

STATUTES OF THE REPUBLIC OF SOUTH AFRICA  
WETTE VAN DIE REPUBLIEK VAN SUID-AFRIKA

CONTROL SHEET FOR TITLE *RADIO*  
BEHEERSTUK VIR TITEL *RADIO*

SERVICE ISSUE NO. 10 / DIENSUITGAWE NO. 10  
1976

The following new or replacement pages are forwarded herewith. The pages which are being replaced should be withdrawn from the binder and either destroyed or retained as the subscriber wishes. It is suggested that the Principal Acts which have been withdrawn should be retained for reference purposes.

Die volgende nuwe of vervangingsbladsye word hiermee uitgestuur. Die bladsye wat vervang word, moet uit die binder verwyder en na keuse van die intekenaar vernietig of bewaar word. Daar word aan die hand gegee dat Hoofwette wat verwyder is, vir verwysingsdoeleindes bewaar moet word.

1/2, 5/6, 41/42, 61(1)/62(2), 101/114, 161/202, 1671/1672, 1701/1702, 1901/1902.

The pages enumerated below indicate the full contents of the title "*Radio*" after the pages of Service Issue No. 10 have been inserted. The number of the Service Issue appears at the bottom left-hand corner of the page. This Control Sheet must be filed at the beginning of the title "*Radio*".

Die bladsye wat onder aangegee is, dui die volle inhoud van die titel „*Radio*” aan nadat die bladsye van Diensuitgawe No. 10 ingevoeg is. Die Diensuitgawe-nommer verskyn onderaan die linkerhoek van die bladsy. Hierdie Beheerstuk moet aan die begin van die titel „*Radio*” ingebind word.

Page Bladsy	(Issue) (Uitgawe)	Page Bladsy	(Issue) (Uitgawe)	Page Bladsy	(Issue) (Uitgawe)
1/2 .. ..	(10)	71/74 .. ..	(4)	1601/1602 .. ..	(1)
5/6 .. ..	(10)	81/82 .. ..	(6)	1603/1604 .. ..	(9)
15/28 .. ..	(1)	101/114 .. ..	(10)	1605/1606 .. ..	(1)
41/42 .. ..	(10)	115/116 .. ..	(8)	1607/1608 .. ..	(9)
43/52 .. ..	(4)	115(1)/116(4) .. ..	(4)	1671/1672 .. ..	(10)
53/56 .. ..	(6)	117/120 .. ..	(1)	1701/1702 .. ..	(10)
57/62 .. ..	(4)	121/124 .. ..	(4)	1711/1712 .. ..	(1)
61(1)/62(2) .. ..	(10)	131/132 .. ..	(8)	1801 .. ..	(1)
63/68 .. ..	(1)	161/202 .. ..	(10)	1901/1902 .. ..	(10)

The following pages are either blank, have been withdrawn or have not been issued / Die volgende is of blanko blaaie, of is verwyder of nie uitgereik nie: 3/4, 7/14, 29/40, 69/70, 75/80, 83/100, 125/130, 133/160, 203/1600, 1609/1670, 1673/1700, 1703/1710, 1713/1800, 1802/1900.

**STATUTES OF THE REPUBLIC OF SOUTH AFRICA**  
**CLASSIFIED AND ANNOTATED**

**TITLE: RADIO**

**TABLE OF CONTENTS**

	PAGE
PRELIMINARY NOTE .. .. .	5
<b>STATUTES (CHRONOLOGICAL)—</b>	
Radio Telegraph Station Act, No. 11 of 1923 .. .. .	15
Broadcasting Act, No. 22 of 1936 .. .. .	41
Broadcasting Amendment Act, No. 14 of 1949 .. .. .	63
Radio Act, No. 3 of 1952 .. .. .	101
Broadcasting Amendment Act, No. 34 of 1952 .. .. .	65
Broadcasting Amendment Act, No. 49 of 1960 .. .. .	67
Radio Amendment Act, No. 51 of 1962 .. .. .	117
Radio Amendment Act, No. 90 of 1963 .. .. .	119
Broadcasting Amendment Act, No. 60 of 1969 .. .. .	71
Radio Amendment Act, No. 93 of 1969 .. .. .	121
Broadcasting Amendment Act, No. 12 of 1972 .. .. .	81
Radio Amendment Act, No. 50 of 1974 .. .. .	131
Broadcasting Act, No. 73 of 1976 .. .. .	161
<b>SUBJECT MATTER INDEX</b>	
Main .. .. .	1601
Supplementary .. .. .	1671
<b>REFERENCES TO DECIDED CASES .. .. .</b>	<b>1701</b>
<b>REFERENCES TO REGULATIONS, ETC. PUBLISHED IN REGULATION GAZETTES ... .. .</b>	<b>1901</b>

**TITLE: RADIO**

**PRELIMINARY NOTE**

This title contains legislation dealing with broadcasting and the control of radio apparatus.

**Radio Telegraph Station Act, No. 11 of 1923.**—This Act confirmed and gave effect to an agreement between the Government of the Republic and Marconi's Wireless Telegraph Company, Ltd. This agreement provided for the erection, maintenance and operation of a radio telegraph station within South Africa.

**Broadcasting Act, No. 22 of 1936, as amended by Acts No. 17 of 1938, No. 14 of 1949, No. 3 of 1952, No. 34 of 1952, No. 49 of 1960, No. 60 of 1969, No. 12 of 1972 and No. 57 of 1975.**—This Act established the South African Broadcasting Corporation and provides for the control of broadcasting within the Republic.

**Radio Act, No. 3 of 1952, as amended by Acts No. 68 of 1957, No. 51 of 1962, No. 90 of 1963, No. 93 of 1969, No. 5 of 1974, No. 57 of 1975 and No. 73 of 1976.**—This Act consolidated and amended the laws relating to the control of radio activities within the Republic. It repealed the Radio Act, No. 20 of 1926, and amendments to that Act.

**Broadcasting Act, No. 73 of 1976.**—This Act consolidated and amended certain laws relating to the South African Broadcasting Corporation and the control of broadcasting in the Republic and the territory of South West Africa; authorized the South African Broadcasting Corporation to issue certain licences, and repealed the Broadcasting Act, No. 22 of 1936, and the amendments to that Act.

**RADIO TELEGRAPH STATION ACT  
NO. 11 OF 1923**

[ASSENTED TO 9 MAY, 1923]

[DATE OF COMMENCEMENT: 16 MAY, 1923]

*(Signed by the Governor-General in English)*

---

**ACT**

**To confirm and give effect to an agreement between the Government of the Union and Marconi's Wireless Telegraph Company, Limited, and to provide for certain matters incidental thereto.**

**Preamble.**—Whereas an agreement was made on the sixth day of September, 1922, between the Postmaster-General, representing the Government of the Union, of the one part, and the Marconi's Wireless Telegraph Company, Limited (hereinafter called "the contractor") of the other part, with respect to the erection, maintenance and operation within the Union by a company to be established (hereinafter called "the company") of a radio telegraph station (hereinafter called "the station") capable of establishing direct communication and suitable for duplex commercial working between the Union and Great Britain and other parts of the world, which agreement is set out in the Schedule to this Act:

AND WHEREAS a supplementary agreement was made between the said parties on the eighth day of March, 1923, to remove difficulties and uncertainties found to exist in the said agreement, which supplementary agreement is also set out in the Schedule:

AND WHEREAS the said agreements are, in terms thereof, subject to ratification by Parliament:

AND WHEREAS it is desirable, subject to certain conditions that the agreements should be ratified, and that all powers and authorities should be conferred which are necessary to give full and complete effect to the agreements:

**1. Confirmation of agreements and conferment of powers.**—Subject to the provisions of this Act, the said agreements are hereby ratified and confirmed, and, notwithstanding anything in any law contained, the Governor-General may exercise all such powers and authorities and do all such things as appear to him to be necessary for giving full and complete effect to the agreements, and for this purpose the Governor-General may exercise, or authorize the contractor or company to exercise, any such power as may be exercised by the Postmaster-General under the provisions of Act No. 10 of 1911 or any amendment thereof.

**2. Importation free of duty, under certain conditions, of material for construction and erection of radio telegraph station.**—(1) Subject to the provisions of sub-section (2) of this section, the Commissioner of Customs shall admit into the Union free of customs duty all materials and goods consigned to the contractor or to the company or any officer thereof which are proved to his satisfaction to be required for the construction and erection of the station, and he may grant a refund, rebate or remission of any customs duty which may

have been paid or which may be due to be paid by the contractor or company on any materials or goods imported before the date of the commencement of this Act which are proved to his satisfaction to be required for the construction and erection of the station.

(2) No admission of materials or goods free of duty, or refund, rebate or remission of customs dues shall be made under sub-section (1) of this section unless the Postmaster-General shall be satisfied—

- (a) that material or goods, the produce or the manufacture of the Union, of the same class and quality as that in respect of which any such admission, refund, rebate or remission is proposed or applied for, were not obtainable within the Union; or
- (b) in the event of such material or goods, the produce or manufacture of the Union, having been obtainable within the Union, that tenders were invited within the Union in accordance with the provisions of the regulations then existing of the Union Tender Board, and that such invitation did not result in any offer to supply the requisite material or goods at a price which, after granting all preferences allowed by such regulations in favour of material or goods produced or manufactured within the Union, was equal to or less than the landed cost (which shall include the Customs dues payable upon the material or goods under the Customs tariff existing at the time of importation of such material or goods) at any port in the Union selected by the contractor or company.

**3. Expropriation of land for station.**—If at any time the contractor or company shall prove to the satisfaction of the Government that it requires, for the construction, maintenance or operation of the station or of any subsidiary station or work, any land which the Governor-General is not entitled to take or use, and that negotiations between the owner and the contractor or company for the acquisition of such land have failed or cannot for any reason successfully be concluded, the Governor-General, after giving such notice to the owner of the land as he may deem reasonable, may authorize the contractor or company to take, enter upon and use such land or such portion thereof as the Governor-General may deem necessary. The owner of such land shall thereupon be entitled to compensation to be paid by the contractor or company which shall be settled, in case of difference, by arbitration in accordance, as far as practicable, with the provisions of the law in force in the province in which the land is situated, relating to the expropriation of land by the Government for public purposes.

**4. Short title.**—This Act may be cited for all purposes as the Radio Telegraph Station Act, 1923.

#### Schedule

AGREEMENT made and entered into between EDWARD ALBERT STURMAN, in his capacity as Postmaster-General, and as such representing the Government of the Union of South Africa (hereinafter styled "the Government") of the one part: and MARCONI'S WIRELESS TELEGRAPH COMPANY, LIMITED, a company incorporated with limited liability under the Companies' laws of England, and having its Head office at Marconi House, Strand, London, W.C. 2 (hereinafter styled "the Contractor") of the other part:

WHEREAS it is considered desirable to erect, maintain and operate in the said Union a radio telegraph station capable of establishing direct communication and suitable for duplex commercial working between the Union and Great Britain and other parts of the world (hereinafter called "the station"):

NOW THEREFORE, it is hereby covenanted and agreed between the said parties as follows:—

1. The Contractor undertakes and agrees—
  - (a) to establish a South African Wireless Company (such Company being hereinafter referred to as "the company");
  - (b) that the company will erect and complete the station within a period of eighteen months from the date of execution hereof; and

(c) that the company will maintain and operate the station in terms of this Agreement.

2. Of the capital of the company at least Four hundred thousand (400,000) Ordinary Shares of the nominal value of One pound (£1) sterling each will be subscribed by the contractor, while a proportion of the capital will be rendered available for public subscription in South Africa by an issue thereof to be made within a reasonable time after the establishment of the company, and the company shall at all times have the right to the full use and enjoyment of all patents owned or controlled by the contractor or of any patent rights held by the contractor under any contract or arrangement with any inventor or patentee in so far as such patents or rights are capable of use in transoceanic communications.

3. Four at least of the members of the Board of Directors of the company shall be resident within the Union for the purpose of effecting a quorum and managing the company's affairs in the Union, and of such Directors one shall be the Managing Director of the company and one shall be nominated or appointed by and represent the Government.

4. The Government will grant the company the right to erect maintain and operate the station for a period of not less than Ten (10) years from the date of completion of the station, and for that purpose will arrange for the grant and issue to the company of all necessary permits and licences and will give such aid as may be desirable and reasonably possible for the realization and carrying out of the above scheme and for the full development of the industry thereby created.

5. At the expiry of the said period of Ten (10) years the Government shall have the right or option to purchase from the company the station outright provided that the Government shall have given to the company six (6) months' notice in writing at least of its intention to exercise the said option, the amount of the purchase price to be mutually agreed upon between the company and the Government, or failing such agreement, to be determined by arbitration in manner hereinafter mentioned. It is, however, distinctly understood and agreed between the parties hereto that in the event of the purchase by the Government of the station as aforesaid such purchase price shall be solely that of the station itself, including the structure, lands and all buildings, as also all plant, equipment, fixtures, apparatus for the working of the plant and stores contained therein, and shall be exclusive of all or any royalty charges to which the company may become entitled as hereinafter mentioned.

6. In so far as concerns any patent rights which may be deemed necessary or desirable by the Government for the continued efficient working of the station, the Government shall have the right in the event of its purchasing the station to acquire—

- (a) any such existing patent rights owned or controlled by the company at the time of the said purchase; or
- (b) any future patent rights owned or controlled by the company and the contractor; or
- (c) both such existing patent rights and such future patent rights,

either by means of a payment by the Government to the company of a lump sum to be mutually agreed upon between the company and the Government or, in the case of difference, to be determined by arbitration as hereinafter mentioned, or alternatively at the option of the Government by means of an annual payment or royalty to be based on the amount of the yearly transmitted traffic. In the event of the exercise of the latter alternative the terms to be fixed shall be as follows:

- (a) In the case of acquisition of existing patent rights payment shall be made by the Government to the company of an annual sum payable at the expiration of each year, based on the amount of the total paid traffic transmitted during the twelve months prior to the handing over of the station to the Government, which, however, shall in no case exceed one-sixth of a penny ( $\frac{1}{6}$ d.) per word.
- (b) In the case of acquisition of future patent rights, payment shall be made by the Government to the company of an annual sum payable at the expiration of each year, based on the amount of the total paid traffic transmitted during the twelve months prior to the handing over of the station to the Government, which, however, shall in no case exceed one-sixth of a penny ( $\frac{1}{6}$ d.) per word.
- (c) Alternatively in case of acquisition of both the existing and future patent rights payments shall be made by the Government to the company of an annual sum payable at the expiration of each year, based on the amount of the total paid traffic transmitted during the twelve months prior to the handing over of the station to the Government, which, however, shall in no case exceed one farthing ( $\frac{1}{4}$ d.) per word.

The above-mentioned flat rates shall be subject to reconsideration at the hands of the company and the Government at the expiration of each and every period of Five (5) years dating from the time of the same coming into operation, and the company shall be bound to supply to the Government any spare parts which shall be required by the Government from time to time for maintenance, upkeep or development of the station at prices which shall be free of all royalty charges. The above-mentioned flat rates will not be applicable to or include service messages, that is to say, service messages as understood by the International Radio Telegraphic Convention from time to time, and the purchase by the Government of any of the said patent rights will include the goodwill of the company's business in so far as it concerns the station, while the company, on its part, and the contractor shall be bound and obliged to render advice

STATUTES OF THE REPUBLIC OF SOUTH AFRICA — RADIO  
*Radio Telegraph Station Act, No. 11 of 1923*

Sch.

Sch.

in regard to the station as and when required by the Government. In the event, however, of the station being at any time closed down by reason of or owing to circumstances not under the control of the Government, any royalty payment based on the above-mentioned flat rates will automatically cease and a financial adjustment shall be substituted therefor, such adjustment to be arrived at by mutual agreement between the company and the Government or, failing such agreement, to be determined by arbitration as hereinafter mentioned.

7. If the Government, after exercising its option as authorized by clauses five and six hereof to purchase the station, shall at any later date close down or discontinue to use the station and its services, the Government shall pay to the company for and in respect of the existing patent rights hereinbefore referred to acquired by the Government from the company at the time of exercising the option, a lump sum, the amount whereof shall be mutually agreed upon or otherwise determined by arbitration as hereinbefore stipulated for, subject to deduction therefrom of any annual payment by way of royalties which shall have already been made by the Government to the company for or in respect of such existing patent rights.

8. Should the Government decide not to exercise the option to purchase hereinbefore referred to, the company shall be allowed to continue the operation and development of the station in terms of these presents for a further period of Ten (10) years, at the expiration of which further period of Ten (10) years the Government shall have the like option to purchase as is hereinbefore mentioned on the same terms and conditions as those set forth in clauses five and six hereof. The like rights on the part of the company of continuation, operation and development of the station and on the part of the Government of option of purchases thereof shall prevail and take effect at the expiry of each period of Ten (10) years thereafter.

