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CHAPTER 214

BROADCASTING AND TELEVISION

Act 3 of 1992
Act 13 of 2000
Act 11 of 2003
Act 21 of 2018

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BROADCASTING AND TELEVISION

An Act to provide for the control of broadcasting and television services; for the establishment of a corporation known as the Vanuatu Broadcasting and Television Corporation; for the purpose of carrying on the services of broadcasting and television in Vanuatu; for the issue of licences by the Minister for the establishment of private broadcasting stations; and for matters connected therewith.

PART 1 – PRELIMINARY

1. Interpretation

In this Act unless the context otherwise requires –

broadcasting means the transmission by radio, television or satellite of any message or other broadcast matter for reception by the general public;

broadcasting apparatus means:

(a) any satellite dish or satellite decoder; or

(b) any other apparatus capable of or designed or constructed for the transmission or reception of broadcast matter by radio waves, wire, cable, optical fibre, satellite or any other means or a combination of those means;

broadcast matter means any signs or signals transmitted by a broadcasting station or a satellite transponder, whether for aural or visual reception or both, and includes any music, theatrical or other entertainment, concert, lecture, speech, address, parade, sports event, rally, advertisement, news and information of any kind so transmitted;

broadcasting service means a service whereby sounds or visual images are transmitted by the person operating the service to listeners or viewers of the service by means of radio waves, wire, cable, optical fibre, satellite or any other means or a combination of any of those means;

broadcasting station means a station which transmits broadcast matter by radio waves, wire, cable, optical fibre, satellite or any other means or a combination of any of those means for reception by the general public and includes the studio, transmitting station and technical equipment used for transmitting broadcast matter;

Chairman means the Chairman of the Corporation appointed under subsection (2) of section 3 and includes any person appointed to act as Chairman;

Corporation means the Vanuatu Broadcasting and Television Corporation established under section 2;

Deputy Chairman means the Deputy Chairman of the Corporation appointed under subsection (2) of section 3 and includes any person appointed to act as Deputy Chairman;

General Manager means the General Manager of the Corporation appointed under subsection (1) of section 12, and includes any person acting in that capacity;

member of the Corporation includes the Chairman and the Deputy Chairman of the Corporation;

Minister means the Minister responsible for broadcasting and television;

private broadcasting station means a broadcasting station established or operated by some person other than the Corporation;

satellite decoder means a device for transforming signals from a satellite dish or a satellite transponder into sounds and/or images;

satellite dish means a device for the transmission of signals from the earth to a satellite transponder or for the reception on the earth of signals transmitted from a satellite transponder;

satellite transponder means a device in a space satellite that is capable of receiving signals from a satellite dish and immediately retransmitting those signals for reception by a satellite dish;

PART 2 – ESTABLISHMENT AND PROCEDURES OF THE VANUATU BROADCASTING AND TELEVISION CORPORATION

2. Establishment of the Vanuatu Broadcasting and Television Corporation

There is hereby established a Corporation to be called the Vanuatu Broadcasting and Television Corporation which shall be a body corporate with perpetual succession and a common seal and in that name may sue and be sued.

3. Constitution of the Corporation

(1) The Corporation shall consist of members not less than 5 and not more than 7 appointed by the Minister, on the recommendation of the Council of Ministers, from amongst persons appearing to him to be qualified by reasons of experiences in broadcasting, television, engineering (especially telecommunications, electronics or computer technology), journalism, public relations, communications, administration, finance, law, accountancy or other related subject.

(2) The Minister shall appoint a Chairman and a Deputy Chairman of the Corporation from amongst the members of the Corporation.

(3) A person shall be disqualified for being appointed or continuing, as a member of the Corporation –

(a) if he is or becomes a member of Parliament; or

(b) if he is or becomes a member of a local government council; or

(c) if he is or becomes a member of a municipal council; or

(d) if he exercises a position of responsibility within a political party;

(e) if he is or becomes the owner, a partner, a director, manager or a major shareholder of or in any business which has a business transaction with the Corporation.

(4) Every member of the Corporation unless he vacates office under subsection (7) shall hold office for such period not exceeding 3 years as is specified by the Minister and shall be eligible for reappointment.

(5) A member of the Corporation may at any time, by notice in writing to the Minister, resign from the Corporation.

