

**BERMUDA STATUTORY INSTRUMENT**

**BR 34/1980**

**POLITICAL BROADCASTING DIRECTIONS 1980**

*[made under section 8(3) of the Broadcasting Commissioners Act 1953 [title 24 item 11] and brought into operation on 9 May 1980].*

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**Citation**

1 These Directions may be cited as the Political Broadcasting Directions 1980 and shall be read as one with the Broadcasting Commissioners 1953 Act *[title 24 item 11]*.

**Interpretation**

2 (1) In these Directions unless the context otherwise requires—

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"candidate" includes both an intended and a nominated candidate;

"independent", in relation to an intended or a nominated candidate, means independent of any party;

"intended candidate" means any person who has publicly announced his intention to stand for election to the House of Assembly;

"nominated candidate" means any person whose nominated as a candidate for election to the House of Assembly has been accepted under section 31 of the Parliamentary Election Act 1978;

"party" means a political party;

"political broadcast" means a broadcast of a political nature the subject of which is designed to promote the view or interests of—

- (a) a political party, a political organization, a person, or a group of persons which is not recognized as a party or organization;
- (b) a member of the Legislature in that capacity; or
- (c) a candidate without equal time being given to promote contrary interests or views;

"period" means a period defined in paragraph 6;

"political party" means any body of persons which is represented by three or more members of the House of Assembly or which immediately prior to a dissolution of the Legislature had such number of members or any body of persons supporting the candidature of three or more persons at an election to the House of Assembly;

"political commentary" means a broadcast of a political nature the subject of which is designed to promote public discussion and debate of political issues and includes political debates between political candidates or individuals with opposing views, news commentaries and talk shows;

"spot broadcast" means a broadcast of a political nature lasting one minute or less;

"station" means a station operated by an undertaking and broadcasting sound or television programmes;

"television" includes broadcasts from a television station whether accompanied by visual signal or not;

"undertaking" means a broadcasting undertaking as defined in section 1 of the Act.

(2) [*deleted by BR 38/1985*]

(3) If any person in any broadcast supports or promotes the candidature of any member of the Legislature who represents a party or any candidate supported by a party such broadcast for the purpose of calculating the length or time of broadcasting shall be deemed to be a broadcast in favour of the party represented by the member or supported by the candidate.

*[Direction 2 "political broadcast" amended, "political commentary" inserted, by BR 14/2003 effective 14 March 2003]*

**Application of Directions**

3 (1) These Directions shall have effect for controlling the transmission of broadcasts of a political nature, but nothing in these Directions shall be construed as applying to any undertaking if that undertaking does not transmit broadcasts of that nature.

(2) [*deleted by BR 14/2003*]

(3) Nothing in these directions shall, however, be deemed to prevent the Premier or a Member of Government broadcasting to the people of Bermuda in order to provide them with information or an explanation of events of prime national or international importance and seeking the co-operation of the public in connection with such events.

*[Direction 3 para (2) deleted, and (3) amended, by BR 14/2003 effective 14 March 2003]*

**Certain broadcasts not political**

4 (1) For the purposes of these Directions, a broadcast by the Government is not of a political nature if the broadcast —

- (a) is concerned with legislative or administrative policies which have been approved, or at some time in the future will become subject to approval, by the legislature; or
- (b) is concerned with any policy of the Government; or
- (c) subject to sub-paragraph (2), is of an informative nature.

(2) For the purpose of sub-paragraph (1)(c) —

- (a) a broadcast —
  - (i) subject to sub-paragraph (3), shall not, without the express written permission of the Commissioners, exceed 30 minutes in duration;

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- (ii) shall not, without the express written permission of the Commissioners be aired more than twice per month on each station of each undertaking;
  - (iii) shall not, except in the case of a reference to the expressions "Government", "Opposition" and "former Government", contain any reference to any party, political organisation, member of a party or candidate, in his capacity as a member or candidate;
- (b) the cost of and incidental to the preparation and airing of the broadcast must be paid for out of the Consolidated Fund; and
- (c) the undertaking airing the broadcast must announce at the beginning and again at the end of the broadcast that it is being made on behalf of the Government.

(3) For the purposes of sub-paragraph (2)(a)(i), the Commissioners may give permission for a broadcast which exceeds 30 minutes, but does not exceed 60 minutes in duration.

