



THE STATUTES OF THE REPUBLIC OF SINGAPORE

BROADCASTING ACT

(CHAPTER 28)

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Broadcasting Act

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An Act to regulate dealing in, the operation of and ownership in broadcasting services and broadcasting apparatus, and for matters connected therewith.

[34/2002]

[1st October 1994]

PART I
PRELIMINARY

Short title

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

[34/2002]

Interpretation

- 2.—(1) In this Act, unless the context otherwise requires —

“Authority” means the Media Development Authority of Singapore established under the Media Development Authority of Singapore Act (Cap. 172);

“broadcasting apparatus” means any apparatus capable of or designed or constructed for the reception of any broadcasting service and specified in the First Schedule;

“broadcasting apparatus licence” means a licence granted under section 20 in respect of broadcasting apparatus, and “broadcasting apparatus licensee” shall be construed accordingly;

“broadcasting licence” means a licence granted under section 8 or 9 for the provision of a licensable broadcasting service, and “broadcasting licensee” shall be construed accordingly;

“broadcasting service” means a service whereby signs or signals transmitted, whether or not encrypted, comprise —

- (a) any programme capable of being received, or received and displayed, as visual images, whether moving or still;
- (b) any sound programme for reception; or
- (c) any programme, being a combination of both visual image (whether moving or still) and sound for reception or reception and display,

by persons having equipment appropriate for receiving, or receiving and displaying, as the case may be, that service, irrespective of the means of delivery of that service;

“Chairman” means the Chairman of the Authority and includes any temporary Chairman of the Authority;

“chief executive” means the chief executive of the Authority appointed under section 28 of the Media Development Authority of Singapore Act (Cap. 172) and includes any person acting in that capacity;

“class licence” means a licence determined under section 9 to be applicable to certain licensable broadcasting services, and “class licensee” shall be construed accordingly;

“Code of Practice” means a Code of Practice issued under this Act;

“debenture” includes debenture stock;

“dwelling-house” includes a hotel, inn, boarding house or other similar establishment;

“encrypted” means treated electronically or otherwise for the purpose of preventing intelligible reception;

“free-to-air broadcasting service” means a licensable broadcasting service made available for reception in not less than 2 dwelling-houses by broadcasting apparatus commonly available to the public without payment of a subscription fee;

“free-to-air licence” means a broadcasting licence granted under this Act for the operation of a free-to-air broadcasting service, and “free-to-air licensee” shall be construed accordingly;

“Info-communications Development Authority of Singapore” means the Info-communications Development Authority of Singapore established under section 3 of the Info-communications Development Authority of Singapore Act (Cap. 137A);

“licence” means a licence granted under any provision of this Act, and “licensee” shall be construed accordingly;

“licensable broadcasting service” means any broadcasting service specified in the Second Schedule;

“member” means a member of the Authority;

“programme”, in relation to a broadcasting service, means —

(a) any matter the primary purpose of which is to entertain, educate or inform all or part of the public; or

(b) any advertising or sponsorship matter, whether or not of a commercial kind,

but does not include any matter that is wholly related to or connected with any private communication, that is to say —

(i) any communication between 2 or more persons that is of a private or domestic nature;

(ii) any internal communication of a business, Government agency or other organisation for the purpose of the operation of the business, agency or organisation; and

(iii) communications in such other circumstances as may be prescribed;

“regulations” means regulations made under this Act;

“securities”, in relation to a company, includes shares, debentures, bonds and other securities of the company, whether or not constituting a charge on the assets of the company;

“shares”, in relation to a company, means shares in, or stock forming part of, the capital of the company;

“subscription broadcasting service” means a licensable broadcasting service made available to the audience for whom it is intended only upon the payment of a subscription fee;

“subscription fee” means any form of consideration.

[41/99; 19/2002; 34/2002]

(2) For the purposes of this Act, unless the context otherwise requires, “part of the public” includes residents in a particular place, employees of any firm, company or organisation, occupiers of a particular building or part thereof and members of any profession, club or society.

(3) For the purposes of this Act, a company shall be regarded as wholly owned by the Government at any time when all the issued shares in the company are held by or on behalf of the Government.

PART II

PROVISIONS RELATING TO AUTHORITY

Directions by Minister

3.—(1) The Minister may, after consultation with a person to whom this section applies, give to that person such directions as he thinks fit as to the exercise by that person of its functions under this Act.

(2) Without prejudice to the generality of subsection (1), if it appears to the Minister to be requisite or expedient to do so —

(a) on the occurrence of any public emergency, in the public interest or in the interests of public security, national defence or relations with the government of another country; or

(b) in order —

(i) to discharge or facilitate the discharge of an obligation binding on the Government by virtue of its being a member of an international organisation or a party to an international agreement;

(ii) to attain or facilitate the attainment of any other object the attainment of which is in the opinion of the Minister requisite or expedient in view of the Government being a member of such an organisation or a party to such an agreement; or

(iii) to enable the Government to become a member of such an organisation or a party to such an agreement, the Minister may, after consultation with a person to whom this section applies, give such directions to that person as are necessary in the circumstances of the case.

(3) Any directions given under subsection (1) or (2) may include provisions for —

- (a) the prohibition or regulation of any broadcasting service;
- (b) the taking of, the control of or the use for official purposes of, all or any system and equipment used in the provision of any broadcasting service; and
- (c) the stopping, delaying and censoring of messages and the carrying out of any other purposes which the Minister thinks necessary.

(4) A person to whom this section applies shall give immediate effect to any directions given to him under subsection (1) or (2) notwithstanding any other duty imposed on him by or under this Act.

(5) A person to whom this section applies shall not disclose any directions given to him under subsection (1) or (2) if the Minister notifies him that the Minister is of the opinion that the disclosure of the directions is against the public interest.

(6) The Minister may —

- (a) pay compensation for any damage caused to a licensee by reason of its compliance with the directions of the Minister under subsection (3) (b); or
- (b) make grants to licensees for defraying or contributing towards any losses which they may sustain by reason of their compliance with the directions of the Minister under any other provisions of this section.

(7) Any sums required by the Minister for paying compensation or making grants under subsection (6) shall be paid out of the Consolidated Fund.

(8) This section shall apply to the Authority and to any person who is a licensee.

(9) If any doubt arises as to the existence of a public emergency or as to whether any act done under this section was in the public interest or in the interests of public security, national defence or

relations with the government of another country, a certificate signed by the Minister shall be conclusive evidence of the matters stated therein.

