

**THE KENYA BROADCASTING CORPORATION  
ACT, 1988**

**No. 15 of 1988**

*Date of Assent: 19th December, 1988*

*Date of Commencement: By Notice*

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**An Act of Parliament to establish the Kenya Broadcasting Corporation to assume the Government functions of producing and broadcasting programmes or parts of programmes by sound or television; to provide for the management, powers, functions and duties of the Corporation; to provide for the control of broadcast receiving sets, and for the licensing of dealers, repairers and importers of broadcast receiving sets; and for connected purposes**

ENACTED by the Parliament of Kenya as follows:—

## PART I—PRELIMINARY

Short title,  
commencement  
and  
application.

1. (1) This Act may be cited as the Kenya Broadcasting Corporation Act, 1988 and shall come into operation on such date as the Minister may by notice in the Gazette appoint.

Cap. 411.

(2) This Act shall have effect notwithstanding the provisions of the Kenya Posts and Telecommunications Corporation Act.

Interpretation.

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

“*artiste*” means a person, not being an employee of the Corporation, who is invited or engaged to participate in the production and broadcasting of programmes or parts of programmes by sound or television for the Corporation;

“*Board*” means the Board of Directors of the Corporation established by section 4;

“broadcasting” means radiocommunication, whether by sound or vision, for reception by members of the public;

“chairman” means the chairman of the Board appointed under section 4 (1) (a);

“Corporation” means the Kenya Broadcasting Corporation established by section 3;

“Managing Director” means the person appointed to that office under section 5 (1);

“installations” includes aerials, masts, overhead wires or cables, underground cables and fixed apparatus for radio-communication, telephone, electrical generation and wired distribution services;

“radiocommunication” means emitting or receiving, over paths which are not provided by any material substance constructed or arranged for that purpose, of electro-magnetic energy of a frequency not exceeding three million megahertz being energy which either—

- (a) serves for the conveying of the message, sound or visual images (whether the messages, sound or visual images are actually received by any person or not) or for the actuation or control of machinery or apparatus; or
- (b) is used in connection with the determination of position, bearing or distance, or for the gaining of information as to the presence, absence, position or motion of any objects of any class;

“television” means the transmission or reproduction by radiocommunication of images of objects in movement or at rest;

“wired distribution service” means—

- (a) the dissemination of the whole or any part of broadcasting service by means of wires otherwise than within the precincts of a single self-contained building;
- (b) the dissemination of entertainment by way of music, speech or moving or stationary pictures by means of cables or wires extending to or connecting two or more buildings.

PART II—ESTABLISHMENT AND MANAGEMENT OF THE  
CORPORATION

Establishment  
of the  
Corporation.

**3.** (1) There shall be established a Corporation to be known as Kenya Broadcasting Corporation.

(2) The Corporation shall be a body corporate with perpetual succession and a common seal and shall have power to sue and to be sued in its corporate name and to acquire, hold and dispose of movable and immovable property for the purposes of the Corporation.

(3) The Headquarters of the Corporation shall be in Nairobi.

Establishment  
of the Board.

**4.** (1) There shall be a Board of Directors of the Corporation which shall consist of—

- (a) a chairman of the Board appointed by the President;
- (b) the Managing Director of the Corporation;
- (c) the Permanent Secretary in the Ministry for the time being responsible for information and broadcasting;
- (d) the Permanent Secretary in the Office of the President;
- (e) the Permanent Secretary in the Ministry for the time being responsible for finance;
- (f) not more than seven members appointed by the Minister, not being employees of the Corporation, of whom not more than three shall be public officers and of whom—
  - (i) at least one shall have specialization or experience in matters connected with radiocommunication and radiocommunication apparatus;
  - (ii) at least one shall have specialization or experience in radio or television programme production;
  - (iii) at least one shall have specialization or experience in the print media;
  - (iv) at least one shall have specialization or experience in financial management and administration.

5. (1) There shall be a Managing Director of the Corporation who shall be appointed by the Minister after consultation with the Board whose terms and conditions of service shall be determined by the Minister in the instruments of appointment or otherwise in writing from time to time:

Managing  
Director.

Provided that the first Managing Director shall be appointed by the Minister without the consultation under this subsection.

(2) The Board shall appoint a Deputy Managing Director and a secretary of the Corporation, whose terms and conditions of service shall be determined under section 15.

6. The First Schedule shall have effect with respect to the constitution of the Board and otherwise in relation thereto.

Further  
provisions  
relating to  
the Board.

7. The Corporation shall pay to the directors other than the Managing Director and public officers in receipt of a salary, such remuneration, fees or allowances for expenses according to the scales of remuneration specified for the Corporation from time to time by the State Corporations Advisory Committee under the State Corporations Act.

Remuneration  
of directors.

Cap. 446.

### PART III—POWERS AND FUNCTIONS OF THE CORPORATION

8. (1) The Corporation shall—

Duties of  
the Corporation.