(6) (*Repealed*)

(7) The Minister may remove the Chairman, Deputy Chairman and any member of the Corporation if he or she:

(a) is incapacitated by physical and mental illness; or

(b) has performed unsatisfactorily for a significant period of time; or

(c) is convicted of an offence involving dishonesty or fraud; or

(d) is absent from 4 consecutive meetings of the Corporation unless the member is excused by the Corporation for having been absent from those meetings; or

(e) becomes bankrupt; or

(f) is otherwise unfit or unable to discharge the functions of a member.

(8) No act or proceeding of the Corporation shall be invalid by reason only of the existence of any vacancy amongst its members or any irregularity in the appointment of a member thereto.

(9) All appointments made under this section shall be published in the Gazette.

4. Casual vacancies among members

(1) If a member of the Corporation dies or resigns or is removed from office, the Minister may appoint any other person to be a member in place of the member who dies or resigns or is removed from office.

(2) A member appointed under subsection (1) shall, unless he earlier resigns or vacates office by death or removal, hold office for the unexpired part of the term of office of the member whom he succeeds.

5. Seal of the Corporation

(1) The seal of the Corporation shall be in the custody of the Corporation.

(2) The seal of the Corporation may be altered in such manner as may be determined by the Corporation.

(3) The application of the seal of the Corporation shall be authenticated by the signature of –

(a) the Chairman of the Corporation or some other member of the Corporation authorized by the Corporation to authenticate the application of the seal; and

(b) the General Manager of the Corporation or some other officer of the Corporation authorized by name by the Corporation to act in his stead in that behalf.

6. Meetings of the Corporation

(1) The Chairman shall summon meetings as often as may be required, but not less frequently than once in three months.

(2) The quorum for any meeting of the Corporation shall be four members of the Corporation, one of whom shall be the Chairman or in his absence the Deputy Chairman.

(3) The Chairman or in his absence the Deputy Chairman shall preside at all meetings of the Corporation.

7. Rules of the Corporation

The Corporation may make rules to provide for the holding of meetings and the procedure to be followed at such meetings.

8. Allowances of the members of the Corporation

The members of the Corporation shall be paid such allowances in such manner and at such rate as may be determined by the Minister with the approval of the Minister responsible for finance.

9. Temporary appointments of members of the Corporation

Where a member of the Corporation is by reason of illness, infirmity or absence from Vanuatu, temporarily unable to perform the duties of his office, the Minister may appoint another person to act in his place.

10. Functions and duty of the Corporation

(1) The functions of the Corporation shall be –

(a) to provide television and sound broadcasting services within Vanuatu, for disseminating information, education and entertainment;

(b) to secure proper standards of television and sound broadcasting with regard to both programme content and technical performance of broadcasts.

(c) *(Repealed)*

(d) *(Repealed)*

(e) *(Repealed)*

(f) *(Repealed)*

(2) It shall be the duty of the Corporation –

(a) to provide adequate and comprehensive programmes with a view to serving the best interests of the general public;

(b) to develop the television and sound broadcasting services to the best advantage and interest of the country subject to such directions as the Minister may from time to time lay down;

(c) to ensure that nothing is included in the programmes broadcast by the Corporation which –

(i) offends against good taste or decency; or

(ii) is likely to incite crime or lead to disorder; or

(iii) offends any racial group or may promote ill will between different races or different groups of people; or

(iv) offends the followers of any religious faith or order; or

(v) may outrage public feelings in general;

(d) that a sufficient amount of time is given to news, news features and current affairs and to ensure that all news, in whatever form, is presented with due accuracy and impartiality and with due regard to the public interest.

11. Powers of the Corporation

(1) The Corporation shall subject to the provisions of this Act, have power to do all things necessary and conducive for the proper discharge of its functions under this Act.

(2) Without prejudice to the generality of the provisions of subsection (1), the Corporation may –

(a) establish, install and operate stations for television and sound broadcasting;

(b) subject to the approval of the Minister, purchase, lease, sublease or otherwise acquire and hold any property (movable or immovable) required for the carrying out of its functions under this Act;

(c) erect, alter, reconstruct, equip any television or sound broadcasting station, or any building or structure on any land belonging to or administered by the Corporation for use in connection with any sound or television broadcasting station or in connection with the exercise of its powers;

(d) with the prior approval of the Minister, dispose by sale, lease, or sublease or otherwise, of any land or interest in land;

(e) take or lease, rent or purchase houses or purchase or take or lease sites and erect houses for the use of its officers;

