

THE SWAZILAND TELEVISION AUTHORITY ACT, 1983

Date of commencement: 1 April, 1983.

An Act to establish the Television Authority of Swaziland.

Short title and commencement.

1. This Act may be cited as the Swaziland Television Authority Act, 1983 and shall come into operation on such date as the Minister may, by Notice in the Gazette, appoint.

Interpretation.

2. In this Act unless the context otherwise requires—

“Agreement” means the Agreement entered into between the Government of the Kingdom of Swaziland and Electronic Rentals Group P.L.C. on the 31st March, 1982;

“Authority” means the Swaziland Television Authority established under section 3;

“Broadcasting Service” means a telecommunication service of transmissions consisting of sounds, images and signals which take place by means of radio and is intended for reception by the general public;

“the Board” means the Board of Directors established under section 5 of this Act;

“the Board of Control” means the Swaziland Television Authority Board of Control established under section 9;

“Chairman” means the Chairman of the Board and includes the Deputy Chairman and Acting Chairman.

“the Government” means the Government of the Kingdom of Swaziland;

“Minister” means the Minister responsible for television broadcasting;

“Television Service” means the national television broadcasting service in Swaziland formerly operated by S.T.B.C.;

“Management Agreement” means an Agreement of management in terms of this Act entered into between the Government of the Authority and any other person.

Establishment of the Authority.

3. There is hereby established the Swaziland Television Authority which shall be a body corporate, having perpetual succession, capable of suing and of being sued in its corporate name, capable of purchasing, acquiring and alienating any movable or immovable property or of performing all such acts as a body corporate may lawfully perform.

Objects and powers of the Authority.

4. (1) The objects and powers of the Authority shall be to —
- (a) establish, erect and operate television broadcasting stations in Swaziland and maintain all facilities in connection therewith in accordance with this Act;
 - (b) impose and implement controls in regard to —
 - (i) television and rentals, selling and dealing in television receivers and associated equipment.
 - (ii) the technical quality of the transmissions;
 - (iii) the duration of broadcasting time used or certificate for advertising or commercials;
 - (c) issue and withdraw licences referred to in this Act;
 - (d) with the permission of the Minister borrow or lend money to, either with or without security and with or without interest, such persons and upon such terms and conditions as the Authority may think fit, and in particular to persons undertaking to build or improve any property in which the Authority is interested;
 - (e) acquire and undertake the whole or any part of the business, property and liabilities of any person or company (including the Government) carrying on any business which the Authority is authorised to carry on;
 - (f) acquire the shares, assets and liabilities from the Government and carry on the functions of the Authority in terms of the Agreement;
 - (g) enter into contractual agreements with any person for the better management of its affairs and carrying out of its aims and objects in terms of this Act;
 - (h) with the permission of the Minister raise, borrow, or secure the payment of money, or the performance of any obligation, in such manner and on such terms as may seem expedient and in particular by the grant and passing of mortgage and other bonds charged upon all or any of the Authority's assets, movable and immovable, present and future;
 - (i) open and operate bank accounts and savings accounts and draw, accept, endorse, discount, execute and issue bills of exchange, cheques, promissory notes, debentures, bills of lading and other negotiable instruments, and guarantee the payment of any money;
 - (j) establish and support, or to aid in the establishment and support of associations, institutions, clubs, hospitals, trust funds or conveniences calculated to benefit employees or ex-employees of the Authority, or the dependants or connections of such persons, and grant pensions and allowances, and to make payments towards insurance, and to subscribe or guarantee money for charitable or benevolent objects, or for any public, general or useful object;

- (k) assume the rights and obligations of any person or corporation under any contract entered into in contemplation of the establishment of this Authority and purporting or intended to be for the benefit of this Authority and to indemnify such person or corporation against any claim arising out of such contract and to accept profits and liabilities from any such contract already completed in terms of the Agreement or any other future undertaking;
- (l) do and perform all other such things and functions as are incidental or conducive to the attainment and realisation of the above aims and objects in terms of this Act as would be within its powers as hereunder provided.

(2) The aims and objects of the Authority and all that the Authority is empowered to do in terms of this Act shall be undertaken and carried out for and on behalf of the Authority by the Board of Directors.

Composition of the Board of Directors.

5. (1) There shall be a Board of Directors of the Authority which shall consist of —
- (a) a Chairman who shall be appointed by the Minister;
 - (b) four persons who shall represent the Ministry responsible for television and broadcasting, the Ministry responsible for Education, the Ministry responsible for Finance and the Ministry responsible for Commerce, Industry, Mines and Tourism;
 - (c) three persons who are not public officers appointed by the Minister on the basis of their relevant qualification, knowledge or experience;
 - (d) the General Manager who shall be an *ex officio* member of the Board.