(a) provide independent and impartial broadcasting services of information, education and entertainment, in English and Kiswahili and in such other languages as the Corporation may decide;

(b) provide, if the Minister so requires, an external broadcasting service for reception in countries outside Kenya and may for that purpose, subject to the acquisition of any requisite licence, concessions, rights or privileges, construct or acquire and establish install, equip and use radiocommunication stations in countries or places outside Kenya or in space;

(c) control and operate such plant, property, installations and services as are, or may be, acquired by the Corporation under this Act;

- (d) advise the Government on all matters relating to the broadcasting services and to matters appertaining to the Corporation generally;
- (e) appoint and enter into agreements with such contractors and artistes as may be necessary for the purposes of this Act;
- (f) conduct the broadcasting services with impartial attention to the interests and susceptibilities of the different communities in Kenya;
- (g) ensure the observation of standards of broadcasting and commercial advertising;
- (h) provide facilities for commercial advertising and for the production of commercial programmes at such fee or levy as the Corporation may determine;
- (i) include in its sound and television programmes a daily service of news, which shall be broadcast in English and Kiswahili and such other languages as the Corporation may decide at such times as the Corporation may determine.

(2) Subject to this Act and for the purposes of subsection (1), the Corporation shall have power to undertake all such activities as may appear to the Corporation to be requisite, advantageous or convenient for it to carry on, for or in connection with the discharge of its duties, and in particular and without prejudice to the generality of the foregoing shall have power—

- (a) to produce, manufacture, purchase or otherwise acquire, and sell or otherwise dispose of, films, gramophone and other mechanical records, tapes, wires, perforated rolls or other contrivances by means of which any words, visual images or ideas may be mechanically or electrically produced, reproduced, represented or conveyed and materials and apparatus for use in connection with the broadcasting services;
- (b) to provide to and receive from other persons material to be broadcast;
- (c) to organize, provide and subsidize public entertainment for broadcast or for any connected purpose;

- (d) to collect news and information in or from any part of the world and in any manner that may be thought fit and to establish and subscribe to news agencies;
- (e) to establish offices and agencies in Kenya and elsewhere;
- (f) to acquire by registration, purchase or otherwise copyrights in any matter and any trade-marks and trade names and sell copyright or use, exercise, develop and grant licences in furtherance of the powers, duties and functions of the Corporation;
- (g) to complete, publish, print and distribute, with or without charge, matter that may be conducive to the performance of any of the duties of the Corporation, or to enter into contract with any person for that purpose;
- (h) to do anything for the purpose of advancing the skill of persons employed or to be employed by the Corporation, or the efficiency of the equipment of the Corporation or the manner in which the equipment is operated, including the provision by the Corporation, and the assistance of the provision by others, of facilities for training, education and research;
- (i) to accept for broadcasting, with or without charge, advertisements and announcements which do not conflict with the general policy of the Corporation;
- (j) to make available to broadcasting organizations the use of its sound and television studios upon such terms as the Corporation may determine for the purpose of preparing programmes for broadcasting;
- (k) to carry on or operate such services, including wired distribution services, as are conducive to the exercise of its duties;
- (l) to apply for and obtain, purchase or otherwise acquire and turn to account in any fitting manner any letters patent or patent rights or any interest in letters patent, patent rights, *brevets d'invention*, licences, concessions and the like conferring any right to use secret or other information concerning any invention useful to the purposes and functions of the Corporation;

- (m) to establish and support or aid in the establishment or support of associations, institutions, funds, trusts and amenities for the benefit of employees or former employees of the Corporation or their dependants or relatives, and to grant pensions and allowances, to make payments towards insurances and to subscribe or guarantee money for charitable or benevolent objects or for any exhibition or for any public, general or useful project;
- (n) with the approval of the Minister, to establish companies whose objects include any of the Corporation's powers, functions or duties whose business is capable of being carried on in such a way as to facilitate or advance those powers, functions or duties, and to purchase or otherwise acquire stocks, shares or securities of, and subsidize and assist, the companies;
- (o) subject to section 39, to borrow or raise or secure the payment of money in Kenya or elsewhere.

Assumption of the broadcasting services of the Government. Cap. 221 (1967).

9. (1) The Corporation shall assume the broadcasting services of the Government operated under the Kenya Broadcasting Corporation (Nationalization) Act (now repealed).

(2) The broadcasting services of the Corporation shall be known as the Voice of Kenya.

(3) No person shall, unless authorized by or permitted by or under any written law, construct, maintain or operate, or permit the construction, maintenance or operation of, any apparatus for, or connected with, radiocommunication for the purpose of broadcasting, and any person who contravenes this subsection shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

Board to lay down standards.

10. (1) The Board shall give directions in writing laying down general standards of taste, impartiality and accuracy for the contents, including advertisements, of all programmes broadcast by the Corporation.