9. In the event of the Government deeming it necessary and desirable in the public interests, by reason of the outbreak of any war in which the Government may be involved, or of any rebellion, civil commotion, or other event of the like nature within the Union of South Africa or in any neighbouring territory, to assume the control of the station, the company shall immediately hand over to the Government, upon its written request, the possession and control of the station with all its apparatus, equipment, appurtenances, stores and services, but in such event the company shall be entitled to claim from the Government an equitable financial adjustment in consideration of the loss and damage which it will sustain thereby, such adjustment to be arrived at by mutual agreement between the company and the Government or, failing such agreement, to be determined by arbitration as hereinafter mentioned.

10. The sites for the station shall be a sufficient distance inland to be immune from attack by gun-fire from the sea, and the Government shall, in so far as it deems reasonably possible, render to the company every assistance in its power in acquiring the land necessary to accommodate the station and any buildings connected therewith, as also the aerial and earth systems connected therewith.

11. The wireless rates from the Union to England shall in no case exceed the following:—

Full-rate messages .. .. .	One shilling and fourpence (1s. 4d.) per word.
Deferred messages .. .. .	Eightpence (8d.) per word.
Government messages .. .. .	Eightpence (8d.) per word.
Press messages .. .. .	Two pence and one farthing (2½d.) per word.

The company shall not enter into or be a party to any commercial trust or combine having the effect of maintaining high rates or stifling competition in rates.

12. In connection with its business as carried on at the station the company will, from time to time, furnish the Government with all such information as to its rates and charges for telegrams, the extent and condition of its business, its income and expenditure, and its financial position as the Government may from time to time reasonably require, having due regard to the ordinary staff and administrative capacity of the company, provided that such information shall, except for the purpose of this agreement and any determination of difference as is hereinafter mentioned or referred to, be treated as strictly private, and shall be in no way published or publicly made use of without the consent in writing of the company. The Government may at any time by notice in writing delivered to the company object to the rates or charges of the company or any of them on the ground that they are not just and reasonable, or request the company to make provision for specially low rates for traffic of a non-urgent character to be transmitted at such times as the service shall not be otherwise fully used, provided that in considering the introduction of such low rates due regard shall be paid to any difficulties on the part of the company in respect of the provision of staff and the necessity of maintaining the fully-paid service in a state of efficiency. If or when any such objection or requisition shall have been made the company and the Government shall be unable to agree as to the rates or charges which are the subject of objection or requisition, any such difference shall be determined by arbitration as hereinafter mentioned.

13. The rates for and regulations concerned communications between the station and stations erected and operated by the Imperial Government shall be fixed by agreement between the Union Government and the company after consultation between the Union Government and the Imperial Government.

14. The company shall undertake that South African traffic shall not be delayed as a result of retransmission of traffic from any other country.

STATUTES OF THE REPUBLIC OF SOUTH AFRICA — RADIO

Sch.

*Radio Telegraph Station Act, No. 11 of 1923*

Sch.

15. The company undertakes that the station shall be an integral part of the Imperial Wireless System, priority being given, as far as is consistent with the efficient working of the station, to communications with stations of the Imperial Wireless System.

16. The company shall operate the station in such a way as to facilitate the performance by the Government of its obligations under the International Radio Telegraphic Convention and the International Convention for the safety of life at sea.

17. The contractor agrees that it will do all things in its power to secure the erection maintenance and operation of a suitable corresponding station in the United Kingdom, and in the event of the acquisition by the Government of the station the contractor further guarantees to arrange for the continuance of the maintenance and operation of the English end of the service as theretofore.

18. During such time as the station and its services shall remain the property and under the control of the company, the company will undertake to embody and render available in the station from time to time such improvements in design and methods of working as may become available, such improvements including any necessary alterations in the station to be embodied without any detriment to or delay in the normal service of the station.

19. The company will undertake to arrange within a reasonable time for direct communication by the station with the new high power station in Australia and for distribution of South African traffic throughout the Commonwealth of Australia.

20. The company will further undertake to arrange for direct communication by the station with any other large high power station belonging to the allied wireless companies as may at any future date be in existence and operating in India, Canada, United States, Argentine, Brazil or elsewhere.

21. The company will undertake that the station shall not be sold or disposed of to or be passed under the control of any other concern without first obtaining the consent of the Government.

22. The company will undertake to employ South African nationals, wherever possible, in its business at the station at the commencement of operations, the ultimate object being that the whole service at the station shall be worked by South African personnel.

23. The Government will transmit to the station all messages handed in by the public for wireless transmission through the station, and will undertake similarly to transmit over its land lines all messages received at the wireless station subject to the usual charges made for inland telegrams. The Government further agrees to erect all necessary land lines connecting up the company's wireless transmitting and receiving stations with the central telegraph offices of the company, the company on its part undertaking to pay to the Government for the use of such lines a reasonable annual rental not exceeding the Government tariff in force for the provision of such services to other organizations or private persons.

24. The Government will arrange that the whole of the materials for the construction and erection of the station be landed in the Union duty free.

25. The company will agree that such portions of the station as can be manufactured within the Union shall be put out to local tender within the Union. Should such tenders compare favourably with prices ruling elsewhere preference will be given to South African manufacture.

26. For the purpose of this Agreement the company will guarantee in the case of the station a ten per cent. improvement in daily service over the Australian guarantee, which latter calls for a service throughout three hundred days of every year on a minimum basis of twenty words per minute (exclusive of repetitions) each way for twelve hours per day.

27. All disputes and questions whatsoever which shall, either during the continuance of this Agreement or of any agreement entered into in connection therewith, or afterwards, arise between the contractor and the Government or the company and the Government or their respective representatives touching these presents or any agreement entered into in connection therewith or the construction or application thereof, or any clause or thing therein contained, or any account, valuation or compensation to be made thereunder, or as to any act, deed or omission of any of the said parties, or as to any other matter in any way relating to the business or affairs or the rights, duties, or liabilities of any party under these presents or any such agreement as aforesaid, shall be referred to a single arbitrator in case the parties agree upon one, otherwise to two arbitrators, one to be appointed by each party to the difference in accordance with and subject to the provisions of the Arbitration Ordinance, No. 24 of 1904, of the Transvaal Province or any statutory modification thereof for the time being in force.

28. Nothing in this Agreement contained shall be deemed to preclude the Government from permitting the construction, maintenance or operation of any other station or apparatus for the purpose of establishing wireless communication or additional wireless communication between the Union of South Africa and any part of the world, or from granting a licence to, or entering into any agreement or arrangement with, any person or company for the establishment and operation of such a station.



STATUTES OF THE REPUBLIC OF SOUTH AFRICA — RADIO  
*Radio Telegraph Station Act, No. 11 of 1923*

Sch.

Sch.

29. If any of the material provisions of this Agreement are not carried out by the contractor or the company, the Government shall have the right to cancel this Agreement or to withdraw any licence issued to the company. In case of difference of opinion as to whether there is a breach of any material provision, the decision shall be determined by arbitration in terms of clause twenty-seven of this Agreement.

30. Either party to this Agreement shall, whenever called upon by the other party to do so, enter into, sign and execute or procure to be entered into, signed and executed all or any deeds, documents, writings or assurances which shall be necessary or advisable to be entered into, signed or executed on the part of either party or the company for carrying into effect the true intent and meaning of these presents.

31. This Agreement shall be subject to ratification by Parliament.

Signed in duplicate at Cape Town this 6th day of September, 1922.

(Sgd.) E. A. STURMAN,  
*Postmaster-General,*  
Union of South Africa.

Witnesses:

(Sgd.) WALTER HOPKINS.  
V. E. GRAY.

(Sgd.) HAROLD B. T. CHILDS,  
for Marconi's Wireless  
Telegraph Company, Limited.

Witnesses:

(Sgd.) J. H. WEAVER.  
H. E. PENROSE.

The Common Seal of Marconi's Wireless Telegraph Company, Limited, was hereunto affixed this Twelfth day of October, One thousand, nine hundred and twenty-two in pursuance of a Resolution of the Board of Directors at a Meeting held on the eleventh day of October, One thousand, nine hundred and twenty-two, and in the presence of the undersigned, being two Directors and the Secretary of the said Company.

(Sgd.) ADRIAN SIMPSON, } *Directors.*  
C. J. STEWART. }

(Sgd.) A. OGLE, *Secretary.*

SUPPLEMENTARY AGREEMENT

AGREEMENT made and entered into between EDWARD ALBERT STURMAN, in his capacity as Postmaster-General, and as such representing the Government of the Union of South Africa (hereinafter styled "the Government") of the one part, and MARCONI'S WIRELESS TELEGRAPH COMPANY, LIMITED, a company incorporated with limited liability under the Companies Laws of England, and having its Head Office at Marconi House, Strand, London (hereinafter styled "the contractor"), of the other part:

WHEREAS an Agreement between the said parties was entered into at Cape Town on the sixth day of September, 1922, whereby the contractor agreed to establish a South African Wireless Company (hereinafter called "the company") for the purpose of erecting, maintaining and operating a radio telegraph station:

AND WHEREAS it has been further agreed, subject to ratification by Parliament, to remove certain difficulties and uncertainties found to exist under the said agreement:

NOW THEREFORE it is hereby covenanted and agreed between the said parties as follows:

1. Clause 2 of the said agreement is hereby cancelled and annulled and the following new clause 2 is substituted therefor:

2. (1) The company shall confine its operations to the erection, maintenance and operation of a high-power radio telegraph station in the Union capable of establishing direct communication and suitable for duplex commercial working between the Union and Great Britain and other parts of the world, and matters incidental thereto, together with such other matters and things connected with radio telegraphy as may be approved by the Government.

(2) The capital of the company shall be Five Hundred Thousand Pounds sterling (£500,000), consisting of five hundred thousand ordinary shares of the nominal value of one pound (£1) sterling each; provided that the capital may either be increased or decreased by the contractor or the company with the consent of the Government.

STATUTES OF THE REPUBLIC OF SOUTH AFRICA — RADIO  
*Radio Telegraph Station Act, No. 11 of 1923*

Sch.

Sch.

(3) The contractor undertakes to subscribe and pay for at least four-fifths of the said shares at par, and to offer the remainder of the said shares for public subscription in South Africa at par, and in the event of any of the said last-mentioned shares not being subscribed the contractor undertakes to subscribe same.

(4) The company shall at all times have the right to the full use free from any payment, of all patents at present or in future owned or controlled by the contractor, or any licence or right to use any patent at present or in future held by the contractor under any contract or arrangement with any inventor or patentee, in so far as such patents or rights are capable of use in trans-oceanic or long distance communication, but the company shall not have a monopoly of the said patents or rights and the contractor shall be at full liberty to use same within the Union or to enter into any contract or arrangement with any person for the use of same within the Union unaffected by this agreement.

2. The flat rates mentioned in clause 6 of the said agreement shall be paid only for so long as the patent rights concerned shall not have expired.

3. The obligation on the company, contained in clause 6 of the said agreement, to supply to the Government any spare parts required, shall be an obligation on the contractor as well as on the company.

4. The patent rights referred to in clause 6 of the said agreement shall include any licence or right to use any patent, and the said clause is further hereby amended in manner following, namely:—

(a) by the addition in the first paragraph (a) thereof after the word "company" of the words "or the contractor", and

(b) by the deletion in the first paragraph (b) thereof of the word "and", and the substitution therefor of the word "or".

5. Notwithstanding anything contained in clause 10 of the said agreement the site for that portion of the station known as the receiving station shall be at any place selected by the contractor or company and approved by the Government.

Signed in duplicate at Cape Town this 8th day of March, 1923.

(Sgd.) E. A. STURMAN,  
*Postmaster-General,*  
Union of South Africa.

As Witnesses:

(Sgd.) WALTER HOPKINS.  
(Sgd.) J. P. A. VAN ASWEGEN.

(Sgd.) H. E. PENROSE,  
for Marconi's Wireless  
Telegraph Company, Limited.

As Witnesses:

(Sgd.) A. McLELLAN.  
(Sgd.) H. J. LENTON.

**BROADCASTING ACT  
NO. 22 OF 1936**

[ASSENTED TO 16 JUNE, 1936]

[DATE OF COMMENCEMENT: 1 AUGUST, 1936]

(Unless otherwise indicated)

*(Signed by the Governor-General in Afrikaans)*

as amended by

Finance Act, No. 17 of 1938

[with effect from 30 September, 1938—see title FINANCE.]

Broadcasting Amendment Act, No. 14 of 1949

Radio Act, No. 3 of 1952

Broadcasting Amendment Act, No. 34 of 1952

Broadcasting Amendment Act, No. 49 of 1960

Broadcasting Amendment Act, No. 60 of 1969

Broadcasting Amendment Act, No. 12 of 1972

General Law Amendment Act, No. 57 of 1975

[with effect from 1 October, 1975 — see title GENERAL LAW AMENDMENT ACTS.]

---

**ACT**

To provide for the control of broadcasting within the Republic and the Territory of South-West Africa, to establish the South African Broadcasting Corporation, to define its functions, powers and duties, to amend further the Radio Act, 1952, and to provide for other incidental matters.

[Long title amended by s. 5 of Act No. 14 of 1949 and by s. 19 of Act No. 60 of 1969.]

**1. Establishment of South African Broadcasting Corporation.**—As from a date to be fixed by the State President by proclamation in the *Gazette* there shall be established a body to be known as the South African Broadcasting Corporation (hereinafter referred to as the corporation), which shall be a body corporate, capable of suing and being sued in its corporate name and of performing all such acts as are necessary for or incidental to the carrying out of its objects and powers.

**2. Control board.**—(1) The operations of the corporation shall, subject to the provisions of this Act and of section 4 (1) of the Radio Act, 1952 (Act No. 3 of 1952), be managed and controlled by a control board (hereinafter referred to as the board) consisting of not more than nine or less than seven members, who shall be appointed by the State President, and shall hold office for such period not exceeding five years and on such conditions as he may, at the time of their appointment, determine.

[Sub-s. (1) substituted by s. 1 of Act No. 60 of 1969.]

(2) Any member shall be eligible for reappointment after the expiration of his term of office.

(3) The State President shall designate one of the members of the board so appointed to be chairman of the board and another to be vice-chairman thereof.

(4) Every appointment of a member of the board and every designation of a member of the board as chairman or vice-chairman of the board or as acting chairman under sub-section (6) of section *three*, shall be notified in the *Gazette*.

**3. Disqualification and vacation of and removal from office.**—(1) No person shall be appointed as a member of the board if he—

- (a) is an unrehabilitated insolvent; or
- (b) has been convicted of an offence and sentenced to death or to imprisonment without the option of a fine.

(2) A member of the board shall vacate his office if he—

- (a) becomes subject to a disqualification referred to in sub-section (1); or
- (b) gives notice in writing to the State President of his desire to resign office and his resignation is accepted.

(3) The State President may remove from his office any member of the board who—

- (a) has not complied with the conditions of his appointment; or
- (b) in the opinion of the State President has been guilty of improper conduct or is incapable of efficiently performing his duties; or
- (c) in the opinion of the State President has not taken all possible steps to cause an order of court made under this Act, by which the board is ordered to remedy a default, to be complied with; or
- (d) has been absent, without the permission of the chairman, from three consecutive meetings of members of the board of which he has had notice.

(4) Every vacancy caused by a member of the board's death, or by his vacation of or removal from office in terms of sub-section (2) or (3), shall be filled by the appointment of another member of the board who shall hold office for the unexpired portion of the period for which the member of the board, whose office has so become vacant, had been appointed.

(5) If the member of the board whose office has so become vacant was the chairman or vice-chairman of the board, the State President shall designate another member of the board as chairman or vice-chairman, as the case may be.

(6) The State President may, if circumstances so require, designate a member of the board to be acting chairman for such period and at such a salary, not exceeding the salary of the chairman, as the State President may determine.

**4. Report of designation of chairman, vice-chairman or acting chairman to be laid before Parliament.**—Whenever the State President has designated a member of the board as chairman, vice-chairman or acting chairman of the board, the Minister of Posts and Telegraphs (hereinafter referred to as the Minister) shall lay upon the Tables of both Houses of Parliament within seven days after such designation if Parliament is then in session or if Parliament is not then in session, within seven days after the commencement of its next ensuing session, a report containing a full statement of the qualifications of the member of the board concerned to be the chairman, or vice-chairman or acting chairman of the board.

**5. Remuneration of members of the board.**—(1) There shall be paid to the chairman, the vice-chairman and the other members of the board, respectively, out of the revenues of the corporation, such salaries as the State President may from time to time determine.

(2) There may be paid to the chairman, the vice-chairman and the other members of the board, respectively, out of the said revenues, such allowances for expenses incurred by them in the performance of their duties as the State President may from time to time determine.

[S. 5 amended by s. 1 (1) of Act No. 49 of 1960 and substituted by s. 2 of Act No. 60 of 1969.]

**6. Meetings of the board.**—(1) The first meeting of the board shall be held on a day and at a place to be appointed by the Minister.