[8]

Exclusion of liability of Authority for act or default of licensees

4. The Authority shall not be liable in respect of any injury, loss or damage suffered by any person by reason of any act, default, neglect or otherwise of any licensee or of any agent or employee of the licensee.

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PART III

LICENSING SCHEME

Power of Authority to grant licences

5.—(1) The Authority may grant the following licences:

- (a) broadcasting licences; and
- (b) broadcasting apparatus licences.

(2) The Authority shall grant licences under subsection (1) in such categories as the Authority may determine are appropriate for the regulation of the broadcasting industry.

[17]

Codes of Practice

6.—(1) The Authority may issue and from time to time review —

- (a) Codes of Practice relating to standards of programmes and advertisements broadcast by licensees; and
- (b) Codes of Practice relating to broadcast standards required to be maintained by licensees.

(2) If any provision in any Code of Practice is inconsistent with any regulations, it shall, to the extent of the inconsistency, either have effect subject to such regulations or, where appropriate, having regard to such regulations, shall not have effect.

(3) The Authority may in any licence exempt any licensee from any provision in a Code of Practice generally or for such time as the Authority may specify.

[18]

Restriction on transfer of licences

7.—(1) No licence shall be transferable to any other person without the prior consent in writing of the Authority to the transfer to that person.

(2) Any purported transfer of any licence shall for all purposes be void and of no effect.

[19]

PART IV**BROADCASTING SERVICES****Licensing of broadcasting services**

8.—(1) No person shall provide any licensable broadcasting service in or from Singapore without a broadcasting licence granted by the Authority under this section or granted under section 9.

[19/2002]

(2) Every broadcasting licence, other than a class licence, granted by the Authority shall be in such form and for such period and may contain such terms and conditions as the Authority may determine.

[19/2002]

(3) The Authority may require any licensee to pay a fee on the grant of the licence or such periodic fees during the currency of the licence or both of such amount as the Authority may determine by or under the licence.

(4) Without prejudice to the generality of subsection (2), conditions attached to a free-to-air licence granted under this section may include —

- (a) a condition requiring the licensee to broadcast such programmes as the Authority may require and at such time, or within such period and on such broadcasting service as the Authority may specify;
- (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;
- (c) the right of the Authority in the public interest to make modifications to any condition of the licence during the period to which the licence relates;

- (d) a condition requiring the licensee to provide a performance bond to secure compliance by the licensee with any condition attached to the licence;
- (e) broadcast requirements, including conditions relating to the assignment and use of frequencies, channel capacities and coverage;
- (f) a condition requiring the payment by the licensee of royalties, licence fees, spectrum utilisation fees and other fees and charges as may be prescribed;
- (g) a condition requiring the broadcasting of programmes in such language as may be specified, and the periods and duration of such broadcast; and
- (h) conditions imposing controls and restrictions, directly or indirectly, on the creation, holding or disposal of shares in the licensee or its shareholders or interests in the undertaking of the licensee or any part thereof.

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[19/2002]

Class licences

9.—(1) The Authority may, by notification published in the *Gazette*, determine a class licence, being a broadcasting licence, for the provision of such subscription broadcasting services and other licensable broadcasting services as the Authority may specify.

(2) The Authority may include in a class licence such conditions as it thinks fit.

(3) Different conditions may be specified for —

- (a) different categories of licensable broadcasting services; and
- (b) different types of such services.

(4) Without limiting the conditions that may be imposed, the Authority may impose a condition on a class licence requiring the licensee to comply with a Code of Practice that is applicable to the licensee or designed to ensure that a breach of a condition of the class licence by the licensee does not recur.

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Modification of broadcasting licence conditions

10.—(1) The Authority may modify the conditions of a broadcasting licence, other than a class licence, in accordance with this section.

(2) Before making any modification to the conditions of a broadcasting licence under this section, the Authority shall give notice to the broadcasting licensee —

- (a) stating that it proposes to make the modification in the manner specified in the notice and (except if the modification results from a contravention by the licensee of section 12 (1) (a) or any other default of the licensee) the compensation payable (if any) for any damage caused thereby; and
- (b) specifying the time (being not less than 28 days from the date of service of notice on the licensee) within which written representations with respect to the proposed modification may be made.

(3) Upon receipt of any written representation referred to in subsection (2) (b), the Authority shall consider the representation and may —

- (a) reject the representation; or
- (b) amend the proposed modification or compensation payable in accordance with the representation, or otherwise,

and, in either event, shall thereupon issue a direction in writing to the broadcasting licensee requiring that effect be given to the proposed modification specified in the notice or to such modification as subsequently amended by the Authority within a reasonable time.

(4) Any broadcasting licensee aggrieved by a decision of the Authority under subsection (3) may, within 14 days of the receipt by the licensee of the direction, appeal to the Minister whose decision shall be final.

(5) The Authority shall not enforce a direction given under subsection (3) —

- (a) during the period referred to in subsection (4); and
- (b) whilst the appeal of the broadcasting licensee is under consideration by the Minister.

(6) If no written representation is received by the Authority within the time specified in subsection (2) or if any written representation made under that subsection is withdrawn, the Authority may immediately carry out the modification as specified in the notice given under that subsection.

Modification of class licence conditions

- 11.** The Authority may, by notification published in the *Gazette* —
- (a) modify the conditions specified in any class licence; or
 - (b) specify additional conditions of any class licence.

[23]

Suspension or cancellation of broadcasting licence, etc.

- 12.—**(1) If the Authority is satisfied that —

- (a) a broadcasting licensee is contravening, or has contravened, any of the conditions of its licence, any relevant Code of Practice, any of the provisions of this Act or the regulations or any direction issued by the Minister or the Authority to, or applicable to, the licensee;
 - (b) a broadcasting licensee has gone into compulsory or voluntary liquidation other than for the purpose of amalgamation or reconstruction;
 - (c) a broadcasting licensee has made any assignment to, or composition with, its creditors; or
 - (d) the public interest or the security of Singapore so requires,
- the Authority may, by notice in writing and without any compensation, do either or both of the following:
- (i) cancel the licence or suspend the licence for such period as the Authority thinks fit and, in the case of a class licensee, cancel or suspend the application of the class licence in respect of the class licensee for such period as the Authority thinks fit;
 - (ii) require the payment of a fine of such amount as the Authority thinks fit.

(2) Any person who is aggrieved by any decision of the Authority under this section may, within 14 days of the receipt by him of the notice referred to in subsection (1), appeal to the Minister whose decision shall be final.

(3) In this section, “Code of Practice” includes a code of practice issued under the Media Development Authority of Singapore Act (Cap. 172).

[24]

[34/2002]

Compliance with Codes of Practice, etc.