(2) It shall be the duty of all officers and servants of the Corporation and in particular of the Managing Director to ensure that standards so laid down are maintained.

11. (1) Subject to this Act, the control and executive management of the Corporation shall be vested in the Managing Director.

Functions of the  
Managing  
Director.

(2) Subject to the directions of the Board, the Managing Director may—

- (a) establish and operate production and transmission facilities, and services related thereto;
- (b) plan, regulate and control the content and balance of all broadcasts by the Corporation;
- (c) approve recurrent expenditure within limits determined by the Board;
- (d) approve any individual capital work of which the estimated cost does not exceed one million shillings or such other sum as the Minister may by order determine;
- (e) approve any alteration in salaries, wages or other terms and conditions of service of employees of the Corporation not involving expenditure in excess of the limits determined by the Board within its powers;
- (f) approve any alteration in the establishment of the Corporation other than an alteration involving a major re-organization or a substantial reduction in the number of employees; and
- (g) allocate functions to employees of the Corporation.

(3) The Board may direct the Managing Director to establish divisions for the Corporation and without prejudice to the generality of the foregoing there may be established divisions for—

- (a) radio engineering;
- (b) television engineering;
- (c) television programmes;
- (d) radio programmes;
- (e) news;
- (f) personnel and administration;
- (g) finance.

Broadcasting  
Advisory  
Councils.

**12.** (1) For the better carrying out of the powers, duties and functions of the Corporation the Board may establish an advisory council to advise the Board on any matter concerning the broadcasting service of the Corporation.

(2) An advisory council shall consist of not less than seven and not more than thirteen persons, each appointed by the Board and the Board shall appoint one of the members to be chairman.

(3) An advisory council shall not take part in the day-to-day business of broadcasting administration in the Corporation.

(4) The Second Schedule shall apply with respect to advisory councils.

Matter to be  
broadcast in  
and costs of  
external services.

**13.** (1) Where the Minister has, under paragraph (b) of section 8 (1) required the Corporation to provide any external services, the Corporation shall—

(a) broadcast programmes in the external services to such countries, in such languages and at such times as may from time to time be specified by the Minister after consultation with the Corporation;

(b) consult and collaborate with such Ministries and Departments of the Government as may be specified in writing by the Minister and shall obtain and accept from them such information regarding conditions in, and the policies of the Government of Kenya towards, the countries specified and other countries as will enable the Corporation to plan and prepare its programmes in the external services in the interests of Kenya.

(2) The full net cost of providing and transmitting external services shall be borne from funds specially provided to the Corporation by Parliament for that purpose.

Announcements  
of national  
importance.

**14.** (1) The Corporation shall, whenever so required in writing by the Minister or by any person authorized in that regard by the Minister in writing, broadcast announcements or programmes of national importance, whether by sound or television.

(2) The Corporation, when broadcasting any announcement or programmes under this section, may at its discretion announce or refrain from announcing that it is broadcast at the request of the Minister.

(3) Nothing in this section shall be deemed to limit the right of the Government to submit to the Corporation items of general interest or utility for broadcasting at the discretion of the Corporation.

#### PART IV—STAFF

**15.** (1) Subject to this Part, the Corporation may appoint and employ such officers, servants and agents as it deems necessary for the discharge of its functions and duties under this Act upon such terms and conditions of service as the Board may determine, in consultation with the State Corporations Advisory Committee established under the State Corporations Act.

Employment of officers, servants and agents.

(2) The Corporation shall within twelve months after the commencement of this Act make provision for a staff superannuation scheme of a type that will enable the President to determine service with the Corporation to be public service for the purposes of the Pensions Act.

Cap. 189.

**16.** (1) The Corporation shall, subject to this section, employ such public officers as may be seconded by the Government.

Officers seconded from Government service.

(2) The Government may at any time determine the secondment of any public officer who has been seconded to the service of the Corporation under the provisions of this section, and the Corporation may request the Government to determine the secondment of any such officer :

Provided that no such request shall be made unless the Corporation has first given to the officer written notice of the Corporation's intention to make the request.

**17.** (1) The Corporation shall, within a period of one year from the date of commencement of this Act, offer to every officer seconded to the Corporation from the service of the Government, and whose secondment has not been terminated under subsection (2) of section 16, employment by the Corporation from such date upon such terms and conditions as may be specified in the offer.

Offers of employment with Corporation.

(2) Any officer who fails to accept in writing an offer made to him by the Corporation under subsection (1) within six months after the offer has been made to him shall be deemed to have refused the offer.

(3) If an officer refuses an offer made to him by the Corporation in accordance with subsection (1) the obligation to employ the officer imposed on the Corporation by subsection (1) of section 16 shall determine upon the expiration of the period of six months following the date of the refusal.

(4) When an officer accepts an offer made to him by the Corporation under subsection (1) his service with the Corporation shall be deemed to have commenced, and his service with the Government to have ceased, on the date specified in that offer.