(2) Subsequent meetings shall be held at such times and places as the members of the board may from time to time determine.

[Sub-s. (2) amended by s. 2 of Act No. 49 of 1960.]

(3) Special meetings may be convened by the chairman of the board and shall be convened by him upon the requisition in writing of at least three members of the board: Provided that the said requisition shall state clearly the purposes for which the meeting is to be convened.

(4) The meetings of the board shall be convened by notice given by the chairman of the board.

**7. Procedure and quorum.**—(1) The chairman shall preside at the meetings of the board, and in his absence from any meeting the vice-chairman shall preside. If both the chairman and the vice-chairman are absent from any meeting, the members of the board who are present may elect from amongst themselves a chairman to preside at that meeting.

(2) Four members of the board shall form a quorum at any meeting of the board.

(3) The decision of the majority of the members of the board present at any meeting shall constitute the decision of the board: Provided that in the event of an equality of votes the chairman shall have a casting vote in addition to his deliberative vote: Provided further that the vice-chairman when presiding at any meeting or a member of the board elected to preside at any meeting in terms of sub-section (1), shall have no such casting vote.

(4) Where for any reason it is not practicable to hold a meeting of the board for the transaction of any business of an urgent nature the assent of all the members signified in writing or by telegram to the doing of any act or thing or the giving of any order, direction, instruction, consent or approval or the exercise of any act of authority shall be as effective as and be deemed to be a decision of the board: Provided that a record of every such assent shall be entered in the minutes of the next meeting of the board.

**8. Minutes.**—(1) Minutes shall be kept of the proceedings of every meeting of the board.

(2) The minutes of a meeting shall be submitted to the next ensuing meeting and shall, if they are passed as correct, be signed by the chairman presiding at that meeting.

[Sub-s. (2) substituted by s. 3 of Act No. 60 of 1969.]

(3) Any record purporting to be the minutes of a meeting of the board held under this Act and purporting to have been signed by a person describing himself as the chairman, acting chairman, vice-chairman or presiding member of the board, shall upon its mere production by any person be received as *prima facie* evidence of the proceedings recorded therein.

**9. Vice-chairman and acting chairman.**—(1) The vice-chairman shall act as chairman whenever the chairman, or the acting chairman, if one has been designated, is unable to act and shall, subject to the provisions of sub-section (3) of section *seven*, when so acting, have all the powers and discharge all the duties of the chairman.

(2) An acting chairman shall have all the powers and discharge all the duties of the chairman.

**10. Validity of board's decisions and acts.**—No decision or act of the board or act done under the authority of the board, shall be invalid by reason only of the fact that the board did not consist of the full number of members for which provision is made in section *two*, or by reason only of the fact that a disqualified person sat or acted as a member of the board at the time such decision or act was taken, done or authorized: Provided that if a disqualified person sat or acted as a member of the board, such decision or act was taken, done or authorized by a majority of the members present at the time who were duly qualified to sit or act as members of the board.

**10bis. Committees of board.**—(1) The board may establish committees to assist it in the performance of its functions and duties and may appoint such members of the board as it may deem fit to be members of any such committee.

(2) The board may from time to time assign any of its powers to a committee so established and may assign any such power for such period and for such purposes and subject to such conditions and restrictions as it may deem expedient.

[S. 10bis inserted by s. 3 of Act No. 49 of 1960.]

**11. Advisory committees.**—(1) The board may from time to time appoint advisory committees at such places as it may deem fit to advise it with regard to matters connected with any service undertaken by the corporation.

(2) Any such advisory committee may at its discretion appoint advisory sub-committees.

[S. 11 substituted by s. 4 (1) of Act No. 49 of 1960 and by s. 4 of Act No. 60 of 1969.]

**12. Objects of the corporation.**—The objects of the corporation shall be—

(a) to carry on—

(i) a broadcasting service within the Republic and the Territory of South-West Africa;

(ii) subject to the approval of the State President, a television service within the Republic and the Territory of South-West Africa, and any undertaking which is subsidiary to such broadcasting or television service; and

(b) to undertake, at the request of the Minister and subject to such conditions as he may prescribe, the broadcasting of programmes for reception by listeners in any country or territory outside the Republic; and

(c) to supply, with the approval of the Minister and subject to such conditions and for such consideration as the corporation may, with the approval of the Minister, determine, programmes over wires to any person licensed by the Postmaster-General under section 78 of the Post Office Act, 1958 (Act No. 44 of 1958), to construct, maintain and work telegraph lines for the purpose of relaying to any person over such lines a programme so supplied.

[S. 12 substituted by s. 1 of Act No. 14 of 1949. Para. (c) added by s. 1 (b) of Act No. 34 of 1952 and substituted by s. 5 (b) of Act No. 60 of 1969.]

**13. Powers of corporation.**—(1) The corporation may, for the purpose of carrying out its objects—

(a) within or, with the approval of the Minister, outside the Republic and the territory of South-West Africa acquire or erect broadcasting or television stations or substations, and such studios or plant as may be required in connection with any such station, and acquire any equipment therefor or rights connected therewith;

[Para. (a) substituted by s. 6 (a) of Act No. 60 of 1969.]

(b) establish orchestras, bands and choirs, engage artists and performers, and provide or subsidize public concerts and performances;

(c) acquire copyrights and performing rights and deal therewith and dispose of the same;

[Para. (c) substituted by s. 6 (b) of Act No. 60 of 1969.]

(d) cause descriptions of or commentaries on current events to be broadcasted from the locality where they are taking place and enter into agreements with reference to the supply of news to the corporation for the purpose of broadcasted such news, with any news agency approved by the Minister;

(e) broadcast religious services and addresses;

(f) obtain from any government or body outside the Republic or the territory of South-West Africa, rights or concessions relating to the relay by the corporation of any item or programme broadcast by that government or body;

[Para. (f) amended by s. 2 of Act No. 14 of 1949 and substituted by s. 6 (c) of Act No. 60 of 1969.]

(g) acquire any exclusive or limited right to use any invention which may seem to the corporation to be capable of being beneficially used in connection with broadcasting, television or any other undertaking carried on by the corporation;

(h) compile, print, publish or distribute any literary matter and recordings relating to broadcasting, television or an undertaking carried on by the corporation;

[Para. (h) substituted by s. 6 (d) of Act No. 60 of 1969.]

(i) acquire any movable or immovable property or interest therein and erect any building which may be required by the corporation;

(j) deal with and dispose of any property of the corporation or interest therein;

(k) effect insurance of any of the corporation's interests;

(l) engage such officers and other employees as the corporation may deem necessary, determine their duties, salaries, wages, allowances or other remuneration and their conditions of service in general, and discharge them;

[Para. (l) substituted by s. 6 (e) of Act No. 60 of 1969.]

(IA) by means of the establishment of a housing fund or otherwise provide for the provision of housing to the officers and other employees of the corporation upon such terms and conditions as the corporation may determine;

[Para. (IA) inserted by s. 6 (f) of Act No. 60 of 1969.]

(m) establish or support associations or institutions for the promotion of the interests of its officers and other employees or their dependants, establish a bursary fund to finance or to assist in financing in the interests of the corporation the training or further training of existing or prospective officers and other employees of the corporation, establish an aid fund for the rendering of assistance to its officers and other employees or their dependants under such circumstances as the board may approve, and provide for its officers and other employees or their dependants, by means of insurance with an insurance company or a pension or provident fund or otherwise, pecuniary benefits upon retirement or termination of service or at any other time; and

[Para. (m) substituted by s. 6 (g) of Act No. 60 of 1969.]

(n) do any other thing which in the opinion of the board may be necessary for or incidental to the attainment of the corporation's objects, whether or not connected with any matter mentioned in the preceding paragraphs.

[Para. (n) substituted by s. 5 (a) of Act No. 49 of 1960.]

(1A) The corporation may at the end of every financial year of the corporation out of the moneys paid into the general fund pay into the housing fund and the bursary fund established under subsection (1) (IA) and (m), respectively, such sums as may be determined by the board, and may invest in stocks or securities approved by the Minister so much of the moneys in the housing fund and the bursary fund as is not required for immediate payment out of the said funds.

[Sub-s. (1A) inserted by s. 6 (h) of Act No. 60 of 1969.]

(2) Nothing in this section contained shall authorize the corporation to establish any postal, telegraph or telephone service.

(3) (a) Expenditure (as determined by the board) in connection with the compiling or broadcasting of programmes referred to in paragraph (a) of sub-section (7) of section *thirteen bis* shall not without the approval of the Minister exceed the total of the amounts received by the corporation—

(i) in respect of listeners' licences issued to Bantu persons, the amount whereof the Postmaster-General may determine in the manner he deems most suitable; and

(ii) from any other source in connection with the broadcasting of such programmes.

(b) Such expenditure shall include amounts expended on the remuneration and allowances of members of the Bantu Programme Control Board and advisory committees referred to in section 13*bis*.

[Sub-s. (3) added by s. 5 (b) of Act No. 49 of 1960. Para. (b) substituted by s. 6 (i) of Act No. 60 of 1969.]

**13*bis*. Bantu Programme Control Board.**—(1) The State President shall appoint a board to be known as the Bantu Programme Control Board, consisting of the chairman of the control board, *ex officio*, who shall be chairman, and not less than three or more than seven other members, who shall hold office for such period, not exceeding five years, and on such conditions as the State President may determine at the time of the appointments, and who shall be paid, out of the revenues of the corporation, such remuneration and allowances as the State President may from time to time determine.

(2) The provisions of sub-sections (1), (2), (3) and (4) of section *three* shall *mutatis mutandis* apply to the members of the Bantu Programme Control Board.

(3) The chairman shall preside at the meetings of the Bantu Programme Control Board, and in his absence from any meeting the person acting in his stead as chairman of the control board shall preside.

(4) A majority of the members of the Bantu Programme Control Board shall form a quorum at any meeting of that board.

(5) The decision of the majority of the members present at any meeting shall constitute the decision of the Bantu Programme Control Board: Provided that the chairman or other person presiding at any meeting shall have a casting vote in addition to his deliberative vote.

(6) The provisions of section *six*, sub-section (4) of section *seven*, sub-sections (1) and (2) of section *eight* and section *ten bis* shall *mutatis mutandis* apply in respect of the Bantu Programme Control Board.

(7) Notwithstanding anything to the contrary contained in this Act—

(a) the broadcasting of programmes by the corporation for reception by Bantu persons whether inside or outside the Republic; and

(b) the appointment of employees of the corporation for service exclusively in connection with the functions of the Bantu Programme Control Board or the compiling of such programmes,

shall be subject to the approval of the Bantu Programme Control Board.

(8) The Bantu Programme Control Board may from time to time appoint advisory committees at such places as it may deem fit, to advise it with regard to its functions, and any such advisory committee may at its discretion appoint advisory sub-committees.

[Sub-s. (8) substituted by s. 7 (b) of Act No. 60 of 1969.]

(9) The Bantu Programme Control Board, in consultation with the control board, may make regulations as to the constitution and duties of the advisory committees referred to in subsection (8), the meetings of such committees and the procedure to be followed at such meetings, and the remuneration and allowances payable out of the revenues of the corporation to the members of such councils.

[Sub-s. (9) substituted by s. 7 (b) of Act No. 60 of 1969.]

(10) Any dispute which may arise between the control board and the Bantu Programme Control Board in connection with the performance of its functions by the Bantu Programme Control Board, may be referred to the Minister whose decision shall be final.

[S. 13*bis* inserted by s. 6 of Act No. 49 of 1960.]

**14. Broadcasting programmes and English and Afrikaans culture.**—The corporation shall frame and carry out its broadcasting programmes with due regard to the interests of English, Afrikaans and Bantu culture.

[S. 14 amended by s. 7 of Act No. 49 of 1960.]



**15. Issue of licences to corporation.**—(1) The Postmaster-General shall issue to the corporation such licences under the Radio Act, 1952 (Act No. 3 of 1952), for broadcasting within the Republic and the territory of South-West Africa as may be necessary to enable the corporation to carry out its objects.

[Sub-s. (1) substituted by s. 8 (a) of Act No. 60 of 1969.]

(2) . . . . .

[Sub-s. (2) substituted by s. 3 of Act No. 14 of 1949 and deleted by s. 8 (b) of Act No. 60 of 1969.]

(3) Notwithstanding anything to the contrary contained in any law, the conditions subject to which the necessary licences shall be issued to the corporation in terms of sub-section (1), shall be determined and may be modified from time to time by the Minister, and no such licence shall be suspended or cancelled except with the consent of the Minister.

[Sub-s. (3) added by s. 3 of Act No. 14 of 1949 and substituted by s. 8 (c) of Act No. 60 of 1969.]

**16. Acquisition by the corporation of the assets and business of the African Broadcasting Company Limited.**—(1) The corporation shall acquire the assets and the business of the African Broadcasting Company Limited as a going concern on terms agreed upon by the Minister and the said company, and at a price fixed by arbitration in accordance with conditions agreed upon by the Minister and the said company: Provided that the said terms shall clearly provide that the assets so acquired include whatever copyrights and performing rights the said company may hold for broadcasting purposes, and that the corporation shall not be liable for any claim arising out of any breach of contract or violation of any right by the said company.

(2) No transfer duty shall be payable in respect of the transfer to the corporation of any immovable property acquired by the corporation in terms of sub-section (1).

(3) The corporation may issue to the said company stock or debentures for the full amount of the purchase price or any portion thereof.

(4) The said stock or debentures may be issued in such denominations as may be agreed upon by the corporation and the said company, shall bear interest at the rate of six per cent. per annum, and shall be redeemable half-yearly over a period not exceeding ten years as from the date of issue: Provided that the corporation may at any time, subject to three months' notice of its intention to do so being given to the holders of such stock or debentures by publication in the *Gazette*, redeem the whole of the said stock or debentures.

(5) For the payment of the interest on and the redemption of the said stock or debentures the corporation shall create an interest fund and a redemption fund and shall from time to time pay such amounts into the said funds as will be sufficient for the payment of the interest on and the redemption of the said stock or debentures upon the due dates.

(6) The corporation may invest so much of the said funds as is not immediately required for the payment of interest or for redemption, in stocks or securities approved by the Minister.

(7) The provisions of the Schedule to the Electricity Act, 1922, as amended, other than paragraphs 1, 3 and 5, sub-paragraph (1) of paragraph 7, paragraph 10, sub-paragraph (2) of paragraph 12, and paragraphs, 13, 14 and 23, shall *mutatis mutandis* and in so far as they are not inconsistent with the provisions of this Act, apply in respect of such stock and debentures: Provided that for the purposes of the application of the said provisions in respect of such stock or debentures, the word "Minister" shall be substituted for the word "State President", wherever it occurs therein.

**17. Payment of licence fees and fines to corporation.**—(1) As from the date upon which the corporation acquires the assets and business of the African Broadcasting Company Limited in terms of section *sixteen*, the Postmaster-General shall pay to the corporation—

(a) on the penultimate working day of each month so much of the licence fees and fines, which have been collected during that month and the collection of which has at that date been notified to the accountant of the Department of Posts and Telegraphs, as is due to the corporation in terms of section 15 of the Radio Act, 1952 (Act No. 3 of 1952); and

[Para. (a) substituted by s. 9 of Act No. 60 of 1969.]

(b) not later than the twentieth day of the following month, all other amounts due to the corporation in terms of the lastmentioned section which have been collected up to the end of the preceding month.

(2) The payment referred to in paragraph (b) of sub-section (1) shall be accompanied by a statement certified by the said accountant setting forth the total amount of the licence fees and fines which have been collected during the month in respect of which the payment is made, and the deductions which have been made from the said amount.

(3) The certificate of the said accountant as to the amount payable by the Postmaster-General to the corporation in respect of any month, shall be conclusive as to the amount so payable.

**17A. Free listeners' licences.**—(1) The corporation may, subject to the conditions prescribed by regulation which are referred to in section 7 (1A) of the Radio Act, 1952 (Act No. 3 of 1952), issue free listeners' licences which give the holders the right to receive by radio anything which is broadcast in a broadcasting service to such categories of educational, charitable and State institutions, and to such categories of hospitals and persons as the board may approve and prescribe by regulation under section 25 (1) (f), and the board may take such reasonable steps as it may think fit to satisfy itself whether a particular institution, hospital or person belongs to a category so prescribed or has ceased to belong thereto.

(2) The corporation may at any time withdraw a free listener's licence issued to any particular institution, hospital or person which or who in the opinion of the board has ceased to belong to a prescribed category referred to in subsection (1), and shall at the request of the Postmaster-General withdraw any free licence if the Postmaster-General has found that the holder thereof has contravened any provision of the Radio Act, 1952 (Act No. 3 of 1952), or of the regulations made thereunder, or any condition of such licence.

[S. 17A inserted by s. 10 of Act No. 60 of 1969.]

