance of its powers, functions and duties in terms of this Act which, in its opinion, may have an adverse impact upon the creation or achievement of a climate favourable to free political participation and the holding of the election on a free and fair basis. 10

Prohibition on broadcasting of party election broadcasts and political advertisements except in certain circumstances

18. No party election broadcast and no political advertisement shall be broadcast on any broadcasting service except during the election period and then only if and to the extent authorized by the provisions of sections 19 and 20. 15

Party election broadcasts on sound broadcasting services during election period

19. (1) Subject to the provisions of this section, a public sound broadcasting licensee shall permit a party election broadcast only during the election period and then only if such a broadcast is produced on behalf of the political party in question at the instance of its duly authorized representative. 20

(2) The Commission shall determine the time to be made available to political parties for the purpose of subsection (1), including the duration and scheduling of party election broadcasts, duly taking into account the financial and programming implications for the broadcasting services in question. 25

(3) The Commission shall consult with the relevant public sound broadcasting licensees and all the political parties prior to making any determination in terms of subsection (2).

(4) In making any determination in terms of subsection (2), the Commission may impose such conditions upon a public broadcasting licensee with respect to party election broadcasts as it deems fit, having due regard to the fundamental principle that all political parties are to be treated equitably. 30

(5) A party election broadcast shall not contain any material which may reasonably be anticipated to expose the broadcasting licensee to legal liability if it were to be broadcast. 35

(6) A party election broadcast shall comply with a technical quality acceptable to the Commission.

(7) No party election broadcast shall be broadcast later than 48 hours prior to the commencement of the polling period. 40

(8) A private or community sound broadcasting licensee shall not be required to broadcast party election broadcasts, but if he or she elects to do so, the preceding provisions of this section shall *mutatis mutandis* apply.

Political advertising on sound broadcasting services during election period

20. (1) A sound broadcasting licensee shall not be required to broadcast a political advertisement, but if he or she elects to do so, he or she shall afford all other political parties, should they so request, a like opportunity. 45

(2) A sound broadcasting licensee may broadcast a political advertisement only if it has been submitted on behalf of a political party at the instance of its duly authorized representative. 50

(3) In making advertising time available to political parties, no sound

- (i) partyverkiesingsuitsendings en politieke advertensies; en
 - (ii) regverdigde behandeling van alle politieke partye, afdwing; en
- (b) alle Staatsgefinansierde publikasies en Staatsinligtingsdienste moniteer, 5 ooreenkomstig die bepalings van hierdie Wet, en moet hy die ander bevoegdhede en werksaamhede wat by hierdie Wet aan hom toegewys is, uitoefen en verrig.
- (2) Die Kommissie moet die Uitvoerende Oorgangsraad en die Onafhanklike Verkiesingskommissie inlig aangaande enige aangeleentheid wat tot sy kennis 10 gekom het by die uitoefening en verrigting van sy bevoegdhede, werksaamhede en pligte ingevolge hierdie Wet wat, na sy oordeel, 'n nadelige uitwerking kan hê op die skepping of bereiking van 'n gunstige klimaat vir vrye politieke deelname en die hou van die verkiesing op 'n vrye en regverdigde grondslag.

15 **Verbod op uitsaai van partyverkiesingsuitsendings en politieke advertensies behalwe in sekere omstandighede**

18. 'n Partyverkiesingsuitsending en 'n politieke advertensie mag nie op enige uitsaaidiens uitgesaai word nie behalwe gedurende die verkiesingstydperk en dan alleenlik indien en in die mate by die bepalings van artikels 19 en 20 veroorloof.

20 **Partyverkiesingsuitsendings op klankuitsaaidienste gedurende verkiesingstydperk**

19. (1) Behoudens die bepalings van hierdie artikel, mag 'n openbare klankuitsaailisensiehouer 'n partyverkiesingsuitsending alleenlik gedurende die verkiesingstydperk toelaat, en dan alleenlik indien sodanige uitsending voort- 25 gebring word ten behoeve van die betrokke politieke party op versoek van sy behoorlik gemagtigde verteenwoordiger.

(2) Die Kommissie bepaal die tyd wat aan politieke partye beskikbaar gestel staan te word by die toepassing van subartikel (1), met inbegrip van die duur en skedulering van partyverkiesingsuitsendings, ná behoorlike inagneming van die 30 finansiële en programmeringsimplikasies vir die betrokke uitsaaidienste.

(3) Die Kommissie moet met die betrokke openbare klankuitsaailisensiehouers en al die politieke partye oorleg pleeg alvorens enige bepaling ingevolge subartikel (2) gedoen word.

