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CHAPTER 116

TELEVISION

AN ACT TO MAKE PROVISION FOR THE GRANTING OF LICENCES TO BROADCAST TELEVISION SERVICES, FOR CONTROLLING STANDARDS OF PROGRAMMES BROADCAST OVER TELEVISION AND OTHER PURPOSES CONNECTED THEREWITH OR INCIDENTAL THERETO

7 of 1995

[1st October 1995]

PART I
PRELIMINARY

1. This Act may be cited as the Television Act.

Short title

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

Interpretation

"Board" means the Television Board appointed under section 4;

"broadcast matter" means any signs or signals transmitted by a television station for aural and visual reception, and includes any music, theatrical or other entertainment, concert, lecture, speech, address, news and information of any kind so transmitted for reception by the general public;

"Code of Practice" means a Code of Practice issued by the Board under sections 15 and 22;

"company" means a company registered under the Companies Act and includes a statutory authority established under an Act of Parliament;

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"licence" means a licence granted under section 5;

"licensee" means a company granted a licence and includes such company when making application;

"Minister" means the Minister for the time being charged with responsibility for broadcasting and telecommunication;

"television broadcasting service" means a service whereby sounds and visual images are transmitted by the person operating the service to viewers of the service by means of radio waves, wire or cables;

"television broadcasting station" means a station which transmits broadcast matter by radio waves, wire or cable for reception by the general public through television broadcast receivers;

"television broadcast receiver" means any apparatus used for aural and visual reception of broadcast matter transmitted by radio waves through wire and cable or by means of any other electro-magnetic waves in the electro-magnetic spectrum designed for television broadcasting services.

PART II

LICENCE TO BROADCAST

3. Subject to the provisions of section 6, the Government shall have the exclusive privilege of- Exclusive privilege

- (a) broadcasting any broadcast matter by television in Solomon Islands;
- (b) broadcastng any broadcast matter by television to any place, ship or aircraft outside Solomon Islands; and
- (c) receiving in Solomon Islands any broadcast matter transmitted from any place, ship or aircraft outside Solomon Islands.

4.-(1) The Minister shall for the purposes of this Act appoint a Board which shall subject to the provisions of this Act be responsible for the proper administration of this Act. Establishment of
Television Board

(2) The Board shall consist of-

- (a) a Chairman who shall be the Comptroller of Posts and Telecommunications; and
- (b) a representative from each of the following-
 - (i) the Ministry of Public Service;
 - (ii) the Solomon Islands Christian Association;
 - (iii) the Solomon Islands National Council of Women; and
 - (iv) the private sector.

(3) The terms and conditions of each member shall be as specified in the instrument

of appointment.

(4) In the case of the absence or inability to act as the Chairman, the Minister may appoint any other member to perform the functions of the Chairman.

(5) The procedure, quorum and meetings of the Board may be as determined by the Board.

(6) The office of the Chairman or other members of the Board shall not be a public office for the purposes of Chapter XIII of the Constitution.

5.-(1) No person shall broadcast any broadcast matter by television in Solomon Islands except under or in accordance with a licence granted under this Act.

Application for licence

(2) Subject to the provisions of section 6, any company may in writing apply to the Board for a licence for the operation of a television broadcasting station or a television broadcasting service in Solomon Islands.

(3) An application under subsection (1) shall be submitted to the Board in writing and in such manner as may be determined by the Board.

6.-(1) The Board may, on being satisfied that the applicant satisfies the requirements in respect of broadcasting grant a licence which shall be subject, in addition to the conditions set out in this Act, to such conditions as may be specified by the Board in the licence.

Grant of licence

(2) Without affecting the generality of subsection (1), conditions attached to a licence may include-

(a) a condition requiring the licensee to broadcast such programmes, announcements and other material as the Board may require at such time or times, or within such period or periods and on such programme service or programme services as the Board shall specify when making the requirements; and

(b) a condition prohibiting or restricting in a manner specified in the licence, the broadcasting by the licensee of advertising material which is of a class or description so specified.