Corporation to  
reimburse  
Government for  
seconded officers.

**18.** (1) The Corporation shall reimburse to the Government the cost to the Government of any officers seconded to the Corporation under section 16.

(2) The certificate of the Permanent Secretary to the Treasury as to such cost shall be conclusive proof of such cost.

Corporation to  
make staff  
regulations.

**19.** The Corporation shall make regulations generally relating to the conditions of service of officers and servants of the Corporation and in particular, but without prejudice to the generality of the foregoing, shall make regulations relating to—

- (a) the appointment, dismissal, discipline, pay and leave of, and the security to be given to, officers and servants;
- (b) appeals by officers and servants against dismissal or other disciplinary measures;
- (c) the establishment and maintenance of medical benefits and loan funds, and the contributions payable thereto and the benefits recoverable therefrom.

#### PART V—ARTISTES

Employment of  
artistes.

**20.** (1) The Corporation may, upon such terms and conditions as the Board shall determine, employ artistes to participate in the broadcasting services of the Corporation

and such other services including the production of programmes as the Board shall deem necessary for the purposes of the Corporation.

**PART VI—LICENSING OF BROADCAST RECEIVING APPARATUS  
AND CONNECTED FUNCTIONS OF THE CORPORATION**

**21.** The power for the control of receiving sets for wireless and television broadcasts, and for the licensing of dealers in and repairers of such sets shall vest in the Corporation upon the commencement of this Act.

Corporation to be the licensing authority.

**22.** In this Part, unless the context otherwise requires—

Interpretation of Part.

“dealer” means a person who by way of trade or business buys, offers for sale, sells, lets on hire or otherwise deals in sets;

“dealer’s licence” means a licence issued to a dealer under section 25;

“licence” means any licence issued under this Part;

“licensed premises” means premises in respect of which a dealer’s licence or repairer’s licence is in force;

“licensing officer” means a licensing officer appointed under this Act and includes the Managing Director;

“permit” means a permit issued under section 26;

“police officer” includes an administration police officer;

“possession”, “be in possession of” and “have in possession” have the meanings assigned to such expressions in section 4 of the Penal Code;

Cap. 63.

“prescribed fee” means the appropriate fee prescribed;

“repair” in relation to a set includes providing maintenance service of any kind and fitting spare parts;

“repairer” means a person who by way of trade or business carries out repairs to or provides maintenance services for sets;

“repairer’s licence” means a licence issued to a repairer under section 25.

“set” means an apparatus for the reception of television broadcasts or for the reception of sound broadcasts, and where an apparatus is designed or constructed for the reception of both television and sound broadcasts (other than those relating to television broadcasts) such apparatus shall be deemed to comprise two sets, one for the reception of sound broadcasts and the other for television broadcasts as the case may be.

Appointment of licensing officers.

**23.** For the purposes of this Act, the Managing Director, shall be the chief licensing officer and the Corporation may by notice in the Gazette appoint such other licensing officers who may be public officers as are necessary for the purposes of this Part.

Dealing and repairing of sets to be licensed.

**24.** (1) No dealer or repairer shall carry on trade or business as such unless he holds a valid dealer's or repairer's licence, as the case may be.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a period not exceeding six months or to both.

Issue, etc., of dealer's and repairer's licences.

**25.** (1) A dealer's or repairer's licence--

- (a) may be issued by a licensing officer on payment of the prescribed fee;
- (b) may be issued subject to such conditions not inconsistent with this Act as the licensing officer thinks fit to impose;
- (c) shall specify the premises to which such licence relates;
- (d) shall be exhibited in a conspicuous place in such premises; and
- (e) may be revoked at any time by the Managing Director in his discretion.

(2) Before a dealer's or repairer's licence may be issued under this section the applicant shall satisfy the licensing officer that he has complied with the requirements of any other written law relating to the carrying on of the trade or business of dealer or repairer.

26. (1) Subject to this section, no person shall be in possession of a set unless he is also in possession of a permit relating to that set.

Permits.

(2) No dealer shall sell a set to any person unless, at the time of such sale, he issues a permit in the prescribed form to, and collects the prescribed fee therefor from, such person.

(3) No dealer shall let on hire a set to any person unless such dealer is in possession of a permit for such set issued by a licensing officer and endorses the permit in respect of the person to whom the set is so let.

(4) No permit shall be required—

(a) by a dealer by reason of his possession of a set for sale;

(b) by a repairer by reason of his possession of a set for repair.

(5) The Minister may by rules prescribe the validity of permits issued under this section.

(6) A valid permit may be transferred to any person to whom the possession of the set concerned is transferred by endorsement of the name of such person upon the permit.

(7) Any person who contravenes or fails to comply with subsections (1), (2) or (3) shall be guilty of an offence and liable to a fine not exceeding six thousand shillings or to imprisonment for a period not exceeding six months or to both.