(4) By die doen van enige bepaling ingevolge subartikel (2) kan die Kommissie 35 'n openbare uitsaailisensiehouer die voorwaardes met betrekking tot partyverkiesingsuitsendings oplê wat hy goedvind na behoorlike inagneming van die fundamentele beginsel dat alle politieke partye regverdig behandel moet word.

(5) 'n Partyverkiesingsuitsending mag nie enige materiaal bevat wat redelikerwys verwag kan word die uitsaailisensiehouer aan regs aanspreeklikheid 40 bloot te stel indien dit uitgesaai sou word nie.

(6) 'n Partyverkiesingsuitsending moet voldoen aan die tegniese kwaliteit wat vir die Kommissie aanvaarbaar is.

(7) 'n Partyverkiesingsuitsending word nie later as 48 uur voor die aanvang van die stemydperk uitgesaai nie.

(8) 'n Private of gemeenskapsklankuitsaailisensiehouer is nie verplig om 45 partyverkiesingsuitsendings uit te saai nie, maar indien hy of sy besluit om dit te doen, is die voorafgaande bepalings van hierdie artikel *mutatis mutandis* van toepassing.

Politieke advertensies op klankuitsaaidienste gedurende verkiesingstydperk

20. (1) 'n Klankuitsaailisensiehouer is nie verplig om 'n politieke advertensie 50 uit te saai nie, maar indien hy of sy besluit om dit te doen, moet hy of sy alle ander politieke partye, indien hulle dit versoek, 'n gelyke geleentheid bied.

(2) 'n Klankuitsaailisensiehouer kan 'n politieke advertensie uitsaai alleenlik 55 indien dit voorgelê word ten behoeve van 'n politieke party op versoek van sy behoorlik gemagtigde verteenwoordiger.

(3) By die beskikbaarstelling van advertensietyd aan politieke partye mag 'n klankuitsaailisensiehouer nie teen enige politieke party diskrimineer of aan

broadcasting licensee shall discriminate against any political party or make or give any preference to any political party or subject any political party to any prejudice.

(4) A political advertisement shall not contain any material which may reasonably be anticipated to expose the broadcasting licensee to legal liability if it were to be broadcast. 5

(5) A political advertisement shall comply with a technical quality acceptable to the Commission.

(6) No political advertisement shall be broadcast later than 48 hours prior to the commencement of the polling period.

(7) This section shall be subject to the provisions of any law relating to the expenditure of political parties during an election. 10

Equitable treatment of political parties by broadcasting licensees during election period

21. (1) If, during the election period, the coverage by any broadcasting service extends to the field of the election and the political parties and issues relevant thereto, the broadcasting licensee concerned shall afford reasonable opportunities for the discussion of conflicting views and shall treat all political parties equitably. 15

(2) In the event of any criticism against a political party being levelled in a particular programme of any broadcasting service without such political party having been afforded an opportunity to respond thereto in such programme or without the view of such political party having been reflected therein, the broadcasting licensee concerned shall be obliged to afford such political party a reasonable opportunity to respond to the criticism. 20

(3) If, within 48 hours before the commencement of the polling period or during the polling period, a broadcasting licensee contemplates broadcasting a programme in which a particular political party is criticized, the licensee shall ensure that the political party is given a reasonable opportunity to respond thereto in the same programme, or to do so as soon as is reasonably practicable thereafter. 25

(4) The preceding provisions of this section shall not apply in relation to the contents of any party election broadcast in the circumstances contemplated in section 19 and any political advertisement in the circumstances contemplated in section 20. 30

State-financed publications and State information services

22. (1) The publisher of any State-financed publication in existence immediately prior to the commencement of this Act shall, within 14 days of such commencement, submit to the Commission the prescribed information concerning such publication. 35

(2) The publisher of any State-financed publication which is published for the first time after the commencement of this Act, shall not later than 14 days prior to the proposed date of publication submit to the Commission the prescribed information concerning such publication. 40

(3) The Commission may require the publisher of a publication referred to in subsection (2) to provide the Commission with a copy of such publication prior to the printing thereof. 45

(4) A State-financed publication shall be submitted by its publisher to the Commission free of charge within 48 hours of the completion of the printing thereof.

(5) A State-financed publication shall not contain any advertisement or other material which is intended or calculated to support or advance the interests of any political party, whether directly or indirectly. 50

(6) The provisions of subsection (5) shall *mutatis mutandis* apply in respect of any statement, material or advertisement made or issued by any State information service.

Hearings

23. (1) Any political party which has reason to believe that a broadcasting licensee, the publisher of a State-financed publication or any State information 55

enige politieke party enige voorkeur gee of enige politieke party aan enige vooroordeel onderwerp nie.