**18. Borrowing powers of the corporation.**—(1) The corporation may, with the approval of the Minister, raise moneys by way of a loan in such amounts as the Minister may authorize, for the purpose of—

- (a) defraying the cost of such matters as the corporation is empowered to undertake under section 13 (1) (a), (g) or (i); or
- (b) redeeming any stock or debentures issued by the corporation in terms of section 16 or the Schedule referred to in subsection (2).

(2) The provisions of the First Schedule to the Electricity Act, 1958 (Act No. 40 of 1958), shall *mutatis mutandis*, so far as they are not inconsistent with the provisions of this Act, apply in respect of all moneys raised by the corporation under this section: Provided that the corporation shall not be precluded from raising moneys also on the security of promissory notes: Provided further that for the purposes of the application of the said provisions in respect of such moneys, the word "Minister" shall be substituted for the words "State President", wherever they occur therein, and in paragraph 13 of the said Schedule the following subparagraph shall be substituted for subparagraph (c):

"(c) such other stock or securities as may be approved by the Minister."

(3) The Minister of Finance may, on such terms and conditions as he may determine, guarantee the interest on and the capital of the amount of any loan the corporation may raise.

(4) Any loss which may be incurred by the Minister of Finance in consequence of any guarantee given under subsection (3) shall be defrayed from moneys appropriated by Parliament for the purpose.

(5) The corporation may at any time raise short term loans, by way of overdrawing its account with a bank or otherwise, to meet any casual deficits that may arise from time to time in the general fund established under section 19.

[S. 18 amended by s. 11 of Act No. 60 of 1969 and substituted by s. 1 of Act No. 12 of 1972.]

**18bis. Exemption from income tax.**—(1) The income (including the income from investments) of the corporation shall be exempt from income tax.

(2) This section shall first take effect in respect of the year of assessment ended the thirtieth day of June, 1938.

[S. 18bis inserted by s. 29 of Act No. 17 of 1938.]

**18ter. Exemption from stamp duty on issue or transfer of marketable securities.**—Notwithstanding anything contained in the Stamp Duties Act, 1968 (Act No. 77 of 1968), no stamp duty shall be payable in respect of the issue or the registration of transfer of any marketable security by the corporation.

[S. 18ter inserted by s. 30 of Act No. 17 of 1938 and substituted by s. 12 of Act No. 60 of 1969.]

**19. General fund.**—The corporation shall establish a general fund into which all moneys received by the corporation shall be paid, and out of which all payments by the corporation, other than the payments to be made out of the reserve fund, or the development fund, or any interest, redemption, housing or bursary fund, shall be made.

[S. 19 substituted by s. 13 of Act No. 60 of 1969.]

**20. Reserve fund.**—(1) The corporation shall establish a reserve fund, and pay into that fund at the end of each financial year of the corporation, out of the moneys paid into the general fund, a sum determined by the board.

[Sub-s. (1) amended by s. 8 of Act No. 49 of 1960.]

(2) The said fund shall be utilized to defray the expenses of the replacement of any obsolete plant or equipment and of exceptional repairs to or the improvement of any plant or equipment used by the corporation, but shall not be utilized to defray the costs of the ordinary maintenance of any such plant or equipment.

(3) The corporation may invest the moneys in the said fund in securities approved by the Minister.

**21. Development fund.**—(1) The corporation shall further establish a development fund, into which shall be paid, at the end of each financial year of the corporation, so much of the amount by which the corporation's revenue exceeds its expenditure in that year after payments into an interest or redemption fund or into the reserve fund have been made, as the board may determine.

[Sub-s. (1) amended by s. 9 of Act No. 49 of 1960.]

(2) The development fund shall be utilized to meet expenditure for the defrayment of which the raising of a loan under section *eighteen* would otherwise be necessary.

(3) The corporation may invest the moneys in the said fund in securities approved by the Minister.

**22. Accounts.**—The corporation shall keep a proper record of its property and transactions and shall each year prepare accounts of its revenue and expenditure, and balance sheets showing in all necessary detail the assets and liabilities of the corporation as at the thirty-first day of December.

**23. Audit.**—(1) The Minister shall appoint two or more persons who publicly carry on the profession of accountants (hereinafter referred to as auditors) to examine the accounts of the corporation.

(2) The board shall produce and lay before the auditors all books and accounts of the corporation with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto.

(3) For the purposes of the audit, any such auditor may hear, and receive evidence upon oath (which oath any such auditor is empowered to administer) and may by summons under his hand require such persons as he may think fit to appear personally before him at a time and place to be stated in the summons and also to produce all such books and papers as may be necessary for such audit.

(4) Any person so required who having been paid or offered reasonable expenses, fails to attend, or who fails to produce such books and papers in answer to such summons,

and any person who, having appeared before an auditor, refuses to be examined on oath, or to take such oath, or having taken such oath, to answer to the best of his knowledge such questions as may be put to him, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds.

(5) Any person attending in answer to such summons shall be paid such witness fees and allowances as he would have been entitled to had he been attending a magistrate's court as a witness.

(6) The auditors shall—

- (a) disallow every payment made without due authority according to law and report the disallowance to the board;
- (b) surcharge so much of the unauthorized payment as is not condoned by the board, to the person who made or authorized the said payment;
- (c) charge against any person responsible therefor—
  - (i) so much of the amount of any deficiency or loss arising from the negligence or misconduct of that person as is not condoned by the board, if anything; or
  - (ii) so much of any amount which ought to have been but is not brought into account by that person as is not condoned by the board, if anything: Provided that no amount shall be condoned where such deficiency or loss is the result of theft or fraud by that person; and

[Para. (c) substituted by s. 10 of Act No. 49 of 1960.]

(d) certify in every case that the amount so charged or surcharged is correct.

(7) Every amount so certified by the auditors shall be paid by such person to the secretary or other officer appointed by the corporation within fourteen days after the said amount has been so certified, and if not so paid may be recovered from such person as a debt by the auditors.

(8) Any amount so recovered shall be paid to the secretary or other officer appointed by the corporation.

(9) The corporation shall pay to the auditors all reasonable costs incurred by them in so recovering the said amount.

(10) It shall be the duty of the auditors, in addition to the ordinary duties of auditors, to certify not less than once in every year—

- (a) whether or not, in their opinion—
  - (i) the accounts of the corporation are in order;
  - (ii) the said 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—
  - (i) the amounts to be paid into the funds established under this Act have been so paid;
  - (ii) all their requirements and recommendations as auditors have been complied with and carried out.

(11) The expenses of and incidental to any audit shall be borne by the corporation.

**23A. Expropriation of land or any right in or over land.**—(1) Notwithstanding anything to the contrary contained in any law, the corporation may with the approval of the Minister and subject to such conditions as he may impose, acquire by expropriation—

- (a) any land required for the site of a radio transmitter and the buildings, radio masts, power generators and other accessories and enclosure connected therewith;
- (b) any land required for an access road to such radio transmitter or for a wayleave for the construction and use of such road, and any right in or over land for the erection of power lines and the necessary wayleave for the erection, maintenance and inspection of such lines.

(2) The Minister shall not grant such approval unless he is satisfied, after consideration of a report by the board, that the corporation is unable to acquire such land or right upon reasonable terms by agreement with the owner and that it is necessary that such land or right be acquired by the corporation for the erection, maintenance and inspection of such radio transmitter with buildings, accessories, enclosure, access road and power lines.

(3) When the Minister has granted his approval for such an acquisition, the provisions of sections 4 to 13, inclusive, of the Expropriation Act, 1965 (Act No. 55 of 1965), shall apply *mutatis mutandis* in relation to such acquisition, and for the purposes of such application thereof any reference therein to the Minister and the State shall be construed as a reference to the corporation.

[S. 23A inserted by s. 14 of Act No. 60 of 1969.]

**24. Reports to the Minister.**—(1) The board shall, on or before the thirtieth day of April in each year, furnish to the Minister a report upon the work of the corporation during the year ending upon the thirty-first day of December of the preceding year together with a balance sheet and a complete statement of revenue and expenditure for that year, which have been duly audited and the report of the auditors, and shall in the report so furnished give particulars as to—

- (a) the book value of all classes of property owned by the corporation;  
[Para. (a) substituted by s. 15 of Act No. 60 of 1969.]
- (b) the amount of securities for loans still outstanding, and the interest thereon, whether paid or unpaid;
- (c) the position of any fund established under 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) the name of every member of a political party by whom any political speech broadcast, the name of the party of which he was the representative, the time allowed for the broadcast of the speech and the hour at which the broadcast took place; and
- (h) any other matter which the Minister may require the board to deal with.

(2) Every report furnished under sub-section (1) shall be laid by the Minister upon the Tables of both Houses of Parliament within seven days after it has been furnished to him, if Parliament is then in session or, if Parliament is not then in session, within seven days after the commencement of its next ensuing session.

**25. Regulations.**—(1) The board may make regulations as to—

- (a) the procedure to be followed at meetings of the board;
- (b) the constitution, remuneration or allowances and duties of the advisory committees referred to in section 11, the meetings of such committees and the procedure to be followed at such meetings;

[Para. (b) amended by s. 11 of Act No. 49 of 1960 and substituted by s. 16 (a) of Act No. 60 of 1969.]

(c) the employment duties, remuneration, conditions of service and dismissal of the officers and other employees of the corporation;

[Para. (c) substituted by s. 16 (a) of Act No. 60 of 1969.]

(d) the establishment, for the promotion of the interests of the said employees or their dependants, of any association or institution and the control thereof;

(e) the establishment and control of a pension, provident, housing, bursary or aid fund, the contributions to be paid by the corporation and the said officers and other employees respectively into any such pension, provident, housing, or bursary fund or under an insurance scheme undertaken by the corporation under section 13 (1) (m) and the pecuniary benefits which are to accrue to such officers and other employees or their dependants upon retirement or termination of service or at any other time, the contributions which may be paid by the corporation into the aid fund and the payment into the aid fund of any voluntary contributions received by the corporation for payment into the said fund; and

[Para. (e) substituted by s. 16 (b) of Act No. 60 of 1969.]

(f) the fees which shall be paid for the licences issued in terms of section 7 (1A) of the Radio Act, 1952 (Act No. 3 of 1952), and the categories of educational, charitable and State institutions and the categories of hospitals and persons to which or to whom free listeners' licences may be issued by virtue of and subject to the provisions of section 17A of this Act.

[Para. (f) amended by s. 4 (a) of Act No. 14 of 1949 and substituted by s. 16 (b) of Act No. 60 of 1969.]

(2) (a) Different fees may be prescribed under subsection (1) (f) for—

(i) different licences issued in terms of the different provisions of section 7 (1A) of the Radio Act, 1952, or, subject to the provisions of paragraph (b) of this subsection, licences issued in respect of different periods;

(ii) licences issued in terms of paragraph (b) of the said section 7 (1A) to persons who provide different quantities of sound radio sets or television sets or receiving points of a sound radio receiving system or a television receiving system, or different sound radio or television receiving apparatus or services, for the use of the other persons referred to in that paragraph;

(iii) licences issued in terms of paragraph (a) of the said section 7 (1A) to persons of different classes or categories;

(iv) licences issued in terms of the said paragraph (a) to persons in different areas.

[Para. (a) substituted by s. 8 (a) of Act No. 57 of 1975.]

(b) The fees so prescribed for a licence issued in terms of section 7 (1A) (a) of the Radio Act, 1952, may by virtue of the existence, in the case of any person of a class or category or in an area contemplated in paragraph (a) (iii) or (iv) of this subsection to whom such licence is issued, of circumstances so prescribed, be less than the fees so prescribed for such a licence issued to a person of the same class or category or in the same area in whose case those circumstances do not exist: Provided that such reduced fees prescribed in respect of the full period of a listener's licence year, as defined in section 1 of the said Act, shall in every case be payable, irrespective of the date on which the licence in question is issued.

[Sub-s. (2) substituted by s. 16 (c) of Act No. 60 of 1969. Para. (b) amended by s. 8 (b) of Act No. 57 of 1975.]

(3) No regulation made under subsection (1) (f) shall be of any force or effect unless approved by the Minister.

[Sub-s. (3) amended by s. 4 (b) of Act No. 14 of 1949 and substituted by s. 16 (d) of Act No. 60 of 1969.]

**26. Proceedings by Minister in case of non-compliance by corporation with this Act or conditions of licence.**—(1) If at any time it appears to the Minister that the corporation has failed to comply with any of the provisions of this Act or with the conditions of any licence issued to it, he may by notice in writing require the board to make good the default within a specified time.

(2) If the board fails to comply with such notice, the Minister may apply to a Superior Court having jurisdiction for an order compelling it to remedy the default, and the Court may make such order thereon as it thinks fit.

27. . . . .

[S. 27 repealed by s. 20 (1) of Act No. 3 of 1952.]

**28. Dissolution, execution and appointment of receiver.**—(1) The corporation shall not be placed in liquidation except by Act of Parliament.

(2) Subject to the provisions of the Schedule referred to in sections *sixteen* and *eighteen* and of sub-section (3), no execution or attachment or process in the nature thereof to enforce payment of a claim exceeding fifty pounds shall be issued against the corporation except with the consent of the Minister.

(3) Upon application to a superior court having jurisdiction by a creditor of the corporation for an amount exceeding fifty pounds which has remained unpaid for a period of three months after demand therefor has been made in writing, the court may appoint a receiver of the assets and revenues of the corporation and confer upon him such of the powers of the corporation as the court may deem expedient for raising and paying the amount due.

**29. Companies Act not to apply to corporation.**—The Companies Act, 1926, shall not apply to the corporation: Provided that the State President may by proclamation in the *Gazette* apply to the corporation any provision of the said Act which is not inconsistent with the provisions of this Act.

**29A. Application to South-West Africa.**—This Act and any amendment thereof and the regulations made thereunder from time to time shall also apply in the territory of South-West Africa, including the Eastern Caprivi Zipfel.

[S. 29A inserted by s. 17 of Act No. 60 of 1969.]

**30. Short title and commencement.**—This Act shall be called the Broadcasting Act, 1936, and shall come into operation upon the first day of August, 1936.

**BROADCASTING AMENDMENT ACT  
NO. 14 OF 1949**

[ASSENTED TO 5 APRIL, 1949]

[DATE OF COMMENCEMENT: 8 APRIL, 1949]

*(Afrikaans text signed by the Governor-General)*

---

**ACT**

**To amend the Broadcasting Act, 1936.**

1. Substitutes section 12 of the Broadcasting Act, No. 22 of 1936.
  - 2 to 4 inclusive. Amend respectively the following sections of the Broadcasting Act, No. 22 of 1936:—13, 15, 25.
  5. Amends the long title of the Broadcasting Act, No. 22 of 1936.
  6. **Short title.**—This Act shall be called the Broadcasting Amendment Act, 1949.
-



**BROADCASTING AMENDMENT ACT  
NO. 34 OF 1952**

[ASSENTED TO 29 MAY, 1952]

[DATE OF COMMENCEMENT: 4 JUNE, 1952]

*(Afrikaans text signed by the Governor-General)*

---

**ACT**

**To amend the Broadcasting Act, 1936.**

1. Amends section 12 of the Broadcasting Act, No. 22 of 1936.
  2. **Short title.**—This Act shall be called the Broadcasting Amendment Act, 1952.
-

**BROADCASTING AMENDMENT ACT  
NO. 49 OF 1960**

[ASSENTED TO 5 MAY, 1960]

[DATE OF COMMENCEMENT: 10 MAY, 1960]

*(Afrikaans text signed by the Governor-General)*

---

**ACT**

**To amend the Broadcasting Act, 1936.**

1. (1) Amends section 5 of the Broadcasting Act, No. 22 of 1936.

(2) The chairman, vice-chairman and each of the other governors of the board mentioned in section *two* of the principal Act, holding office as such at the commencement of this Act, shall continue to be paid the salary which he was immediately prior to such commencement being paid in terms of section *five* of the principal Act, until such time as the Governor-General determines a different salary in terms of the said section *five* as amended by sub-section (1) of this section.

2. Amends section 6 of the Broadcasting Act, No. 22 of 1936.

3. Inserts section *10bis* in the Broadcasting Act, No. 22 of 1936.

4. (1) Substitutes section 11 of the Broadcasting Act, No. 22 of 1936.

(2) Any local council or advisory sub-committee appointed before the commencement of this Act under section *eleven* of the principal Act and in existence at such commencement, shall be deemed to have been appointed as an advisory council or advisory sub-committee under the said section *eleven* as substituted by sub-section (1) of this section.

5. Amends section 13 of the Broadcasting Act, No. 22 of 1936.

6. Inserts section *13bis* in the Broadcasting Act, No. 22 of 1936.

7 to 11 inclusive. Amend respectively the following sections of the Broadcasting Act, No. 22 of 1936:—14, 20, 21, 23, 25.

12. **Short title.**—This Act shall be called the Broadcasting Amendment Act, 1960.