(f) to provide training schemes, whether by itself or with the co-operation of other persons or bodies as the Corporation thinks fit, for the employees of the Corporation and other persons or bodies concerned with television or sound broadcasting and cognate or ancillary services;

(g) to conduct researches and investigations necessary for the improvement and development of broadcasting and reception thereof;

(h) with the approval of the Minister, to enter into joint ventures or partnerships with other broadcasting authorities or international agencies or private organizations for the purpose of promoting broadcasting services;

(i) to produce, manufacture, or otherwise acquire films and records (including compact discs and tapes and any other devices from which visual images or sounds may be reproduced) and material and apparatus for use in connection with films and such records and to employ such films, records, material and apparatus in connection with the broadcasting and televising services of the Corporation or for any purpose incidental thereto and to sell, rent or otherwise dispose of such films and records;

(j) to determine the hours during which the television and sound broadcasting programmes may be transmitted;

(k) to accept advertising materials and programmes for television and sound broadcasting upon payment of such charges as may be determined by the Corporation from time to time and to determine the conditions subject to which advertisements may be accepted for transmissions;

(l) to provide broadcasting and television facilities for commercial and social activities including the broadcasting and televising of advertisements and make charges therefore;

(m) to utilize all the property of the Corporation, movable and immovable, in such manner as the Corporation may think expedient including the raising of loans by mortgaging such property;

(n) to sell, hire, let or otherwise supply television and sound equipment and install, repair, maintain or remove any such equipment;

(o) to publish or arrange for the publication of such periodicals or other publications as it may consider of benefit to any broadcasting service carried on by the Corporation;

(p) to do all such things as the Corporation considers to be in the interests of the community for the purpose of developing and improving broadcasting talent; and

(q) to act in combination or association with any person or body of persons, whether incorporated or not and whether in Vanuatu or not for any of the purposes referred to in this subsection.

12. Staff of the Corporation

(1) The Corporation must, with the approval of the Minister, appoint as General Manager a competent and qualified person experienced in the field of management and, if possible, broadcasting, finance, law or journalism.

(2) The General Manager who shall be the chief executive officer shall, subject to the general direction of the Corporation on matters of policy, be charged with the direction of the business of the Corporation and the exercise, performance and discharge of its powers, duties and functions and the administrative control of the employees of the corporation.

(3) The General Manager may, with the approval in writing of the Corporation, delegate in writing to any other employee of the Corporation such of his powers, duties or functions as he may, from time to time consider necessary and any employee to whom such powers, duties or functions so delegated shall exercise, perform and discharge such powers, duties and functions subject to the general or special directions of the General Manager.

(4) The General Manager shall subject to the provisions of this section hold office for a period of three years.

(5) The Corporation may at any time, with the prior approval of the Minister, remove from office, the General Manger.

(6) If the General Manager is temporarily absent from Vanuatu, or is temporarily unable to perform his duties due to illness or other incapacity, another person may be appointed by the Corporation with the approval in writing of the Minister, to act in place of the General Manager until he is able to resume duties.

13. Appointment of officers

The Corporation may appoint at such remuneration and upon such term and conditions as it thinks fit, such other officers, employees, agents, advisers or consultants as may be required for the proper and efficient discharge of the functions of the Corporation.

14. Provisions for employees of the Radio Vanuatu

Upon the commencement of this Part, every employee of the Radio Vanuatu which, prior to the commencement of this Part, is the sound broadcasting branch of the Department of Media Services –

(a) may be offered employment with the Corporation on new terms and conditions as may be mutually agreed upon by such employee and Corporation;

(b) may retire or be retired from service on such terms and conditions as may be determined in accordance with the law.

(c) may be transferred within the Public Service on such terms and conditions as may be determined by the Public Service Commission.

15. Powers of the Corporation in regard to the staff of the Corporation

(1) Subject to the provisions of this Act, the Corporation may –

(a) dismiss and exercise disciplinary control over the staff of the Corporation;

(b) fix the wages, salary or allowances or other remuneration of such staff; and

(c) determine the terms and conditions of the service of such staff.

(2) Rules may be made by the Corporation under this Part in respect of all or any of the matters referred to in subsection (1).

16. Corporation's financial year

The financial year of the Corporation shall begin on the 1st day of January of each year and end on the 31st day of December of that year except that the first financial year of the Corporation shall begin on the date of the establishment of the Corporation and shall end on the 31st day of December, 1992.