(4) 'n Politieke advertensie mag nie enige materiaal bevat wat redelikerwys verwag kan word die uitsaailisensiehouer aan regs aanspreeklikheid bloot te stel
5 indien dit uitgesaai sou word nie.

(5) 'n Politieke advertensie moet voldoen aan die tegniese kwaliteit wat vir die Kommissie aanvaarbaar is.

(6) 'n Politieke advertensie word nie later as 48 uur voor die aanvang van die stemtydperk uitgesaai nie.

10 (7) Hierdie artikel is onderworpe aan die bepalings van enige wet betreffende die uitgewes van politieke partye gedurende 'n verkiesing.

Regverdige behandeling van politieke partye deur uitsaailisensiehouers gedurende verkiesingstydperk

21. (1) Indien, gedurende die verkiesingstydperk, die dekking van enige
15 uitsaaidiens uitgebrei word na die terrein van die verkiesing en die politieke partye en kwessies betrokke daarby, moet die betrokke uitsaailisensiehouer redelike geleentheid vir die bespreking van strydige standpunte bied en alle politieke partye regverdige behandeling te beurt laat val.

(2) In die geval waar enige kritiek in 'n bepaalde program van enige
20 uitsaaidiens gemik word op 'n politieke party sonder dat sodanige party 'n geleentheid gebied is om in sodanige program daarop te reageer of sonder dat die standpunt van sodanige party daarin weergegee word, is die betrokke uitsaailisensiehouer verplig om sodanige politieke party 'n redelike geleentheid te bied om op die kritiek te antwoord.

25 (3) Indien, binne 48 uur voor die aanvang van die stemtydperk of gedurende die stemtydperk, 'n uitsaailisensiehouer voornemens is om 'n program uit te saai waarin 'n bepaalde politieke party gekritiseer word, moet die lisensiehouer verseker dat die politieke party 'n redelike geleentheid gebied word om in dieselfde Program daarop te antwoord of om dit te doen so gou as wat daarna
30 redelikerwys moontlik is.

(4) Die voorafgaande bepalings van hierdie artikel is nie met betrekking tot die inhoud van enige partyverkiesingsuitsending onder die omstandighede beoog in artikel 19 en enige politieke advertensie onder die omstandighede beoog in artikel 20 van toepassing nie.

35 Staatsgefinansierde publikasies en Staatsinligtingsdienste

22. (1) Die uitgewer van enige Staatsgefinansierde publikasie wat onmiddellik voor die inwerkingtreding van hierdie Wet bestaan, moet binne 14 dae na sodanige inwerkingtreding aan die Kommissie die voorgeskrewe inligting betreffende sodanige publikasie voorlê.

40 (2) Die uitgewer van enige Staatsgefinansierde publikasie wat vir die eerste keer uitgegee word na die inwerkingtreding van hierdie Wet, moet nie later nie as 14 dae voor die voorgestelde datum van publikasie aan die Kommissie die voorgeskrewe inligting betreffende sodanige publikasie voorlê.

(3) Die Kommissie kan van die uitgewer van 'n publikasie bedoel in subartikel
45 (2) vereis om die Kommissie van 'n afskrif van sodanige publikasie te voorsien voor die druk daarvan.

(4) 'n Staatsgefinansierde publikasie moet deur sy uitgewer gratis aan die Kommissie voorgelê word binne 48 uur na voltooiing van die druk daarvan.

50 (5) 'n Staatsgefinansierde publikasie mag geen advertensie of ander materiaal bevat wat bedoel of bereken is om die belange van enige politieke party, hetsy regstreeks of onregstreeks, te ondersteun of te bevorder nie.

(6) Die bepalings van subartikel (5) is *mutatis mutandis* van toepassing ten opsigte van enige verklaring, materiaal of advertensie deur enige Staatsinligtingsdiens gemaak of uitgegee.

55 Verhore

23. (1) Enige politieke party wat rede het om te glo dat 'n uitsaailisensiehouer, die uitgewer van 'n Staatsgefinansierde publikasie of enige Staatsinligtingsdiens

service has contravened the provisions of this Act in relation to such party, and which was unable to resolve the matter with the licensee, publisher or information service (as the case may be), may in relation thereto lodge a complaint with the Commission.

(2) A complaint contemplated in subsection (1) shall be in writing and shall be served on the licensee, publisher or information service referred to in subsection (1), and be lodged with the Commission. 5

(3) For the purposes of subsection (2), a complaint may be delivered by hand or sent by registered post, fax or telex.

(4) The Commission shall as soon as may be reasonably practicable, having due regard to the urgency of the matter, investigate and adjudicate any complaint received by it and shall, in doing so, afford the complainant and the respondent a reasonable opportunity to make representations and to be heard in relation thereto. 10

(5) The Commission shall determine the form and procedure as regards the adjudication of any complaint. 15

(6) The complainant and the respondent shall be entitled to legal representation at any hearing held by the Commission for the purpose of adjudicating a complaint.

