



4

SWAZILAND GOVERNMENT GAZETTE

VOL. LI]

MBABANE, Friday, FEBRUARY 15th 2013

[No. 19

CONTENTS

No.	Page
GENERAL NOTICE	
14. Declaration of an Approved Human Settlement Notice, 2013	124
ADVERTISEMENTS	
125	
CONTENTS OF SUPPLEMENT	
PART A - BILL	
3. The Swaziland Broadcasting Bill, 2013	S1
4. The Swaziland Broadcasting Corporation Bill, 2013	S24
PART C - LEGAL NOTICE	
24. Appointment of Members of the Liquor Licensing Board Notice, 2013	S45

NOTICE

ESTATE LATE: SIZA SYDNEY NDLOVU ESTATE NO. EH206/2012

Debtors and Creditors in the above-mentioned estate are hereby required to lodge their claims and pay their debts with the undersigned within **thirty (30) days** from date of publication of this notice.

PETER FREEMAN HERBST
P. O. Box 5569
Manzini

O181 15-02-2013

NOTICE

ESTATE LATE: JOHN MABONYA SIMELANE ESTATE NO. EH91/2011

Debtors and Creditors in the above-mentioned estate are hereby required to lodge their claims and pay their debts with the undersigned within **thirty (30) days** from date of publication of this notice.

KHUMBUZILE SIMELANE
P. O. Box 482
Bhunya

O184 15-02-2013

NOTICE

NOTICE is hereby given that we intend applying for a certified copy of: **Deed of Transfer No. 341/1992** made in favour of: **MANZINI TOWN COUNCIL** in respect of:-

CERTAIN : Portion 2 of Lot No. 1466 situate in Manzini Extension No. 9 Township in the Manzini District, Swaziland

MEASURING : 600 (Six Zero Zero) square metres

ANY person having objection to issue such copy is hereby requested to lodge in writing with the Registrar of Deeds within **three (3) weeks** of last publication of this Notice.

C. J. LITLER & CO.
Applicant's Attorneys
Ground Floor, Embassy House
Dzeliwe Street
Mbabane

O183 2x22-02-2013

**SUPPLEMENT TO
THE
SWAZILAND GOVERNMENT
GAZETTE**

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THE SWAZILAND BROADCASTING BILL, 2013

(Bill No. 3 of 2013)

(To be presented by the Minister for Information, Communications and Technology)

MEMORANDUM OF OBJECTS AND REASONS

The objects of this Bill are to -

- (a) provide for the regulation of sound and television broadcasting services in Swaziland;
- (b) provide for the maximum availability of broadcasting to the people through the three tier system of public, commercial and community broadcasting services;
- (c) provide for the freedom of expression through broadcasting;
- (d) provide for broadcasting to contribute to the socio-economic development of the society, nation building, provision of education and the strengthening of the spiritual and moral fibre; and
- (e) provide for matters incidental to broadcasting.

J. M. DLAMINI
Attorney-General

ARRANGEMENT OF CLAUSES

**PART I
PRELIMINARY**

- 1. Short title and commencement
- 2. Interpretation

**PART II
PRINCIPLES, TYPES OF LICENCES AND LICENSING PROCEDURE**

- 3. Objectives of Act
- 4. Functions of Commission
- 5. Powers of Commission
- 6. Prohibition of provision of broadcasting service without licence
- 7. Commercial broadcasting services
- 8. Community broadcasting services
- 9. Criteria for community broadcasting service licence

- 10. Eligibility for community broadcasting service licence
- 11. Community to run broadcast
- 12. Availability of frequency
- 13. Duration of community broadcasting service licence
- 14. Prohibition of holding more than one community radio
- 15. Subscription broadcasting services
- 16. Free-to-air broadcasting services
- 17. Licensing of operator of diffusion service
- 18. Licensing procedure for diffusion service
- 19. Consideration of application
- 20. Grant or refusal of licence
- 21. Conditions of licence
- 22. Payment of fees
- 23. Offence by licensee
- 24. Assignment or transfer of licence
- 25. Variation and revocation of licence
- 26. Notification of material change

**PART III
PROGRAMMING, SCHEDULING AND ADVERTISING**

- 27. General guidelines on content of programmes
- 28. Broadcasters to determine program standards

**PART IV
CONTENT OF PROGRAM**

- 29. Standards and Ethics
- 30. Review of Code of Ethics

**PART V
ADVERTISING**

- 31. Advertising
- 32. Classification and description of advertisements

33. Power to give directions

**PART VI
COMPLAINTS**

34. Complaints relating to public broadcasting or broadcasting services
 35. Investigation of complaints relating to corporation or other broadcaster
 36. Action of Commission where complaint justified
 37. Proceedings on failure by corporation or licensee to comply with recommendation
 38. Obligation to keep records

**PART VII
GENERAL**

39. Directives from Minister
 40. Supervision of programmes
 41. Ascertainment of public opinion
 42. Offence of providing unlicensed television services
 43. Powers of King in public emergency
 44. Regulations

SCHEDULE - CODE OF CONDUCT FOR BROADCASTING SERVICES

**A BILL
ENTITLED**

AN ACT to provide for the regulation of sound and television broadcasting services in Swaziland; provide for the maximum availability of broadcasting to the people through the three tier system of public, commercial and community broadcasting services; provide for the freedom of expression through broadcasting; provide for broadcasting to contribute to the socio-economic development of the society, nation building, provision of education and the strengthening of the spiritual and moral fibre; and provide for matters incidental to broadcasting.