(3) A licence granted under this section shall for the purposes of section 5 of the Telecommunications Act be deemed to be a licence granted by the Board under that

Act for the purposes of establishing and operating a television broadcasting service and such associated telecommunication services ancillary thereto as may be authorised by the Telecommunication Authority, and to authorise the possession or use of any apparatus referred to in the Telecommunications Act or regulations made thereunder which is used for or in connection with the operation by the licensee of such broadcasting or other service.

(4) Save in so far as a licensee shall not be required to obtain a licence under the Telecommunications Act to establish and operate any associated telecommunication service ancillary to the operation of a television broadcasting service, the licensee shall comply at all times with the provisions of that Act and any regulations made thereunder, which relate to the establishment and operation of a television broadcasting service and any associated telecommunication service ancillary thereto.

(5) In granting a licence under this Part, the Board may require the licensee to pay a premium for the issue of the licence or such annual fee, rent or royalty as the Board may determine.

7. Any person who broadcasts any broadcast matter by television without a licence shall be guilty of an offence under this Part and shall, on conviction, be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three years or both.

Penalty

8. A licence shall be-

Period of validity of
licence

(a) valid for such period as the Board may determine; and

(b) subject to renewal within that period of validity on such dates as may be specified in the licence or determined by the Board.

9. A licence may be granted only to a company whose only business shall be-

Competence of
applicants for licence

(a) to establish and operate a telecommunication service;

(b) to establish and operate such associated telecommunication services ancillary to the operation of a television broadcasting service as may be authorised by the Board; and

(c) to carry on such forms of business as may be directly connected or associated with the foregoing.

10.-(1) Subject to the provisions of this section, the Board may suspend a licence under this Act for such period as is specified in the notice of suspension.

(2) A licence shall only be suspended under this section where, if having regard to such of the following as is or are appropriate in the particular case, namely-

(a) the number of occasions on which, since such issue, the requirements of this Act have, in relation to the licence been contravened;

(b) any failure by the licensee, whether by act or omission, to comply with a condition attached to the licence;

(c) any failure to comply with any direction or order applicable to the licensee and given or made by the Board either under this Act or under a provision of the Telecommunications Act or a Code of Practice; or

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(d) the licensee no longer has the financial, technical or management capabilities necessary to operate the broadcasting station,

the Board is satisfied that the licence should be suspended.

(3) (a) The following provisions shall apply in relation to the suspension of a licence under this section-

(i) the Board shall not suspend the licence unless and until it has given to the holder of the licence notice in writing stating that the Board has under consideration the suspension of the licence and the grounds upon which or any other reason why such suspension is being considered; and

(ii) the Board shall consider any representation or objection made to it as regards the proposed suspension.

(b) The notice referred to in paragraph (a) shall, in addition to stating the matters required by that paragraph, state that representations and objections in writing as regards the proposed suspension may be made to the Board during such period (being a period of not less than 30 days beginning on the date of the notice) as shall be specified in the notice.

(4) Where the Board suspends a licence under this section the holder of the licence may, within a period of 21 days beginning on the date of the suspension, appeal to the Minister in writing against the suspension.

(5) Where a licence is suspended under this section the suspension shall not come into force before-

(a) in case such an appeal is not taken, the expiration of the period during which such an appeal may be taken; or

(b) in case such an appeal is taken, the appeal is either withdrawn or determined.

11. Where the Minister considers that there may be cause for revoking a licence, he may order the Board to conduct an inquiry and submit recommendations concerning the revocation of the licence, and after considering such recommendations and such other information, matter and advice as he may see fit, may revoke the licence.

Revocation of licence

12.-(1) When so ordered under section 11, the Board shall conduct an inquiry for the purposes of making recommendations concerning the revocation of the licence specified in the order.

Inquiry by Board

(2) The Board in conducting an inquiry referred to in subsection (1) may consider any information or matter received from any source.

(3) The following provisions shall apply in relation to the making of recommendations under this section-

(a) the Board shall not recommend the revocation of a licence unless and until it has given to the holder of the licence notice in writing stating that the Board has under consideration the making of such a recommendation and the grounds upon which and any other reason why such a recommendation is being considered; and

(b) the Board shall consider any representation or objection made to it as regards the proposed recommendation.

