

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER No. 149.

*Broadcasting Commission.*

GENERAL ANNOTATION.

ADMINISTRATION.

The administration of this Chapter was vested in the Minister for Broadcasting and Information at the date of its preparation for inclusion, except Section 16(2) which was vested in the Minister for Public Service.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers made under Section 148(1) of the Constitution.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 149.

*Broadcasting Commission Act.*

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 149.

***Broadcasting Commission Act.***

Being an Act to provide for a National Broadcasting Commission and for related purposes.

PART I.—PRELIMINARY.

**1. Interpretation.**

In this Act, unless the contrary intention appears—

- “the Board” means the National Broadcasting Board established by Section 4;
- “broadcasting” includes sound transmissions, television transmissions and other transmissions;
- “the Chairman” means the Chairman of the Board, and includes the Deputy Chairman acting in his place;
- “the Commission” means the National Broadcasting Commission established by Section 3;
- “the Deputy Chairman” means the Deputy Chairman of the Board;
- “member of the Board” includes the Chairman;
- “the regulations” means any regulations made under this Act;
- “this Act” includes the regulations.

**2. Application to the State.**

- (1) This Act binds the State.
- (2) This Act does not affect the operation of the *Radiocommunications Act*.

PART II.—THE NATIONAL BROADCASTING COMMISSION.

**3. Establishment of the Commission.**

- (1) A National Broadcasting Commission is hereby established.
- (2) The Commission—
  - (a) is a corporation, with perpetual succession; and
  - (b) has a seal; and
  - (c) may acquire, hold and dispose of property; and
  - (d) may sue and be sued in its corporate name.
- (3) All courts, Judges and persons acting judicially shall take judicial notice of the seal of the Commission affixed to a document and shall presume that it was duly affixed.

**4. National Broadcasting Board.**

- (1) A National Broadcasting Board, constituted in accordance with Part III., is hereby established.
- (2) The Board is responsible for the affairs of the Commission.

**5. Advisory committees.**

- (1) The Commission may establish an advisory committee for any area or subject.
- (2) The membership and procedures of each advisory committee are as determined by the Commission.
- (3) The function of an advisory committee is to advise the Commission on any matter concerning the broadcasting services and other business of the Commission in so far as they or it relate or relates to the area or subject for which the committee was established.

**6. Functions of the Commission.**

- (1) Subject to this Act, it is the duty of the Commission to provide balanced, objective and impartial broadcasting services within and, if so directed by the Head of State, acting on advice, outside the country, and in so doing to take, in the interests of the community, all such measures as, in the opinion of the Commission, are conducive to the full development of suitable broadcasting programs.
- (2) In particular, the Commission shall—
  - (a) ensure that the services that it provides, when considered as a whole, reflect the drive for national unity and at the same time give adequate expression to the culture, characteristics, affairs, opinions and needs of the people of the various parts of the country and in particular of rural areas; and
  - (b) do all in its power to preserve and stimulate pride in the indigenous and traditional cultural heritage of Papua New Guinea; and
  - (c) take extreme care in broadcasting material that could inflame racial or sectional feelings; and
  - (d) co-operate with the Government in broadcasting social, political and economic extension, and educational programs.
- (3) At the request of the Minister, the Commission may make recommendations to the Minister concerning the granting of licences for broadcasting services under the *Radiocommunications Act* and the conditions of those licences.

**7. The Commission and Government policy.**

- (1) From time to time the Government shall advise the Commission of its policies and priorities.
- (2) Subject to this Act, the Commission shall broadcast from all stations under its control, or from such of them as the Minister specifies, any matter the broadcasting of which is directed by the Minister in writing as being in the national interest.
- (3) Subject to this Act, the Minister may, from time to time, by telegram or in writing—
  - (a) prohibit the Commission from broadcasting any matter, or matter of any class or character, specified in the notice; or
  - (b) request the Commission to refrain from broadcasting any such matter.
- (4) The Commission shall include in its annual report all cases in which the powers conferred by Subsections (2) and (3) have been exercised, and all such cases shall be laid before the Parliament at the first meeting after receipt of the report by the Minister.

**8. Setting of standards.**

(1) The Commission may, by direction in writing, lay down standards of taste, impartiality and accuracy for the programs broadcast by the Commission from any source.

(2) All officers and employees of the Commission shall ensure that any standards laid down under Subsection (1) are observed.

**9. Commercial or sponsored broadcasting.**

The Commission may, if it thinks proper, introduce commercial broadcasting, but must at all times retain full control over, and is at all times fully responsible for, its programs.

**10. Evaluation of results.**

(1) From time to time, and in particular when directed by the Minister, the Commission shall employ an independent consultant to evaluate the impact and effectiveness of the Commission's broadcasting programs, and in particular the degree to which they assist in attaining the objects of the Commission.

(2) As soon as practicable after receipt of a report from the consultant, the Commission shall give a copy to the Minister.