ENACTED by the King and the Parliament of Swaziland.

**PART I
PRELIMINARY**

Short title and commencement.

1. This Act may be cited as the Swaziland Broadcasting Act, 2013, and shall come into force on a date to be determined by the Minister by notice in the Gazette.

Interpretation.

2. (1) In this Act, unless the context otherwise requires -

"broadcasting" means the provision of vision, sound, multimedia and data service, principally intended for delivery of news, entertainment and education to the general public;

"broadcasting service" means a service that delivers television programmes or radio programmes to persons having equipment appropriate for receiving that service, whether the delivery uses the radio frequency spectrum, cable, optical fibre, satellite or any other means or a combination of those means;

"Code of Conduct" means the Code of Conduct developed by the Commission and set out in the Schedule;

"Code of Ethics" means the Code of Ethics and Advertising Practices drawn up by the standards committee under section 29(4);

"commercial broadcasting" means a broadcasting service operated for profit and controlled by a person who is not a public or community broadcaster;

"Commission" means the Swaziland Communications Commission established in terms of section 3 of the Swaziland Communications Commission Act, 2010;

"community" includes a geographically defined community or any group of persons or sector of the public having a specific and ascertainable common interest;

"community broadcasting" means a broadcasting service which -

- (a) is fully controlled by a non-profit entity and carried on for non-profit purposes;
- (b) serves a particular community;
- (c) encourages members of the community served by that broadcasting service or persons associated with promoting the interests of that community to participate in the selection and provision of programmes to be broadcast; and
- (d) is funded by donations, grants, sponsorship or advertising or membership fees, or by a combination of any of them;

"Corporation" means the Swaziland Broadcasting Corporation established in terms of the Swaziland Broadcasting Corporation Act, 2010;

"diffusion service" means -

- (a) the dissemination by wires otherwise than within the precincts of a single private residence of the whole or part of a broadcasting service; or

(b) the dissemination of music or speech by means of wires,
and "diffuse" shall be construed accordingly;

"information" includes signs, signals, writing, pictures, sounds or other information of any nature which constitutes the content transmitted by electronic communication;

"licence" has the meaning assigned to it in the Swaziland Communications Commission Act, 2010;

"licensed service" means a service that is authorised to be undertaken under a licence granted by the Commission under the Electronic Communications Act, 2010, and subject to this Act;

"licensee" has the meaning assigned to it in the Swaziland Communications Commission Act, 2010;

"Minister" means the Minister responsible for information, communications and technology;

"person" means an individual, partnership, association, joint venture, trust, company or corporation;

"public broadcasting service" means -

- (a) a broadcasting service provided by the Swaziland Broadcasting Corporation;
- (b) a broadcasting service provided by any other statutory body; or
- (c) a broadcasting service provided by a person who receives funding from the State;

"subscription broadcasting service" means a broadcasting service provided to an end user upon payment of a fee;

"television" means the transmission of dynamic or sometimes static images, generally with accompanying sound or suitably encoded textual information, via electrical or electromagnetic signals;

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

(2) In this Act, unless the context otherwise indicates, words and terms used in this Act have the same meaning as in the Electronic Communications Act, 2010.

PART II PRINCIPLES, TYPES OF LICENCES AND LICENSING PROCEDURE

Objectives of Act.

3. The objectives of this Act are to -

- (a) safeguard, enrich and strengthen the cultural, political, social and economic fabric of Swaziland;

- (b) contribute to democracy, development of society, gender equality, nation building and provision of education;
- (c) encourage the development of local programming content;
- (d) ensure fair competition in the broadcasting sector; and
- (e) provide for public, commercial and community broadcasting services.

Functions of Commission.

4. (1) Subject to the other provisions of this Act, the Commission shall regulate broadcasting services in a manner that would inform, educate and entertain the public and that would ensure a balanced development of broadcasting on radio and television.

(2) The Commission shall, in the discharge of the duties of the Commission in relation to the issue of licences and spectrum to an applicant be guided by the following -

- (a) upholding of the unity and integrity of Swaziland and the values enshrined in the Constitution;
- (b) safeguarding rights of citizens to be informed freely, truthfully and objectively on all matters of public interest, national or international;
- (c) promoting the development of broadcasting services which are responsive to the needs of the people of Swaziland;
- (d) ensuring that licensees include in their services regular locally produced programmes;
- (e) preserving and promoting Swaziland culture by ensuring that licensees include in their services programmes reflecting the linguistic and cultural diversity of Swaziland;
- (f) promoting the provision of a diverse range of radio and television broadcasting services throughout Swaziland;
- (g) promoting research and development activities in order to ensure that radio and television broadcast technology are constantly updated by licensees; and
- (h) ensuring fair competition between broadcasting licensees.

Powers of Commission.

5. Subject to the other provisions of this Act, the Commission may -

- (a) inquire into public complaints against a licensee and take any action the Commission considers appropriate;
- (b) set acceptable standards for programmes and advertising and monitor compliance with those standards; and
- (c) ensure that broadcasting services -
 - (i) are of such a nature as not to encourage or incite crime or racial hatred leading to disorder or offending public feeling;

- (ii) give adequate coverage to information, education, culture, entertainment and recreation; and
- (iii) are impartial and accurate.