(4) The notice referred to in subsection (3) shall, in addition to stating the matters required by that subsection, state that representations and objections in writing as regards the proposed recommendation may be made to the Board during such period (being a period of not less than 28 days beginning on the date of the notice) as shall be specified in the notice.

(5) The Board shall consider any recommendations submitted by the licensee and such further information and matter as it may consider necessary by reason of such representations.

(6) On completion of the inquiry, the Board shall make in writing its recommendations to the Minister.

13.-(1) Where it is decided not to renew, or to revoke pursuant to section 10, a licence under this Act, the Minister shall cause notice in writing of the decision to be given to the licensee concerned, and-

Notice of intended revocation or non-renewal and power to continue licence in force

(a) in case the decision is a decision not to renew the licence, the notice shall be given at least 12 months prior to the day on which the licence shall expire; and

(b) in case the decision is a decision to revoke the licence, the decision shall come into effect on the day specified therein which shall be a day which is not earlier than the 60th day after the date of the decision.

(2) Where it is necessary for the due compliance with this section the Minister may extend the term of the licence.

PART III

BROADCASTING TECHNICAL CONDITIONS

14.-(1) A licensee shall within such time as may be specified in its licence, to the satisfaction of the Board broadcast transmissions to the areas or parts of Solomon Islands specified in the licence.

Transmission requirements

(2) A licensee shall publish in such manner as the Board directs, notification of the commencement dates for broadcasting its programmes and the areas or parts within Solomon Islands within which its transmissions may be received satisfactorily.

(3) A licensee shall only transmit a broadcast in accordance with a transmission plan which for the time being is prepared for the purpose of this subsection by the Board.

(4) A plan referred to in subsection (3) may include all or any of the following-

(a) frequencies on, or within the limits of which, television broadcasts may be transmitted;

(b) the power or the maximum or minimum power at which such broadcasts are to be transmitted;

(c) provisions relating to the location of transmitters used to transmit such broadcasts;

(d) provisions requiring or prohibiting the use of specified antenna radiation patterns in the transmission either of such broadcasts in general or of such broadcasts which are of a specified class or description; and

(e) provisions specifying the height or the maximum or minimum height of antenna used in such transmission.

15.-(1) The Minister may by regulation provide for the technical requirements with which a licensee shall comply in broadcasting.

Technical requirements

(2) The Board may from time to time issue Codes of Practice relating to technical standards of broadcasts required to be maintained by licensees.

16. The Board may direct any licensee to provide such broadcast transmission equipment, buildings and other facilities as the Board may specify at each transmitter or translator site from which the licensee is transmitting or intends to transmit its broadcasts.

Transmission facilities

17.-(1) The Board or any person authorised by the Board in its behalf may, at any reasonable time, inspect and test any equipment used, or intended to be used, by a licensee for the production or transmission of any television programme for the purpose of ascertaining whether or not the licensee is complying at all times with the technical requirements of this Act, any regulations made thereunder, any Code of Practice and the conditions of its licence in respect of production and transmission of television programmes.

Inspection and testing of technical equipment

(2) The management and employees of a licensee shall for the purpose of any inspection or test under subsection (1)-

(a) make available on request to the Board or any person authorised by it for the purpose of its inspection or test and permit to be inspected and tested any part of its equipment used for the production or transmission of television; and

(b) assist the Board or such authorised person in carrying out the inspection or test in any manner specified by the Board.

(3) The decision of the Board that a licensee is failing or has failed at any time to comply with any technical requirement of this Act, any regulation made thereunder, any Code of Practice or any condition of the licence in respect of the production or

transmission of television programmes shall be final.

PART IV PROGRAMMES

18. A licensee shall broadcast programme services-

Broadcast services

(a) in such language or languages; and

(b) during such hours,

as may be specified in the licence.

19. The Minister may by regulation prescribe material that may be advertised on a licensee's programme and in general control or regulate advertising so as to ensure that such advertisements comply with Codes of Practice and other accepted medical and legal requirements.