**11. General powers of the Commission.**

The Commission has power to carry on all such activities as appear to it to be necessary or convenient for it to carry on for or in connexion with the performance of its functions, and in particular it may—

- (a) subject to obtaining a licence under the *Radiocommunications Act* erect, maintain and operate transmitting and receiving stations; and
- (b) install and operate wired radio distribution services; and
- (c) enter into arrangements with the State or any public body for the purpose of obtaining licences, rights, privileges and concessions; and
- (d) produce, manufacture, purchase or otherwise acquire films, gramophone or other records and materials and apparatus for use in connexion with films and records, and use them in connexion with the broadcasting service; and
- (e) provide to and receive from other persons matter to be broadcast; and
- (f) organize, provide and subsidize public entertainment for the purpose of broadcasting; and
- (g) collect news and information in any part of the world and in any manner that the Commission thinks fit, and establish or subscribe to news services; and
- (h) acquire copyrights; and
- (i) publish printed matter that may be conducive to the performance of any of the functions of the Commission; and
- (j) do anything for the purpose of advancing—
  - (i) the skill of persons employed by the Commission; or
  - (ii) the efficiency of the equipment of the Commission; or
  - (iii) the manner in which that equipment is operated,including the provision by the Commission, or assistance in the provision by others, of facilities for training and research.

PART III.—THE NATIONAL BROADCASTING BOARD.

**12. Constitution of the Board.**

(1) The National Broadcasting Board shall consist of—

- (a) the Chairman; and
- (b) four members, appointed by the Head of State, acting on advice, by notice in the National Gazette; and
- (c) the Head of the Department responsible for financial matters or his nominee; and
- (d) the Head of the Office or Department responsible for national planning matters or his nominee.

*(Amended by No. 39 of 1983, s. 1.)*

(2) A member appointed under Subsection (1)(b)—

- (a) shall be appointed for a period of three years, and is eligible for re-appointment; and
- (b) holds office subject to good behaviour.

**13. Vacation of office of members of the Board.**

Where a member of the Board appointed under Section 12(1)(b)—

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns his office by writing under his hand addressed to the Minister; or
- (c) is absent, except on leave granted by the Minister, from all meetings of the Board held during two consecutive months or during any three months in any period of 12 months,

the Minister shall terminate his appointment.

**14. Meetings of the Board.**

(1) The Board shall meet at such time and places as the Board determines or the Chairman directs, but so that the period between any two consecutive meetings does not exceed 12 months.

(2) At a meeting of the Board—

- (a) four members, of whom the Chairman is one, are a quorum; and
- (b) the Chairman shall preside; and
- (c) all questions arising shall be decided by a majority of the votes of the members present and voting; and
- (d) the Chairman has a deliberative and, in the event of an equality of votes on a matter, also a casting vote.

(3) The Board shall cause minutes of its meetings to be kept, and forward copies of its minutes to the Minister.

(4) Subject to this Act, the procedures of the Board are as determined by the Board.

*(Amended by No. 39 of 1983, s. 2.)*

**15. Delegation.**

The Board may, in writing, delegate to any person all or any of its powers and functions (except this power of delegation).



PART IV.—THE CHAIRMAN AND THE DEPUTY CHAIRMAN.

16. Appointment, etc., of Chairman and Deputy Chairman.

- (1) There shall be a Chairman and a Deputy Chairman of the board who shall—
  - (a) be appointed by the Head of State, acting on advice, by notice in the National Gazette; and
  - (b) be appointed for such period as the Head of State, acting on advice, determines; and
  - (c) hold office subject to good behaviour.

(2) The terms and conditions of appointment and service of the Chairman and the Deputy Chairman are as determined by the Minister responsible for Public Service matters.

17. Vacation of office of Chairman and Deputy Chairman.

Where the Chairman or the Deputy Chairman—

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns his office by writing under his hand to the Minister; or
- (c) engages, without the consent of the Minister, in any paid employment outside the duties of his office,

the Minister shall terminate his appointment.

18. Public Service rights of Chairman and Deputy Chairman to continue.

(1) If an officer of the Public Service is appointed to be the Chairman or the Deputy Chairman, his service as Chairman or Deputy Chairman shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of—

- (a) leave of absence on the ground of illness; and
- (b) long leave or furlough (including pay to dependants on the death of the officer).

(2) Section 104 of the *Public Service Act* applies in relation to the offices of Chairman and Deputy Chairman as if they had been specifically included in that section.

19. Oath and affirmation of office.

(1) Before entering on the duties of their respective offices, the Chairman and the Deputy Chairman shall take an oath or make an affirmation in the form in the Schedule.

(2) The oath or affirmation shall be taken or made before the Minister or a person appointed by the Minister for the purpose.

20. Functions of the Chairman.

(1) The Chairman shall—

- (a) manage the Commission; and
- (b) in relation to the management of the Commission, act in accordance with its policy and with the directions of the Board; and
- (c) advise the Minister, on any matter concerning broadcasting referred to him by the Minister.