Prohibition of provision of broadcasting service without licence.

6. (1) Notwithstanding the Electronic Communications Act, 2010, and subject to this Act, a person shall not operate or provide a broadcasting service in Swaziland otherwise than in accordance with the terms and conditions of a licence issued by the Commission and on payment of such fees as the Minister may, on the recommendation of the Commission, prescribe.

(2) Subject to subsection (1), a broadcasting licence shall authorise the licensee to provide any of the following classes of broadcasting services -

- (a) a public broadcasting service;
- (b) a commercial broadcasting service;
- (c) a community broadcasting service; or
- (d) a subscription broadcasting service.

Commercial broadcasting services.

7. (1) The Commission may grant a commercial broadcasting licence to provide -

- (a) a diverse range of programming addressing a wide section of Swaziland;
- (b) programming in the official language or in any other local language of Swaziland widely spoken in Swaziland or any particular area; and
- (c) within a reasonable time, comprehensive coverage of the areas which a licensee is licensed to serve.

(2) All programmes by a commercial broadcasting service shall, subject to the conditions of a licence and regulations of the Commission -

- (a) reflect the culture, character, needs and aspirations of the people in the areas that the licensee is licensed to serve;
- (b) provide an appropriate amount of local or national programming as may be prescribed;
- (c) include news and information programmes on a regular basis, including discussion on matters of national, regional, and where appropriate, local significance; and
- (d) meet the highest standards of journalistic professionalism.

Community broadcasting services.

8. (1) Notwithstanding this Act or any other written law, the Commission may grant a community broadcasting service licence in the following categories -

- (a) free-to-air radio broadcasting services; or

- (b) free-to-air television services.

(2) A person who wishes to apply for a community broadcasting service licence shall do so in accordance with the Electronic Communications Act, 2010, relating to the application for a radio licence.

Criteria for community broadcasting service licence.

9. A community broadcasting service shall be -

- (a) for community purposes;
- (b) received by commonly available equipment;
- (c) free to the public; and
- (d) produced and broadcast in the language of the community.

Eligibility for community broadcasting licence.

10. (1) An applicant shall not be eligible for a community broadcasting licence if the applicant -

- (a) is profit making;
- (b) is wholly foreign owned;
- (c) has been convicted of an offence involving dishonesty;
- (d) is a political party or entity or holds office in that entity; or
- (e) is an operator, shareholder, employee or holds an interest in any media establishment.

(2) A newspaper, private radio, commercial radio or television station proprietor shall not own or control any share or interest in a community radio station.

Community to run broadcast.

11. (1) A community broadcasting service shall serve a community, and the members of that community that such community broadcasting service is intended to serve shall be given an opportunity to run the service.

(2) The programming provided by a community broadcasting service shall reflect the needs of the people in the community, which shall include culture, language and demographic needs, and shall -

- (a) provide a distinct broadcasting service dealing specifically with issues which are not predominantly dealt with by the public broadcasting service covering the same area;
- (b) shall serve to eradicate information poverty through participatory communication in the community;
- (c) be informative, educational and entertaining;

- (d) focus on the provision of programmes that highlight grass root community issues including, but not limited to, developmental and general educational, environmental, local, international and current affairs and reflect local culture;
- (e) promote the development of a sense of common purpose and improve the quality of life; and
- (f) help foster cultural and communal identity.

Availability of frequency.

12. Subject to Part VII of the Electronic Communications Act, 2010, with regard to radio frequency management, the Commission shall, before issuance of a community broadcasting service licence, be guided by the number of available frequencies for community broadcasting.

Duration of community broadcasting service licence.

13. A community broadcasting service licence shall be for a period of three years and shall be renewable subject to such terms and conditions as the Commission may stipulate.

Prohibition of holding more than one community radio licence.

14. (1) A person shall not hold more than one community radio licence at any one time.

(2) A community radio station shall have, and use equipment in accordance with the International Telecommunication Union specifications or any regulations made under this Act.

Subscription broadcasting services.

15. (1) A subscription broadcasting service licence shall, for purposes of providing the broadcasting service, draw revenue from subscription, advertising and sponsorship.

(2) A subscription broadcasting service licence in providing subscription broadcasting services, shall not acquire exclusive rights to the broadcasting of a national, sporting or other event which is identified, by the Commission, to be in the public interest.

Free-to-air broadcasting services.

16. (1) A commercial broadcasting service licence shall, subject to the conditions of the licence, provide such free-to-air broadcasting services as may be determined by the Commission.

(2) Subject to subsection (3), where programming is provided by free-to-air television broadcasting, the programmes shall, as a whole, include significant proportions of Swaziland drama, documentaries and children's programmes that reflect Swaziland themes, literature and historical events.

(3) Notwithstanding subsection (2), the Minister, on the recommendation of the Commission may make regulations on the proportion of Swaziland programming and other matters to be broadcast by a licensee and may require such licensee to provide programming which reflects Swaziland circumstances in accordance with this Act.

Licensing of operator of diffusion service.

17. (1) Subject to the other provisions of this Act, a person shall not operate a diffusion service in Swaziland otherwise than in accordance with the terms and conditions of a licence issued by the Commission and on payment of such fees as may be prescribed.

