

GOVERNMENT OF ZAMBIA

ACT

No. 20 of 2002

Date of Assent: 31st December, 2002

An Act to amend the Zambia National Broadcasting Corporation Act
[31st December, 2002]

ENACTED by the Parliament of Zambia.

Enactment

1. (1) This Act may be cited as the Zambia National Broadcasting Corporation (Amendment) Act, 2002 and shall be read as one with the Zambia National Broadcasting Act, in this Act referred to as the principal Act.

Short title and commencement
Cap. 154

(2) This Act shall come into operation on such date as the Minister may, by statutory instrument, appoint.

2. Section *two* of the principal Act is amended—

Amendment of section 2

(a) by the insertion in the appropriate place of the following new definition:

“appointments committee” means an appointments committee appointed under section *four A*;

(b) by the deletion in the definition of “inspector” of “section *thirty-two*” and the substitution therefor of “section *twenty-six*”;

(c) by the deletion of the definition of “broadcaster” and the substitution therefor of the following new definition:

“broadcaster” means the Corporation;

(d) by the deletion of the definition of “dealer” and the substitution therefor of the following:

“dealer” means—

(a) a person who carries on a trade, business or industry in which television receivers are assembled, manufactured, imported, bought, sold, exchanged or offered or exposed for sale or exchange; or

(b) an auctioneer of television receivers; and cognate expressions shall be construed by reference, *inter alia*, to transactions or operations such as are carried on by persons referred to in paragraph (a).

Repeal and
replacement
of section 4

3. The principal Act is amended by the repeal of section *four* and the substitution thereof of the following:

Constitution
of Board of
Directors

4. (1) There is hereby constituted the Zambia National Broadcasting Corporation Board which shall, subject to the provisions of this Act, perform the functions of the Corporation under this Act.

(2) The Board shall consist of nine part-time directors appointed by the Minister on the recommendation of the appointments committee, subject to ratification by the National Assembly.

(3) A person shall not be qualified to be appointed to the Board unless the person is committed to fairness, freedom of expression, openness, and accountability and when viewed collectively the persons appointed shall be representative of a broad section of the population of the Republic.

(4) The Chairperson and the Vice-Chairperson shall be elected by the directors from amongst themselves.

(5) A person shall not be appointed as a director if that person—

- (a) is not a citizen of Zambia;
- (b) is not permanently resident in Zambia;
- (c) is a member of Parliament or local authority;
- (d) is an office bearer or employee of any political party;
- (e) is an immediate family member of a person referred to in paragraph (d);
- (f) is an undischarged bankrupt;
- (g) has been convicted of an offence involving fraud or dishonesty; or
- (h) has been convicted of an offence under any other written law and sentenced to a term of imprisonment of not less than six months, without the option of a fine.

(6) The directors shall be paid such allowances as the Board may, with the approval of the Minister, determine.

(7) Except as otherwise provided in this Act, the Board shall not be subject to the direction of any other person or authority.

4. The principal Act is amended by the insertion after section *four* of the following new section:

Insertion of
section 4A

4A. (1) The Minister shall, for the purposes of section *four* constitute an *ad hoc* appointments committee consisting of the following:

Appointments
committee

- (a) one member nominated by the Law Association of Zambia;
- (b) one member nominated by a non-governmental organisation active in human rights;
- (c) one member nominated by religious organisations; and
- (d) one member nominated by the Ministry responsible for information and broadcasting.

(2) The Chairperson of an appointments committee shall be appointed by the members from amongst their number.

(3) The members of an appointments committee shall be appointed on such terms and conditions as the Minister may determine.

(4) The functions of an appointments committee shall be—

- (a) to invite applications from persons with such qualifications as may be specified for appointment to the Board;
- (b) to interview the applicants and nominees referred to in paragraph (a); and
- (c) following the interview referred to in paragraph (b), to select the candidates for appointment to the Board and to submit a recommendation to the Minister.

(5) An appointments committee shall determine its own procedure.

(6) There shall be paid to the members of an appointments committee such allowances as the Minister may determine.

(7) The Corporation shall pay the expenses incurred by an appointments committee in the performance of its functions under this Act.