27. Every dealer's and repairer's licence—

(a) shall be in the prescribed form; and

(b) shall come into effect on the date of commencement specified therein and expire one year from that date of commencement.

Form and duration of licences.

28. Subject to any rules made under section 35, the Corporation shall from time to time prescribe the fees payable for any permit or licence issued under this Part.

Fees.

29. Where a licencing officer is satisfied that any licence or permit has been lost or destroyed he may, upon payment of the prescribed fee, issue a duplicate of such licence or permit.

Replacement of licence or permit.

Appeals to  
the Minister.

**30.** Any applicant for a dealer's or repairer's licence, who is aggrieved by the refusal of a licensing officer to issue a licence to him, and any holder of a dealer's or repairer's licence who is aggrieved by the revocation of such licence by the Managing Director may within fourteen days of being informed of the refusal or revocation appeal to the Minister, whose decision on such appeal shall be final and shall not be subject to appeal.

Registers.

**31.** Every holder of a dealer's or repairer's licence shall keep such registers and render such returns as the chief licensing officer may, by notice in the Gazette or by notice in writing, require.

Inspection of  
licensed  
premises.

**32.** At all reasonable times a licensing officer or a police officer of or above the rank of chief inspector may enter the premises of a dealer or repairer for the purpose of ensuring that the provisions of this Part and any subsidiary legislation thereunder are being complied with.

Obstruction.

**33.** (1) Any person wilfully obstructing, impeding, hindering or resisting any person in the execution of his duty under this Part shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding five thousand shillings or to both.

(2) An offence under this section shall be cognizable to the police.

Fees to form  
part of revenue  
of Corporation.

**34.** All fees or payments collected or levied under this Part shall be and form part of, the revenues of the Corporation.

General  
power of  
making rules  
under Part.

**35.** The Minister after consultation with the Board may make rules for any purpose for which rules may be made under this Part and for prescribing anything which may be prescribed under this Part and generally for the better carrying out of the purposes of this Part, and in particular, but without prejudice to the generality of the foregoing, may make rules with respect to any of the following matters—

- (a) the particulars to be furnished for any of the purposes of this Part;
- (b) the procedure on application for the grant of any licence;

- (c) the production and return of licences upon revocation;
- (d) the exemption of any person or class of persons from the liability of holding a permit;
- (e) the granting of permits at concessionary rates to organizations established for education purposes.

**36.** A permit relating to any set which, at the commencement of this Act, constituted a valid permit under the Broadcast Receiving (Apparatus) Act (now repealed), shall be deemed for all the purposes of this Part to be a permit in respect of that set.

Transitional provision.  
Cap. 224 (1972).

#### PART VII—FINANCES OF THE CORPORATION AND CONTROL THEREOF

**37.** The Government may make grants to the Corporation as are necessary for the purposes of the Corporation and for carrying this Act into effect.

Government grants.

**38.** (1) It shall be the duty of the Corporation to conduct its business according to commercial principles and to perform its functions in such a manner as to secure that, taking one year with another its gross revenue is not less than sufficient to meet its outgoings which are properly chargeable to revenue account, including proper allocations to the general reserve and provision in respect of depreciation of capital assets, pension liabilities and interest and other provision for the repayment of loans, and further to ensure that, taking one year with another, its net operating income is not less than sufficient to secure an annual return on the value of the net fixed assets in operation by the Corporation of such percentage as the Minister may from time to time direct.

Principles of operation.

(2) For the purposes of subsection (1)—

- (a) “net operating income” shall be determined by subtracting from gross operating revenue all operating and administrative expenses, including adequate provision for maintenance and depreciation but excluding interest and other charges on debt; and

(b) "value of the net fixed assets in operation" shall be the gross value of such assets less the amount of accumulated depreciation shown in the statement of account of the Corporation :

Provided that, if the amounts shown in such statement of accounts do not reflect a true measure of value of the assets concerned because of currency revaluations, changes in prices or similar factors, the value of the fixed assets shall be adjusted adequately to reflect such currency revaluation changes in prices or similar factors.

(3) In the exercise of its duty under subsection (1), the Corporation may, subject to section 41, invest moneys standing to the credit of the Corporation in such securities as the Board thinks fit.

**Borrowing powers.**

**39.** (1) The Corporation may borrow money by the issue of loan stock on such terms as may be approved by the Minister for the time being responsible for finance.

(2) The Corporation may otherwise borrow money or obtain credit in Kenya or elsewhere for the purposes of the Corporation with the concurrence of, and subject to such limitations as may be imposed by, the Minister responsible for finance.

(3) Stock issued under subsection (1) and moneys borrowed or credit obtained under subsection (2) approved by the Minister responsible for finance for the purposes of this subsection, and all interest and other charges payable in respect of such stock, moneys or credit, shall, unless the instrument or note evidencing or supporting the borrowing shall otherwise provide, be charged upon all the property, undertaking and revenue of the Corporation by operation of this section and without further charge or instrument.