*[Direction 4 revoked and replaced by BR 14/2003 effective 2003]*

### **Opposition response**

4A (1) Subject to sub-paragraph (2), where pursuant to paragraph 4, a station airs a Government broadcast, that station shall, within 14 days beginning with the day of the broadcast make available to the Opposition, time to respond to that broadcast ("Opposition response").

- (2) For the purposes of sub-paragraph (1) —
- (a) an application, in writing, must be made to the Commissioners by the Opposition within two working days after the day of the Government broadcast;
  - (b) the time allowed for the Opposition response must not exceed 50% of the time allocated for the Government broadcast;
  - (c) the Opposition response must be restricted to the topics which were the subject of the Government broadcast; and
  - (d) except for references to "Government", "Opposition" and "former Government", the Opposition response must not contain reference to any party, political organization, member of a party or candidate in his capacity as such member or candidate.

(3) The undertaking airing the broadcast must announce at the beginning and again at the end of the broadcast, that the broadcast is being made on behalf of the Opposition.

(4) Subject to sub-paragraph (5), the costs of the Opposition response must be met out of the Consolidated Fund.

(5) The cost of the Opposition response shall not exceed 50% of the cost of the Government broadcast.

*[Direction 4A inserted by BR 14/2003 effective 14 March 2003]*

**Exemptions**

4B These Directions do not apply to or limit the following broadcasts by Government or Government Agencies —

- (a) broadcasts by the police for assistance;
- (b) broadcasts relating to public health, agriculture and matters of a specialized, or technical nature; and
- (c) emergency broadcasts.

*[Direction 4B inserted by BR 14/2003 effective 14 March 2003]*

**News broadcasts**

4C (1) Undertakings shall ensure that the reporting of news and public affairs is factual, is presented objectively and is without political bias.

(2) Subject to the conditions specified in sub-paragraph (3) nothing contained in sub-paragraph (1) abrogates the right of an undertaking to broadcast as news the proceedings of public meetings, news conferences and public statements whether or not such meetings, conferences or statements are political.

(3) The conditions referred to in sub-paragraph (2) are as follows —

- (a) the report of the proceedings of the public meetings, news conference or public statement, as the case may be must be without charge;
- (b) the initiative as to whether or not to broadcast must remain with the undertaking; and
- (c) the undertaking must retain editorial control.

(4) Nothing contained in sub-paragraph (1) shall be construed as preventing an undertaking from broadcasting political commentary, so however, that —

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- (a) the commentary is identified as being political; and
- (b) an opportunity is given to the public, either contemporaneously with the broadcast or in a subsequent broadcast, to comment upon the commentary.

*[Direction 4C inserted by BR 14/2003 effective 14 March 2003]*

*[Direction 5 revoked by BR 14/2003 effective 14 March 2003]*

### **Periods of time allowed for political broadcasts**

6 Transmitting time of political broadcasts shall be divided into the following periods —

- (i) Period A: The period between a general election and the dissolution of the Legislature but shall not include any periods within that period which are periods D or E;
- (ii) Period B: The period between the dissolution of the Legislature and nomination day;
- (iii) Period C: The period during a general election between nomination day and midnight preceding polling day;
- (iv) Period D: The period between the giving of notice of the issue of a writ of election in a bye-election and nomination day in that election; and
- (v) Period E: The period between the close of nominations in a bye-election and midnight immediately preceding polling day.

### **Length and number of political broadcasts**

7 (1) A The rules immediately following shall have effect in respect of period A —

- (a) a political broadcast from any station in favour of a party shall not exceed 30 minutes;
- (b) in any one month the total time allowed on each station of any one undertaking for political broadcasts in favour of any one party shall not exceed two periods, each such period not to exceed 60 minutes;