---

**BROADCASTING AMENDMENT ACT  
NO. 60 OF 1969**

[ASSENTED TO 16 MAY, 1969]

[DATE OF COMMENCEMENT: 1 OCTOBER, 1969]

*(English text signed by the State President)*

---

**ACT**

To amend the provisions of the Broadcasting Act, 1936, in relation to the establishment of the control board, the remuneration of members of the board and the powers of the board; to grant power to the South African Broadcasting Corporation in relation to the acquisition or erection of broadcasting stations outside the Republic and the territory of South-West Africa, the issuing of free listeners' licences to certain categories of educational and other institutions and persons, the exercise of powers of expropriation in respect of land, the establishment of a housing, bursary and aid fund, the raising of short term loans, and incidental matters; to apply the provisions of the said Act to the territory of South-West Africa; to substitute certain words occurring in the said Act; and to provide for incidental matters.

1. Amends Section 2 of the Broadcasting Act, No. 22 of 1936, by substituting subsection (1).
2. Substitutes Section 5 of the Broadcasting Act, No. 22 of 1936.
3. Amends Section 8 of the Broadcasting Act, No. 22 of 1936, by substituting subsection (2).
4. Substitutes section 11 of the Broadcasting Act, No. 22 of 1936.
5. Amends section 12 of the Broadcasting Act, No. 22 of 1936, as follows:—paragraph (a) amends paragraph (a) (ii) of the Afrikaans version; and paragraph (b) substitutes paragraph (c).
6. Amends section 13 of the Broadcasting Act, No. 22 of 1936, as follows:—paragraph (a) substitutes subsection (1) (a); paragraph (b) substitutes subsection (1) (c); paragraph (c) substitutes subsection (1) (f); paragraph (d) substitutes subsection (1) (h); paragraph (e) substitutes subsection (1) (l); paragraph (f) inserts subsection (1) (IA); paragraph (g) substitutes subsection (1) (m); paragraph (h) inserts subsection (1A); and paragraph (i) substitutes subsection (3) (b).
7. Amends section 13bis of the Broadcasting Act, No. 22 of 1936, as follows:—paragraph (a) amends subsection (7) of the Afrikaans version; and paragraph (b) substitutes subsections (8) and (9).
8. Amends section 15 of the Broadcasting Act, No. 22 of 1936, as follows:—paragraph (a) substitutes subsection (1); paragraph (b) deletes subsection (2); and paragraph (c) substitutes subsection (3).
9. Amends section 17 (1) of the Broadcasting Act, No. 22 of 1936, by substituting paragraph (a).
10. Inserts section 17A in the Broadcasting Act, No. 22 of 1936.
11. Amends section 18 of the Broadcasting Act, No. 22 of 1936, by adding subsection (3).

**12 and 13.** Substitute respectively sections 18*ter* and 19 of the Broadcasting Act, No. 22 of 1936.

**14.** Inserts section 23A in the Broadcasting Act, No. 22 of 1936.

**15.** Amends section 24 (1) of the Broadcasting Act, No. 22 of 1936 by substituting paragraph (a).

**16.** Amends section 25 of the Broadcasting Act, No. 22 of 1936, as follows:—paragraph (a) substitutes subsection (1) (b) and (c); paragraph (b) substitutes subsection (1) (e) and (f); paragraph (c) substitutes subsection (2); and paragraph (d) substitutes subsection (3).

**17.** Inserts section 29A in the Broadcasting Act, No. 22 of 1936.

**18. Substitution in Act 22 of 1936 of “board of governors”, “governor”, “governors”, “Governor-General” and “Union”.—**The principal Act is hereby amended by the substitution for the words “board of governors”, “governor”, “governors”, “Governor-General” and “Union”, wherever they occur, of the words “control board”, “member of the board”, “members of the board”, “State President” and “Republic”, respectively.

**19.** Amends the long title of the Broadcasting Act, No. 22 of 1936, by substituting the expression “1952” for the expression “1926”.

**20. Short title and commencement.—**This Act shall be called the Broadcasting Amendment Act, 1969, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

**BROADCASTING AMENDMENT ACT  
NO. 12 OF 1972**

[ASSENTED TO 15 MARCH, 1972]

[DATE OF COMMENCEMENT: 22 MARCH, 1972]

*(Afrikaans text signed by the State President)*

---

**ACT**

To amend the Broadcasting Act, 1936, in order to authorize the South African Broadcasting Corporation to raise moneys also on the security of promissory notes, and to authorize the Minister of Finance to guarantee any loan raised by the said Broadcasting Corporation; and to provide for incidental matters.

1. Substitutes section 18 of the Broadcasting Act, No. 22 of 1936.
  2. Short title.—This Act shall be called the Broadcasting Amendment Act, 1972.
-

CORPORATIONS ACT, 1985

*NTB*  
*see Act 19/1986*

ACT

(Xhosa and English texts signed by the President) (assented to on 25 November 1985).

To provide for the continuance of existing corporations and the establishment of other corporations; to prescribe their objects and powers; to make provision for their financing, control and management and to provide for incidental matters.

BE IT ENACTED by the President and the National Assembly of the Republic of Transkei, as follows:-

**Definitions.**

1. In this Act, unless the context otherwise indicates -

"alternate director" means an alternate director of a board;

"board" means the board of directors, constituted under section 5, of a corporation;

"corporation" means a corporation established under section 3(1) and includes a corporation established in terms of any law repealed by this Act;

"director" means a director of a board;

"financial year" means the period from the first day of April in any year to the thirty-first day of March in the year next succeeding, both days inclusive;

"Government" means the Government of the Republic of Transkei;

"Minister" means -

(a) the Minister to whom the administration of the provisions of this Act, other than sections 6, 7(2), 7(4), 8, 9 and 11, have been assigned under any law;

(b) in relation to sections 6, 7(2), 7(4), 8, 9 and 11, the Minister to whom the powers, duties and functions therein mentioned have been assigned in terms of sections 2(1) and 16;

*am. by*  
*S. 18/21/87*

"prescribed" means prescribed by regulation under this Act;

"the development corporation" means the development corporation established by section 2(1) of the Transkeian Corporations Act, 1976 (Act 10 of 1976);

"the pre-existing development corporation" means the Transkei Development Corporation Limited established by Proclamation R50 of 1976;

"Transkeian company" means a company in which all the shares are held by citizens of Transkei or by such citizens and one or more corporations and includes an association of persons of which only citizens of Transkei and one or more corporations, are members.

**Establishment of a corporation.**

2.(1) The President may, by proclamation in the *Gazette* and as from a date specified therein, establish a corporation in respect of -

(a) any commercial, financial, industrial or other business undertaking in Transkei; or

(b) any matter contemplated in item 19 of the Schedule to this Act,

and may for those purposes assign to such corporation one or more of the powers specified in the said Schedule.

(2) The President may, by proclamation in the *Gazette* -

(a) assign to a specific Minister the powers, duties and functions set out in sections 6, 7(2), 7(4), 8, 9 and 11 in respect of a corporation;

CORPORATIONS ACT, 1985

(b) amend, alter, restrict or add to the objects and powers of any corporation.

(3) A corporation shall be known by name given to it by the President in the proclamation by which it has been established.

(4) The registrar of companies shall enter the name of a corporation in his registers.

Objects of a corporation.

3. The objects of a corporation shall be to plan, finance and carry out, or to assist in planning, financing and carrying out, the undertaking or project for which it has been established.

Nature of a corporation.

4. A corporation shall be a corporate body with limited liability and perpetual succession and capable of suing or being sued in its own name.

Board of directors.

5.(1)(a) Subject to the provisions of this Act each corporation shall be under the management and control of a board of directors appointed by the President from amongst persons experienced in business and other administration or who are, by virtue of the offices held by them in the service of the Government or on other grounds, suitable in the opinion of the President for appointment.

(b) For the purposes of paragraph (a) the President -

(i) shall determine the number of directors of a corporation;

(ii) shall designate one of such directors as the chairman of a board;

(iii) may, if circumstances so require, appoint an alternate director to act in the place of any director during his absence or incapacity and who shall, when so acting, be competent to exercise any power or perform any duty of such director.

(c) No member of the National Assembly shall, at any time, be appointed as a director or alternate director of a corporation.

(2)(a) A director, other than a director *ex officio*, shall hold office on such conditions as to remuneration as the President may determine and on such other conditions as may be prescribed.

(b) An alternate director shall be remunerated, in such manner as a board may resolve, out of the remuneration (if any) which is or would have been due to the director in whose place he is acting.

(3) The President shall determine the period of office of the chairman and the other directors of a board.

(4) No director or alternate director shall be personally liable for any loss or damage which may occur in or in connection with the performance of his duties unless such loss or damage was due to his wilful misconduct, dishonesty, gross negligence or failure to comply with any provision of, or any direction or decision under, this Act or any regulation made thereunder.

Exercise of powers by board  
subject to Minister's direc-  
tion.

6.(1) A board may, at any time, submit to the Minister for decision any matter relating to the powers of a corporation and shall do so when the Minister so requires.

(2) The Minister may, after consultation with the board, refer the matter to the President for his consideration.

(3) The President when giving a decision may impose such conditions as he may deem fit.

CORPORATIONS ACT, 1985

(4) A decision given or condition imposed by the President under subsection (3) shall be deemed to have been given or imposed by the board: Provided that no such decision or condition may be withdrawn or amended by the board except with the approval of the President.

Share capital, shares and shareholders.

6A  
Ins. by S. 2/19/86  
7.(1) The initial share capital of a corporation, which shall be divided into ordinary shares of one rand each, shall consist of such sum of money as specified by the Minister by notice in the *Gazette* after consultation with the Minister of Finance.

(2) The Minister may, from time to time, by notice in the *Gazette* and after consultation with the Minister of Finance, alter the share capital of a corporation.

(3) Only the Government and other corporations shall be capable of becoming shareholders in a corporation.

(4) Subject to the provisions of the Transkeian Development and Reserve Fund Act, 1964 (Act 3 of 1964) and any other law, the shares in a corporation shall, to the extent to which it may be necessary, be paid for out of moneys appropriated by the National Assembly for the purpose and payment for such shares shall be made at such times and in such amounts as may be agreed upon between the Minister and the board.

(5) The liability of a shareholder in a corporation shall in each case be limited to the amount remaining unpaid on the shares which such shareholder holds.

Financial matters.

8.(1) The expenditure of a board, including the remuneration of directors and alternate directors, shall be met from the funds of the corporation concerned.

(2) A corporation shall apply all its income and property and all its profits exclusively to the promotion and attainment of its objects and no dividend shall be paid to a shareholder: Provided that the Minister may direct that the profits or any portion of the profits of a corporation shall be paid to a specified corporation or to the Transkeian Development and Reserve Fund established by section 2 of the Transkeian Development and Reserve Fund Act, 1964.

(3) No tax or charge on income imposed by or under any law shall be payable by a corporation.

(4) Any property, movable or immovable, acquired or taken over by a corporation from any other corporation or any person under any powers conferred on it under section 2 shall vest in the corporation, without payment of transfer duty, stamp duty or any other fee or impost but subject to any existing charge or obligation in so far as the same has not lapsed by merger as a result of such vesting.

(5) The registrar of deeds shall upon production to him of the title deed of any immovable property referred to in subsection (4) endorse the same to the effect that such property is vested in the corporation, and make the necessary entries in his registers.

Guarantee in connection with certain loans.

9. The Minister may, on such conditions as he may determine and after consultation with the Minister of Finance, guarantee the repayment of the capital of, and the payment of the interest on, and any charges incurred in connection with, any loan negotiated or to be negotiated by a corporation.

Accounts and audit.

10.(1) A board shall cause proper books of account to be kept in respect of all the affairs of a corporation, as well as such other books and documents as may be necessary for the purpose of maintaining an adequate record of such affairs.

(2) The accounts of all corporations shall be audited by the Auditor-General.



CORPORATIONS ACT, 1985

Annual report.

11.(1) A board shall, as soon as practicable after the end of every financial year, submit to the Minister -

- (a) the balance sheet and a statement of the income and expenditure of the corporation;
- (b) a report signed by the Auditor-General stating that on the information supplied to him and to the best of his knowledge and belief, such balance sheet and statement of income and expenditure are true and correct: Provided that, if the Auditor-General is unable to make such a report or to make it without qualification he shall set out in such report either the circumstances which prevent him from making such a report or the qualification itself; and
- (c) a report of the board on the operations of the corporation during the financial year in question.

(2) The Minister shall lay a copy of the balance sheet, statement of income and expenditure and reports referred to in subsection (1) on the Table of the National Assembly, within one month after the receipt thereof by him if the Assembly is then in ordinary session or, if the Assembly is not then in ordinary session, within one month after the commencement of its next ensuing ordinary session.

Regulations.

12.(1) The President may make regulations as to -

- (a) the conditions of service and the powers and duties of the chairman, acting chairman, and other directors, and the quorum and procedure at meetings, of a board;
- (b) the keeping of the accounts and other records referred to in section 10(1);
- (c) the official seal of a board and the use thereof;
- (d) the preparation and submission of the balance sheet, statements and reports referred to in section 11(1);
- (e) the service of notices;
- (f) any other matter whatsoever which the President may consider it necessary or useful to prescribe for the attainment of the objects of this Act.

(2) Different regulations may be made for different corporations or boards.

Liquidation of a corporation.

13. A corporation shall not be liquidated except by or under authority of an Act of the National Assembly.

Exclusion of provisions of certain laws.

14. No provision of the Companies Act, 1973 (Act 61 of 1973) shall apply to a corporation.

Prohibition against use of name of a corporation.

15.(1) No person and no company shall carry on any business or be registered in terms of any law under a name which is the same as that of a corporation or so closely resembles it as to be calculated to deceive.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand.

Assignment of Ministerial powers, duties and functions.

16. In respect of existing corporations the President may by proclamation in the *Gazette* assign to a specific Minister the powers, duties and functions set out in sections 6, 7(2), 7(4), 8, 9 and 11 in respect of a specific corporation.

*Added by S. 3/19/1986*

## CORPORATIONS ACT, 1985

Repeal of laws and savings.

17.(1) The Transkeian Corporations Act, 1976 (Act 10 of 1976); the Corporations Amendment Act, 1977 (Act 3 of 1977); the Corporations Amendment Act, 1978 (Act 7 of 1978) and the Corporations Amendment Act, 1980 (Act 16 of 1980) are hereby repealed.

(2) Notwithstanding the provisions of subsection (1) the development corporation and any corporation established in terms of the Transkeian Corporations Act, 1976 shall continue to -

- (a) exist under the management and control of their existing boards of directors and under their terms of establishment, registration and allotted names; and
- (b) exercise the powers, duties and functions which they exercised under the repealed legislation subject to the provisions of sections 2 and 6:

Provided that unless the President has directed otherwise the conditions and period of office of the directors of the board which applied immediately prior to the commencement of this Act shall continue to apply and shall be deemed to have been determined by the competent authority under the provisions of section 5.

(3) No provision of this section shall be construed as affecting any right or obligation acquired or incurred by the pre-existing development corporation or an existing corporation under any contract or agreement entered into prior to the commencement of this section and the provisions of the law which applied in respect of any such contract or agreement shall continue so to apply: Provided that, for the purposes of the application of such law to any agreement relating to the indemnification of any person against any loss, the reference to any Minister of the Republic of South Africa shall be construed as a reference to the corresponding Minister in the Government of Transkei.

(4) Any regulation made or anything done under any law repealed by subsection (1) shall, unless inconsistent with the provisions of this Act, be deemed to have been made or done under the corresponding provisions of this Act.

Short title and date of commencement.

18. This Act shall be called the Corporations Act, 1985 and shall come into operation on a date to be fixed by the President by proclamation in the *Gazette*.