13.—(1) Every broadcasting licensee shall comply with the Codes of Practice relating to standards of programmes and advertisements and broadcast standards.

(2) No broadcasting licensee shall allow to be transmitted a broadcasting service other than in accordance with any broadcast standards specified in any regulations or Code of Practice or any condition which may be incorporated in its broadcasting licence.

[25]

Free-to-air broadcasting services

14.—(1) A free-to-air licensee shall provide broadcasting services in such language as may be specified in its licence.

(2) Each free-to-air broadcasting service shall be broadcast for not less than such number of hours during each day as may be specified in the free-to-air licence.

[26]

Submission of broadcasting material to Authority

15.—(1) A broadcasting licensee shall supply to the Authority on demand any material, including the script thereof, which is intended for broadcasting.

(2) A broadcasting licensee who is required to supply material under subsection (1) shall —

(a) supply the material in such form as the Authority may determine; or

(b) make available on demand without charge such equipment as the Authority may determine.

(3) The Authority may, if it is satisfied that any programme intended to be broadcast by a broadcasting licensee may be against the public interest or order, national harmony or will offend against decency, require the broadcasting licensee to pre-record the programme and submit it to the Authority for approval before it is broadcast.

[27]

Directions of Authority

16.—(1) The Authority may issue directions in writing to a broadcasting licensee requiring the licensee to take such action with

regard to the contents of programmes or advertisements or to broadcast standards as the Authority considers necessary in order to comply with the provisions of this Act, any relevant Code of Practice and any condition attached to the broadcasting licence.

(2) Directions issued under subsection (1) may include a direction prohibiting a broadcasting licensee from broadcasting the whole or any part of a programme or of any class of material.

(3) Any broadcasting licensee and any other person responsible for the broadcasting of any programme prohibited by a direction issued under subsection (1) shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both.

[28]

Public service broadcasting services

17. A broadcasting licensee shall include, within the broadcasting services required to be broadcast by it under its broadcasting licence, such programmes provided by the Authority or the Government through the Authority as may be required by the Authority under the conditions of its licence, including —

- (a) programmes for schools or other educational programmes;
- (b) news and information programmes produced in Singapore or elsewhere;
- (c) arts and cultural programmes; and
- (d) drama and sports programmes produced in Singapore.

[29]

General requirements in respect of public service programmes

18.—(1) Programmes required under section 17 or pursuant to a condition attached to a broadcasting licence to be broadcast by a broadcasting licensee shall be broadcast without charge to the Authority or with such subsidy from the Authority as may be provided in that broadcasting licence.

(2) A broadcasting licensee shall, on the request of the Authority and on receipt of reasonable notice, make available to the Authority without charge such part of its broadcasting apparatus as the Authority may specify for the purpose of broadcasting programmes

required to be broadcast under section 17 or pursuant to a condition attached to its broadcasting licence.

[30]

“Must carry” provision

19.—(1) Notwithstanding anything in this Act but subject to this section, the Authority may, by a direction in writing, require a broadcasting licensee to provide for transmission and reception any broadcasting service which is —

- (a) provided by any other person for such transmission and reception; and
- (b) specified in its licence or is of a description so specified.

(2) Where the Authority gives a direction under this section, the broadcasting licensee to whom the direction is given shall comply with the requirements of the direction until it is withdrawn.

(3) Where it is proposed to give a direction under this section, the Authority shall give notice to the broadcasting licensee —

- (a) stating that the Authority proposes to give directions in the manner specified in the notice and the compensation payable, if any, for the damage caused thereby; and
- (b) specifying the time (being not less than 28 days from the date of service of notice on the broadcasting licensee) within which written representations with respect to the proposed directions may be made.

(4) Upon receipt of any written representation referred to in subsection (3) (b), the Authority shall consider the representation and may —

- (a) reject the representation; or
- (b) amend the proposed direction or compensation payable in accordance with the representation, or otherwise,

and in either event, shall thereupon issue a direction in writing to the broadcasting licensee requiring that effect be given to the proposed direction specified in the notice or to such modifications as subsequently amended by the Authority within a reasonable time.

(5) Any broadcasting licensee aggrieved by a decision of the Authority under subsection (4) may, within 14 days of the receipt by the licensee of the direction, appeal to the Minister whose decision shall be final.

(6) The Authority shall not enforce a direction given under subsection (4) —

- (a) during the period referred to in subsection (5); and
- (b) whilst the appeal of the broadcasting licensee is under consideration by the Minister.

(7) If no written representation is received by the Authority within the time specified in subsection (3) or if any written representation made under that subsection is withdrawn, the Authority may immediately give effect to the requirements of the direction given under this section.

[31]

PART V

BROADCASTING APPARATUS

Licensing of broadcasting apparatus

20.—(1) Subject to this section, no person shall —

- (a) install any broadcasting apparatus in any place, or on board any ship, aircraft or vehicle registered in Singapore;
- (b) import, offer for sale, sell or have in his possession with a view to sale, any broadcasting apparatus; or
- (c) operate or have on any premises in Singapore owned or occupied by him broadcasting apparatus on or by which broadcasting services are received,

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

(2) Every licence granted under subsection (1) shall be in such form and for such period and may contain such terms and conditions as the Authority may determine.

(3) Subsection (1) shall not be construed as requiring any person who works a broadcasting apparatus in the course of his duty as a member of the Singapore Armed Forces, the Singapore Police Force, the Vigilante Corps or the Singapore Civil Defence Force to obtain a licence under this Act.

(4) The Authority may exempt any person or broadcasting apparatus or class of broadcasting apparatus from subsection (1).

[32]

Application of certain provisions of Act to broadcasting apparatus licences

21. Sections 10, 12 and 16 shall apply, with the necessary modifications, to broadcasting apparatus licences and broadcasting apparatus licensees.

[33]

PART VI**FREQUENCY PLANNING****Frequency planning criteria**

22. In performing its functions under this Act, the Authority shall have regard to —

- (a) the social and economic characteristics within Singapore;
- (b) the number of existing broadcasting services and the demand for new broadcasting services;
- (c) the developments in technology;
- (d) the technical restraints relating to the transmission, delivery or reception of broadcasting services;
- (e) the demand for electromagnetic, and particularly radio frequency, spectrum for services other than broadcasting services; and
- (f) such other matters as the Authority or the Info-communications Development Authority of Singapore considers appropriate.