(2) Subject to section 7, a member of the Board, other than the General Manager, shall hold office for a period of three years and shall be eligible for re-appointment.

(3) The Board shall have the power to carry out all the operations of the Authority and to this end shall possess and exercise all the powers, rights and privileges of the Authority in terms of this Act.

Deputy Chairman and Secretary of the Board.

6. (1) There shall be a Deputy Chairman of the Board who shall act as Chairman in the absence or incapacity of the Chairman and who shall be appointed by the Minister from amongst the members.

(2) There shall be a secretary of the Board appointed by the Minister on such terms and conditions as the Minister may determine but who shall not be a member of the Board.

When office of director vacated.

7. The office of a director shall become vacated if he —
- (a) becomes insolvent under any law relating to the insolvency of persons in Swaziland;
 - (b) becomes of unsound mind or is in any other way physically incapacitated;
 - (c) gives in writing three months' notice of his resignation;

- (d) is absent from three consecutive Board meetings without leave of the Board;
- (e) is party to or participates in the profits of any contract with the Authority;
- (f) is convicted of an offence and sentenced to a term of imprisonment of six months or more; or
- (g) being a member of the Board who is a public officer he ceases to be a public officer or is for any reason suspended from his office in the public service for a period of three or more months.

General Manager.

8. (1) The Board shall appoint a General Manager who possesses such qualifications and experience in the management and operations of the media as the Board may determine and who shall be responsible for the day-to-day conduct of the Authority subject to the directions of the Board.

(2) The General Manager shall hold office on such terms and conditions as the Board may determine.

(3) Subject to subsection (1) the General Manager shall be responsible for, *inter alia* —

- (a) the programme content of the television service;
- (b) the technical quality of the transmissions; and
- (c) the duration of broadcasting time used or set aside for advertising.

Board of Control.

9. (1) There is hereby established a Board to be known as the Swaziland Television Authority Board of Control which shall consist of five members appointed by the Minister on such terms and conditions as the Minister may determine.

(2) A member of the Board of Control shall hold office for a period of three years and shall be eligible for re-appointment.

Duties of the Board of Control.

10. The Board of Control shall, without prejudice to any other law, monitor the content of programmes and other transmissions to ensure that they conform with acceptable moral standards.

Appointment of officers, employees, agents and correspondents.

11. (1) All appointments of officers and employees of the Authority shall be only to positions created by or pursuant to decisions of the Board and officers and employees in the service of the Swaziland Television Broadcasting Corporation and Visionhire (Swaziland) Limited on the commencement of this Act, shall hold substantially the same offices and on terms and conditions not less advantageous or on such varied terms and conditions as the Board may determine but without prejudice to any existing rights as to tenure of office, salary or other emoluments.

(2) All appointments of agents and correspondents of the Authority shall be made pursuant to the decisions of the Board.

Transfer of assets and liabilities and pending court proceedings.

12. (1) The assets and liabilities of the Authority shall be the assets and liabilities acquired by the Government in accordance with the Agreement, and any other assets and liabilities as the Authority may from time to time acquire.

(2) Any legal proceedings by or against the Swaziland Television Broadcasting Corporation and Visionhire (Swaziland) Limited which are pending on the commencement of this Act shall be continued by or against the Authority.

Application of the funds of the Authority.

13. The funds of the Authority shall be applied towards —

- (a) the payment of salaries, fees, remunerations and other allowances and expenses of all or some of the Board members, officers, employees, agents and correspondents of the Authority;
- (b) the payment of interest on sums placed at the disposal of, raised by or accruing to, the Authority;
- (c) the payment of rates, taxes (if any), insurance premiums and other outgoings and expenses of maintenance or disposal in connection with lands or buildings which become vested in the Authority;
- (d) the provision and maintenance of television receivers and other equipment and accessories;
- (e) such capital expenditure as may be authorised by the Board; and
- (f) all other expenses authorised by or incidental to the operation of this Act.

Audit, accounts and annual reports.

14. (1) The Authority shall cause proper books of account to be kept by the Board and all other books and records in relation to its business.

(2) The accounts of the Authority shall be subject to annual audit by an auditor appointed by the Board and approved by the Minister.

(3) The Board shall as soon as possible after the end of each financial year —

- (a) report to the Minister in such form as the Minister may direct on the exercise and performance by it of its functions during that year and on its future operations;
- (b) deliver to the Minister a copy of its accounts duly audited within 6 months of the end of the financial year.

(4) None of the following persons shall be qualified for appointment as auditors of the Board —

- (i) an officer or servant of the Board;
- (ii) a person who is a partner of an officer or employee of the Board;

- (iii) a person who is an officer or employee of a body corporate which has business dealings with the Board;
- (iv) a person who by himself, or his partner, or his employee regularly performs the duties of secretary or bookkeeper of the Board;
- (v) any person who is an employer or employee of an officer or servant of the Board.