### SCHEDULE (Section 2)

#### POWERS WHICH MAY BE ASSIGNED TO A CORPORATION

1. To pay all expenses in connection with its establishment and administration.
2. To employ persons and remunerate them.
3. To prescribe the general conditions of service of its employees, including conditions relating to retirement and sick benefits, housing and accommodation and to prescribe a disciplinary code for such employees.
4. To suspend or discharge its employees.
5. To open banking accounts.
6. To purchase, hire or otherwise acquire land or buildings, to erect buildings on its land, to sell, let or otherwise dispose of or to mortgage such land or buildings.
7. To purchase, hire or otherwise acquire, take over or hold movable property of any kind, including any shares, stocks, debentures and securities of any person in Transkei or any interest in any business of or a mortgage over any property of such person, and to let, sell or otherwise alienate it or pledge it or to

CORPORATIONS ACT, 1985

8. To establish and carry on any business or undertaking in Transkei in any field of activity referred to in section 2(1) or to acquire any such business or undertaking from any other corporation or from any person who is not a citizen of Transkei and to sell or otherwise dispose of any such business or undertaking to any Transkeian company or to any person who is a citizen of Transkei.
9. To establish or assist in establishing Transkeian companies in the aforesaid fields of business.
10. To provide capital and other means to citizens of Transkei and to furnish technical and other assistance and expert and specialized advice, information and guidance.
11. To plan, promote, undertake or finance the training of citizens of Transkei in any field of activity referred to in section 2(1).
12. To lend money to citizens of Transkei with or without security as it may deem necessary.
13. To accept donations.
14. To guarantee or become surety for the due fulfilment of the contracts and obligations of any citizen of Transkei or any industrial, commercial, agricultural or financial undertaking established by or with the assistance of the development corporation or any other corporation and for that purpose to enter into surety bonds or other deeds of security for and on behalf of any such citizen or undertaking.
15. To indemnify any person who has established any business undertaking in Transkei against any loss which such person may suffer in connection with such undertaking and which is not insurable and in respect of which such person has no effective right to damages.
16. To act as a broker or to act as a director, manager, trustee, curator, executor or administrator of any business, estate, trust, company, juristic person or citizen of Transkei or to designate a person or persons to act for that purpose on its behalf.
17. To act where necessary to protect its interests or by legal process to cause any company or juristic person in which it has any share or interest to be liquidated or placed under judicial management and for that purpose to accept appointment as liquidator or judicial manager and to petition a court of competent jurisdiction to sequestrate the estate of any of its debtors.
18. To act as agent in any matter for or on behalf of any citizen of Transkei in connection with all or any of its objects or itself to appoint agents or representatives in connection with any of its objects.
19. To inaugurate, plan, finance, promote or carry out, or to assist in planning, financing, promoting or carrying out, any project for the economic development of Transkei or its peoples or any part thereof, or for the exploitation, development or utilization of any natural or other resource whatsoever, including *inter alia* agriculture, forestry, the maintenance, conservation and use of water supplies, the development of power and the provision of means of transport.
20. To lend money and on such conditions as the Minister to whom the administration of the particular corporation has been assigned may determine in consultation with the Minister of Finance, to raise or borrow money.
21. To exercise any other power which is necessary for or incidental to the exercise of any of the aforementioned powers or which may be considered necessary for the attainment of the objects of the corporation and which may be conferred upon it by the President by proclamation in the *Gazette*.

ISAZISO SIKARHULUMENTE

No. 143

Ngokwenjenje kuyaziswa okokuba iPrezidanti iwuvumile lo Mthetho ulandelayo obhengezwa apha ukuze waziwe ngokubanzi.

UMthetho oFakela imiBandela kuMthetho ngokuBanzi, 1985 (uMthetho No. 22 wowe 1985).

GOVERNMENT NOTICE

No. 143

It is hereby notified that the President has assented to the following Act which is hereby published for general information.

General Law Amendment Act, 1985 (Act No. 22 of 1985).

**BOPHUTHATSWANA BROADCASTING CORPORATION ACT  
NO. 30 OF 1989**

[ASSENTED TO 4 OCTOBER, 1989]

[DATE OF COMMENCEMENT: 1 APRIL, 1989]

*(English text signed by the State President)*

**ACT**

To establish the Bophuthatswana Broadcasting Corporation for the purpose of operating and carrying on broadcasting services in the national public interest; to define the further objects of that Corporation and its functions, operations and business in pursuit of its objects; to determine the funding and financing of that Corporation and define its financial responsibilities; to provide for the management, control and representation of that Corporation by a Board of Directors and to define the powers, functions and duties of that Board; and to provide for incidental matters.

1. **Definitions.**—(1) In this Act, unless inconsistent with the context—

“**broadcasting service**” means a telecommunication service of transmissions consisting of sounds, images, signs or signals which takes place by means of radio and is intended for reception by the general public, and “**broadcast**” shall be construed accordingly;

“**director**” means any person who, in terms of section 3 (2), is a member of the Board;

“**Deputy Director General**” means any person appointed in terms of section 20 as Deputy Director General;

“**Director General**” means the Director General appointed for the Corporation in terms of section 18, and includes any Deputy Director General or other officer of the Corporation who—

- (a) on the authority and subject to the directions (if any) of the Director General, acts on his behalf; or
- (b) during the absence or incapacity of the Director General or when the office of the Director General is vacant, has been duly authorised by the Board to act in the stead of the Director General;

“**financial year**”, in relation to the Corporation, means the period of twelve months commencing on the first day of April in any year and ending on the thirty-first day of March first following, both days inclusive;

“**Minister**” means the Minister of Posts and Telecommunications and Broadcasting;

“**staff**”, in relation to the Corporation, includes the Director General and any Deputy Director General;

“**the Board**” means the Board of Directors for the Corporation, referred to in subsection (1) of section 3 and constituted in accordance with the provisions of subsection (2) of that section; and

“**the Corporation**” means the Bophuthatswana Broadcasting Corporation established by section 2 (1).

(2) For the purpose of this Act, the transmission of programmes by means of cables or wires shall be deemed to be a broadcasting service, in which event the meaning of "broadcast" shall be extended accordingly.

**2. Establishment and objects of Bophuthatswana Broadcasting Corporation.**—(1) There is hereby established the Bophuthatswana Broadcasting Corporation which shall, under that name, be a body corporate and, for the purposes of attaining its objects and exercising and performing its powers, functions and duties under this Act, be capable in law of instituting or defending or opposing legal proceedings of whatever nature, of purchasing or otherwise acquiring and holding and alienating movable and immovable property and any other real rights or other rights or interests, of entering into contracts and concluding agreements, and, generally, of performing such other acts and doing such other things as bodies corporate may by law perform and do, subject to the provisions of this Act.

(2) The objects of the Bophuthatswana Broadcasting Corporation shall be—

- (a) to establish, operate and carry on broadcasting services in the Republic, and, to that end, to continue the operation and carrying on of all such radio and television services as, immediately prior to the commencement of this Act, were, in terms of the Broadcasting Act, 1978 (Act 22 of 1978), being operated and carried on by the State through its Department of Broadcasting;
- (b) subject to the provision of this Act, to broadcast programmes for reception in any foreign country or territory;
- (c) to transmit programmes by means of cables or wires for reception by members of the public in general or any category of persons in a particular area or at any particular place:

Provided that, in the carrying out of its broadcasting operations in pursuit of the objects stated in this subsection, the Corporation shall ensure that its broadcasts include a reasonable input of programmes whereby due and substantial cognizance is taken of the Batswana culture and the distinctive interests of the Batswana people.

(3) Subject to the provisions of this Act, all policy matters as well as guidelines pertaining to the broadcasting services of the Corporation and the achievement of its objects envisaged by subsection (2), shall be determined and formulated by the Board of Directors referred to in section 3.

(4) The Corporation may not, by virtue of the provisions of this section or section 23, perform any act or do anything for which a licence is required in terms of section 78 of the Post Office Act, 1958 (Act 44 of 1958), or section 4 of the Broadcasting Control Act, 1989, unless it has obtained the licence in question and complies with the conditions thereof, subject to the provisions of section 35 (4).

**3. Composition and appointment of Board of Directors.**—(1) Subject to the provisions of this Act, the Corporation shall be managed, controlled and represented by a Board of Directors constituted in terms of this section, and all acts of that Board shall in law be regarded as the acts of the Corporation.

(2) The Board of Directors shall consist of—

- (a) the following members (directors) appointed by the Minister, namely—
  - (i) a chairman and a vice-chairman; and
  - (ii) not less than four and not more than six additional members; and
- (b) the Director General, who shall be a member *ex officio*.

(3) The directors referred to in paragraph (a) of subsection (2) — hereinafter referred to as appointed directors — shall be appointed on such terms and conditions and for such period (not exceeding five years) as the Minister may in respect of each such director determine and cause to be specified in such director's letter of appointment, subject to the provisions of section 6.

(4) Upon the expiration of the term of office of an appointed director, he shall be eligible for reappointment.

**4. Remuneration and reimbursement of directors.**—(1) The appointed directors shall be paid such remuneration and be accorded such perquisites, benefits and privileges (if any), as may from time to time be determined by the Minister in consultation with the Minister of Finance.

(2) The directors shall be entitled to be reimbursed for any travelling and subsistence expenses reasonably incurred by them in connection with the performance of their functions and duties as directors, and may for that purpose be paid such allowances as the Minister may from time to time determine in consultation with the Minister of Finance.

(3) The Minister may, when exercising his powers under subsection (1), differentiate between the various directors regarding the remuneration, perquisites, benefits and privileges determined for each under that subsection.

**5. Disqualifications of Directors.**—Notwithstanding the provisions of section 3, a person shall be disqualified from being appointed or remaining a director—

- (a) if he is subject to a final order of court whereby his estate is sequestrated under the Insolvency Act, 1936 (Act 24 of 1936), or if his estate is sequestrated in terms of the laws of any other country or territory by a competent court or authority of such a country or territory, or he has assigned his estate for the benefit of his creditors;
- (b) if he is subject to an order of a competent court declaring him to be insane or mentally disordered or defective; or
- (c) if he has been convicted of any offence whatsoever in respect of which he was sentenced to imprisonment without the option of a fine for a period of not less than six months, irrespective of whether such imprisonment was wholly or partly suspended or not, unless he has received a grant of amnesty or a free pardon, or unless the period of such imprisonment or suspension has expired at least ten years before the date of his appointment as a director.

**6. Removal and resignation from office of director.**—(1) Notwithstanding the provisions of section 3 (3), the term of office of any appointed director may, before the expiration thereof, be terminated by the Minister (whereupon the director concerned shall be removed from office)—

- (a) on account of his misconduct;
- (b) for unfitness for the duties of his office;
- (c) on the ground of a permanent infirmity of mind or body which renders him incapable of discharging the duties of his office or discharging them properly;
- (d) if he is or has become disqualified in terms of section 5.

(2) A director may at any time resign from the Board upon one month's written notice tendered to the Minister.

**7. Vacancies in Board.**—(1) The office of an appointed director shall become vacant—

- (a) when he dies;
- (b) when his written resignation tendered to the Minister in terms of section 6 (2), becomes effective;
- (c) when his term of office is terminated in terms of section 6 (1);
- (d) if he has been absent from two consecutive meetings of the Board without its prior consent or that of the chairman.

(2) Any vacancy in the Board occurring in terms of subsection (1), shall be filled by the appointment of another director by the Minister in terms of this Act, as soon as may be reasonably practicable after the occurrence of such vacancy, and any director so appointed shall remain in office for the unexpired portion of his predecessor's term of office.

**8. Chairmanship.**—(1) The chairman of the Board shall, subject to the provisions of this section, preside at the meetings of the Board.

(2) The vice-chairman of the Board shall preside at its meetings and exercise and perform the powers, functions and duties of the chairman whenever the office of chairman is vacant or the chairman is absent or incapacitated or refuses or fails to act, and whenever the offices of both the chairman and vice-chairman are vacant or both the chairman and vice-chairman are absent, incapacitated or refuse or fail to act, the remaining directors shall from their number (including any person appointed in terms of subsection (3) as an acting director) designate a person to preside at the meetings of the Board and to exercise and perform the powers, functions and duties of the chairman for as long as such vacancies exist or any of the other aforementioned circumstances subsist.

(3) Whenever it comes to the notice of the Minister that, in consequence of the existence of vacancies in the Board or the absence or incapacity of directors or any refusal or failure to act, as contemplated by subsection (2), the number of remaining directors do not, pending the filling of such vacancies or the termination of any of the circumstances hereinbefore mentioned, constitute a quorum, the Minister may appoint not less than such number of persons as are required to constitute such a quorum, but not more than such number of persons as are equal to the difference between the full complement of the Board and the remaining directors, to act as directors for the period during which such vacancies exist or such circumstances subsist, in order to enable the Board to exercise and perform its powers, functions and duties in terms of this Act.

**9. Meetings of Board.**—(1) The meetings of the Board shall be held on such dates and at such times and places as may be determined by resolution of the Board whenever it is necessary so as to conduct its business expeditiously, but not less than ten times in each year.

(2) The chairman may at any time call for a special meeting of the Board if, in his opinion, it is justified by the circumstances and shall, upon having been presented with a requisition for that purpose signed by at least two directors, forthwith call for a special meeting, and if the chairman fails to convene such a lastmentioned special meeting within seven days as from such presentation, such two directors may, on the expiration of such seven days, convene a special meeting.

(3) Notice of each meeting of the Board shall be given to all the directors in such manner and form as the Board may from time to time determine.

(4) The chairman or any other person who, in terms of section 8 (2), acts as chairman, shall determine the procedure at the meeting over which he presides.

**10. Quorum and decisions of Board, and voting powers of chairman.**—(1) A majority of the total number of directors shall constitute a quorum at any meeting of the Board.

(2) The decision of a majority of the directors present at any meeting of the Board shall, subject to the provisions of subsection (1), constitute a decision of the Board to be known as a resolution.

(3) In the event of an equality of votes in regard to any matter put to the vote, the chairman of the Board or person acting as chairman in terms of section 8 (2), shall have a casting vote in addition to his deliberative vote.



**11. Procedure where Board unable to meet timeously in respect of urgent matters.—**

(1) Whenever any matter to be dealt with by the Board is of such a nature that it requires the immediate and urgent decision of the Board and the circumstances are such that it is not possible for the Board to meet timeously, then all the relevant documentation and memoranda setting out fully the matter to be dealt with shall be submitted by the chairman for consideration by each director who is found to be available after due endeavours have been made to find all of them, and any decision agreed upon by a majority of the total number of directors shall, subject to the provisions of subsection (2), be regarded as the decision of the Board in regard to such matter.

(2) A decision contemplated by subsection (1), shall be ratified by the Board at its next ensuing meeting, and shall be recorded in the minutes of that meeting.

**12. Committees of Board.—**(1) The Board may from time to time on the recommendation of the Director General appoint committees for the purpose of assisting it in the due and proper exercise or performance of any such specific power, function or duty, conferred or imposed on the Board by or in terms of this Act, as may be assigned to such committee, and the Board may likewise dissolve, extend, enlarge or limit any committee so appointed.

(2) A committee appointed under subsection (1), shall consist of such directors as are appointed by the Board for that purpose and, if deemed necessary or appropriate by the Board, a maximum of three other persons so appointed by virtue of being regarded by the Board as suitably and appropriately qualified and experienced in regard to matters relating to the objects of the committee in question, and the Board shall designate one of such directors as chairman of such committee.

(3) A committee appointed in terms of this section may, if deemed necessary in the circumstances, co-opt any person who, by reason of his qualifications, expertise, knowledge or experience, may assist such committee in the performance of its functions and duties: Provided that the persons so co-opted may not constitute a majority of the total number of members of any such committee and shall not have the right to vote at any meeting thereof.

**13. Provisions specially relating to committees of Board.—**(1) The chairman of any committee of the Board contemplated by section 12 (hereinafter referred to as a committee), shall from time to time determine the procedure at, and appoint the dates, times and places for, meetings thereof.

(2) The provisions of sections 8 (1) and (2), 9 (2) and (3) and 10 shall *mutatis mutandis* apply in relation to a committee.

(3) The chairman of a committee shall, in respect of each financial year, submit to the Board at its first meeting held after the end of such financial year, a written report in regard to the work and functions performed by and the activities and achievements of such committee and the expenditure incurred by it (if any) in connection therewith, and, where applicable, set out the programmes, projects and priorities of such committee for the next ensuing financial year and an estimate of the expenditure to be incurred in that regard.

(4) (a) The members of a committee who are not directors and are not in the full-time service of the Corporation or the State, shall, in connection with the performance of their functions and duties as members of such committee, be paid such remuneration and allowances (if any) as the Board in consultation with the Minister may from time to time determine.

(b) The provisions of section 4 (2) shall *mutatis mutandis* apply in relation to members of a committee who are neither directors nor in the full-time service of the State.

**14. Broadcasting Advisory Committee.**—(1) There is hereby established the Broadcasting Advisory Committee, the functions of which shall be to advise the Minister and the Board in regard to all matters relevant to the demands, views and cultural values of the broadcast audience in the Republic, generally, and of the broadcast audience of the Corporation, specifically.

(2) (a) The Broadcasting Advisory Committee shall consist of the Director General, who shall be a member *ex officio*, and of not more than seven and not less than five other members, who, subject to the provisions of subsection (5), are from time to time appointed by the Minister, which appointment shall be for such period and upon such terms and conditions as the Minister shall determine and cause to be specified in a letter of appointment to be issued to each of such appointed members.

(b) When exercising his powers of appointment under paragraph (a), the Minister may differentiate between the various appointed members of the Broadcasting Advisory Committee regarding their respective periods of appointment and/or the terms and conditions determined for each under that paragraph.

(3) The Minister shall, from the number of the members of the Broadcasting Advisory Committee, designate one as chairman and another as vice-chairman thereof.

(4) The dates, times and places for meetings of the Broadcasting Advisory Committee and the procedure thereat, shall be as determined by its chairman or the member who, by virtue of the provisions of subsection (5) of this section read with section 8 (2), acts as such chairman.

(5) The provisions of sections 5, 6, 7, 8 (1) and (2), 9 and 10 shall *mutatis mutandis* apply in relation to the Broadcasting Advisory Committee.