17. Funds of the Corporation

(1) The funds of the Corporation shall consist of –

(a) grants from the Government or from other sources, for the use of the Corporation;

(b) monies advanced to the Corporation from time to time by the Minister responsible for Finance;

(c) monies received by the Corporation through fees charged in the course of rendering its services.

(2) There shall be paid out of the funds of the Corporation all such sums of money as may be required to defray any expenditure incurred by the Corporation in the exercise, performance and discharge of its powers, duties and functions.

(3) All monies of the Corporation which are not immediately required for the discharge of the functions of the Corporation under this Act may be invested by the Corporation in such manner, or in such securities, as may be authorized by the Minister with the approval of the Minister responsible for finance.

18. Accounts and audit and annual report

(1) The Corporation shall keep proper accounts and other records in respect of its income and expenditure and shall cause to be prepared an annual statement of accounts in respect of each financial year.

(2) The accounts of the Corporation shall be audited by the Auditor-General in accordance with the Expenditure Review and Audit Act [Cap. 241].

(3) The Auditor-General is entitled at all reasonable times to full and free access to all accounting and other records relating directly or indirectly to the financial transactions of the Corporation.

(4) The Auditor-General shall in his report state –

(a) whether the financial statements show fairly the financial transactions and the state of affairs of the Corporation;

(b) whether proper accounting and other records have been kept, including records of all assets of the Corporation whether purchased, donated or otherwise;

(c) whether the receipts, expenditure, and investment of moneys and the acquisition and disposal of assets by the Corporation during the financial year were in accordance with the provisions of this Act; and

(d) such other matters arising from the audit as he considers necessary.

(5) Within 4 months of the end of each financial year the Corporation shall transmit to the Minister an annual report of its activities together with the audited accounts including the report of the Auditor-General therein.

(6) The Minister shall cause a copy of the annual report and audited report to be laid before Parliament.

19. Submissions of estimates for purpose of grants

If the Corporation shall need a grant from the Government, it shall not less than 90 days before the commencement of the financial year during which the grant is required, submit to the Minister estimates of expenditure and income for that year and of unexpended funds carried forward.

20. Submission of programme of work to the Minister for his approval

The Corporation shall before the first day of August in each financial year transmit to the Minister for his approval a programme of the work involving capital expenditure which is to be undertaken by the Corporation during the following financial year, and the Corporation shall have regard to any directions given by the Minister in respect of that programme.

21. Loans

The Corporation may, from time to time, for the purposes of this Act, raise loans from the Government or, with the consent of the Minister, from any other source.

22. Transfer of property etc., to the Corporation

(1) As from the date of commencement of this Part –

(a) all lands, buildings, plants, machinery, apparatus, equipment and other property movable or immovable, which immediately before the date of commencement of this Part are held by or on behalf of the Government by the Radio Vanuatu which, prior to the date of commencement of this Act, is the sound broadcasting branch of the Department of Media Services, for the purpose of sound broadcasting; and

(b) all assets, powers, rights, interests and privileges as well as all debts, liabilities and obligations of the Department of Media Services in connection therewith or appertaining thereto,

shall be transferred to and vested in and held by the Corporation.

(2) All debts, liabilities, obligations, and contracts of the Radio Vanuatu which, prior to the date of commencement of this Act, is the sound broadcasting branch of the Department of Media Services, in respect of sound broadcasting, outstanding or subsisting at the date of commencement of this Part, shall with effect from that date be deemed to be the debts, liabilities, obligations and contracts of the Corporation.

23. Contracts

(1) Contracts on behalf of the Corporation may be made as follows:

(a) a contract which if made between private persons would by law be valid although made by parol only and not reduced in writing, may be made on behalf of the Corporation in writing under the common seal of the Corporation;

(b) a contract which if made between private persons is by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the Corporation in writing signed by any person or persons duly authorized thereto;

(c) a contract which if made between private persons would by law be valid although made by parol only and not reduced in writing, may be made by parol on behalf of the Corporation by any person or persons duly authorized thereto.

(2) A contract made according to this section shall be effectual in law and shall bind the Corporation and all other parties thereto.