[34]

[41/99]

Re-assignment of frequencies

23.—(1) The Info-communications Development Authority of Singapore shall, in consultation with the Authority, assign to the Authority specific frequencies in the electromagnetic spectrum and satellite orbits for the purpose of broadcasting having regard to the international allocation plans set by the International Telecommunication Union as well as national requirements.

[41/99]

(2) The Authority may re-assign to any person the frequencies in the electromagnetic spectrum and satellite orbits assigned under subsection (1) in accordance with this Act.

[35]

Separate licence for use of frequency not required

24. Notwithstanding anything in the Telecommunications Act (Cap. 323), if a licensee is granted a broadcasting licence under this Act and the licence includes the right for the licensee to use any specified frequency in the electromagnetic spectrum or satellite orbits for the broadcast, or the transmission of one or more broadcasting services, then the licensee shall not be required to obtain any other licence under this Act or the Telecommunications Act in respect of the use of such frequency or satellite orbits for the period for which that broadcasting licence is in force and for the purposes permitted by that licence.

[36
[41/99]

PART VII**BROADCASTING CONDITIONS****Transmission area requirements**

25.—(1) A broadcasting licensee shall, within such time as may be specified in its broadcasting licence, broadcast in such a manner as to enable its broadcasting services to be received to the satisfaction of the Authority in all parts of Singapore or such parts thereof as the Authority may specify.

(2) If the Authority so directs, a free-to-air licensee shall publish, in such manner as the Authority may require, notification of the commencement dates for broadcasting its broadcasting services and the areas of Singapore within which its broadcasting services may be received satisfactorily.

[37]

Sharing of facilities

26.—(1) The Authority may direct any broadcasting licensee or broadcasting apparatus licensee to co-ordinate and co-operate, in such manner and on such terms as the Authority may specify, with any other licensee or any other person specified by the Authority in the use or sharing of any broadcasting apparatus or related equipment or facility owned, operated or used by the broadcasting licensee or broadcasting apparatus licensee for the purpose of

broadcasting, whether or not they have been provided, or are intended to be provided, by the licensee or any other licensee or any other person specified by the Authority.

(2) This section shall not apply to any telecommunication system licensed under section 5 of the Telecommunications Act (Cap. 323).

[38

[41/99]

Inspection and testing of broadcasting apparatus

27.—(1) The Authority or any person authorised by it in that behalf may, at any reasonable time, inspect and test any broadcasting apparatus used, or intended to be used, by a broadcasting apparatus licensee for the transmission of any broadcasting service for the purpose of ascertaining whether or not the licensee is complying, or will comply, at all times with the broadcast standards prescribed by this Act or the regulations, any Code of Practice and the conditions of its broadcasting apparatus licence in respect of the transmission of broadcasting services.

(2) For the purpose of any inspection or test under subsection (1), the directors, principal officers and other employees of a broadcasting apparatus licensee shall —

- (a) make available on request to the Authority or any person authorised by the Authority for the purpose of the inspection or test and permit to be inspected and tested any part of its broadcasting apparatus used, or intended to be used, for the transmission of any broadcasting service;
- (b) assist the Authority or such authorised person in carrying out the inspection or test in any manner specified by it; and
- (c) answer directly and truthfully any question put to them by the Authority or such authorised person.

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Provision of building space, etc., by owner or developer of building or land

28.—(1) Where the Authority considers it necessary that any licensable broadcasting service should be provided to any building and is of the opinion that any broadcasting apparatus or installation or plant to be used in providing the service has to be installed within the building or any land, the Authority may by direction require the

developer or owner of the building or land to provide, within such period as may be specified in the direction, such broadcasting apparatus, installation or plant or space, of a standard acceptable to the Authority, within or on the building or land and access thereto as the Authority may require.

(2) Where the Authority considers it necessary that the reception of any licensable broadcasting service in any building in any area should be facilitated and is of the opinion that any broadcasting apparatus or installation or plant to be used in facilitating such reception has to be installed within or on any building or land in that area or any other area, the Authority may by direction require the developer or owner of the building or land to provide, within such period as may be specified in the direction, access to the building or land and access to or interconnection with any broadcasting apparatus or installation or plant within or on the building or land.

(3) Any direction under subsection (1) or (2) may include —

(a) a requirement that the developer or owner of the building or land shall contribute wholly or partly to such costs and expenses incurred for the provision of any broadcasting apparatus, installation or plant or space under subsection (1) as the Authority may determine; and

(b) such other requirements as the Authority may specify.

(4) Any person who fails to comply with any requirement in a direction under subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

(5) Nothing in any direction given under subsection (1) shall be construed as granting any exemption from any licensing requirement under this Act or any other written law which the developer or the owner of any building or land may be required to comply with in respect of any broadcasting apparatus or installation or plant.

(6) In this section, “installation or plant” includes all buildings, lands, structures, machinery, equipment, cables, poles and lines used or intended for use in connection with broadcasting.

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PART VIII**FOREIGN BROADCASTING SERVICES****Orders proscribing unacceptable foreign broadcasting services**

29.—(1) Subject to this section, the Minister may make an order proscribing a foreign broadcasting service for the purposes of section 30.

(2) If the Authority considers that the quality or content of any foreign broadcasting service which is brought to its attention is unacceptable and that the service should be the subject of an order under this section, the Authority shall notify the Minister the details of the service and the reasons why it considers an order under subsection (1) should be made.

(3) The Authority shall not consider a foreign broadcasting service to be unacceptable for the purposes of subsection (2) unless the Authority is satisfied that the content of that service included any matter which prejudices the public interest or order, national harmony or offends against good taste or decency.

(4) In this section and section 30, “foreign broadcasting service” means a broadcasting service which transmits from a place outside Singapore broadcasting services which are capable of being received in Singapore.

[41]

Offence of supporting proscribed foreign broadcasting services

30.—(1) This section shall apply to any foreign broadcasting service which is proscribed for the purposes of this section by virtue of an order made under section 29, and references in this section to a proscribed service are references to any such service.

(2) Any person who in Singapore does any of the following acts shall be guilty of an offence:

- (a) supplying any equipment or other goods for use in connection with the operation of day-to-day running of a proscribed service;
- (b) supplying, or offering to supply, programmes to be included in any broadcasting service transmitted as part of a proscribed service;

- (c) arranging for, or inviting, any other person to supply programmes to be so included;
 - (d) advertising, by means of programmes transmitted as part of a proscribed service, goods supplied by him or services provided by him;
 - (e) publishing the times or other details of any programmes which are to be transmitted as part of a proscribed service or (otherwise than by publishing such details) publishing advertising matter calculated to promote a proscribed service, whether directly or indirectly;
 - (f) supplying, or offering to supply, any decoding equipment which is designed or adapted to be used primarily for the purpose of enabling the reception of programmes transmitted as part of a proscribed service; and
 - (g) promoting, financially or otherwise, a proscribed service.
- (3) Any person who is guilty of an offence under subsection (2) shall be liable on conviction to a fine not exceeding \$40,000 or to imprisonment for a term not exceeding 3 years or to both.
- (4) Any equipment and goods used in the commission of an offence under this section shall be liable to be forfeited to the Government.
- (5) For the purposes of this section, a person exposing decoding equipment for supply or having such equipment in his possession for supply shall be deemed to offer to supply it.