**15. Minutes of the Board and various committees.**—(1) The Board and every committee (including a committee referred to in section 14) shall cause minutes to be prepared and kept of the proceedings of every meeting thereof and cause copies of such minutes to be circulated to all the directors or (as the case may be) all members of the committee in question.

(2) The minutes prepared in terms of subsection (1), when signed at a subsequent meeting of the Board or the committee in question (as the case may be) by the person presiding at such meeting, 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 enquiry, constitute *prima facie* evidence of the proceedings of the Board or such committee (as the case may be) and the matters they purport to minute.

**16. Acts, decisions and proceedings of Board and of committees not invalidated in certain circumstances.**—The Acts, decisions and proceedings of the Board and of any committee contemplated by section 12 or 14, shall not be rendered invalid or illegal by reason only of any vacancy occurring therein or, in the case of the Board, due to any defect or irregularity in the appointment of a director or by reason of the disqualification of any director.

**17. Commercial and other interests of directors or committee members in matters dealt with by Board or committee.**—(1) A director shall not be present at any meeting of the Board nor be present in the room in which such meeting is held, nor in any way whatsoever take part in the proceedings of the Board, during the course of the discussion of or voting on—

- (a) any matter in which he has, directly or indirectly, either by himself or through his spouse, partner or business associate, or through any person related to him within the third degree of consanguinity or affinity, any commercial or pecuniary interest which is greater than that which he has as a member of the general public;

- (b) any intended or pending legal, arbitration or other proceedings to which the Board is or may become a party and in which any such director has, directly or indirectly, either by himself or through his spouse, partner or business associate, or through any person related to him within the third degree of consanguinity or affinity, any interest, whether as a party, witness or legal representative or otherwise.

(2) If, at any stage during the course of any proceedings before the Board, it appears that a director has or may have an interest which may, in terms of subsection (1), preclude him from further participation in such proceedings—

- (a) he shall forthwith and fully disclose the nature of such interest and leave the meeting so as to enable the remaining directors who are present at the meeting in question to discuss the matter and to determine whether such director is so precluded;
- (b) such disclosure and the decision taken by such remaining directors in relation to such determination, shall be recorded in the minutes of such meeting.

(3) If any director fails to disclose any interest as required by subsection (2) when the Board turns to consider and deal with any matter affected by such interest, or if such director otherwise contravenes or fails to comply with the preceding provisions of this section, the proceedings of the Board shall be null and void and such director shall be guilty of an offence and liable on conviction to a fine not exceeding three hundred rand or imprisonment for a period not exceeding three months, or to both such fine and such imprisonment, unless it is proved that such director did not know that he had such an interest.

(4) The Director General shall not be present at any meeting of the Board nor be present in the room in which such meeting is held nor in any way take part in the proceedings of the Board, in regard to any matter relating to the terms and conditions of service of, or the remuneration payable or to be paid to, or the appointment of, a Director General except in so far as he has been requested by the Board to furnish information or make representations in connection therewith.

(5) The preceding provisions of this section shall *mutatis mutandis* apply in relation to any committee referred to in section 12 or 14, and to the members of such a committee.

**18. Director General of Corporation.**—(1) The Minister in consultation with the State President shall from time to time appoint as the Director General of the Corporation a person—

- (a) who possesses appropriate qualifications and experience in matters connected with or relevant to the broadcasting industry; and
- (b) who is not subject to any of the disqualifications mentioned in section 5.

(2) The Director General shall be the chief executive and administrative officer of and the accounting officer for the Corporation and shall, subject to the directions of the Board (if any), be charged with the administration of the everyday business, affairs and matters of the Corporation.

(3) The Director General shall be appointed for such period, be subject to such terms and conditions of service, be paid such remuneration and allowances and be entitled to such perquisites and benefits as may from time to time be determined by the Minister in consultation with the Minister of Finance: Provided that the remuneration, allowances, perquisites and benefits so determined in respect of any particular Director General shall not during his term of office be reduced or adversely affected except under the authority of an Act of Parliament specially adopted for that purpose.

(4) The Director General may, on three months' written notice tendered to the Minister, resign from his office.

(5) In addition to the functions entrusted to him elsewhere in this Act, the Director General shall—

- (a) keep the Board fully informed regarding all matters concerning the management, administrative, legal, financial, clerical and secretarial duties and functions performed by him and other staff of the Corporation in the administration of its affairs, and shall, at each of the ten meetings of the Board contemplated by section 9 (1), or on the special request of the Board, furnish to it a report regarding the business and operations of the Corporation;
- (b) prepare and submit to the Board for its consideration and decision, the estimates of income and expenditure comprising the budget of the Corporation in respect of any ensuing financial year, and shall at each of such ten meetings furnish to the Board a report regarding his administration of the budget of the Corporation for the then current financial year.

**19. Removal of Director General from office.**—(1) The Minister may, after consultation with the Board, remove the Director General from office—

- (a) on account of his misconduct;
- (b) for unfitness for the duties of his office;
- (c) on the ground of a permanent infirmity of mind or body which renders him incapable of discharging the duties of his office or discharging them properly; or
- (d) on the ground that he is or has become subject to a disqualification referred to in section 18 (1) (b).

(2) The Minister may, whenever there is being undertaken any enquiry or investigation for the purpose of establishing whether or not there exists sufficient cause for the removal of the Director General from office in terms of subsection (1), suspend the Director General from his office pending the outcome of such an enquiry or investigation.

(3) Whenever the Director General is suspended in accordance with the provisions of subsection (2), he shall in respect of the period of his suspension not be entitled to any emoluments under this Act: Provided that—

- (a) if the period of his suspension endures for longer than three months, the Board shall, until such time as such suspension is terminated and the Director General is either removed from office under subsection (1), or restored to his office (as the case may be), pay to the Director General an amount equal to such portion of his basic salary as would have accrued to him in respect of the period in excess of such three-month period;
- (b) if he is restored to his office, he shall, in respect of the period of his suspension and in addition to any amount paid or payable to him under paragraph (a) of this proviso (if any), be paid all such emoluments as would have been payable to him under this Act had he not been so suspended.

**20. Deputy Director General.**—(1) The Board may, subject to the approval of the Minister, appoint one or more persons as Deputy Director General to assist the Director General, subject to his directions and control, in exercising and performing the powers, functions and duties conferred and imposed upon him by or in terms of this Act.

(2) For the purposes of subsection (1) of this section, the considerations mentioned in paragraph (a) of subsection (1) of section 18 and the provisions of paragraph (b) of that subsection shall *mutatis mutandis* apply in relation to the appointment of a Deputy Director General.

(3) The Board may, with the approval of the Minister and subject to the provisions of the by-laws made under section 24 (k) (if any), remove any Deputy Director General from office for any cause specified in paragraph (a), (b), (c) or (d) of section 19 (1).

(4) A Deputy Director General may on two months' written notice tendered to the Board, resign from his office.

**21. Other staff of Corporation.**—(1) The staff establishment of the Corporation shall, subject to the provisions of sections 18 and 20, be as from time to time determined by the Board.

(2) Subject to the directions and control of the Board (if any), the Director General shall be charged with the appointment of officers and employees to fill the posts on the establishment and shall, subject to the provisions of this Act and of the by-laws (if any) made under section 24 (k) and to the directions of the Board (if any), exercise supervision and control over such officers and employees and have full and comprehensive powers regarding—

- (a) their promotion or otherwise;
- (b) the taking of disciplinary action against them;
- (c) their suspension from office or dismissal from the service of the Corporation;
- (d) their secondment to the service of the State or to any other institution or person engaged in or involved with any activities, business or operations falling within the ambit of the objects of the Corporation.

(3) Subject to the provisions of section 33 (2), the terms and conditions of service, the remuneration and scales of remuneration, and the allowances, perquisites and other service benefits of officers and employees of the Corporation shall be as determined by the Board from time to time.

(4) (a) The provisions of this section shall not be construed so as to preclude the Board from procuring, by way of agreement with the Government of the Republic, the services of any officer of the Public Service on secondment to the Corporation in terms of the Public Service Act, 1972 (Act 4 of 1972).

(b) Any officer or employee of the Public Service (including any person employed by the State on contract) seconded for service with the Corporation shall, in regard to the performance of his services with the Corporation, for all purposes in law be deemed to have been appointed under this section as an officer of the Corporation.

**22. Procurement of experts', advisers' and contractors' services for Corporation.**—

(1) The Director General may engage the services of such experts, advisers or contractors as he deems necessary in order to assist the Board in the due, proper and effective exercise, performance and execution of the powers, functions, duties, business and operations of the Corporation.

(2) The services of experts, advisers or contractors may be engaged only for such purposes as may have been authorised by the Board, and for the purposes of any such engagement the terms and conditions subject to which such services are engaged, shall be determined by the Director General subject to the directions (if any) of the Board.

**23. Principal powers and functions of Corporation.**—(1) Without in any way derogating from the provisions of this Act, the principal powers and functions of the Corporation shall be—

- (a) to acquire or erect and establish within the Republic and, with the approval of the Minister acting in consultation with the State President, also outside the Republic, broadcasting stations and any installations and facilities in connection therewith, and to acquire any equipment therefor or rights in connection therewith;
- (b) to enter into agreements in relation to the supplying of programmes, information or news by any person, body or government for presentation by the Corporation on any one or more of its radio or television services, whether by means of retransmission or otherwise;

- (c) to broadcast current events or descriptions thereof or commentaries thereon from the locality where they are taking place;
- (d) subject to the approval of the Minister acting in consultation with the Minister of Finance, to enter into an agreement with the government or administration of any country or territory contemplated by section 2 (2) (b) in relation to the broadcasting and reception of programmes so contemplated;
- (e) to canvass and broadcast advertisements;
- (f) to establish orchestras, bands and choirs, to acquire the services of artists and performers, and to arrange or subsidise public concerts, performances and other events involving such or any other orchestras, bands, choirs, artists or performers, whether with or without charge to the audiences;
- (g) to acquire copyrights, performers' rights, patent rights and other rights and, where appropriate, to economically exploit the same;
- (h) to compile, print, manufacture, publish, sell, lease, cede, or in any manner distribute any dramatic, literary or musical works or matter, or any films and sound, video or other recordings used or destined and/or capable of being used in relation to broadcasting, and any machine, set, appliance or equipment used or destined for use in connection with any such film or recording;
- (i) to print, publish, issue, sell and distribute any book, magazine, periodical, newsletter, brochure, programme or pamphlet, communicating or dealing with matters, topics or events of interest to the broadcasting audience of the Corporation;
- (j) to perform any other act or do any other thing which falls within the scope of the objects of the Corporation as contemplated by section 2 (2) or which, in the opinion of the Board, is necessary or desirable for the attainment of such objects.

(2) The Corporation may, if reasonably necessary for the purpose of attaining any of its objects specified in section 2 (2) or for the exercise and performance of any of its powers and functions under this section, or if economic and conducive to the efficiency of the business and operations of the Corporation under this Act, establish a private or public company, whether for gain or otherwise, or acquire a majority or minority shareholding or proprietary interest in any company of such a nature.

**24. Ancillary powers of Corporation.**—For the purposes of attaining the objects of the Corporation and ensuring the due, proper and effective exercise and performance of its principal powers and functions under section 23, and in addition thereto and to such other powers and functions as are conferred and imposed on the Corporation by or in terms of this Act, the Board may—

- (a) by way of purchase, hire or lease, acquire any movable and immovable property required by the Corporation for the purposes of its operations under this Act;
- (b) if economic or conducive to productivity or the efficiency of the business, operations or affairs of the Corporation under this Act, let, sell, exchange or otherwise alienate, dispose of or hypothecate any property of the Corporation: Provided that in the case of immovable property or of any shareholding or other proprietary interest in a company contemplated by section 23 (2), the Minister's written consent shall first be obtained;
- (c) subject to the approval of the Minister, make provision for the payment of pecuniary benefits to directors and to any officers and any employees of the Corporation or to the dependants of such directors, officers or employees, in respect of personal injury or death sustained by such directors, officers or

- employees whilst engaged in the exercise or performance of their powers, functions or duties in any such capacity, and may pay any premium which may be payable in terms of any contract of insurance entered into by or on behalf of such directors, officers or employees for the purpose of payment of such pecuniary benefits, or may subsidise any such premium so payable;
- (d) insure the Corporation with any company or association against any loss, damage, risk, liability or accident whatsoever which the Corporation may suffer or incur;
  - (e) subsidise any contributions due by officers and employees of the Corporation under any group medical aid scheme arranged or approved by the Board;
  - (f) take out an insurance policy with any insurer providing insurance cover for the directors and the members of any committee of the Board, and for the staff of the Corporation, in respect of injury, disablement or death which may occur or may be sustained by them in the exercise or performance of their powers, functions or duties in any such capacity;
  - (g) establish or arrange, and administer and control, for the benefit of the officers and employees of the Corporation and, where appropriate, their dependants, a group insurance scheme, a provident fund or a medical aid fund or scheme and, subject to compliance with the proviso to section 34 (2), a pension fund or scheme;
  - (h) provide housing and accommodation for the officers and employees of the Corporation, or establish, arrange and undertake any housing scheme or home-ownership project for their benefit;
  - (i) grant loans to the officers and employees of the Corporation in order to purchase any land or premises for their residential purposes and for the purpose of constructing a dwelling on such land, or to guarantee and/or subsidise the repayment of any loan taken up from elsewhere by such officers or employees for any such purpose or for the purpose of effecting improvements to their residential premises;
  - (j) train or provide or arrange training facilities for the officers and employees of the Corporation and all other persons employed or engaged in connection with the business and operations of the Corporation, and bear the study costs of officers or employees studying at any university or technical or other educational institution (wherever situated) which is approved by the Minister, and may grant bursaries to any person for the purpose of research, study or further study, in any field covered by the business or operations of the Corporation, at any such university or technical or educational institution;
  - (k) make by-laws, not inconsistent with the provisions of this Act, prescribing any staff matter of the nature contemplated by section 21 or any staff matter referred to in the preceding provisions of this section, which by-laws shall be binding on all members of staff of the Corporation affected thereby;
  - (l) subject to the directions of the Board (if any), hire out or make available for use, as against consideration, any such property, equipment, staff or services of the Corporation as are not required by it for immediate use; and
  - (m) perform and do all such other acts and things which are not inconsistent with the provisions of this Act and which are necessary or expedient for the due, proper and effective exercise and performance of the powers, functions and duties of the Corporation under this Act or for the purpose of conducting its business and operations thereunder.

**25. Delegation of powers and duties by Board.**—(1) Subject to the provisions of subsection (2), the Board may by resolution delegate any of its powers, functions and duties under this Act to any committee referred to in section 12 or to the Director General or his

deputy, but shall not thereby be divested of any power nor be relieved of any duty which it may so have delegated, and may revoke or amend any such delegation and amend or rescind any decision by a committee or the Director General or his deputy in terms of a delegation under this section.

(2) The powers conferred by sections 2 (3), 18 (5), 24 (k) and 31 (3) shall not be capable of delegation in terms of subsection (1) of this section.

**26. Compulsory purchase of land or interests in land by Corporation.**—(1) Notwithstanding the provisions of any other law, the Corporation may, with the written authorisation of the State President and subject to such conditions as he may impose, by compulsory purchase acquire—

- (a) such land or right in, over or in respect of land, as may be reasonably required by the Corporation for the erection of transmission or receiving plant and the buildings, masts, power generators and other accessories and enclosures connected therewith;
- (b) any land or right in, over or in respect of land which is required by the Corporation for an access road to such transmission or receiving plant, or for a wayleave for the construction and use of any such road or the erection, maintenance or inspection of power or programme lines.

(2) The State President shall not grant his authorisation in terms of subsection (1), unless he has considered a report furnished to him by the Minister for that purpose and is satisfied—

- (a) that such land or right is necessarily required by the Corporation for the attainment of its objects or the due and proper performance of any function referred to in section 23; and
- (b) that the Corporation is unable to acquire such land or right on reasonable terms by agreement with the owner concerned.

(3) (a) Before furnishing his report to the State President for the purpose of subsection (2), the Minister shall appoint a board of enquiry to investigate and determine whether the land or right in question is required as contemplated by subsection (1).

(b) The Minister shall give at least fourteen days' notice of any meeting of the aforesaid board of enquiry to the Corporation and to the owner concerned, and such an owner may at such meeting raise objections against or make representations regarding the compulsory purchase proposed by the Corporation.

(c) The Minister shall notify the owner concerned and the Corporation of his decision regarding the proposed compulsory purchase.

(4) Where the State President has granted his authorisation for any acquisition in terms of subsection (1), the provisions of sections 6 to 24, inclusive, of the Expropriation Act, 1975 (Act 63 of 1975), shall *mutatis mutandis* apply in relation to such acquisition, and in the application of those provisions any reference therein—

- (a) to "Minister", shall be construed as a reference to the Board;
- (b) to "State", shall be construed as a reference to the Corporation;
- (c) to "section 2", shall be construed as a reference to this section;
- (d) to a provincial or local division of the Supreme Court of South Africa, shall be construed as a reference to the General Division of the Supreme Court of Bophuthatswana; and
- (e) to "this Act", being the said Expropriation Act, 1975, shall be construed as a reference to the Bophuthatswana Broadcasting Corporation Act, 1989.