(2) Subsections (2) and (3) of section 20 apply with the necessary modifications to operators of diffusion services.

Licensing procedure for diffusion service.

18. (1) Subject to the Electronic Communications Act, 2010, the Commission shall put the frequencies assigned to the various broadcasting sector up for public tender as soon as they become available and state the deadline for receiving the applications.

(2) An application for a licence shall be made to the Commission in accordance with the Electronic Communications Act, 2010, and shall, in addition to the requirements under that Act, be accompanied by the following particulars -

- (a) the name of the broadcasting service;
- (b) the name and place of residence of each director, or proprietors of the broadcasting service;
- (c) the name, place of business and place of residence, if any, of the proprietors of the business;
- (d) the nationality of the applicant;
- (e) evidence of financial capability to operate a broadcasting service; and
- (f) such other information as the Commission may require and as may be prescribed.

(3) The Commission shall, thirty days after the deadline for applications referred to in subsection (1), publish a list of all applicants by notice in the Gazette and in the national and print media, giving particulars of the applicant, the licence area and the nature of the proposed service.

(4) The Commission shall, by notice in the Gazette and in the national media, invite interested persons to lodge with the Commission their written objections in relation to these applications within two weeks from the date of the notice, and a person with an objection shall send a copy of the objection to the applicant by registered mail.

(5) Where objections have been received, the Commission shall, within thirty days from the expiry of the period referred to in subsection (4), convene a public hearing to which the applicants and persons who have lodged objections and the general public as observers shall be invited.

(6) The Commission shall make a decision within sixty days after the receipt of the applications, or in the case where there are objections, within sixty days after the public hearing.

(7) Subject to subsection (6), the Commission may decide to grant a temporary licence subject to such conditions as it considers appropriate.

(8) Notwithstanding the Electronic Communications Act, 2010, the Commission shall not grant a licence where the applicant -

- (a) already holds a licence, directly or indirectly controls, or has an interest in, an organisation, association or company which already holds a licence;
- (b) is not a citizen of Swaziland or is not ordinarily resident in Swaziland;
- (c) is an office bearer in a political party or is actively engaged in politics;
- (d) is a political party or an association;
- (e) has been declared bankrupt or insolvent by a court of law, or has been convicted of any offence involving fraud or dishonesty; or
- (f) is a body corporate which is registered in a foreign country or where twenty percent or more of the directors are foreign nationals.

Consideration of application.

19. (1) In addition to the provisions of the Electronic Communications Act, 2010, the Commission shall, in determining whether to grant an application for a licence, have regard to -

- (a) any objection made under section 18(4);
- (b) the objectives of this Act specified in section 3;
- (c) whether or not the applicant is qualified to offer the broadcasting service;
- (d) the likelihood that the applicant shall comply with any condition of the licence; and
- (e) the ability of the applicant to satisfy the Commission that the applicant shall comply with the Code of Conduct.

(2) The Commission shall promote pluralism in the media by giving priority of consideration to applicants who are able to satisfy the Commission that their broadcasting services shall be subject to no editorial control other than an independent editorial control exercised from within the broadcasting of the prospective licensee.

Grant or refusal of licence.

20. (1) Subject to section 18, the Commission shall inform the applicant and the objector, if any -

- (a) of the decision of the Commission to grant or refuse the application for a licence; and
- (b) of the reasons for the decision of the Commission.

(2) Where the Commission does not make a decision on an application at the end of the period of sixty days specified in section 18(6), the Commission shall be deemed to have refused the licence.

(3) The Commission may grant a licence subject to such terms and conditions as the Commission considers appropriate.

(4) Notwithstanding the other provisions of this Act and the Electronic Communications Act, 2010, where the Commission is of the opinion that, by granting the application, the attainment of the objective of promoting a diverse range of radio and television broadcasting services and the plural nature of Swaziland may be impeded, the Commission may refuse an application.

Conditions of licence.

21. (1) A broadcasting licence granted under the Electronic Communications Act, 2010, and subject to this Act shall be granted subject to the additional conditions as may be prescribed in the licence.

(2) Without prejudice to the generality of subsection (1), the conditions of a licence may specify -

- (a) the site or sites at which a broadcasting station to be operated under the licence is to be located and the manner of installation of the broadcasting station;
- (b) the kind of broadcasting authorised by the licence and the type of and standard of broadcasting stations apparatus to be used in any such broadcasting station;
- (c) the payment to the Commission of any annual or other periodic licence fees;
- (d) the furnishing of such document, accounts, returns, estimates and other information as the Commission considers necessary for the purposes of exercising or performing the powers and functions of the Commission under this Act and the Swaziland Communications Commission Act, 2010;
- (e) reference of specified matters to the Commission for determination;
- (f) compliance with directions given by the Commission in relation to specified matters;
- (g) the arbitration of disputes arising in connection with the terms and conditions of, or otherwise concerning the licence in accordance with the Arbitration Act, No. 24 of 1904;
- (h) the payment of fines and penalties by the licensee for breaches of any specified terms and conditions of the licence;
- (i) a requirement that the licensee shall afford, in such manner as may be prescribed, a right of reply to a person whose character, goodwill or reputation has been adversely affected by a broadcast; and
- (j) the amount of any charge or fee leviable by the licensee from any person who avails themselves of the broadcasting service provided by the licensee.