Advertising

20. A licensee shall at all times be responsible for ensuring that the programmes broadcast shall-

Standards of
programmes

(a) comply with regulations made under section 21;

(b) conform with established Codes of Practice;

(c) comply with directions issued by the Board under section 30; and

(d) maintain a proper balance in their subject matter and a high general standard of quality.

21.-(1) The Minister may in consultation with the Board make regulations establishing standards for programmes to be broadcast by licensees.

Standards established by
regulations made by the
Minister

(2) Without derogating from the generality of subsection (1), such regulations may provide for establishing standards for-

(a) the broadcasting of advertising material; and

(b) the broadcasting of programmes containing political or religious material.

22. The Board may from time to time issue Codes of Practice relating to programmes and advertising standards. Such Codes of Practice shall not be inconsistent with the standards established by regulations made under section 21 and shall be supplemented or varied as may be required to comply with any directions issued by the Minister under section 23.

Standards established by
Codes of Practice issued
by Board

23. The Minister may from time to time, in addition to and not inconsistent with regulations made under section 21, issue directions to the Board regarding standards of programmes or advertisements being broadcast by a licensee, including the content and balance of such programmes, and in such directions may require the Board to ensure compliance with the standards established.

Minister may issue
directions to Board

PART V

DEALER'S LICENCE AND RECEIVER'S LICENCE

24. The Board may issue a dealer's licence to any person-

Grant of dealer's licence

(a) to install, maintain or work television broadcast receivers; or

(b) to deal in television broadcast receivers.

25.-(1) No person shall-

Prohibitions

(a) install, maintain or work any television broadcast receiver; or

(b) offer for sale, hire or otherwise deal with or have in his possession with a view to sell, any television broadcast receiver,

except under and in accordance with a licence granted under section 24.

(2) Any person who installs, maintains, works or deals in any television broadcast receiver without a licence issued under section 24 shall be guilty of an offence and be liable on conviction to a fine not exceeding five thousand dollars or to imprisonment for

five years.

26.-(1) No person shall receive any television broadcast or be in possession of any television broadcast receiver in any premises or dwelling-house without a receiver's licence issued under this section.

Receiver's licence

(2) The Board may issue a receiver's licence to any person who wishes to receive television broadcast.

(3) Any person who is in possession of any television broadcast receiver without a valid receiver's licence or the occupier of any dwelling-house who is in possession of a television broadcast receiver without a valid receiver's licence shall be guilty of an offence and be liable on conviction to a fine of five hundred dollars or to imprisonment for six months.

27. Notwithstanding the provisions of section 26, the Minister may, by order exempt either unconditionally or subject to such terms and conditions as the Minister shall determine any person or class of persons from the requirements of that section.

Power of Minister to exempt

28.-(1) Every person who installs and maintains for the purpose of receiving direct television broadcasting service by a satellite dish in Solomon Islands shall pay to the Board such fee as may be prescribed by the Minister.

Satellite dish fee

(2) Any person who installs and maintains a satellite dish without payment of the fee prescribed under subsection (1) shall be guilty of an offence and be liable on conviction to a fine not exceeding five thousand dollars or to imprisonment for three years.

PART VI

CONTROL AND MISCELLANEOUS

29.-(1) A licensee shall supply to the Board on demand any material, including the script thereof, which is intended for broadcasting.

Material to be submitted to the Board on demand

(2) A licensee who is required to supply material under subsection (1) shall either-

(a) supply the material in a form specified by the Board; or

(b) make available on demand without charge such of its equipment as is necessary to enable the Board to view the material.

(3) The Board may, if it is of the opinion that any programme intended to be broadcast by a licensee may affect the peace or good order of Solomon Islands, require the licensee to pre-record the programme and submit it to the Board for approval before it is broadcast.

30. The Board may issue directions in writing to a licensee requiring it to take such action with regard to the contents of programmes or advertisements or to technical standards as the Board considers necessary in order to comply with the provisions of this Act including any Code of Practice.