[42]

PART IX

DECLARED FOREIGN BROADCASTING SERVICES

Declared foreign broadcasting services

31.—(1) The Minister may, by order published in the *Gazette*, declare any foreign broadcasting service rebroadcast in Singapore on any relevant licensable broadcasting service to be a foreign broadcasting service engaging in the domestic politics of Singapore.

[18/2001]

(2) No person shall, without the prior approval of the Minister, include any declared foreign broadcasting service for rebroadcast in Singapore on any relevant licensable broadcasting service.

[18/2001]

(3) The Minister may —

- (a) grant his approval under subsection (2) subject to such conditions as he thinks fit;
- (b) refuse to grant his approval; or
- (c) revoke his approval at any time without assigning any reason.

[18/2001]

(4) Without prejudice to the generality of subsection (3), the Minister may, in imposing conditions under that subsection, specify that —

- (a) the number of persons capable of receiving any declared foreign broadcasting service rebroadcast in Singapore on any relevant licensable broadcasting service shall be restricted in such manner as the Minister may, from time to time, direct; and
- (b) the rebroadcast of any declared foreign broadcasting service on any relevant licensable broadcasting service in Singapore shall be suspended for such period as the Minister may, from time to time, direct.

[18/2001]

(5) Any person who contravenes subsection (2) or fails to comply with any condition imposed under subsection (3) (a) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000.

[18/2001]

(6) In this section —

“foreign broadcasting service” means —

- (a) any broadcasting service transmitting from a place outside Singapore; or
- (b) any broadcasting service transmitting from a place in Singapore but which is owned, controlled or managed by or on behalf of —
 - (i) the government of a country outside Singapore or the agent of any such government, whether resident in Singapore or otherwise;

- (ii) any company, association or society incorporated or constituted under any law in force outside Singapore, whether or not it has a branch office or place of business in Singapore; or
- (iii) any person who is not a citizen of Singapore, whether or not he is resident in Singapore;

“relevant licensable broadcasting service” means a licensable broadcasting service specified in the first column of the Third Schedule provided by a person specified adjacent thereto in the second column of that Schedule.

[42A
[18/2001]]

PART X

OWNERSHIP AND CONTROL OF BROADCASTING COMPANIES

Application of this Part to broadcasting company

32.—(1) This Part shall apply to every broadcasting company unless exempted by the Minister under section 60 (*b*).

(2) In this Part —

“broadcasting company” means a company incorporated or registered under the Companies Act (Cap. 50) which holds a relevant licence, or a broadcasting holding company;

“broadcasting holding company” means a holding company of a company incorporated or registered under the Companies Act which holds a relevant licence;

“holding company” has the same meaning as in section 5 of the Companies Act;

“relevant licence” means —

(a) any free-to-air licence; or

(b) any broadcasting licence under which a subscription broadcasting service may be provided,

which permits broadcast which is capable of being received in 50,000 dwelling-houses or more, but does not include any class licence; or

- (c) such other broadcasting licence as the Minister may from time to time specify in the public interest or in the interests of public security or order, or national defence.

[43

[19/2002]

Special features of broadcasting company

33.—(1) No broadcasting company shall, on or after 2nd September 2002*, appoint a person as its chief executive officer or director, or as the chairman of its board of directors, unless it has obtained the approval of the Authority.

[19/2002]

(2) Unless the Authority otherwise approves, the chief executive officer of a broadcasting company and at least one-half of its directors shall be citizens of Singapore.

[19/2002]

(3) No chief executive officer, director, or chairman of the board of directors, of a broadcasting company who was appointed before 2nd September 2002 shall be permitted by the broadcasting company to act as such on or after that date unless —

(a) his appointment as chief executive officer, director, or chairman of the board of directors, of the broadcasting company was approved by the Authority before 2nd September 2002; or

(b) his appointment as chief executive officer, director, or chairman of the board of directors, of the broadcasting company is approved by the Authority on a written application by the broadcasting company made within 6 months after 2nd September 2002 or such longer period as the Authority may allow.

[19/2002]

(4) Where the Authority does not approve the appointment of a person as chief executive officer, director or chairman of the board of directors under subsection (3) (b), the broadcasting company shall immediately remove the person from such office.

[19/2002]

(5) Any broadcasting company which contravenes this section shall be guilty of an offence and shall be liable on conviction to a fine

*Date of commencement of the Singapore Broadcasting Authority (Amendment) Act 2002 (Act 19 of 2002).

not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[19/2002]

(6) This section shall have effect notwithstanding the provisions of any other written law or of the memorandum or articles of association, or other constitution, of a broadcasting company.

[19/2002]

(7) In this section —

“chief executive officer” , in relation to a broadcasting company, means any person, by whatever name described, who is —

(a) in the direct employment of, or acting for or by arrangement with, the broadcasting company; and

(b) principally responsible for the management and conduct of any type of business of the broadcasting company in Singapore,

and includes any person for the time being performing all or any of the functions or duties of a chief executive officer;

“director” has the same meaning as in section 4 (1) of the Companies Act (Cap. 50).

[44

[19/2002]

Application and interpretation of this section and sections 35 to 42

34.—(1) This section and sections 35 to 42 shall apply to, and in relation to, all individuals whether resident in Singapore or not and whether citizens of Singapore or not, and to all bodies corporate or unincorporate, whether incorporated or carrying on business in Singapore or not.

[19/2002]

(2) In sections 35 to 42, unless the context otherwise requires —

“arrangement” includes any formal or informal scheme, arrangement or understanding, and any trust whether express or implied;

“share” includes stock except where a distinction between stock and shares is expressed or implied;

“substantial shareholder” has the same meaning as in section 81 of the Companies Act;

“voting share” has the same meaning as in section 4 (1) of the Companies Act (Cap. 50).

[45

[19/2002]

Control of substantial shareholdings in broadcasting companies

35.—(1) No person shall, on or after 2nd September 2002*, become a substantial shareholder of a broadcasting company without first obtaining the approval of the Minister.