(3) A licensee shall comply with the terms and conditions of a licence and shall be subject to this Act.

(4) A licensee shall carry out the activities of the licensee in compliance with the Code of Conduct.

Payment of fees.

22. (1) The conditions of a licence shall require the payment to the Commission of a prescribed fee on grant of a licence and of annual or other periodic fees.

(2) The fees required to be prescribed under subsection (1) shall be in accordance with such tariff as may be fixed by the Commission.

Offence by licensee.

23. A licensee commits an offence if the licensee is required by virtue of any condition imposed under this Act to provide the Commission with any information; and in compliance with the condition, provides the Commission with information which is false in a material particular.

Assignment or transfer of licence.

24. (1) A licensee shall not buy, sell, lease, mortgage or charge or in any manner assign, demise or encumber a licence and shall not be transfer or cede a licence to any other person without the written consent of the Commission.

(2) The Commission shall not give consent to a transfer of a licence unless the Commission is satisfied that the person to whom the licence is being transferred shall comply with all of the conditions of the licence.

Variation and revocation of licence.

25. (1) Notwithstanding the Electronic Communications Act, 2010, a licensee may make a written application to the Commission to vary the terms and conditions of the licence and the Commission may vary the licence subject to such conditions as the Commission considers appropriate.

(2) Subject to subsections (5) and (7), the Commission may vary the terms and conditions of a licence for the reasons specified in subsection (3).

(3) Notwithstanding the Electronic Communications Act, 2010, and subject to subsections (5) and (7), the Commission may revoke a licence where the Commission is satisfied that -

- (a) the licensee has failed to operate within one hundred and twenty days of the issue of the licence or within such additional period as the Commission may allow;
- (b) the licensee has ceased operating under the licence;
- (c) the licensee has given the Commission information which is false or misleading in a material particular;
- (d) the licensee has failed to comply with the Code of Conduct;
- (e) it is in the public interest to do so; or
- (f) the licensee no longer satisfies any of the conditions set out under section 21.

(4) Subject to subsections (5) and (7), the Commission may revoke a licence where the Commission is satisfied that the licensee has contravened this Act or a term or condition of the licence.

(5) Where the Commission is of the view that a licence should be revoked or varied, the Commission shall give written notice of the intention of the Commission to revoke or vary the licence to the licensee together with the reasons for that intention.

(6) The Commission shall, in a notice under subsection (5), require the licensee to show cause in writing, within such time as may be specified in the notice, why the licence should not be revoked or varied.

(7) The process for considering and deciding on any amendment, suspension and termination of a licence under the Electronic Communications Act, 2010, shall apply in the case of revocation, variation or suspension under this Act.

Notification of material change.

26. (1) A licensee shall inform the Commission of any relevant change that may occur after the granting of a licence.

(2) Where a licensee fails to notify the Commission of any material change, the Commission may revoke the licence by notice served on the licensee, and the revocation shall take effect on a date specified in the notice.

(3) The Commission shall not serve the notice referred to in subsection (1) on the licensee unless the licensee has been given an opportunity to be heard in accordance with the Electronic Communications Act, 2010.

(4) In this section, "material change" in relation to a body to which a licence has been granted, means -

- (a) any change affecting the characteristics of the body; or
- (b) any change in the persons having control over or interests in the body.

PART III
PROGRAMMING, SCHEDULING AND ADVERTISING

General guidelines in programming.

27. (1) A licensee shall, in the broadcasting of a licensed service by that licensee, comply with the following requirements -

- (a) that nothing in the programmes of the licensee shall offend against good taste, morality or decency or is likely to encourage or incite crime or lead to disorder, or be offensive to public feeling, repugnant, or conducted in bad faith;
- (b) that any news given, in whatever form, in the programmes of the licensee is presented with due accuracy and impartiality;
- (c) that due impartiality is preserved on the part of the person providing the service as respects matters of political or industrial controversy or relating to current public policy;
- (d) that due responsibility is exercised with respect to the content of any of the programmes of the licensee which are religious programmes, which do not involve -
 - (i) improper exploitation of susceptibilities of those watching the programmes; or

- (ii) abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination;
- (e) that the programmes of the licensee do not include any technical device which, by using images of brief duration or by other means, exploit the possibility of conveying a message to, or otherwise influencing the minds of persons watching the programmes without their being aware, or fully aware, of what has occurred; and
- (f) that the programmes of the licensee do not encourage or foster hatred or racial tension.

(2) A series of programmes may be considered as a whole in determining whether the requirements of subsection (1) are being complied with.

Broadcasters to determine program standards.

28. Every licensee shall develop a code of professional standards which shall comply with the minimum requirements of -

- (a) respect for human dignity and human rights and freedoms, and contribution to the tolerance of different opinions and beliefs;
- (b) comprehensive, unbiased and independent news broadcast and current affairs programmes with commentary clearly distinguished from news;
- (c) observance of procedures for correcting factual errors and redressing unfairness;
- (d) observance of the principle of the right to reply;
- (e) protection of the integrity of minors by clearly classifying and distributing programmes that may endanger the development of a child; and
- (f) clear separation of advertisements from other program outputs.

**PART IV
CONTENTS OF PROGRAM**

Standards and Ethics.