(2) The Chairman is the head of the Service of the Commission.

**21. Functions of the Deputy Chairman.**

- (1) The Deputy Chairman shall perform such duties as the Chairman directs.
- (2) The Deputy Chairman may attend any meeting of the Board and take part in its deliberations but, except as prescribed by Subsection (3), has no vote and shall not be counted towards a quorum.
- (3) In the event of a vacancy in the office of Chairman, or his absence from a meeting of the Board or inability to act, the Deputy Chairman shall perform the duties of the Chairman and has and may exercise and perform the powers and functions of the Chairman, and any reference in this Act or any other law to the Chairman shall be read as including a reference to the Deputy Chairman accordingly.

**PART V.—THE SERVICE OF THE COMMISSION.**

**22. Appointment of officers.**

- (1) The Commission may appoint such persons as it thinks fit and necessary for the purposes of the Commission to be officers of the Commission.
- (2) The officers of the Commission constitute the Service of the Commission.
- (3) Subject to this Part and to the regulations, officers hold office on such terms and conditions as the Commission determines.
- (4) Where an officer appointed under this section was, immediately before his appointment, an officer of the Public Service, his service as an officer of the Commission shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of—
  - (a) leave of absence on the ground of illness; and
  - (b) long leave, furlough or pay in lieu (including pay to dependants on the death of the officer).
- (5) Section 104 of the *Public Service Act* applies in relation to an office in the Service of the Commission as if it had been specifically included in that section.

**23. Regulations for the Service of the Commission.**

- The regulations may make provision in relation to the Service of the Commission and, in particular, may—
- (a) prescribe the terms and conditions of appointment of officers; and
  - (b) make provision for a superannuation scheme to provide benefits for the Chairman, Deputy Chairman and officers of the Commission on retirement.

**24. Temporary and casual employees.**

- (1) The Commission may appoint such temporary and casual employees as it considers necessary for the purposes of this Act.
- (2) Employees appointed under Subsection (1) shall be employed on such terms and conditions as the Commission determines.

**25. Supply of accommodation.**

The Commission may make available to its officers and employees, and to the Chairman and the Deputy Chairman, or any of them, such housing or other accommodation as it thinks proper on such terms and conditions as it thinks proper.

26. Use of officers, etc., of other authorities.

By agreement with the appropriate authorities and on such terms and conditions as are agreed on, the Commission may make use of the services of officers and employees, and of technical resources, of other authorities.

PART VI.—FINANCE, ETC.

27. Application of the Public Bodies (Financial Administration) Act.

The *Public Bodies (Financial Administration) Act* applies to and in relation to the Commission.

PART VII.—MISCELLANEOUS.

28. Attorney.

The Commission may, by instrument under its seal, appoint a person (whether within or outside the country) to be its attorney and, subject to the instrument, a person so appointed may do any act or execute any power or function that he is authorized by the instrument to do or execute.

29. Execution of contracts.

(1) Contracts on behalf of the Commission may be made, varied or discharged in accordance with this section, and any contract so made is effectual in law and is binding on it and on all other parties to the contract, their heirs, executors, administrators and assigns.

(2) A contract that, if made between private persons, would by law—

(a) be required to be in writing under seal—may be made, varied or discharged in the name of and on behalf of the Commission in writing under its seal; or

(b) be required to be in writing and signed by the parties to be charged with it—may be made, varied or discharged in the name of and on behalf of the Commission in writing signed by any person acting with its express or implied authority; or

(c) be valid although made by parol only and not reduced to writing—may be made, varied or discharged by parol in the name of and on behalf of the Commission by any person acting with its express or implied authority.

(5) This section does not invalidate a contract executed on behalf of the Commission by a duly appointed attorney of the Commission if the contract would be valid if executed by the attorney on his own behalf.

30. Validity of acts and transactions of the Commission.

The validity of an act or transaction of the Commission shall not be called in question in any legal proceedings on the ground that any provision of this Act has not been complied with.

31. Regulations.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this

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Act, and in particular for prescribing penalties of fines not exceeding K100.00 and default penalties of fines not exceeding K25.00 for offences against the regulations.

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SCHEDULE.

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Act., Sec. 19.

OATH AND AFFIRMATION OF OFFICE.

*Oath.*

I, \_\_\_\_\_, do swear that I will give good and faithful service in the office of Chairman (or Deputy Chairman) of the National Broadcasting Board of Papua New Guinea.

So help me God!

*Affirmation.*

I, \_\_\_\_\_ do solemnly and sincerely promise and declare that I will give good and faithful service in the office of Chairman (or Deputy Chairman) of the National Broadcasting Board of Papua New Guinea.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 149.

*Broadcasting Commission.*

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APPENDIX.

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SOURCE OF THE BROADCASTING COMMISSION ACT.

Previous Legislation.

*Broadcasting Commission Act*

as amended by—

*Broadcasting Commission (Amendment) Act 1983 (No. 39 of 1983).*