Repeal and
replacement
of section 5

5. The principal Act is amended by the repeal of section *five* and the substitution therefor of the following:

Tenure of
office and
vacancy

5. (1) Subject to the other provisions of this Act, a director shall hold office for a period of three years from the date of appointment and may be re-appointed for one further term of three years.

(2) On the expiration of the period for which a director is appointed, the director shall continue to hold office until the director's successor is appointed but in no case shall such further period exceed three months.

(3) The office of a director shall become vacant—

(a) upon resignation;

(b) upon the death of the director;

(c) if that director without good cause or approval of the Chairperson is absent from three consecutive meetings of the Board of which that director had notice;

(d) if that director is adjudged bankrupt;

(e) if the director is declared to be of unsound mind;
and

(f) if the director is convicted of an offence for a period exceeding six months without the option of a fine or convicted of any offence involving dishonesty.

(4) A director may resign from office by giving one months' notice in writing to the Minister.

(5) Whenever the office of a a director becomes vacant before the expiry of the term of office the Minister may, on the recommendation of appointments committee and subject to ratification by the National Assembly, appoint another director in place of the director who vacates office but such director shall hold office only for the unexpired term.

Repeal and
replacement
of section 7

6. The principal Act is amended by the repeal of section *seven* and the substitution therefor of the following:

Functions of
Corporation

7. (1) The functions of the Corporation shall be to—

(a) provide varied and balanced programming for all sections of the populations;

(b) serve the public interest;

(c) meet high professional quality standards;

- (d) offer programmes that provide information, entertainment and education;
- (e) contribute to the development of free and informed opinions and as such, constitute an important element of the democratic process;
- (f) reflect, as comprehensively as possible, the range of opinions and political, philosophical, religious, scientific, and artistic trends;
- (g) reflect and promote Zambia's national culture, diversity and unity;
- (h) respect human dignity and human rights and freedoms and contribute to the tolerance of different opinions and beliefs;
- (i) further international understanding and the public's sense of peace and social justice;
- (j) defend democratic freedoms;
- (k) enhance the protection of the environment;
- (l) contribute to the realisation of equal treatment between men and women;
- (m) broadcast news and current affairs programmes which shall be comprehensive, unbiased and independent and commentary which shall be clearly distinguished from news;
- (n) promote productions of Zambian origin; and
- (o) carry on or operate such other services including diffusion services and undertakings as in the opinion of the Board, are conducive to the exercise of its functions under the Act.

7. Section *ten* of the principal Act is amended in subsection (7) by the deletion of the words "one-half of the total number of directors" and the substitution therefor of the words "five directors".

Amendment
of section 10

8. Section *fifteen* of the principal Act is amended by the addition after subsection (2) of the following new subsection:

Amendment
of section 15

(3) A person who fails to disclose interest in terms of subsection (1) and participates in the consideration or discussion of a matter in which the person or that person's spouse has interest commits an offence and shall be liable, upon conviction, to a fine not exceeding thirty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Amendment
of section 17

9. Section *seventeen* of the principal Act is amended in paragraph (b) of subsection (1) by the deletion of the words “ the approval of ” and the substitution therefor of the words “ prior consultation with ”.

Repeal and
replacement
of Part IV

10. The principal Act is amended by the repeal of Part IV and the substitution therefor of the following new Part:

PART IV

TELEVISION LICENCES AND INSPECTORS

Television
licence
Cap. 169

25. (1) Notwithstanding the provisions of the Radio communications Act and subject to the provisions of this Act, a person shall not have in the person's possession a television receiver otherwise than in accordance with the terms and conditions of a licence issued by the Corporation under this Act:

Provided that in a private household where there is more than one television receiver, a licence fee shall be paid in respect of only one television receiver.

(2) For purposes of subsection (1) a proprietor of a hotel, inn, motel, lodge, guesthouse, resthouse, club, holiday resort or such other commercial enterprise as the Minister may, by statutory instrument, determine shall pay a licence fee in respect of each television receiver on the premises concerned.

(3) The Minister may, on the recommendation of the Corporation, by statutory instrument, prescribe the fees to be paid on the issue of a licence referred to in subsection (1).

(4) The provisions of subsection (1) shall not apply to a person—

(a) who is a *bona fide* tourist residing outside Zambia and whose television receiver is temporarily in Zambia; or

(b) whose television receiver is capable of use solely in connection with a diffusion service.