- (c) in any one month the total number of political broadcasts allowed on each station of any one undertaking in favour of any one party shall not exceed 10.
- B The rules immediately following shall have effect in respect of period B —
- (a) a political broadcast from any station in favour of a party shall not exceed 30 minutes;
  - (b) in any one month the total time allowed on each station of any one undertaking for political broadcasts in favour of any one party shall not exceed 30 minutes;
  - (c) in any one month the total number of political broadcasts allowed on each station of any one undertaking in favour of any one party shall not exceed 10.
- C The rules immediately following shall have effect in respect of period C —
- (a) to every party there shall be allowed two political broadcasts from each station of every undertaking in each day, but no such political broadcast shall exceed 15 minutes;
  - (b) to every party there shall be allowed, in addition to the entitlement under provision (a) immediately above, 5 spot political broadcasts from each station of any one undertaking in each day, but a party shall not be allowed more than one spot political broadcast from any one station in any one hour.
- D The rules immediately following shall have effect in respect of period D —
- (a) any political broadcast in favour of any independent intended or nominated candidate from any station shall not exceed 15 minutes;
  - (b) in any one week the total time allowed on each station of any one undertaking for political broadcasts in favour of any one intended or nominated candidate shall not exceed 30 minutes.
- E The rules immediately following shall have effect in respect of period E —

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- (a) in any one week the total number of political broadcasts allowed on each station of any one undertaking in favour of any one independent intended or nominated candidate shall not exceed two, and no such political broadcast shall exceed 15 minutes;
  - (b) to every independent intended or nominated candidate there shall be allowed, in addition to the entitlement under provision (a) immediately above, 5 spots political broadcasts from each station of any one undertaking in each day, but such a candidate shall not be allowed more than one spot political broadcast from any one station in any one hour.
- (2) No political broadcasts shall be allowed between midnight preceding polling day and the close of the polls on polling day.

- (3) For the purposes of this regulation—

"month" shall mean calendar month and when any part of a period shall not be a full calendar month then if the total number of days not in one calendar month are 15 days or more then there shall be an entitlement to half the broadcasting time allowed for a month in respect of that period. If the excess period is less than 15 days then no extra time shall be allowed;

"week" shall mean 7 days from the date the period begins counting the day it begins as the first day. If any period exceeds one week then if the period is 4 days or more half the broadcasting time allowed for a week shall be allowed in respect of that period. If the excess period is less than 4 days no extra time shall be allowed.

### **Broadcasts by independents, political parties and groups without membership in the House of Assembly**

8 In periods A, B and C the Broadcasting Commissioners shall consider any application for broadcasting time by any person or any intended or nominated candidate who is independent of any political party and by any political organization or group of persons which is not recognized as a party for the purpose of these Directions and shall allot such person, candidate, organization or group such time for broadcasting as they shall in their discretion consider will give such person, candidate, organization or group a fair share of broadcasting time.

*[Direction 9 substituted by BR 37/1995 effective 21 June 1995; revoked by BR 14/2003 effective 14 March 2003]*

**Broadcasting charges**

10 At no time shall an undertaking which transmits broadcasts of a political nature make in or in relation to its charges for transmitting such broadcasts any differentiation between any one organization and another or between any one individual and another.

**Identification of broadcasts**

11 Every political broadcast shall be identified as such naming the organization or person responsible for it by the undertaking making the broadcast at its beginning and end.

**Employees of undertakings**

12 (1) Subject to sub-paragraph (2) no employee of an undertaking shall take part in a political broadcast unless he is a member of the Legislature or a candidate and he takes part in the broadcast in that capacity.

(2) Nothing contained in sub-paragraph (1) shall be construed as preventing an employee from announcing a political broadcast to introduce it.

*[Direction 12 revoked and replaced by BR 14/2003 effective 14 March 2003]*

**Broadcast to be recorded and weekly records submitted**

13 (1) All political broadcasts shall be recorded by the undertaking concerned. Recordings shall be made available to the Broadcasting Commissioners on request and for this purpose shall be retained by the undertaking for a period of not less than 90 days from the date of transmission.

(2) Undertakings shall submit to the Broadcasting Commissioners each week a record of the political broadcasts that have been transmitted during the week. Such record shall be in such form as the Broadcasting Commissioners shall require.

**Authority for broadcasts**

14 Any undertaking transmitting a political broadcast or a political commentary shall satisfy itself that it has been authorized in writing by the person or organization on behalf of whom or which it purports to be broadcast.

*[Direction 14 amended by BR 14/2003 effective 14 March 2003]*

**Guidance by Broadcasting Commissioners**

15 In case of doubt, an undertaking shall consult the Broadcasting Commissioners for the interpretation of these Directions.

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*[Direction 15 revoked and replaced by BR 14/2003 effective 14 March 2003]*

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*[Amended by:*

BR 38/1985

BR 39/1988

BR 37/1995

BR 14/2003]