29. (1) The Commission shall set up a Standards Committee.
- (2) The Standards Committee shall consist of -
- (a) a chairperson; and
 - (b) six persons who shall not be members of the Commission.
- (3) The chairperson and members of the Standards Committee shall be appointed by the Commission on such terms and conditions as the Commission considers appropriate.
- (4) The Standards Committee shall, with the approval of the Commission, draw up a Code of Ethics and Advertising Practices for licensees.
- (5) The Code of Ethics referred to in subsection (4) shall give guidance to -

- (a) the technical standards required in the preparation, production and presentation of broadcast programmes including the need for subtitling for the benefit of the deaf, where applicable;
 - (b) the standards and practice in advertising and in the sponsorship of programmes, including the absence of discrimination;
 - (c) the promotion of locally-produced programmes;
 - (d) the optimisation of air-time occupancy; and
 - (e) standards of taste and decency for broadcasting programmes particularly having regard to the portrayal of violence or sexual conduct.
- (6) When drawing up or reviewing the Code of Ethics, the Standards Committee shall consult -
- (a) every licensee; and
 - (b) a spectrum of listeners and viewers.
- (7) The Standards Committee shall conduct audience research in such manner and at such times as the Commission may determine.
- (8) The Standards Committee shall, in light of the research conducted under subsection (7), make periodic reports to the Commission on the standards attained by every licensee.
- (9) The Commission may make different provisions in the Code of Ethics for different cases or circumstances.

Review of Code of Ethics

30. (1) The Commission shall, from time to time, review the Code of Ethics, and shall give guidance as to -
- (a) the rules to be observed with respect to the showing of violence, or the inclusion of sounds suggestive of violence, in programmes included in licensed services, particularly when large numbers of children and young persons may be expected to be watching the programmes;
 - (b) the rules to be observed with respect to the inclusion in such programmes of appeals for donations; and
 - (c) such other standards and practices for such programmes as the Commission may consider necessary.
- (2) The licensee shall comply with the provisions of the Code of Ethics.
- (3) The Commission shall, in drawing up or revising the Code of Ethics, take into account the international obligations of Swaziland.
- (4) The Commission shall publish the Code of Ethics and every revision of the Code, in such manner as the Commission considers appropriate.

**PART V
ADVERTISING**

Advertising.

31. (1) A licensee shall comply with the rules specified in subsection (2) in relation to a licensed service.

(2) A licensed service shall not include -

- (a) any advertisement which is inserted by or on behalf of any body whose objects are wholly or mainly of a political nature;
- (b) any advertisement which is directed towards any political end;
- (c) any advertisement which has any relation to any industrial dispute other than an advertisement of a public service nature inserted by, or on behalf of a government department;
- (d) unreasonable discrimination either against or in favour of any particular advertiser; and
- (e) without the prior approval of the Commission, a program which is sponsored by any person whose business consists, wholly or mainly, in the manufacture or supply of a product, or in the provision of a service, which the licensee is prohibited from advertising by virtue of any provision of section 6.

(3) Nothing in subsection (1) shall be construed as prohibiting the inclusion in a licensed service of any broadcast which complies with any rules prescribed by the Commission.

(4) The Commission shall not act as an advertising agent.

Classification and description of advertisements.

32. The Commission shall -

- (a) consult the Minister as to the classes and descriptions of advertisements which shall not be included in licensed services and the methods of advertising or sponsorship which shall not be employed in, or in connection with, the provision of that service; and
- (b) carry out any directions which the Minister may give to the Commission in the matters referred to in paragraph (a).

Power to give directions.

33. (1) The Commission may exercise methods of control for the purposes of ensuring that the provisions of the Code of Ethics are complied with, and for the purpose of securing compliance with requirements imposed under subsection (5) which go beyond the requirements of the Code, shall include a power to give directions to the licensee -

- (a) with respect to the classes and descriptions of advertisements and methods of advertising or sponsorship to be excluded, or to be excluded in particular circumstances; or

- (b) with respect to the exclusion of a particular advertisement, or the exclusion of that advertisement in particular circumstances.

(2) The Commission may give directions to any person holding any class of licence with respect to the times when advertisements are to be allowed.

(3) Directions under this section may, to any degree, either be general or specific, qualified or unqualified; and directions under subsection (2) may, in particular, relate to -

- (a) the maximum amount of time to be given to advertisements in any hour or other period;
- (b) the minimum interval which shall lapse between any two periods given to advertisements and the number of each period to be allowed in any program or in any hour or day; and
- (c) the exclusion of advertisements from a specified part of a licensed service.

(4) The Commission may make different provision for different parts of the day, different days of the week, different types of programmes or for other differing circumstances.

**PART VI
COMPLAINTS**

Complaints relating to public broadcasting or broadcasting services.

34. Where a person has made a complaint to the Corporation or to a broadcasting licensee on the ground that the Corporation or licensee has, in providing a broadcasting service, acted contrary to the Code of Conduct; and such person has not received a response within fourteen days after making the complaint, or the person has received a response within that period but considers that response to be inadequate, such person may lodge a complaint with the Commission about the matter.

Investigation of complaints relating to Corporation or other broadcaster.

35. (1) Subject to subsection (2), the Commission shall investigate a complaint made under section 34.