[19/2002]

(2) Subject to section 37 (4), no person who, immediately before 2nd September 2002, is a substantial shareholder of a broadcasting company shall continue to be a substantial shareholder unless he has, within 6 months after 2nd September 2002 or such longer period as the Minister may allow, applied to the Minister for approval to continue to be such a shareholder.

[19/2002]

(3) No person shall, on or after 2nd September 2002, enter into any agreement or arrangement, whether oral or in writing and whether express or implied, to act together with any other person with respect to the acquisition, holding or disposal of, or the exercise of rights in relation to, their interests in voting shares of an aggregate of more than 5% of the nominal amount of all voting shares in a broadcasting company without first obtaining the approval of the Minister.

[19/2002]

(4) Subject to section 37 (4), no person who, at any time before 2nd September 2002, has entered into any agreement or arrangement referred to in subsection (3) shall continue to be a party to such an agreement or arrangement unless he has, within 6 months after 2nd September 2002 or such longer period as the Minister may allow, applied to the Minister for approval to continue to be a party to such an agreement or arrangement.

[19/2002]

(5) For the purposes of this section, a person has an interest in any share if —

- (a) he is deemed to have an interest in that share under section 7 of the Companies Act; or

*Date of commencement of the Singapore Broadcasting Authority (Amendment) Act 2002 (Act 19 of 2002).

- (b) he otherwise has a legal or an equitable interest in that share except for such interest as is to be disregarded under section 7 of the Companies Act (Cap. 50).

[45A

[19/2002]

Control of shareholdings and voting power in broadcasting companies

36.—(1) No person shall, on or after 2nd September 2002*, become —

(a) a 12% controller; or

(b) an indirect controller,

of a broadcasting company without first obtaining the approval of the Minister.

[19/2002]

(2) Subject to section 37 (4), no person who, immediately before 2nd September 2002, is —

(a) a 12% controller; or

(b) an indirect controller,

of a broadcasting company shall continue to be such a controller unless he has, within 6 months after 2nd September 2002 or such longer period as the Minister may allow, applied to the Minister for approval to continue to be such a controller.

[19/2002]

(3) In subsections (1) (a) and (2) (a), “12% controller” means a person who alone or together with his associates —

(a) holds not less than 12% of the shares in the broadcasting company; or

(b) is in a position to control voting power of not less than 12% in the broadcasting company.

[19/2002]

(4) For the purposes of subsection (3) —

(a) a person holds a share if —

(i) he is deemed to have an interest in that share under section 7 (6) to (10) of the Companies Act; or

(ii) he otherwise has a legal or an equitable interest in that share except for such interest as is to be disregarded under section 7 (6) to (10) of the Companies Act;

*Date of commencement of the Singapore Broadcasting Authority (Amendment) Act 2002 (Act 19 of 2002).

- (b) a reference to the control of a percentage of the voting power in a broadcasting company is a reference to the control, whether direct or indirect, of that percentage of the total number of votes that might be cast in a general meeting of the broadcasting company; and
- (c) a person, *A*, is an associate of another person, *B*, if —
 - (i) *A* is the spouse or a parent, step-parent or remoter lineal ancestor, or a son, step-son, daughter, step-daughter or remoter issue, or a brother or sister, of *B*;
 - (ii) *A* is a corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B*, or where *B* is a corporation, of the directors of *B*;
 - (iii) *B* is a corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A*, or where *A* is a corporation, of the directors of *A*;
 - (iv) *A* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B*;
 - (v) *B* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A*;
 - (vi) *A* is a related corporation of *B*;
 - (vii) *A* is a corporation in which *B*, alone or together with other associates of *B* as described in sub-paragraphs (ii) to (vi), is in a position to control not less than 20% of the voting power in *A*;
 - (viii) *B* is a corporation in which *A*, alone or together with other associates of *A* as described in sub-paragraphs (ii) to (vi), is in a position to control not less than 20% of the voting power in *B*; or
 - (ix) *A* is a person with whom *B* has an agreement or arrangement, whether oral or in writing and whether express or implied, to act together with respect to

the acquisition, holding or disposal of shares or other interests in, or with respect to the exercise of their voting power in relation to, the broadcasting company.

[19/2002]

(5) In subsections (1) (b) and (2) (b), “indirect controller” means any person, whether acting alone or together with any other person and whether with or without holding shares or controlling voting power in a broadcasting company —

- (a) in accordance with whose directions, instructions or wishes the directors of the broadcasting company are accustomed or under an obligation, whether formal or informal, to act; or
- (b) who is in a position to determine the policy of the broadcasting company,

but does not include any person —

- (i) who is a director or other officer of the broadcasting company whose appointment has been approved by the Authority; or
- (ii) in accordance with whose directions, instructions or wishes the directors of the broadcasting company are accustomed to act by reason only that they act on advice given by the person in his professional capacity.

[45B

[19/2002]

Approval of applications

37.—(1) The Minister may, in his discretion, approve an application made by any person under section 35 or 36 if the Minister is satisfied that —

- (a) the person is a fit and proper person;
- (b) having regard to the person’s likely influence, the broadcasting company will or will continue to conduct its business prudently and comply with the provisions of this Act; and
- (c) it is in the national interest to do so.

[19/2002]

(2) Any approval under this section may be granted to any person subject to such conditions as the Minister may determine, including but not limited to any condition —

- (a) restricting the person’s disposal or further acquisition of shares or voting power in the broadcasting company; or

- (b) restricting the person's exercise of voting power in the broadcasting company.

[19/2002]

(3) Any condition imposed under subsection (2) shall have effect notwithstanding any of the provisions of the Companies Act (Cap. 50) or anything contained in the memorandum or articles of association, or other constitution, of the broadcasting company.

[19/2002]

(4) Where the Minister does not approve an application made by any person under section 35 (2) or (4) or 36 (2), the person shall, within such time as the Minister may specify, take such steps as are necessary —

- (a) in the case of section 35 (2), to cease to be a substantial shareholder;
- (b) in the case of section 35 (4), to cease to be a party to the agreement or arrangement; or
- (c) in the case of section 36 (2), to cease to be —
 - (i) a 12% controller; or
 - (ii) an indirect controller,as the case may be.

[45C

[19/2002]

Power to make further transitional provisions

38. The Minister may, by order published in the *Gazette*, make such further transitional provisions as he considers necessary or expedient for the purposes of section 35, 36 or 37.