(7) (a) After having considered the complaint and the representations (if any) and evidence in regard thereto, the Commission shall make a ruling in respect of the matter. 20

(b) Any ruling of the Commission in terms of paragraph (a) shall be published in such manner as the Commission may in its discretion determine.

(8) Hearings held in terms of this section shall be open to the public. 25

(9) (a) The Commission shall keep records of all complaints received by it and of all its proceedings, rulings and findings in relation thereto.

(b) The records contemplated in paragraph (a) shall be kept in the offices of the Commission and be open to inspection by interested parties during the normal office hours of the Commission. 30

(c) The Commission shall at the request of any interested party and on payment of such fee as may be prescribed (if any), furnish him or her with a certified copy of or extract from any record referred to in paragraph (a).

(10) With regard to the summoning and examination of witnesses, the administering of the oath or an affirmation, recalcitrant witnesses and the production of books, documents, objects and material, the Commission shall have such powers as shall be prescribed. 35

(11) For the purposes of this section, a State-financed publication and State information service shall be represented by the official of the State at the head of the State-financed publication or State information service in question. 40

(12) The provisions of subsections (5), (6), (7), (8), (9), (10) and (11) shall *mutatis mutandis* apply in relation to any investigation instituted *mero motu* by the Commission in regard to any suspected contravention of the provisions of this Act by any broadcasting licensee or publisher of a State-financed publication or by any State information service. 45

Orders and recommendations of Commission

24. (1) If the Commission, in making a ruling referred to in section 23, has found the respondent to have contravened the provisions of this Act, it may—

- (a) make an order requiring the respondent, if he or she—
 - (i) is a public sound broadcasting licensee, to broadcast a party election broadcast; 50
 - (ii) is a sound broadcasting licensee, to broadcast a political advertisement;
 - (iii) is a broadcasting licensee, to broadcast another version of the programme complained of or a counter-version of the opinions expressed or alleged facts stated in such a programme; 55
- (b) order the respondent to pay such fine as the Commission may determine, but not exceeding such amount as may be prescribed in relation to the contravention in question;

die bepalings van hierdie Wet oortree het met betrekking tot sodanige party, en wat nie daarin kon slaag om die aangeleentheid met die lisensiehouer, uitgewer of inligtingsdiens (na gelang van die geval) uit te stryk nie, kan met betrekking daartoe 'n klag by die Kommissie aanhangig maak.

5 (2) 'n Klag beoog in subartikel (1) moet skriftelik wees en word aan die lisensiehouer, uitgewer of inligtingsdiens bedoel in subartikel (1) beteken en by die Kommissie ingedien.

(3) Vir die doeleindes van subartikel (2) kan 'n klag per hand afgelewer word of per geregistreerde pos, faks of teleks gestuur word.

10 (4) Die Kommissie moet so gou as wat redelikerwys moontlik is, met behoorlike inagneming van die dringendheid van die aangeleentheid, enige klag deur hom ontvang, ondersoek en bereg en moet, wanneer hy dit doen, die klaer en die respondent 'n redelike geleentheid bied om verhoër te rig en om aangehoor te word met betrekking daartoe.

15 (5) Die Kommissie bepaal die vorm en prosedure in verband met die beregting van enige klag.

(6) Die klaer en die respondent is geregtig op regsverteenvoording by enige verhoer wat deur die Kommissie by die beregting van 'n klag gehou word.

20 (7) (a) Nadat die klag en die verhoër (indien daar is) en getuies in verband daarmee oorweeg is, gee die Kommissie 'n beslissing ten opsigte van die aangeleentheid.

(b) 'n Beslissing van die Kommissie ingevolge paragraaf (a) word gepubliseer op die wyse wat die Kommissie na goeë dunnke bepaal.

(8) Verhoer gehou ingevolge hierdie artikel is toeganklik vir die publiek.

25 (9) (a) Die Kommissie moet rekord hou van alle klagtes deur hom ontvang en van al sy verrigtinge, beslissings en bevindings met betrekking daartoe.

(b) Die rekord beoog in paragraaf (a) word by die kantore van die Kommissie gehou en is toeganklik vir insae deur belanghebbendes gedurende die gewone kantoorure van die Kommissie.

30 (c) Die Kommissie moet op versoek van enige belanghebbende en teen betaling van die gelde soos voorgeskryf (indien daar is), hom of haar voorsien van 'n gesertifiseerde afskrif van of uittreksel uit enige rekord beoog in paragraaf (a).