Directions of the Board

31.-(1) The Board may, in writing addressed to the licensee, prohibit the broadcast of any programme, any part thereof or of any class of material.

Board may prohibit programmes

(2) In making any order under subsection (1), the Board shall have regard to the programme planning requirements of the licensee and any unreasonable disregard of such requirements shall be deemed to aggrieve a licensee for the purpose of an appeal under section 34.

(3) Where the Board is of the opinion that the peace or good order of Solomon Islands is threatened it may either orally or in writing prohibit the broadcasting of any particular programme or part thereof, and shall signify such prohibition in writing to the licensee.

(4) The broadcasting of any programme prohibited under subsection (3) shall constitute an offence and on conviction the licensee shall be liable to a fine of ten thousand dollars or to imprisonment for five years.

32. The Board may, by order in writing addressed to a licensee, prohibit the broadcasting of any material tendered, passed or selected by any person named in such order.

Board may prohibit broadcasting certain material tendered by individuals

33.-(1) Subject to subsection (2), the Board shall before it prohibits any broadcast under sections 31(1) or 32, consult with, and consider any representations made to it by, any licensee who in the opinion of the Board will be affected by the prohibition imposed thereunder.

Board to consult affected licensees

(2) Where the Board thinks fit, it may, pending consultation and consideration in pursuance of subsection (1), prohibit temporarily any broadcast under sections 31(1) or 32.

34.-(1) Subject to the provisions of this section, a licensee aggrieved by-

Appeals to the Minister

(a) any decision of the Board in the exercise of any discretion vested with, by or under this Act (including any prohibition under section 31); or

(b) anything contained in any Code of Practice or direction issued by the Board,

may appeal by way of petition to the Minister.

(2) No appeal under subsection (1) shall be against a prohibition-

(a) under section 31(1), except within 14 days after the date on which the licensee is notified of the prohibition under that section; or

(b) under section 31(3).

(3) Any person named in an order under section 32 prohibiting the licensee from broadcasting material tendered, passed or selected by such person may appeal against the order by way of petition to the Minister.

(4) Where an appeal is lodged under this section the decision, order, prohibition, direction or other thing appealed against shall be complied with until the determination of the appeal.

35.-(1) In determining an appeal the Minister may receive advice and information from any source including the Board without disclosing the same to the appellant who shall be entitled to be present in person or otherwise represented.

Determination of appeal

(2) The Minister may determine an appeal by confirming, varying or reversing any decision, prohibition, order or direction of the Board or by amending any Code of Practice.

36. Subject to the provisions of this Act, the licensee shall have power for the purpose of discharging its duties to-

Powers of the licensee

(a) erect, install, construct, equip and maintain plant, buildings, stations and equipment necessary for broadcasting and transmission;

(b) enter into any contract with a programme contractor provided such contract contains provisions for complying and securing compliance with the provisions of this Act and any restrictions or requirements imposed under any regulations, directions and Code of Practice;

(c) make or levy charges or fees for commercial broadcasts, advertisements, sponsored programmes or other services provided; and

(d) to levy charges or rentals from persons or viewers served by the licensee.

37. A licensee shall, as regards each of its accounting years, pay to the Government royalty at such rate as may be determined by the Board having regard to the fees, charges in respect of advertising, advertising magazines and sponsored and other programmes.

Royalty

38. The Minister may make regulations generally for the proper carrying out of the provisions and purposes of this Act, and in particular, but without prejudice to the generality of the foregoing make regulations-

Regulations

(a) prescribing the forms for the different classes of licences required under this Act and the manner in which applications for the respective licences are to be made;

(b) prescribing the terms, conditions and restrictions to which such licences may be subjected to;

(c) prescribing the fees payable on the grant of such licences and the fees payable for the installation and maintenance of satellite dishes;

(d) for the licensing of dealers of television broadcasting receivers;

(e) to ensure that the terms and conditions upon which a licence issued under this Act is observed; and

(f) to ensure that the charges and rentals charged by a licensee from receivers or viewers are reasonable.

(No Subsidiary Legislation)