[45D

[19/2002]

Objection to existing control of broadcasting company

39.—(1) The Minister may serve a written notice of objection on any person referred to in section 35 or 36 if the Minister is satisfied that —

- (a) any condition of approval imposed on the person under section 37 (2) has not been complied with;
- (b) the person ceases to be a fit and proper person;
- (c) having regard to the person's likely influence, the broadcasting company is no longer likely to conduct its business prudently or to comply with the provisions of this Act;

- (d) it is no longer in the national interest to allow the person to continue to be a party to the agreement or arrangement described in section 35 (3) or (4), or to continue to be a substantial shareholder, a 12% controller or an indirect controller, as the case may be;
- (e) the person has furnished false or misleading information or documents in connection with an application under section 35 or 36; or
- (f) he would not have granted his approval under section 37 had he been aware, at that time, of the circumstances relevant to the person's application for such approval.

[19/2002]

(2) Before the service of a written notice of objection, the Minister shall, unless he decides that it is not practicable or desirable to do so, cause to be given to the person concerned notice in writing of his intention to serve the written notice of objection, specifying a date by which the person may make written representations with regard to the proposed written notice of objection.

[19/2002]

(3) Upon receipt of the written representations of any person referred to in subsection (2), the Minister shall consider the written representations for the purpose of determining whether to issue a written notice of objection.

[19/2002]

(4) The Minister shall, in any written notice of objection, specify a reasonable period within which the person to be served the written notice of objection shall —

- (a) take such steps as are necessary to ensure that he ceases to be a party to the agreement or arrangement described in section 35 (3) or (4), or ceases to be a substantial shareholder, a 12% controller or an indirect controller, as the case may be; or
- (b) comply with such direction or restriction as the Minister may make under section 40.

[19/2002]

(5) Any person served with a written notice of objection under this section shall comply with the notice.

[45E

[19/2002]

Power to make directions

40.—(1) Without prejudice to section 41, if the Minister is satisfied that any person has contravened section 35, 36, 37 (4) or 39 (5) or any condition imposed under section 37 (2), or if the Minister has served a written notice of objection under section 39, the Minister may, by notice in writing —

- (a) direct the transfer or disposal of all or any of the shares in the broadcasting company held by the person or any of his associates (referred to in this section as the specified shares) within such time and subject to such conditions as the Minister considers appropriate;
- (b) restrict the transfer or disposal of the specified shares; or
- (c) make such other direction or restriction as the Minister considers appropriate.

[19/2002]

(2) Any person to whom a notice is served under subsection (1) shall comply with such direction or restriction as may be specified in the notice.

[19/2002]

(3) In the case of any direction or restriction made under subsection (1) (a) or (b), notwithstanding any of the provisions of the Companies Act (Cap. 50) or anything contained in the memorandum or articles of association, or other constitution, of the broadcasting company —

- (a) no voting rights shall be exercisable in respect of the specified shares unless the Minister expressly permits such rights to be exercised;
- (b) no shares of the broadcasting company shall be issued or offered (whether by way of rights, bonus or otherwise) in respect of the specified shares unless the Minister expressly permits such issue or offer; and
- (c) except in a liquidation of the broadcasting company, no payment shall be made by the broadcasting company of any amount (whether by way of dividends or otherwise) in respect of the specified shares unless the Minister expressly authorises such payment,

until a transfer or disposal is effected in accordance with the direction or until the restriction on a transfer or disposal is removed, as the case may be.

[19/2002]

(4) In this section, “associate” has the same meaning as in section 36 (4) (c).

[45F

[19/2002]

Offences, penalties and defences

41.—(1) Any person who contravenes section 35, 36 (1) (a) or (2) (a) or 37 (4) (a), (b) or (c) (i) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[19/2002]

(2) Any person who contravenes section 36 (1) (b) or (2) (b), 37 (4) (c) (ii), 39 (5) or 40 (2) or any condition imposed under section 37 (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[19/2002]

(3) Where a person is charged with an offence in respect of a contravention of section 35 or 36, it shall be a defence for the person to prove that —

(a) he was not aware that he had contravened section 35 or 36, as the case may be; and

(b) he has, within 14 days of becoming aware that he had contravened section 35 or 36, as the case may be, notified the Minister of the contravention and, within such time as may be determined by the Minister, taken such actions in relation to his shareholding or control of the voting power in the broadcasting company as the Minister may direct.

[19/2002]

(4) Where a person is charged with an offence in respect of a contravention of section 36 (1), it shall also be a defence for the person to prove that, even though he was aware of the contravention —

(a) the contravention occurred as a result of an increase in the shareholding as described in section 36 (4) (a) of, or in the voting power controlled by, any of his associates described in section 36 (4) (c) (i);

- (b) he has no agreement or arrangement, whether oral or in writing and whether express or implied, with that associate with respect to the acquisition, holding or disposal of shares or other interests in, or under which they act together in exercising their voting power in relation to, the broadcasting company; and
- (c) he has, within 14 days of the date of the contravention, notified the Minister of the contravention and, within such time as may be determined by the Minister, taken such action in relation to his shareholding or control of the voting power in the broadcasting company as the Minister may direct.

[19/2002]

(5) Except as provided in subsections (3) and (4), it shall not be a defence for a person charged with an offence in respect of a contravention of section 35 or 36 to prove that he did not intend to or did not knowingly contravene section 35 or 36, as the case may be.

[45G

[19/2002]

Power to obtain information

42.—(1) The Authority may, by notice in writing, direct any broadcasting company to obtain from any of its shareholders and to transmit to the Authority information —

- (a) as to whether that shareholder holds any share in the broadcasting company as beneficial owner or as trustee; and
- (b) if the shareholder holds the share as trustee, to indicate, so far as he can, the person for whom he holds the share (either by name or by other particulars sufficient to enable that person to be identified) and the nature of his interest,

and the broadcasting company shall comply with that direction within such time as may be specified in the notice.

[19/2002]

(2) The Authority may, by notice in writing, require any shareholder of a broadcasting company, or any person who appears from the information provided to the Authority under subsection (1) or this subsection to have an interest in any share in a broadcasting company, to inform the Authority —

- (a) whether he holds that interest as beneficial owner or as trustee, and if he holds the interest as trustee, to indicate, so far as he can, the person for whom he holds the interest

(either by name or by other particulars sufficient to enable that person to be identified) and the nature of his interest; or

- (b) whether any share or any voting right attached to the share is the subject of an agreement or arrangement described in section 35 (3) or (4) or 36 (4) (c) (ix), and if so, to give particulars of the agreement or arrangement and the parties to it,

and the person shall comply with that notice within such time as may be specified therein.