35 (10) Betreffende die dagvaarding en ondervraging van getuies, die oplê van die eed of afneem van 'n plegtige verklaring, weerspannige getuies en die oorlegging van boeke, stukke, voorwerpe en materiaal, beskik die Kommissie oor die bevoegdhele wat voorgeskryf word.

40 (11) Vir die doeleindes van hierdie artikel word 'n Staatsgefinansierde publikasie en Staatsinligtingsdiens verteenwoordig deur die beampete van die Staat wat aan die hoof staan van die betrokke Staatsgefinansierde publikasie of Staatsinligtingsdiens.

45 (12) Die bepalings van subartikels (5), (6), (7), (8), (9), (10) en (11) is *mutatis mutandis* van toepassing met betrekking tot enige ondersoek wat *mero motu* deur die Kommissie ingestel is in verband met enige vermeende oortreding van die bepalings van hierdie Wet deur enige uitsaailisensiehouer of uitgewer van 'n Staatsgefinansierde publikasie of deur enige Staatsinligtingsdiens.

Bevele en aanbevelings van Kommissie

24. (1) Indien die Kommissie, wanneer hy 'n beslissing bedoel in artikel 23 gee, bevind dat die respondent die bepalings van hierdie Wet oortree het, kan hy—

50 (a) 'n bevel gee wat die respondent, indien hy of sy—

(i) 'n openbare klankuitsaailisensiehouer is, gelas om 'n partyverkie-singsuitsending uit te saai;

(ii) 'n klankuitsaailisensiehouer is, gelas om 'n politieke advertensie uit te saai;

55 (iii) 'n uitsaailisensiehouer is, gelas om 'n ander weergawe van die gewraakte program of 'n teen-weergawe van die menings uitgespreek of beweerde feite gestel in so 'n program, uit te saai;

(b) die respondent gelas om die boete te betaal wat die Kommissie bepaal, maar wat nie meer bedra as die bedrag wat met betrekking tot die

60 betrokke oortreding voorgeskryf is nie;

- (c) make an order prohibiting the respondent from carrying on his or her broadcasting service for such period as the Commission may determine: Provided that such a prohibition shall not extend beyond the day of the dissolution of the Commission in terms of section 34(1),
 and may, with due regard to the provisions and objects of this Act, make any other order which it considers appropriate with a view to remedying the matter complained of. 5
- (2) Where the Commission has made an order against a broadcasting licensee in terms of subsection (1)(c) it may, having due regard to the nature, consequences and gravity of the contravention with reference to which such order was made, forward a certified copy of such order and of the record of its adjudication proceedings relevant thereto, to the Authority with a view to the Authority taking steps against such broadcasting licensee in terms of section 66(5) of the Independent Broadcasting Authority Act, 1993. 10
- (3) In any case where either the publisher of a State-financed publication or any State information service is the respondent, the Commission shall convey its ruling to the Transitional Executive Council. 15

Expenditure in connection with functions of Commission

25. (1) The expenditure in connection with the application and administration of this Act and the exercise and performance of the powers, functions and duties of the Commission, shall be paid out of public funds allocated for that purpose by the Transitional Executive Council in consultation with the Minister of State Expenditure. 20
- (2) The chief administrative officer referred to in section 14(1)(a) acting on the authority and subject to the general or special directions of the Commission (if any), may from time to time in writing requisition moneys for the purposes contemplated in subsection (1). 25

Reporting responsibility of Commission

26. Without in any way derogating from its independence, the Commission shall on a quarterly basis report in writing to the Transitional Executive Council in regard to its expenditure and the performance of its functions in terms of this Act. 30

Offences and penalties

27. (1) Any person who—
 (a) wilfully hinders or obstructs the Commission, any committee, any commissioner, any member of a committee or any member of the staff of the Commission in the exercise or performance of its, his or her powers, functions or duties in terms of this Act; or
 (b) wilfully hinders, obstructs or interrupts the proceedings at any hearing of the Commission,
 shall be guilty of an offence and liable on conviction to a maximum fine of R5 000. 40
- (2) Any person who contravenes or fails to comply with—
 (a) any order referred to in section 24, shall be guilty of an offence and liable on conviction to a maximum fine of R100 000;
 (b) any other order of the Commission, shall be guilty of an offence and liable on conviction to a maximum fine of R10 000. 45
- (3) (a) If any commissioner fails to disclose any interest as required by section 12(2) or, subject to the provisions of that section, if he or she is present at the venue where a meeting of the Commission is held or in any manner whatsoever participates in the proceedings of the Commission, such commissioner shall be guilty of an offence and liable on conviction to a maximum fine of R100 000. 50