(4) Except as provided in this section, the Corporation shall not give or execute any mortgage or charge over any of its property or assign its property by way of security for borrowed money.

**Financial year.**

**40.** The financial year of the Corporation shall be the period of twelve months commencing on the 1st July and ending on the 30th June in the next succeeding year :

Provided that the first financial year of the Corporation shall be the period commencing on the date of commencement

of this Act and ending on the 30th June subsequent to that date.

**41.** (1) The Board may invest any of the funds of the Corporation in securities in which for the time being a trustee may by law invest trust funds or in any other securities which the Treasury may from time to time approve for the purpose.

Investment  
of funds.

(2) The Board may place on deposit with such bank or banks or financial institutions as it may determine any moneys not immediately required for the purposes of the Corporation.

**42.** (1) Before the commencement of a financial year the Board shall cause to be prepared estimates of the revenue and expenditure of the Corporation for that year.

Annual  
estimates.

(2) The annual estimates shall make provision for all the estimated expenditure of the Corporation of the financial year concerned, and in particular shall provide—

- (a) for the payment of the salaries, allowances and other charges in respect of the staff of the Corporation;
- (b) for the payment of the pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the Corporation;
- (c) for the maintenance of the buildings and grounds of the Corporation;
- (d) for the proper maintenance, repair and replacement of any installation and of the equipment and other moveable property of the Corporation;
- (e) for the funding of the broadcasting services and training and research activities of the Corporation;
- (f) for the creation of such funds to meet future or contingent liabilities in respect of retiring benefits, insurance or replacement of buildings or installations or equipment and in respect of such other matters as the Board may think fit.

(3) Annual estimates shall be approved by the Board before the commencement of the financial year to which they relate,

and shall be submitted to the Minister for approval and after the Minister has given his approval the Board shall not increase any sum provided in the estimates without the consent of the Minister.

(4) No expenditure shall be incurred for the purposes of the Corporation except in accordance with the annual estimates approved under subsection (3) or in pursuance of an authorization of the Board given with the prior approval of the Minister.

Accounts  
and audit.

**43.** (1) The Board shall cause to be kept all proper books and records of account of the income, expenditure and assets and liabilities of the Corporation.

(2) Within a period of four months after the end of each financial year, the Board shall submit to the Auditor-General (Corporations) the accounts of the Corporation together with—

(a) a statement of income and expenditure during the year; and

(b) a statement of the assets and liabilities of the Corporation on the last day of that year.

(3) The accounts of the Corporation shall be audited and reported on annually by the Auditor-General (Corporations) under Part VII of the Exchequer and Audit Act.

Cap. 412.

(4) The expenses of and incidental to the auditing of the accounts of the Corporation shall be borne by the Corporation.

#### PART VIII—MISCELLANEOUS PROVISIONS

Proceedings on  
failure of  
Corporation to  
comply with  
the Act.

**44.** If at any time it appears to the Minister that the Corporation has failed to comply with any of the provisions of this Act, he may, by notice in writing, require the Board to make good the default within such time as may be specified in such notice.

Delegation  
and signification.

**45.** (1) The Board and the Managing Director may delegate to any person any of the powers vested in them under this Act and may grant to any person powers of attorney.

(2) Any act or decision, or notification thereof, of the Board or the Managing Director under this Act may be signified under the hand of an employee authorized for that purpose.

**46.** Where any action or other legal proceeding is commenced against the Corporation for any act done in pursuance or execution, or intended execution of this Act or of any public duty or authority, or in respect of any alleged neglect or default in the execution of this Act or of any such duty or authority, the following provisions shall have effect—

Limitation.

(a) the action or legal proceeding shall not be commenced against the Corporation until at least one month after written notice containing the particulars of the claim and of intention to commence the action or legal proceedings, has been served upon the Managing Director by the plaintiff or his agent;

(b) the action or legal proceedings shall not lie or be instituted unless it is commenced within twelve months next after the act, neglect, default complained of or, in the case of a continuing injury or damage, within six months next after the cessation thereof.

**47.** Notwithstanding anything to the contrary in any law—

Restriction on execution against property of Corporation.

(a) where any judgement or order has been obtained against the Corporation, no execution or attachment, or process in the nature thereof, shall be issued against the Corporation or against any property of the Corporation; but the Managing Director shall, without delay, cause to be paid out of the revenue of the Corporation such amounts as may, by the judgement or order, be awarded against the Corporation;

(b) no property of the Corporation shall be seized or taken by any person having by law power to attach or distrain property without the previous written permission of the Managing Director.

**48.** Any notice or other document, required or authorized under this Act to be served on any person by the Corporation or the Managing Director or any employee may be served—

Service of notice, etc. on Director-General.

(a) by delivering it to that person; or

(b) by leaving it at the usual or last known place of abode of that person; or

(c) by sending it by post addressed to that person at his usual or last known address.

Offences by  
Corporations  
and forfeiture  
of apparatus.

