



BERMUDA

BROADCASTING COMMISSIONERS ACT 1953

1953 : 8

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[preamble and words of enactment omitted]

Interpretation

1 In this Act—

“broadcasting” means the act of transmitting or re-transmitting radiocommunications intended for direct reception and use by any member of the public without charge and cognate expressions shall be construed accordingly;

“the Broadcasting Commissioners” means the Broadcasting Commissioners established under section 2;

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“broadcasting undertaking” means any undertaking carrying on the business of broadcasting;

“commissioner” means any person appointed under section 3 to be a Commissioner;

“Minister” means the Minister responsible for telecommunications.

[section 1 amended by 1993:38 effective 13 July 1993; "Minister" deleted and substituted by BR 5/2011 para.5 effective 25 February 2011]

Broadcasting Commissioners

2 There shall be established a body of commissioners to be called “The Broadcasting Commissioners” who, subject to this Act, shall have the powers and discharge the duties conferred or imposed upon the Broadcasting Commissioners by or under any Act.

Appointment

3 (1) The Broadcasting Commissioners shall consist of not less than four commissioners appointed by the Governor.

(2) Each commissioner shall be appointed to hold office for such period as the Governor thinks fit but within such period shall hold office at the Governor’s pleasure.

(3) If at any time a commissioner is by reason of ill-health, absence from Bermuda or other sufficient cause unable to perform his duties as such, the Governor may appoint another person to act as commissioner during the incapacity of the substantive commissioner; and any person so appointed shall while so acting be deemed for the purposes of this or any other Act to be commissioner.

(4) There shall be a Chairman of the Broadcasting Commissioners who shall be appointed by the Governor to hold office (as such) for such period as the Governor thinks fit, but who within such period shall hold office during the Governor’s pleasure.

(5) In the exercise of the powers conferred on him by this section the Governor shall act on the advice of the Minister.

Procedure at meetings

4 (1) At any meeting of the Broadcasting Commissioners three commissioners shall form a quorum.

(2) If at any meeting of the Broadcasting Commissioners the Chairman is absent the commissioners present shall elect one of their number to act as chairman at that meeting.

(3) Every question or matter to be determined by the Broadcasting Commissioners shall be decided by a majority of the votes of the commissioners present and voting on the question or matter:

Provided that in the event of an equal division of votes the chairman of the meeting may, if he thinks fit, give a second or casting vote.

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(4) Subject to the foregoing provisions of this section the Broadcasting Commissioners shall have power to regulate their own procedure.

General directions by Minister

5 The Minister may, after consultation with the Broadcasting Commissioners, give to the Broadcasting Commissioners such general directions as to the policy to be followed by the Broadcasting Commissioners in the performance of their functions under this or any other Act as appear to the Minister to be necessary in the public interest, and the Broadcasting Commissioners shall give effect to such directions.

Remuneration

6 Fees shall be paid to each commissioner in accordance with the Government Authorities (Fees) Act 1971 [*title 14 item 6*].

Entry on premises

7 Upon due notice being given to any person who carries on a broadcasting undertaking the Broadcasting Commissioners may at all reasonable times enter upon and examine such undertaking and all studios, works and equipment connected therewith.

Programme content

8 (1) No programme or other matter intended to be broadcast by any broadcasting undertaking shall contain anything which offends against good taste or decency or is likely to encourage or incite to crime or lead to disorder or to be offensive to public feeling or which makes any offensive reference to any living person or which is likely to violate this Act or any regulations or directions made thereunder and if, in the opinion of the Broadcasting Commissioners, any programme or other matter contains anything which is offensive or otherwise undesirable as aforesaid, or which violates this Act or any regulations or directions made thereunder they may direct that such programme or other matter be changed or modified.

(2) For the purposes of subsection (1), the Broadcasting Commissioners may require the submission to them of any programme or other matter prior to the broadcasting thereof.

(3) The Broadcasting Commissioners may give such directions as they may from time to time think expedient for regulating the form in which broadcasts of a political nature may be made and for exercising due impartiality as respects matters of political controversy, and such directions may provide for the periods within which such broadcasts may be made and the frequency of such programmes.

(4) Notwithstanding anything contained in subsection (1), the Broadcasting Commissioners may not require any change or modification in any programme or other matter intended to be broadcast by any broadcasting undertaking, by reason only that such programme or other matter consists of or includes commercial or trade advertisements:

Provided that it shall be the duty of the Broadcasting Commissioners to give such directions as they may from time to time think expedient for regulating the nature, proportion and distribution of commercial or trade advertisements in programmes or other

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matter intended to be broadcast, for the purpose of maintaining such standards in respect of the form, content and continuity of such programmes or other matter as are, in the opinion of the Broadcasting Commissioners, suitable and proper in the circumstances, having regard both to the reasonable needs of the public and the sponsorship of such programmes or other matter by commercial or trade organizations.

(5) Any decision of the Broadcasting Commissioners as to whether any programme or other matter should be changed or modified in accordance with subsection (1) shall be final.