- (c) 'n bevel gee waarby die respondent verbied word om sy of haar uitsaaidiens te bedryf vir die tydperk wat die Kommissie bepaal: Met dien verstande dat so 'n verbod nie mag strek tot na die dag waarop die Kommissie ingevolge artikel 34(1) ontbind nie,
- 5 en kan hy, met behoorlike inagneming van die bepalings en oogmerke van hierdie Wet, enige ander bevel gee wat hy toepaslik ag met die oog op die regstelling van die gewraakte aangeleentheid.
- (2) Indien die Kommissie ingevolge subartikel (1)(c) 'n bevel teen 'n uitsaailisensiehouer gegee het, kan hy, met behoorlike inagneming van die aard,
- 10 gevolge en erns van die oortreding met verwysing waarna sodanige bevel gegee is, 'n gesertifiseerde afskrif van sodanige bevel en van die rekord van sy beregtingsverrigtinge wat daarop betrekking het, versend aan die Owerheid met die oog op die doen van stappe deur die Owerheid teen sodanige uitsaailisensiehouer ingevolge artikel 66(5) van die Wet op die Onafhanklike Uitsaai-
- 15 owerheid, 1993.
- (3) In enige geval waar óf die uitgewer van 'n Staatsgefinansierde publikasie óf enige Staatsinligtingsdiens die respondent is, dra die Kommissie sy beslissing aan die Uitvoerende Oorgangsraad oor.

Uitgawes in verband met werksaamhede van Kommissie

- 20 **25.** (1) Die uitgawes in verband met die toepassing en administrasie van hierdie Wet en die uitoefening en verrigting van die bevoegdhede, werksaamhede en pligte van die Kommissie, word betaal uit openbare fondse wat deur die Uitvoerende Oorgangsraad in oorleg met die Minister van Staatsbesteding vir dié doel toegewys is.
- 25 (2) Die hoof- administratiewe beampte bedoel in artikel 14(1)(a), handelende op gesag en onderworpe aan die algemene of besondere voorskrifte van die Kommissie (indien daar is), kan van tyd tot tyd skriftelik geld vir die doeleindes beoog in subartikel (1) aanvra.

Verslagdoeningsplig van Kommissie

- 30 **26.** Sonder om enigsins afbreuk te doen aan sy onafhanklikheid, doen die Kommissie kwartaalliks skriftelik verslag aan die Uitvoerende Oorgangsraad met betrekking tot sy uitgawes en die verrigting van sy werksaamhede ingevolge hierdie Wet.

Misdrywe en strawwe

- 35 **27.** (1) Enige persoon wat—
- (a) die Kommissie, enige komitee, enige kommissaris, enige lid van 'n komitee of enige lid van die personeel van die Kommissie opsetlik belemmer of verhinder by die uitvoering of verrigting van sy of haar bevoegdhede, werksaamhede of pligte ingevolge hierdie Wet; of
- 40 (b) die verrigtinge by enige verhoor van die Kommissie opsetlik belemmer, verhinder of onderbreek,
- is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n maksimum boete van R5 000.
- (2) Enige persoon wat—
- 45 (a) enige bevel bedoel in artikel 24 oortree of versuim om daaraan te voldoen, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n maksimum boete van R100 000;
- (b) enige ander bevel van die Kommissie oortree of versuim om daaraan te voldoen, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met
- 50 'n maksimum boete van R10 000.
- (3) (a) Indien enige kommissaris versuim om enige belang te openbaar soos by artikel 12(2) vereis of, behoudens die bepalings van daardie artikel, indien hy of sy teenwoordig is by die plek waar 'n vergadering van die Kommissie gehou word of op enige wyse hoegenaamd deelneem aan die verrigtinge van die
- 55 Kommissie, is sodanige kommissaris skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n maksimum boete van R100 000.

(b) The provisions of paragraph (a) shall *mutatis mutandis* apply in respect of any member of a committee.

Delegations

28. (1) Subject to the provisions of subsection (4), the Commission may in writing—

- (a) delegate to a committee any power, function or duty conferred or imposed upon the Commission by this Act;
- (b) authorize a committee to exercise or perform any power, function or duty assigned to the Commission by this Act.

(2) Any delegation or authorization under subsection (1) may be made subject to such conditions and restrictions as may be determined by the Commission and may at any time be amended or revoked by the Commission.

(3) The Commission shall not be divested of any power nor be relieved of any duty which it may have delegated under this section, and may amend or rescind any decision of a committee by virtue of a delegation under this section.

(4) The Commission shall not delegate any of the powers, functions or duties referred to in sections 15, 16, 17, 19(2) and (4), 23, 24 and 30.