(2) The Commission shall not investigate a complaint if the Commission is satisfied that -

- (a) the complaint is frivolous or vexatious or was not made in good faith;
- (b) the complaint is not relevant to a code of practice developed by the Corporation or any broadcasting licensee; or
- (c) the complaint is brought more than three months after the broadcast in question was made.

(3) When considering a complaint under subsection (2), the Commission shall afford a hearing to every interested person.

(4) The hearing referred to in subsection (3) may, at the discretion of the Commission, be held in private.

(5) The Commission shall notify the complainant of the results of the investigation referred to in subsection (1) within a reasonable time.

Action of Commission where complaint justified.

36. (1) If, having investigated a complaint, the Commission is satisfied that -

- (a) the complaint is justified; and
- (b) the Commission should take action to oblige the Corporation or other licensee to comply with the relevant code of practice;

the Commission may, by notice in writing to the Corporation or to other licensee, recommend that the Corporation or the licensee take action to comply with the relevant code of practice and take such other action in relation to the complaint as is specified in the notice.

(2) Subject to subsection (1), a licensee may be required to broadcast or publish an apology or retraction.

Proceedings on failure by Corporation or licensee to comply with recommendation.

37. (1) If the Commission has made a recommendation to the Corporation or licensee under section 36(1) and the Corporation or licensee does not take action that the Commission considers to be appropriate, within fourteen days after the recommendation was given, the Commission may by notice in writing, require the Corporation or licensee to make good the default within a specified time.

(2) If the Corporation or licensee fails to comply with the notice referred to in subsection (1), the Commission shall apply to the High Court for an order compelling the Corporation or licensee to remedy the default and the court may make such order on the application as the Commission considers appropriate.

Obligation to keep records.

38. A licensee shall -

- (a) keep and store sound and video recordings of all programmes that have been broadcast or re-broadcast for a minimum period of three months after the date of transmission of the broadcast or re-broadcast, or for such further period as may be directed by the Commission; and
- (b) on demand by the Commission, produce all material that has been broadcast, for examination or reproduction.

**PART VII
GENERAL**

Directives from Minister.

39. (1) The Minister may, at any time by notice, require the Commission to direct the licensees specified in the notice to publish, at such times as may be specified in the notice, such announcement as is specified in the notice, with or without visual images of any picture, scene or object mentioned in the announcement.

(2) Where the licensee publishes any announcement under subsection (1), the licensee may announce that the publication is pursuant to a direction by the Minister.

(3) The Minister may, at any time by notice, require the Commission to direct any licensee specified in the notice to refrain from including in the programmes included in their licensed services, any matter or classes of matter specified in the notice.

(4) Where the Commission -

- (a) gives a licensee a direction in accordance with a notice under subsection (3);
- (b) in consequence of the revocation by the Minister of a notice referred to in subsection (3); or
- (c) in consequence of an expiry of a notice,

the licensee in question may publish an announcement stating the giving or revocation of the direction, or of the expiration of the notice.

Supervision of programmes.

40. (1) For the purpose of maintaining supervision over the programmes included in a licensed service, the Commission may make and use recordings of those programmes or any part of them

(2) Nothing contained in this Part shall be construed as requiring the Commission in the discharge of the duties of the Commission under this Part with regard to licensed services and the programmes included in them, to view such programmes in advance of their being included in such services.

Ascertainment of public opinion.

41. (1) The Commission shall make arrangements -

- (a) for ascertaining -
 - (i) the state of public opinion concerning programmes included in licensed services;
 - (ii) any effects of such programmes on the attitudes or behaviour of persons who watch them; and
- (b) for the purpose of assisting the licensee to perform their functions under this Act in relation to the programmes to be included in the various services for purposes of ascertaining the types of programmes that members of the public would like to be included in licensed services.

(2) Subject to subsection (1), the Commission shall -

- (a) ensure that any research undertaken in pursuance of the arrangement is undertaken by persons who are neither members nor employees of the Commission; and
- (b) include provision for full consideration by the Commission of the full results of any such research.

Offence of providing unlicensed television services.

42. A person who provides any unlicensed television service under this Part commits an offence and is liable, on conviction, to a fine not exceeding two hundred and fifty thousand Emalangeni or to imprisonment for a period not exceeding twenty four months, or to both.

Powers of the King in public emergency.

43. (1) Where there is in force a proclamation of a state of public emergency or threatened public emergency under the Constitution, the King may make an order authorising any officer or any authority to -

- (a) take over all broadcasting stations or any particular broadcasting station in Swaziland; and
- (b) control and direct all broadcasting services from the broadcasting stations or broadcasting station to which the provisions of paragraph (a) relate for so long as the King considers it expedient;

and in so doing may require the exclusive services of the persons employed in, working, maintaining or carrying on, the same.

(2) When an officer or an authority is authorised to take over a broadcasting station in term obey, during the period the broadcasting station is in possession of the officer or authority all such orders and other directions as the officer or authority may give in connection with the working or maintenance of the broadcasting station.

(3) Reasonable compensation shall be paid to a person who suffers loss or damage through the exercise of the powers conferred by this section from monies appropriated for that purpose by Parliament in such amount as may be agreed between that person and the Minister.

(4) If a dispute arises as to the amount of compensation payable in terms of subsection (3), any person claiming to be entitled to compensation may refer such dispute to a court of law.