**49.** (1) Where any offence under this Act has been committed by a body corporate other than the Corporation, every person who at the time of the commission of the offence was a director, general manager or managing director, secretary or other similar officer of the body corporate, or was purporting to act in any capacity, shall be deemed also to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

(2) Where a person is convicted of an offence under this Act in relation to the unlawful use of radiocommunication apparatus or for the unlawful establishment of a radiocommunication station, the court may, in addition to any penalty, order all or any of the apparatus or installation in connection with which the offence was committed to be forfeited to the Corporation.

Place of  
trial.

**50.** (1) Any person charged with any offence under this Act may be proceeded against, tried and punished in any place within Kenya where he may be in custody for that offence as if the offence had been committed in such place; and the offence shall for all purposes incidental to, or consequential upon, the prosecution, trial or punishment thereof be deemed to have been committed in that place.

(2) Nothing contained in this section shall preclude prosecution, trial and punishment of such person in any place in which, but for the provisions of this section, such person might have been prosecuted, tried or punished.

Application of  
Cap. 204.

**51.** The Protected Areas Act shall apply to the grounds, buildings and installations of the Corporation as though an order for the protection of the grounds, buildings and installations had been made under section 3 of that Act.

**52.** Any person who, without the written approval of the Corporation, assumes for the purposes of business, or registers in terms of any written law relating to companies or business names under, either—

Protection on  
use of name.

(a) a name which includes, with the word “broadcast” or “broadcasting” or “diffusion” or “re-diffusion” or “radio” or “television”, the word “Kenya” or “Kenyan” or “East Africa” or “East African” or “national” or “State” or “general” or “Corporation”;  
or

(b) the names “Kenya Radio Service”, or “Kenya Radio Corporation”, or “Kenya Television Corporation” or “Kenya Broadcasting Service” or “the Voice of Kenya” or “Sauti ya Kenya”.

shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

**53.** The Minister may, after consultation with the Board, make regulations for the better carrying into effect of any or all of the provisions of this Act other than Part VI.

Regulations.

#### PART IX—TRANSITIONAL PROVISIONS

**54.** (1) The funds, assets and other movable and immovable property held by the Government for and on behalf of the Voice of Kenya shall be vested by virtue of this subsection without further assurance, in the Corporation.

Transitional  
provisions.

(2) Every public officer employed to effect or amend any entry in any register relating to property, or to issue or amend any certificate, or other document affecting or evidencing title to property shall do everything necessary under the law to transfer any property vested in the Corporation by this paragraph.

(3) All rights, powers, liabilities and duties whether arising under any written law or otherwise, vested in, imposed on, or enforceable by or against the Government for or in respect of the Voice of Kenya shall be transferred to, vested in, imposed on or enforceable by or against the Corporation.

(4) Any action, suit or legal arbitration proceedings, or any application to any authority, by or against the Government

for or in respect of the Voice of Kenya shall not abate, be discontinued or be prejudicially affected because of this Act but may be prosecuted or continued by or against the Corporation, and any judgement or award obtained by or against the Government for or in respect of the Voice of Kenya, and not fully satisfied shall be enforceable by or against the Corporation.

(5) In any legal or arbitration proceedings concerning any right or liability transferred to or vested in the Corporation by this Act, a certificate by the accounting officer of the Ministry for the time being responsible for matters relating to broadcasting that the right or liability has been so transferred or vested shall be *prima facie* evidence thereof.

(6) Any reference in any written law, or in any document or any instrument, to the Government, for or in respect of the Voice of Kenya, shall be read and construed as a reference to the Corporation established by this Act.

(7) All directions, orders, rules, appointments, requirements, authorizations and any other things made or done by the Government for or in respect of the Voice of Kenya, shall be deemed to have been given, made or done by the Corporation.

(8) Unless the Board otherwise directs and subject to Part IV, all persons who are members of the staff of the Voice of Kenya, immediately before the coming into operation of this Act, shall be members of staff of the Corporation if they so desire and shall be deemed to have been appointed under this Act.

**55.** (1) The Kenya Broadcasting Corporation (Nationalization) Act and the Broadcast Receiving (Apparatus) Act are repealed.

(2) Section 2 (1) of the Copyright Act is amended by deleting the definition of "broadcasting authority" and substituting the following:

"broadcasting authority" means the Kenya Broadcasting Corporation established under the Kenya Broadcasting Corporation Act or any other broadcaster authorized by or under any written law.

Repeal of  
Cap. 221 and  
Cap. 224 and  
amendment of  
Cap. 130.