Limitation of liability

29. Neither the chairperson, any commissioner or any member of a committee nor any expert appointed in terms of this Act or any member of staff of the Commission, shall be personally liable for any damage or loss suffered by any person in consequence of any act which in good faith was performed or omitted in the course of the exercise or performance or supposed exercise or performance of any power, function or duty in terms of this Act.

Regulations

30. (1) The Commission may make regulations, not inconsistent with the provisions of this Act, in relation to any matter which in terms of this Act shall or may be prescribed or governed by regulation.

(2) A regulation in terms of subsection (1) may declare any contravention thereof or failure to comply therewith to be an offence, and may in respect thereof provide for the imposition of a fine not exceeding R10 000.

Extraterritorial extension of Commission's jurisdiction by agreement between Republic and any state or territory previously part of Republic

31. If the Transitional Executive Council, on behalf of the Republic, and the government of any state or territory which was previously part of the Republic, agree thereto, and a law of such state or territory provides therefor—

- (a) the Commission may exercise and perform in respect of persons and matters in the said state or territory all such powers, functions and duties as it may in terms of this Act exercise and perform in respect of persons and matters in the Republic; and
- (b) the provisions of this Act shall for the purposes of paragraph (a) be deemed to apply *mutatis mutandis* in such state or territory.

Application of Act in respect of certain private broadcasters licensed elsewhere

32. The provisions of this Act shall also apply in respect of the persons in control of the broadcasting services known as "Radio 702", "Capital Radio" and "Trinity Broadcasting Network" as if such persons were broadcasting licensees.

(b) Die bepalings van paragraaf (a) is *mutatis mutandis* van toepassing ten opsigte van 'n lid van 'n komitee.

Delegasies

28. (1) Behoudens die bepalings van subartikel (4), kan die Kommissie
5 skriftelik—

(a) enige bevoegdheid, werksaamheid of plig die Kommissie by hierdie Wet verleen of opgelê, aan 'n komitee delegeer;

(b) 'n komitee magtig om enige bevoegdheid, werksaamheid of plig wat by hierdie Wet aan die Kommissie opgedra is, uit te oefen of te verrig.

10 (2) Enige delegasie of magtiging kragtens subartikel (1) kan gedoen word onderworpe aan die voorwaardes en beperkings soos deur die Kommissie bepaal en kan te eniger tyd deur die Kommissie gewysig of ingetrek word.

(3) Die Kommissie word nie onthef van enige bevoegdheid of vrygestel van enige plig wat hy kragtens hierdie artikel gedelegeer het nie, en kan enige besluit
15 van 'n komitee uit hoofde van 'n delegasie kragtens hierdie artikel, wysig of ongedaan maak.

(4) Die Kommissie delegeer nie enige van die bevoegdhede, werksaamhede of pligte bedoel in artikels 15, 16, 17, 19(2) en (4), 23, 24 en 30 nie.

Beperking van aanspreeklikheid

20 29. Nóg die voorsitter, enige kommissaris of enige lid van 'n komitee, nóg enige deskundige aangestel ingevolge hierdie Wet of enige lid van die personeel van die Kommissie, is persoonlik aanspreeklik vir enige skade of verlies deur enige persoon gelyk ten gevolge van enige handeling wat te goeder trou in die loop van die uitoefening of verrigting of veronderstelde uitoefening of verrigting
25 van enige bevoegdheid, werksaamheid of plig ingevolge hierdie Wet verrig of nagelaat is.

Regulasies

30. (1) Die Kommissie kan regulasies wat nie met hierdie Wet onbestaanbaar is nie, uitvaardig met betrekking tot enige aangeleentheid wat ingevolge hierdie
30 Wet by regulasie voorgeskryf of gereël moet of kan word.

(2) 'n Regulasie ingevolge subartikel (1) kan verklaar dat enige oortreding daarvan of versuim om daaraan te voldoen 'n misdryf is, en kan ten opsigte daarvan voorsiening maak vir die oplegging van 'n boete van hoogstens R10 000.

Ekstraterritoriale uitbreiding van regsbevoegdheid van Kommissie deur ooreenkoms tussen Republiek en enige staat of gebied voorheen deel van Republiek

31. Indien die Uitvoerende Oorgangsraad, ten behoeve van die Republiek, en die regering van enige staat of gebied wat voorheen deel van die Republiek was, daartoe ooreenkom, en 'n wet van sodanige staat of gebied daarvoor voorsiening maak—

40 (a) kan die Kommissie ten opsigte van persone en aangeleenthede in bedoelde staat of gebied al die bevoegdhede, werksaamhede en pligte uitoefen en verrig wat die Kommissie ingevolge hierdie Wet ten opsigte van persone en aangeleenthede in die Republiek kan uitoefen en verrig; en

45 (b) word die bepalings van hierdie Wet by die toepassing van paragraaf (a) geag *mutatis mutandis* in sodanige staat of gebied van toepassing te wees.