(5) In determining the amount of any compensation including costs or expenses payable under this section, the court and every other person shall have regard to the fact that the take-over has been necessitated by a state of public emergency.

(6) This section shall, with the necessary modifications, apply in relation to diffusion services, the premise apparatus, equipment and wires required in connection with those services, apparatus, equipment and wires and the persons employed in working, maintaining or operating the same.

Regulations.

44. (1) The Minister may, on the recommendation of the Commission, make regulations for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations made under that subsection may provide for -

- (a) the registration of dealers with the Commission and the information to be supplied to the Commission in connection with applications for registration;
- (b) the fees payable under the Act;

up possession to the King or the officer or authority, and the person employed in, working or maintaining the broadcasting station, or in carrying on a broadcasting service from the broadcasting station shall, if the King in terms of that subsection requires their exclusive services, diligently and faithfully obey, during the period the broadcasting station is in possession of the officer or authority all such orders and other directions as the officer or authority may give in connection with the working or maintenance of the broadcasting station.

(3) Reasonable compensation shall be paid to a person who suffers loss or damage through the exercise of the powers conferred by this section from monies appropriated for that purpose by Parliament in such amount as may be agreed between that person and the Minister.

(4) If a dispute arises as to the amount of compensation payable in terms of subsection (3), any person claiming to be entitled to compensation may refer such dispute to a court of law.

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Regulations.

44. (1) The Minister may, on the recommendation of the Commission, make regulations for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations made under that subsection may provide for -

- (a) the registration of dealers with the Commission and the information to be supplied to the Commission in connection with applications for registration;
- (b) the fees payable under the Act;
- (c) the form and manner in which an application for a licence is to be made and the information to be supplied in connection with the application; and
- (d) anything which is required to be prescribed under the Act.

FIRST SCHEDULE
(Sections 19(1)(e), 21(4), 25(3)(d) and 34)

CODE OF CONDUCT FOR BROADCASTING SERVICES**Preamble.**

1. The fundamental principle to be upheld is that freedom of all licensees is indivisible from, and subject to, the same restraints as those relevant to the individual person, and is founded on the right of the individual to be informed and to freely receive and disseminate opinions.

General.

2. A licensee shall -
- (a) not broadcast any material which is indecent, obscene or offensive to public morals or offensive to the religious convictions or feelings of any section of the population or likely to prejudice the safety of the State or public order or relations between sections of the population;
 - (b) not, without due care and sensitivity, present material which depicts or relates to brutality, violence, atrocities, drug abuse and obscenity; and
 - (c) exercise due care and responsibility in the presentation of programmes where a large number of children are likely to be part of the audience.

News.

3. (1) A licensee shall report news truthfully, accurately and objectively.
- (2) News shall be presented in the correct context and in a balanced manner, without intentional or negligent departure from the facts, whether by -
- (a) distortion, exaggeration or misrepresentation;
 - (b) material omission; or
 - (c) summarization.
- (3) News that may reasonably be true, having due regard to the source of the news, may be presented as fact, and such fact shall be broadcast fairly with due regard to context and importance, except that where a report is not based on fact or is founded on opinion, supposition, rumors or allegations, the report shall be presented in such manner as to indicate clearly that the report is founded on opinion, supposition, rumours or allegations.
- (4) Where there is reason to doubt the correctness of a report and it is practicable to verify the correctness of that report, the report shall be verified, and where the verification is not practicable, that fact shall be mentioned in the report.
- (5) Where it subsequently appears that a broadcast report was incorrect in a material respect, that report shall be rectified without reservation or delay, and the rectification shall be presented with such a degree of prominence and timing as may be adequate and fair so as to readily attract attention.
- (6) Reports, photograph or video material relating to matters involving indecency or obscenity shall be presented with due sensitivity, due regard being had to the prevailing moral climate, and a licensee shall avoid the broadcasting of obscene or lascivious matter.
- (7) The identity of rape victims and other victims of sexual violence shall not be divulged in any broadcast without the prior consent of the victim concerned.

Commentary.

4. (1) A licensee shall be entitled to comment on and criticise events of public importance.
- (2) Comment shall be presented in such manner that it appears clearly to be comment, and shall be made on facts truly stated or fairly indicated and referred to.
- (3) Comment shall be an honest expression of opinion.

Controversial issues of public importance.

5. (1) In presenting a program in which controversial issues of public importance are discussed, a licensee shall make reasonable efforts to fairly present significant points of view either in the same program or in a subsequent one forming part of the same series of programmes presented within a reasonable period of time and in substantially the same slot.
- (2) A person whose views have been criticised in a broadcasting program on a controversial issue of public importance, shall be given reasonable opportunity by the licensee to reply to such criticism, should that person so request.

Elections.

6. During any period of general, local or parliamentary election, and on the day of such election and ending on the day the poll is to be taken, every licensee shall comply with such guidelines as shall be issued by the Commission and the Elections and Boundaries Commission.

Privacy.

7. (1) In so far as both news and comment are concerned, a licensee shall exercise exceptional care and consideration in matters involving the private lives and private concerns of individuals, bearing in mind that the right to privacy may be overridden by a legitimate public interest.
- (2) A licensee shall not make any payment to any person involved in crime or other notorious behavior, or to persons who have been engaged in crime or other notorious behavior, in order to obtain information concerning any such behavior, unless compelling societal interests indicate the contrary.