24. *(Repealed)*

25. *(Repealed)*

26. *(Repealed)*

27. *(Repealed)*

28. *(Repealed)*

29. *(Repealed)*

30. *(Repealed)*

31. *(Repealed)*

32. Corporation may insure employees

(1) The Corporation may from time to time enter into contracts of insurance, insuring employees of the Corporation against personal accident arising out of and in the exercise or performance by them of any power or duty conferred or imposed upon the Corporation under this Act and may pay the premium payable in respect of any such contracts.

(2) The categories of employees to be so insured shall be determined by the Corporation having regard to the risk undertaken by such categories of employees.

33. When copyright in musical works not infringed by Corporation

(1) Notwithstanding anything contained in any other written law –

(a) the copyright in a musical work or in any sound recording is not infringed by the Corporation when it causes the musical work or sound recording to be heard in public by means of a radio or television broadcast; and

(b) the copyright in a musical work is not infringed by the Corporation when it makes a sound recording of that musical work solely for the purpose of broadcasting that musical work by means of a radio or television broadcast.

(2) When a radio or television broadcast is made by the Corporation and a person, by the reception of that broadcast, causes a musical work or sound recording to be heard in public, he does not thereby infringe the copyright in that musical work or sound recording.

34. *(Repealed)*

35. *(Repealed)*

36. *(Repealed)*

37. *(Repealed)*

38. *(Repealed)*

39. Corporation's symbol

(1) The Corporation shall have the exclusive right to the use of such symbol or representation as it may select or devise and thereafter display or exhibit in connection with its activities or affairs.

(2) Any person who uses a symbol or representation identical with that of the Corporation, or which so resembles the Corporation's symbol or representation as to deceive or cause confusion, or to be likely to deceive or to cause confusion, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding VT 250,000.

40. *(Repealed)*

41. *(Repealed)*

42. Establishment of Advisory Committee

(1) The Minister may make regulations for the purposes of the establishment of one or more consultative committees to advise the Corporation on such matters relating to broadcasting as may be referred to the committees by the Corporation.

(2) Regulations made under subsection (1) may prescribe the sitting allowances payable to the members of the consultative committee or committees.

PART 3 – LICENSING

43. *(Repealed)*

44. *(Repealed)*

45. *(Repealed)*

46. *(Repealed)*

47. *(Repealed)*

48. *(Repealed)*

49. *(Repealed)*

50. *(Repealed)*

51. *(Repealed)*

52. *(Repealed)*

53. *(Repealed)*

54. *(Repealed)*

PART 4 – MISCELLANEOUS

55. Saving of prosecutions under other written laws

Nothing in this Act shall prevent any person from being prosecuted under any other written law for any act or omission which constitutes an offence under this Act or any regulations made thereunder, or from being liable under that other written law to any punishment or penalty, other than that provided by this Act or such regulations, except that no person shall be punished twice for the same offence.

56. Regulations

The Minister may make regulations relating to all or any of the matters prescribed or in respect of which regulations are required or authorized to be made under this Act.

57. Provisions of this Act to prevail

The provisions of this Act shall have effect notwithstanding anything contained in any other law, and accordingly in the event or any conflict or inconsistency between the provisions of this Act and such other law, the provisions of this Act shall prevail.

Table of Amendments

1	*Amended by Acts 13 of 2000,11 of 2003*	*3(7)*	*Substituted by Act 11 of 2003*
3(1),(2),(4),(5)	*Amended by Act 11 of 2003*	*4(1)*	*Amended by Act 11 of 2003*
3(6)	*Repealed by Act 11 of 2003*	*9*	*Amended by Act 11 of 2003*

10(1)(c),(d),(e) and (f)	*Repealed by Act 21 of 2018*
11(2(i)	*Amended by Act 11 of 2003*
12(1)	*Substituted by Act 11 of 2003*
12(5) & (6)	*Amended by Act 11 of 2003*
17(1)(c)	*Amended by Act 21 of 2018*
24	*Repealed by Act 21 of 2018*
25(5) & (6)	*Inserted by Act 13 of 2000*
25 and 26	*Repealed by Act 21 of 2018*
27(1)	*Amended by Act 13 of 2000*
27, 28, 29, 30, 31, 34, 35, 36, 37, 38, 40 and 41	*Repealed by Act 21 of 2018*
46	*Amended by Act 13 of 2000*
Part 3 (43, 44, 45 46, 47, 48, 49, 50, 51, 52, 53 and 54)	*Repealed by Act 21 of 2018*