Toepassing van Wet ten opsigte van sekere private uitsaaiers elders gelisensieerd

32. Die bepalings van hierdie Wet is ook van toepassing ten opsigte van die
50 persone in beheer van die uitsaaidienste wat bekend staan as "Radio 702", "Capital Radio" en "Trinity Broadcasting Network" asof sodanige persone uitsaailisensiehouers was.

Application of Act in event of conflict with other laws

33. In the event of a conflict between the provisions of this Act and those of any other law, the provisions of this Act shall prevail.

Dissolution of Commission, and cessation of Act

34. (1) The Commission shall dissolve on the date when the Independent Electoral Commission is dissolved in terms of section 9 of the Independent Electoral Commission Act, 1993, on which date this Act shall cease to have effect. 5

(2) All assets, moneys and liabilities of the Commission shall on its dissolution in terms of subsection (1) devolve upon the State, which shall to that extent for all purposes in law be deemed to be the legal successor of the Commission. 10

This Act binding on State and State President

35. (1) This Act shall bind the State.

(2) This Act shall bind the State President in so far as he or she shall be obliged to act in accordance with the advice of the Transitional Executive Council wherever so provided for in this Act. 15

Short title and commencement

36. This Act shall be called the Independent Media Commission Act, 1993, and shall come into operation on a date to be determined by the Transitional Executive Council, which date shall be made known by the State President by proclamation in the *Gazette*. 20

Toepassing van Wet in geval van botsing met ander wette

33. In die geval van 'n botsing tussen die bepalings van hierdie Wet en dié van enige ander wet, word aan die bepalings van hierdie Wet voorrang gegee.

Ontbinding van Kommissie, en beëindiging van Wet

5 34. (1) Die Kommissie ontbind op die datum waarop die Onafhanklike Verkiesingskommissie ingevolge artikel 9 van die Wet op die Onafhanklike Verkiesingskommissie, 1993, ontbind, op welke datum hierdie Wet ophou om van krag te wees.

10 (2) Alle bates, geld en laste van die Kommissie gaan by sy ontbinding ingevolge subartikel (1) oor op die Staat, wat in daardie mate vir alle wetlike doeleindes geag word die regsopvolger van die Kommissie te wees.

Hierdie Wet bind Staat en Staatspresident

35. (1) Hierdie Wet bind die Staat.

15 (2) Hierdie Wet bind die Staatspresident in soverre hy of sy verplig word om te handel ooreenkomstig die advies van die Uitvoerende Oorgangsraad waar ook al in hierdie Wet daarvoor voorsiening gemaak word.

Kort titel en inwerkingtreding

20 36. Hierdie Wet heet die Wet op die Onafhanklike Mediakommissie, 1993, en tree in werking op 'n datum deur die Uitvoerende Oorgangsraad bepaal, welke datum deur die Staatspresident by proklamasie in die *Staatskoerant* bekend gemaak word.

**MEMORANDUM ON THE OBJECTS OF THE INDEPENDENT
MEDIA COMMISSION BILL, 1993**

The Negotiating Council as part of the Multi-Party Negotiating Process has agreed to the contents of the above-mentioned Bill for the establishment of an Independent Media Commission for the purpose of ensuring, during the period of the first national election for the National Assembly and other legislatures under the Constitution to be held after the commencement of this Act—

- (a) the equitable treatment of political parties by broadcasting licensees; and
- (b) that State-financed publications and State information services do not advance the interests of any political party.

The Bill furthermore defines the composition, powers, functions and duties of the proposed Commission.

**MEMORANDUM OOR DIE OOGMERKE VAN DIE WETSONT-
WERP OP DIE ONAFHANKLIKE MEDIAKOMMISSIE, 1993**

Die Onderhandelingsraad wat deel is van die Veelparty-onderhandelingsproses het ooreengekom oor die inhoud van bogenoemde Wetsontwerp vir die instelling van 'n Onafhanklike Mediakommissie met die doel om te verseker dat, gedurende die tydperk van die eerste nasionale verkiesing vir die Nasionale Vergadering en ander wetgewers kragtens die Grondwet wat gehou staan te word na die inwerkingtreding van hierdie Wet—

- (a) politieke partye regverdig deur uitsaailisensiehouers behandel word; en
- (b) staatsgefinansierde publikasies en staatsinligtingsdienste nie die belange van enige politieke party bevorder nie.

Die Wetsontwerp bepaal verder die samestelling, bevoegdhede, werksaamhede en pligte van die voorgestelde Kommissie.