(5) If the owner of any land agrees to the acquisition of his land or any right in, over or in respect of such land by the Corporation but is not prepared to accept the amount



of compensation offered therefor, the parties may agree that the land or right be acquired by the Corporation subject to the determination of the amount of compensation payable in accordance with the provisions of sections 12, 14 and 15 of the Expropriation Act, 1975, whichever provisions would have applied had the land or right been expropriated in terms of the provisions of that Act: Provided that, in any such case, the date of notice as defined in section 1 of that Act, shall be deemed to be the date on which that agreement was concluded: Provided further that, if an application for the determination of the amount of compensation is not made to the appropriate court within six months after that date, the compensation offered by the Corporation shall constitute the amount of compensation payable for its acquisition of such land or right.

**27. Loans.**—(1) The Board may, with the prior written consent of the Minister acting in consultation with the Minister of Finance, raise loans, to finance expenditure of a capital nature to be incurred by the Corporation for the purposes of its business and operations under this Act, in such amounts and subject to such terms and conditions as may be specified by the Minister so acting.

(2) The Minister of Finance may, on behalf of the Government of the Republic and upon such terms and conditions as he deems fit, guarantee the repayment of any loan raised by the Board in accordance with the provisions of subsection (1), as well as the interest and any other charges payable in connection with such loan.

(3) Any agreement entered into or guarantee furnished by virtue of the provisions of subsection (2), may be signed on behalf of the Government of the Republic by the Minister of Finance or any person authorised thereto in writing by the said Minister.

(4) The Minister with the concurrence of the Executive Council may, on behalf of the Government of the Republic, grant loans to the Corporation for such purposes, subject to such terms and conditions and repayable to the State over such period as the Minister with the concurrence of the Minister of Finance shall in each case specify.

**28. Funding of Corporation.**—The Corporation shall be funded and be provided with working capital out of—

- (a) such moneys as may from time to time be appropriated to the Corporation by Parliament, together with such sums of money which, upon the commencement of this Act, may be allocated to the Corporation by the State President from public funds, which he is hereby empowered to do;
- (b) such moneys as immediately prior to the date of commencement of this Act, constituted the unexpended credit balance of moneys derived by the State from any radio service and television service which were provided by it prior to such date of commencement, together with the unexpended balances, as at the day immediately preceding such date of commencement, of all such amounts as had at any time prior to such date been appropriated by Parliament for use exclusively for the operation and provision by the State of such radio service and television service;
- (c) all income derived by the Corporation from—
  - (i) its performance under any agreement referred to in paragraph (d) of section 23 (1);
  - (ii) its broadcast of advertisements in terms of paragraph (e) of that section;
  - (iii) any concerts, performances and events contemplated by paragraph (f) of that section;
  - (iv) the economic exploitation of any of the rights referred to in paragraph (g) of that section;

- (v) the economic exploitation, in accordance with the provisions of paragraph (h) of that section, of any dramatic, literary or musical work or matter or any film, recording, machine, set, appliance or equipment contemplated by the latter paragraph; and
- (vi) its publication, sale and distribution of any book, magazine, periodical, newsletter, brochure, program or pamphlet in accordance with the provisions of paragraph (i) of that section;
- (d) the hiring out or making available of property, equipment, staff and services in terms of paragraph (1) of section 24;
- (e) all licence fees paid from time to time to the Postmaster General in respect of the radio listeners' licences and television licences issued by him in terms of section 12 of the Broadcasting Control Act, 1989, including all amounts which, in terms of section 13 of that Act, are so paid as penalties in respect of such licences;
- (f) donations and bequests made to the Corporation and accepted on its behalf by the Board;
- (g) interest derived from the Board's investment or deposit of moneys of the Corporation in terms of section 29 (1) or 30 (a) or (b);
- (h) the proceeds derived by the Corporation from the realisation of any of its assets or property in accordance with the provisions of section 24 (b); and
- (i) loans raised for the Corporation in accordance with the provisions of section 27.

**29. Current banking account of Corporation, and cheques drawn on Corporation.—**

(1) The Board shall, in the name of the Corporation, open and maintain with a commercial or other bank registered as such in the Republic or, subject to the prior approval of the Minister of Finance, with a bank so registered in another country, or with any other financial institution approved by the Minister of Finance, a current account in which there shall be deposited, subject to the provisions of section 30, the moneys received by the Corporation as contemplated by section 28 and from which payments by or on its behalf shall be made.

(2) (a) All cheques drawn on the Corporation shall have been duly issued and signed on its behalf only if issued under the joint signatures of two of its officers from time to time authorised for that purpose in accordance with the provisions of paragraph (b).

(b) For the purpose of paragraph (a), the Board shall by special resolution authorise two officers of the Corporation stationed at its head office to be its joint signatories and, where the Board has resolved that cheques to be drawn on the Corporation may be issued at or from any regional office of the Corporation, the Board shall from time to time by resolution, and in addition, authorise two officers of the Corporation stationed at such regional office to be the joint signatories on its behalf only in respect of cheques issued or to be issued at or from such regional office.

**30. Investment of moneys.—**The moneys constituting the funds of the Corporation in terms of section 28 and which are not immediately required to meet the current expenditure of the Corporation, may, upon a special resolution of the Board having been adopted for that purpose—

- (a) be invested on call or on short-term fixed deposit with any bank or financial institution satisfying the requirements of section 29 (which requirements shall *mutatis mutandis* apply for the purposes of this paragraph); or
- (b) be deposited with the Public Investment Commissioners in an investment account to be known as the Bophuthatswana Broadcasting Corporation Investment Account, in such manner and for such period as the Minister may in writing approve, and the moneys so deposited shall for all purposes in law be regarded as deposits in terms of section 10 of the Public Investment Commission Act, 1983 (Act 17 of 1983).

**31. Financial accountability of Board, and provisions relating to audit.**—(1) The Board shall, in respect of every financial year, cause proper books and records of account to be kept in accordance with established accounting practice, principles and procedure, of, *inter alia*—

- (a) all the moneys received by and accruing to the Corporation within the contemplation of section 28;
- (b) all other moneys owing to the Corporation;
- (c) all moneys deposited in and payments made from the account contemplated by section 29;
- (d) all moneys of the Board invested or deposited in terms of section 30;
- (e) all movable and immovable property and other assets held by the Corporation, and every loan raised for it in accordance with the provisions of section 27, and the capital amount outstanding on each such loan;
- (f) all costs incurred or moneys expended or owing by the Corporation in connection with its business and operations and the exercise and performance of its powers, functions and duties under this Act;
- (g) the interest paid and/or payable by the Corporation in respect of every loan contemplated by paragraph (e) of this subsection;
- (h) the interest received and/or accrued on moneys deposited or invested in terms of sections 29 and 30,

and the Board shall, within three months as from the end of each financial year or such longer period as the Auditor General may in writing allow, submit the said books and records of account, together with the financial statements of the Corporation in respect of such year, comprising an income and expenditure statement and a balance sheet, to be audited in accordance with the provisions of subsection (2) of this section.

(2) The books and records of account and financial statements contemplated by subsection (1), shall be audited annually by the Auditor General or a practising public accountant and auditor appointed by him, at the conclusion of which audit the auditor concerned shall furnish his report to the Board.

(3) The chairman of the Board shall, as soon as may be reasonably practicable after the end of each financial year, prepare—

- (a) a report in respect of such financial year in regard to the exercise and performance by the Board (including any committee thereof) and the Director General, of its and his powers, functions and duties in terms of this Act, and regarding the business, operations, activities and achievements of the Corporation and the attainment and execution of its objects, projects and priorities; and
- (b) a report setting out, in respect of the next ensuing financial year, the proposed business, operations, activities, programmes, projects and priorities of the Corporation, and an estimate of the expenditure to be incurred in connection therewith and for the purposes of exercising and performing the powers, functions and duties referred to in paragraph (a).

(4) The Board shall, not later than thirty days after receipt of the auditor's report referred to in subsection (2), submit a copy of the audited financial statements of the Corporation, together with such report and the reports referred to in subsection (3), to the Minister who shall, within fourteen days after receipt thereof, lay it on the table in the National Assembly, if the National Assembly is then in session, or, if the National Assembly is not then in session, within fourteen days after the commencement of its next ensuing session.

**32. Execution of documents of Corporation.**—(1) Subject to any resolution of the Board whereby any other arrangement is made, and to the provisions of section 29 (2) and of subsection (2) of this section, every contract, agreement, authority or approval and any other document or instrument, shall have been duly executed for or on behalf of the Corporation if it complies with the provisions of this Act in all other respects and has been signed by the Director General.

(2) The Director General, in his discretion, and any other officer of the Corporation authorised thereto in writing by the Director General, may, subject to the provisions of this Act, execute or prepare, and sign, any such notice, document or instrument as may be necessary or expedient in connection with the administration of the everyday business, operations and affairs of the Corporation.

**33. Transfer of certain officers and employees of the State to the Corporation.**—(1) Any person who, immediately prior to the date of commencement of this Act, is an officer or employee in the service of the State through its Department of Broadcasting, whether in the capacity of a member of the Public Service or by virtue of his appointment in terms of any contract of employment entered into with the State, and is employed by that Department exclusively in connection with any broadcasting service rendered or provided by that Department under any law repealed by section 22 (1) of the Broadcasting Control Act, 1989, may within two months as from the date of promulgation of this Act in the *Gazette*, elect to be transferred to the service of the Corporation, and thereupon he shall for all purposes in law be deemed to be an officer or employee (as the case may be) appointed in the service of the Corporation under section 21 of this Act: Provided that until such time as such person makes such an election or such two-month period has expired (whichever occurs first) such person shall be deemed to have been seconded for service with the Corporation, whereupon the provisions of section 21 (4) (b) shall apply.

(2) The terms and conditions of service regarding the tenure, remuneration, allowances, perquisites, leave, pension and any other financial benefits of any person transferred to the service of the Corporation under subsection (1), shall not be reduced or adversely affected by virtue of the provisions of that subsection, and—

- (a) any period of service which, prior to the promulgation of this Act in the *Gazette*, had been rendered by such a person whilst in the employ of the State, shall be deemed to have been rendered by him in his capacity as an officer or employee (as the case may be) of the Corporation;
- (b) any leave and any pension or other benefits of any financial nature, as at the date of such promulgation, which have accrued to him by virtue of his service with the State, shall be deemed to have accrued to him in his capacity as an officer or employee of the Corporation by virtue of service with the Corporation;
- (c) in any case where such person has been employed by the State under a contract of employment referred to in subsection (1), the Corporation shall, as legal successor to the State, be substituted for the State as the employer under that contract.

**34. Provisions relating to pensions of staff of Corporation.**—(1) Subject to the provisions of subsection (2) of this section, the Corporation shall be deemed to have been declared an associated institution under section 3 of the Associated Institutions Pensions Act, 1980 (Act 2 of 1980), with effect from the date of the commencement of this Act.

(2) The provisions of subsection (1) shall not be construed so as to derogate from the power of the Board under section 24 (g) to establish or arrange its own pension fund or scheme: Provided that—

- (a) such pension fund or scheme shall not be established or arranged unless approved by the Minister and at least two-thirds of all members of staff

of the Corporation who, by virtue of the application of the provisions of section 2 of the Associated Institutions Pensions Act, 1980, are liable to contribute towards the pension fund envisaged thereby;

- (b) the Board shall give to the administrators of the pension fund last mentioned in paragraph (a) of this proviso, at least three months' prior written notice of the date of establishment or arrangement of its own pension fund or scheme, being the date of termination of its participation in the pension fund so referred to, upon the expiration of which period the provisions of subsection (1) of this section shall cease to apply.

**35. Vesting and devolution of certain rights, obligations, duties, etc., and transitional provisions.—**(1) As from the date of commencement of this Act, the ownership of—

- (a) all such State land, whether improved or unimproved, which immediately prior to the commencement of this Act—
- (i) is occupied or used by the Department of Broadcasting exclusively for the purposes of or in connection with any broadcasting service operated and carried on by it under the Broadcasting Act, 1978;
  - (ii) is used or at the disposal of that Department for the exclusive purpose of providing housing or accommodation to officers and employees of that Department employed as contemplated by section 33 (1); and
- (b) all such radio apparatus and equipment and other equipment, appliances, plant, machinery, furniture, vehicles, stores, articles and other property, rights, interests and assets which, immediately prior to such date of commencement, vest in the State through its Department of Broadcasting and are used, utilised, kept, held or destined for the use or utilisation exclusively for the purposes of or in connection with any such broadcasting service,

as the State President may, in his discretion, in writing determine, shall devolve upon and vest in the Corporation which shall for all purposes in law be the State's legal successor thereto: Provided that the determination made by the State President under this subsection shall be fully specified and made known in a report which shall be laid on the table in the National Assembly within thirty days after the date of such determination, if the National Assembly is then in session, or if the National Assembly is not then in session, within thirty days after the commencement of its next ensuing session.

(2) (a) The Corporation shall for all purposes in law be the legal successor to the State or the Minister (as the case may be) in relation to all transactions, agreements, contracts, proceedings, matters, acts or things which, prior to the commencement of this Act, were concluded, brought, performed or done by the State and by the Minister for, on behalf of, for the purposes of, in respect of or in connection with any function or matter of the Department of Broadcasting relating to or connected with any broadcasting service which, prior to such date of commencement, was operated and carried on by it under the Broadcasting Act, 1978.

(b) All transactions, agreements, contracts, proceedings, matters, acts or things which, after the date of commencement of this Act but prior to the date of promulgation thereof in the *Gazette*, were concluded, brought, performed or done in pursuit or furtherance of the objects of the Corporation or the carrying on of its business and operations with the *bona fide* yet mistaken belief that the same were in accordance with the provisions of this Act, shall be deemed to have been lawfully concluded, brought, performed or done.

(3) All moneys which, immediately prior to the date of commencement of this Act, are owing or payable to or by the State in respect of any debts, obligations, liabilities, rights or privileges incurred, acquired, arising or conferred for the purposes of or in connection with any broadcasting service referred to in subsection (2), shall be owing or payable to or by the Corporation upon whom all such debts, obligations, liabilities, rights and privileges shall be deemed to have devolved as from such date.

(4) The Corporation is hereby afforded a period of grace, ending thirty days after the date of promulgation of this Act in the *Gazette*, in order to enable it to procure the licences contemplated by section 2 (4), during and in respect of which period the Corporation shall be deemed to have been issued with the licences so contemplated.

**36. Registration of transfers of property and rights to Corporation.**—(1) In so far as registration in the Deeds Registry or any other official public office or registry is necessary under the Deeds Registries Act, 1937 (Act 47 of 1937), or any other law in order to effect formal transfer to the Corporation of any of the property, assets or rights devolving upon it in terms of section 35 (1) of this Act, the Registrar General or the officer in charge of such other public office or registry shall, upon receipt of a written direction under the hand of the State President, make such entries and endorsements in his records and registers as may be necessary for the purposes of any such transfer, and shall, whenever any title or other deed or any other document of entitlement relating to any such property, asset or right is for any purpose lodged in the Deeds Registry or such other public office or registry, effect such endorsement on any such deed or such document of entitlement.

(2) Registration in the Deeds Registry of the formal transfers to the Corporation of the immovable property devolving upon it in terms of section 35 (1) (a), shall be effected not later than three months after the date of promulgation of this Act.

(3) For the purposes of effecting any transfer or registration of any immovable property or rights whatsoever in the name of the Corporation, the chairman of the Board and the Director General shall, as co-signatories, sign and execute any deed, document or other instrument which may in law be necessary to effect any such transfer or registration.

**37. Exemptions accorded to Corporation.**—Notwithstanding the provisions of any other law—

- (a) no stamp duty or transfer duty shall be payable in respect of the transfer of any property and rights to the Corporation, and no stamp duty or charges or fees of office shall be payable in respect of any document executed on behalf of the Corporation or in respect of any note or endorsement made, at the request of the Corporation, on any document in the Deeds Registry or other official public office or registry referred to in section 36 (1), or in respect of the cancellation of any such note or endorsement;
- (b) no certificate, document or instrument issued by the Corporation shall be subject to stamp duty or any fees of office or charges whatsoever, nor shall the Corporation be liable for the payment of any search or inspection fee in the Deeds Registry or other public office or registry so referred to; and
- (c) the Corporation shall not be liable for the payment of income tax or any other tax on any surplus of the income of the Corporation over its expenditure as at the end of any financial year.

**38. Short title and date of commencement.**—This Act shall be called the Bophuthatswana Broadcasting Corporation Act, 1989, and shall be deemed to have come into operation on the first day of April, 1989.