(5) The financial year of the Authority shall be the period from the 1st April in one year to the 31st March in the following year and in respect of the first accounting period it shall be the period, whether shorter or longer than twelve months as the Minister may determine.

(6) The audited accounts and annual reports shall be laid before Parliament by the Minister within a reasonable time after he has received them.

Liability of Board members and staff.

15. Nothing done by the Chairman or any other member of the Board or any person acting under their directions, shall, if done bona fide for the purpose of executing any provision of this Act, render the Chairman, such member or person personally liable to any action, liability, claim or demand whatsoever.

Procedure of the Board.

16. (1) The proceedings of the Board and other matters relating thereto shall be governed by the provisions set out in the Schedule hereto.

(2) The Minister may, by Notice in the Gazette, amend the Schedule.

Licence to conduct television service.

17. The Authority may, subject to the approval of the Minister, grant a licence to any person to conduct a television service in Swaziland upon such terms and conditions as the Board may determine, including the annual licence fee therefor.

Licence to deal in television receivers.

18. The Authority may, subject to the approval of the Minister, grant a licence to any person to deal in or trade, whether by way of sale, hire or otherwise, in television receivers, recorders, and other television equipment or accessories in Swaziland upon such terms and conditions as the Board may determine, including the licence fee therefor.

Television viewers' certificate or licence.

19. The Authority shall cause to be issued a television viewers' certificate or a video cassette recorder's licence to any person who possesses a television receiver or recorder capable of receiving or recording television broadcasts.

Conditional transferability of certificates or licences.

20. The television viewer's certificate or licence shall only be validly transferred when duly endorsed to that effect by the Board or its duly appointed officer.

Exemption from tax or duty.

21. Notwithstanding any other law, the Authority shall be exempt from the payment of any tax or duty chargeable upon income, profits, turnover, capital or transfer duty, loan or property in respect of any transaction entered into by it, and every other deed or instrument evidencing the discharge of any such transactions, shall likewise be exempt from the payment of stamp duty.

Prohibitions.

22. (1) No person shall be in possession of a television receiver or video cassette recorder capable of receiving or recording television broadcasts unless he is in possession of a current television viewers' certificate or licence issued in accordance with this Act.

(2) No person shall in any way deal in or in any manner trade, whether by sale, lease, or otherwise, in television receivers, recorders and other television equipment or accessories in Swaziland without a licence issued in terms of this Act.

(3) No person shall without a licence issued in terms of this Act set up or in any way establish or operate a television service in Swaziland.

(4) No person shall record a television broadcast in Swaziland for the purpose of gain without the prior consent of the Authority.

Offences and penalties.

23. A person who contravenes any of the provisions of section 22 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred Emalangeni or imprisonment for six months or both.

Post Office Act not applicable.

24. Section 68 of the Post Office Act, 1962 or any other law replacing that Act, shall not apply to the Television Broadcasting Service or in conducting of a television service or in dealing or trading in television receivers or the possession of television receivers or any licence under this Act.

General.

25. (1) The General Manager shall with respect to the content of the programme and other transmissions, have full editorial freedom within the guidelines prescribed by the Board of Control.

(2) The resources and facilities of the Authority shall be used exclusively to implement the functions and objects of the Authority.

Regulations.

26. The Minister may, in consultation with the Board, make Regulations for the better carrying out of the provisions of this Act, and may without derogating from the generality of the foregoing —

- (a) appoint inspectors for the purpose of inspecting television licences;
- (b) prescribe the form of licences to be used under this Act;
- (c) prescribe such remunerations and allowances as he may consider reasonable in respect of the members of the Board;
- (d) prescribe viewers' certificate and licence fees in respect of television receivers and recorders;
- (e) in the public interest, prohibit or restrict the possession or use of video cassettes.

Repeal.

27. The Television Authority Order, 1977 is hereby repealed.

Savings of licences.

28. A licence issued under the Television Authority Order, 1977 shall continue to be valid until it expires or is revoked.

SCHEDULE

(Section 16)

Rules of Procedure of the Board of directors.

1. The Board shall meet at least once every three months for the despatch of the business of the Authority.
2. The Chairman of the Board shall convene and preside at all meetings of the Board.
3. In the absence of the Chairman, but subject to the quorum, the Deputy Chairman shall preside and in the absence of both, the Minister shall appoint an Acting Chairman from among the members present to preside at a meeting.
4. The quorum for a meeting of the Board shall be four members at least two of whom shall be appointed by the Minister.
5. All decisions of the Board shall be made by a majority of the votes of the members present and in the event of an equality of votes, the Chairman, or in his absence the Deputy Chairman or in the absence of both, the Acting Chairman, shall have a casting vote in addition to his deliberative vote.
6. Subject to the Act and this Schedule, the Board may regulate its own proceedings.