(5) Any person who owns or operates a television receiver without a licence issued under this Act commits an offence and is liable, on conviction, to a fine not exceeding one thousand penalty units.

(6) The licence fees referred to under this section, shall be paid into the general fund of the Corporation for the use of the Corporation.

(7) The Minister may exempt a person, organisation or institution from the provisions of subsection (1).

26. (1) The Corporation shall establish an inspectorate unit and may appoint such number of inspectors as are necessary to enforce the provisions of this Act with respect to section *twenty-five*. Inspectors

(2) Every inspector appointed under this section shall be issued with a certificate of appointment which shall be *prima facie* evidence of the inspector's appointment as such.

(3) An inspector carrying out any function under this Act shall on demand by a person affected by the exercise of the inspector's power under this Act, produce for inspection the certificate referred to in subsection (2).

27. (1) To ensure that the provisions of this Act are being complied with, an inspector shall have power, on production of the certificate of appointment issued under section *twenty-six* to demand the production of, and to inspect or make copies of, a licence issued under section *twenty-five*. Powers of inspectors

(2) An inspector or police officer may upon probable cause shown on oath to a magistrate court obtain a warrant to enter upon and search or examine the premises prescribed in the warrant in order to ascertain whether any offence under this Act is being committed on the premises.

(3) Where an inspector or police officer is satisfied that a person does not have a valid television licence in respect of a matter for which a licence is required under this Act, the inspector or police officer may serve on that person a notice in the prescribed form.

28. (1) A person commits an offence if that person— Obstruction of inspectors
(a) wilfully delays or obstructs an inspector in carrying out the inspector's duties under this Act; or
(b) knowingly or negligently gives an inspector false or misleading information orally, in writing or otherwise.

(2) Any person who commits an offence under subsection (1) shall be liable, on conviction, to a fine not exceeding one thousand five hundred penalty units.

Restriction
on use of
name of
Corporation
Cap. 388

29. No person shall, after the commencement of this Act, assume for the purposes of business or be registered under the Companies Act, under—

(a) the name “Zambia National Broadcasting Corporation”;

or

(b) a name which includes the word “broadcast” or “broadcasting” or “diffusion” or “rediffusion” with the word “National”, “Zambia”, “Zambian”, “State” or “Corporation”.

Regulatory
powers of
Minister

30. (1) The Minister may, by statutory instrument, make regulations to prescribe matters which are necessary for the better carrying out of the purposes of this Act.

(2) Without prejudice to the generality of subsection (1) the regulations made under that subsection may prescribe—

(a) the registration for dealers with the Corporation and the information to be supplied to the Corporation;

(b) the keeping of books, records and documents, the furnishing of returns and the supply of information to the Corporation relating to the dealings in television receivers;

(c) the fees to be paid under the provisions of this Act;

(d) the form of notices required to be served under this Act;

(e) the methods of payment and collection of fees payable under the Act; and

(f) any other matters required to be prescribed under this Act.

Amendment
of Schedule

11. The principal Act is amended in the Schedule by—
(a) the insertion after paragraph 27 of the following new paragraphs:

28. To establish, install, erect, alter, reconstruct, operate, and maintain broadcasting studios, transmitters, relay stations and micro-wave facilities.

29. To introduce such number of radio and television broadcasting stations and channels as the Board may consider necessary.

30. To determine, subject to the direction of the Board, the programme policy for the Corporation.

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31. To act in combination or association with any other person or body whether incorporated or not, and whether in Zambia or elsewhere for any other purposes authorised by this Act.
 32. To develop and make available radio and television broadcasting services throughout Zambia by the most appropriate and efficient means and as resources become available for the purpose.
 33. Subject to the directions of the Board, to carry on broadcasting services for such purposes as the Board may specify for reception by listeners outside Zambia.
 34. To implement the editorial policies of the Corporation and maintain editorial independence; and

(b) the renumbering of paragraph 28 as paragraph 35.

General
amendments

12. The principal Act is amended by the deletion of the words "Chairman" and "Vice-Chairman" wherever they appear and the substitution therefor of the words "Chairperson" and "Vice-Chairperson" respectively.