(6) Without prejudice to anything in the foregoing provisions of this section, no matter, or class or description of matter, shall be broadcast by any broadcasting undertaking in any language other than the English language unless the prior consent of the Broadcasting Commissioners has been obtained for the broadcasting of that matter or, as the case may be, of matter of that class or description.

[section 8 amended by 1993:38 effective 13 July 1993]

Persistent contravention

9 (1) Where the Broadcasting Commissioners have reason to believe that any person operating a broadcasting undertaking has persistently failed to comply with any directions given by the Broadcasting Commissioners under section 8 or has persistently contravened this Act or of any regulations made under this Act, then the Broadcasting Commissioners shall give notice to such person that they intend to recommend to the Minister that he revoke any licence issued in respect of such broadcasting undertaking under the Telecommunications Act 1986 *[title 24 item 10]*.

(2) The notice mentioned in subsection (1) shall specify the grounds relied upon by the Broadcasting Commissioners in order to support their recommendation to the Minister, and shall invite the person operating such broadcasting undertaking to submit to them within fifteen days such reply thereto as he may think fit.

(3) If, notwithstanding the reply of the person operating the broadcasting undertaking, the Broadcasting Commissioners are satisfied that he has persistently failed to comply with any directions given by the Broadcasting Commissioners or has persistently contravened this Act or of any regulations made by them, then they may recommend to the Minister that the licence issued in respect of such broadcasting undertaking as aforesaid be revoked, and such recommendation shall be accompanied by a copy of the notice mentioned in subsection (1) and of the reply, if any, received from the person operating the broadcasting undertaking.

Obtaining information

10 (1) The Broadcasting Commissioners may require any person who operates any broadcasting undertaking, and where such person is a body corporate, then any officer of such body corporate, to furnish such information as may be within his knowledge or power concerning all matters in respect of which proper inquiry is made by the Broadcasting Commissioners.

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(2) Any person who neglects or refuses to furnish to the Broadcasting Commissioners any information within his knowledge or power within seven days of such information being required from him, and in the case of a body corporate any officer or manager of such body corporate shall be guilty of an offence:

Punishment on summary conviction: a fine of \$180 in respect of each day during which such neglect or refusal continues.

[section 10 amended by 1993:38 effective 13 July 1993]

Regulations

- 11 (1) The Broadcasting Commissioners shall have power to make regulations—
- (a) regulating the submission to them of any programmes or other matter prior to the broadcasting thereof;
 - (b) prohibiting or regulating the times within which advertisements relating to particular goods or classes of goods may be broadcast or prohibiting or regulating the broadcast of advertisements relating to particular goods or classes of goods;
 - (c) prohibiting or regulating the times within which programmes which are suitable for adult audiences but which are likely to have an injurious effect on the minds and morals of young persons may be broadcast;
 - (d) regulating the maximum amount of time in any hour which may be set aside for advertisements and the maximum amount of time which may on the average be set aside for advertisements;
 - (e) providing for the classification of any programme or other matter that is to be broadcast and regulating the minimum amount of time which shall be allocated by any broadcasting undertaking to any programme or other matter that is classified and the times within which such programme or other matter or a proportion thereof shall be broadcast;
 - (f) regulating the inspection by them of a daily record to be maintained by the broadcasting undertaking, showing details of programmes and other matter broadcast each day and the amount and distribution of commercial or advertising matter broadcast each day;
 - (g) prohibiting or regulating any programme soliciting funds from members of the public;
 - (h) regulating the transmission of programmes or other matters prior to the broadcasting thereof and the keeping of a record of such transmission;
 - (i) generally for giving effect to this Act.

(2) Regulations made under subsection (1) may provide for the trial of persons before a court of summary jurisdiction for offences against the regulations, and for the punishment of persons convicted of such offences, so, however, that such punishment shall be by way of a fine not exceeding \$5,000 for each such offence.

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(3) The affirmative resolution procedure shall apply to regulations made under this section

[section 11 amended by 1993:38 effective 13 July 1993]

Annual report

12 (1) The Broadcasting Commissioners shall furnish the Minister with such returns, accounts and other information with respect to the exercise by them of their functions as he may from time to time require.

(2) Without prejudice to the generality of subsection (1), the Broadcasting Commissioners shall make an annual report to the Minister on the exercise and performance by them of their functions during the preceding year which shall—

(a) set out any direction given by the Minister to the Broadcasting Commissioners in pursuance of section 5; and

(b) include a statement on the operation of each broadcasting undertaking.

(3) The Minister shall cause a copy of every report made under subsection (2) to be laid before each House of the Legislature.

Amendments

13 *[omitted]*

Transitional

14 *[omitted]*

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SCHEDULE

[omitted]

[Assent Date: 17 February 1953]

[Amended by:

1957 : 154
1962 : 22
1964 : 110
1971 : 104
1974 : 13
1977 : 35
1993 : 38
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