## FIRST SCHEDULE

## PROVISIONS AS TO THE BOARD AND THE CORPORATION

1. The chairman and the directors appointed under paragraph (f) of section 4 (1) shall, subject to the provisions of this Schedule hold office for such period not exceeding three years and on such terms as may be determined in the instruments of their appointment, and shall be eligible for reappointment. **Tenure of office.**
2. Each director mentioned in the preceding paragraph may— **Vacation of office.**
- (a) resign his office by notice to the Minister in writing at any time;
- (b) be removed from office by the Minister in writing if he—
- (i) has been absent from two consecutive meetings of the Board without permission of the Board; or
- (ii) is incapacitated by prolonged physical or mental illness; or
- (iii) is otherwise unable or unfit to discharge his functions.
3. Each of the directors mentioned in paragraphs (c), (d) and (e) of section 4 (1) may, from time to time, depute in writing an officer of his Ministry to attend meetings of the Board in his place and the officer so deputed shall at such meetings have the same powers as his principal. **Deputies.**
4. (1) Subject to section 8 of the State Corporations Act, the Board shall meet for the despatch of business at least four times as it shall appoint, or failing any such appointment, as the chairman shall appoint. **Meetings.**
- (2) No meeting of the Board shall be held at any place other than the headquarters of the Corporation without prior written approval of the State Corporations Advisory Committee established under the State Corporations Act.
5. The chairman or any five directors may, by not less than twenty-four hours written notice to all other directors, summon a special meeting of the Board at the headquarters of the Corporation at any time. **Special meetings.**
6. Except where a shorter period is appointed under paragraph 4 or 5, notice of the date, time and place of each meeting shall be given in writing at least five clear days beforehand to every director at such address in Kenya as he shall have notified to the Corporation from time to time: **Notice of meetings.**
- Provided that the failure of any director to receive such notice shall not invalidate any proceedings.

- Quorum.** 7. The quorum necessary for the transaction of business by the Board shall be two-thirds of the total number of directors for the time being appointed to the Board and the number nearest to but not less than two-thirds.
- Chairman.** 8. The chairman shall preside at meetings of the Board.
- Provided that if he is not present at the start or at any time during a meeting, the directors present, if a quorum, may choose one of their number, other than the Managing Director, to act as chairman during the chairman's absence from that meeting.
- Voting.** 9. Questions arising at meetings shall be decided by a majority of the votes of the directors present and voting:
- Provided that in the case of any equality of votes, the chairman of the meeting shall have a second or casting vote.
- Minutes.** 10. The Board shall cause minutes to be kept of all resolutions and proceedings at each meeting and of the directors thereat.
- Other procedures.** 11. Subject to the provisions of this Schedule, the Board may determine its own procedure, and the procedure for any committees of the Board and for the attendance of other persons at its meetings, and may make standing orders in respect thereof.
- Disclosure of interest.** 12. (1) If a director is directly or indirectly interested in any contract, proposed contract, or other matter and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact, and shall not take part in the consideration or discussion of, or vote on, any question with respect to the contract or other matter, or be counted in the quorum of the meeting during the consideration of the matter.
- (2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.
- The common seal.** 13. The affixing of the common seal of the Corporation shall be authenticated by the signatures of the chairman or some other director authorized generally or specially by the Board to act for the purpose, and of an employee of the Corporation authorized generally or specially by the Board to act for the purpose.
- Contracts and instruments.** 14. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Corporation by any person generally or specially authorized by it for that purpose.
- Proof of documents.** 15. Any document purporting to be a document duly executed or issued under the seal of the Corporation or on behalf of the Corporation shall be received in evidence and be deemed to be a document so executed or issued without further proof unless the contrary is shown.

## SECOND SCHEDULE

(s. 12)

## PROVISIONS AS TO ADVISORY COUNCILS

*Tenure and Vacation of Office*

1. The members of an advisory council shall hold office for three years, or such lesser period as the Board may specify in the appointment, and shall be eligible on retirement for reappointment and shall represent such interest as the Board may determine.

2. A member of an advisory council may at any time by notice in writing addressed to the Board resign his office and if a member becomes, in the opinion of the Board, unfit or unqualified to continue in office, or incapable of performing his duties, the Board may revoke the appointment of the member and communicate the revocation to him in writing.

3. The names of persons appointed to be members of an advisory council and the interests they represent and the names of persons ceasing to be members of the council shall be notified in the Gazette.

*Meetings and Proceedings*

4. Subject as hereinafter provided, an advisory council shall regulate its own procedure.

5. Meetings of an advisory council shall be called by the chairman of the council whenever the Board so requests.

6. If the chairman is absent from a meeting of an advisory council, the members present shall elect one of their number to preside at that meeting.

7. The agenda at a meeting of an advisory council shall consist of such matters as the Board may from time to time refer to the council for consideration by the council and such other matters as the council, with the agreement of the Board, may receive to consider.

8. A quorum at any meeting of an advisory council shall be one-half of the members of the council.

9. A resolution at a meeting of an advisory council shall require the affirmative votes of one-half of the members present except the chairman, who shall have a casting vote only.

*Staff*

10. The secretary and any other staff of an advisory council shall be members of the staff of the Corporation appointed for the purpose by the Board.