[19/2002]

- (3) Any person who —

- (a) fails to comply with a notice under this section; or
- (b) in purported compliance of the notice, knowingly or recklessly makes a statement which is false in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[45H

[19/2002]

Funds from foreign source for purposes of certain broadcasting service

43.—(1) Subject to this section, no person shall, without the prior consent of the Authority, receive any fund from any foreign source for the purposes of financing, directly or indirectly, wholly or in part, any broadcasting service owned or operated by any broadcasting company.

(2) The Authority may grant its consent under subsection (1) if it is satisfied, on such information as it may require to be furnished to it, that the fund from a foreign source is intended for bona fide commercial purposes.

(3) Notwithstanding subsection (1) where any fund from a foreign source is sent to a person without his prior knowledge, consent or solicitation and the fund is intended for or given by the sender for any purpose referred to in that subsection, that person shall, within 7 days of the receipt thereof, report to the Authority the circumstances and particulars of the receipt of the fund and the purpose for which the fund was received.

(4) Where any fund from a foreign source has been received by a person for any purpose referred to in subsection (1) and the Authority refuses to grant its consent for the retention of the fund, the person shall, within such time as is specified by the Authority, return the fund to the sender thereof or, if the sender cannot be traced, donate the fund to any charity specified by the Authority.

(5) Any employee of a broadcasting company who, having received any fund from a foreign source for the broadcasting of any item or programme or for adopting a particular line or bias in respect of any item or programme, fails to report in writing, within 7 days of the receipt of the fund, to the chief executive of the company shall be guilty of an offence and shall be liable on conviction to the same penalty prescribed by subsection (8).

(6) For the purposes of subsection (5), any fund received from outside Singapore by an employee shall, until the contrary is proved, be presumed to be from a foreign source.

(7) Nothing in this section shall apply to any dealing by any person in the shares of a broadcasting company quoted on a stock exchange in Singapore.

(8) Any person who contravenes subsection (1), (3) or (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both, and the court may, in addition to any other penalty that it may impose, order the forfeiture to the Authority of any fund which is the subject of the charge.

[19/2002]

(9) In this section and section 44 —

“foreign source” includes —

- (a) the government of a country outside Singapore or the agent of any such government, whether resident in Singapore or otherwise;
- (b) any company, association or society incorporated or constituted under any law in force outside Singapore whether or not it has a branch office or place of business in Singapore;
- (c) any person who is not a citizen of Singapore whether or not he is resident in Singapore;

(d) any —

(i) body corporate formed or incorporated in Singapore, one or more of whose members or directors are not citizens of Singapore, or in the case of a member being another company, where one or more of the members or directors of such company are not citizens of Singapore; or

(ii) unincorporated association or body constituted under any law in force in Singapore, one or more of whose members or directors are not citizens of Singapore, or in the case of a member being another company, where one or more of the members or directors of such company are not citizens of Singapore,

as the Minister may, by notification in the *Gazette*, declare to be a foreign source; or

(e) such other source outside Singapore as the Minister may, by notification in the *Gazette*, declare to be a foreign source;

“fund” means money, securities, movable or immovable property or other valuable consideration;

“fund from a foreign source” , with its grammatical variations, includes any fund provided by a foreign source indirectly through any agent of the foreign source.

[46

[19/2002]

Broadcasting company owned by foreign source

44.—(1) No company shall, unless the Minister otherwise approves, be granted or hold a relevant licence if the Minister is satisfied that —

(a) any foreign source, alone or together with one or more other foreign sources —

(i) holds not less than 49% of the shares in the company or its holding company; or

(ii) is in a position to control voting power of not less than 49% in the company or its holding company; or

(b) all or a majority of the persons having the direction, control or management of the company or its holding company are —

(i) appointed by; or

(ii) accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of,

any foreign source, whether acting alone or together with one or more other foreign sources.

[19/2002]

(2) Where the Minister does not grant his approval under subsection (1) for a company to hold a relevant licence (whether such licence is granted before, on or after 2nd September 2002*), the Authority shall, within such time and in such manner as the Minister may specify, cancel the licence by notice in writing and without any compensation.

[19/2002]

(3) For the purposes of this section —

(a) a person holds a share if —

(i) he is deemed to have an interest in that share under section 7 (6) to (10) of the Companies Act (Cap. 50);
or

(ii) he otherwise has a legal or an equitable interest in that share except for such interest as is to be disregarded under section 7 (6) to (10) of the Companies Act;

(b) a reference to the control of a percentage of the voting power in a broadcasting company is a reference to the control, whether direct or indirect, of that percentage of the total number of votes that might be cast in a general meeting of the broadcasting company.

[47

[19/2002]

Appeal under this Part

45. Any person aggrieved by any refusal of the Authority to grant its approval or consent under any provision of this Part may appeal to the Minister whose decision shall be final.

[48

*Date of commencement of the Singapore Broadcasting Authority (Amendment) Act 2002 (Act 19 of 2002).

PART XI

OFFENCES AND PENALTIES

Offences relating to licensable broadcasting services

46. Any person who contravenes section 8 (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

[59]

Offences relating to installation, sale, import or possession of broadcasting apparatus

47. Any person who contravenes section 20 (1) (a), (b) or (c) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$40,000 or to imprisonment for a term not exceeding 3 years or to both, and any broadcasting apparatus installed or found in the possession of the person so convicted shall be forfeited to the Authority.

[60]

Unauthorised decoders

48.—(1) No person shall, in the course of any trade or business, import, manufacture, sell, offer for sale or let for hire any unauthorised decoder.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$40,000 or to imprisonment for a term not exceeding 3 years or to both and any unauthorised decoder shall be forfeited to the Authority.

(3) Proof that a person has, in the course of any trade or business, imported, manufactured, sold, offered for sale or let for hire any unauthorised decoder shall be evidence that such person knew that the decoder was an unauthorised decoder.

(4) In this section —

“decoder” means any apparatus or component part thereof which is designed or adapted to enable (whether on its own

or with any other apparatus) an encrypted audio or visual programme to be decoded;

“unauthorised decoder” means a decoder which will enable encrypted audio or visual programmes to be viewed in decoded form without payment of the subscription payable in respect of the right to view those programmes.

[61]

Offence of hindering employee or agent of Authority

49. Any person who obstructs or hinders any employee or agent of the Authority acting in the discharge of his duty under this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

[62]

Power of Authority to requisition information

50.—(1) The Authority or any person authorised by the Authority in that behalf may by notice require any person to furnish the Authority or the person so authorised, within such period as shall be specified in the notice, with all such documents or information relating to all such matters as may be required by the Authority for the purposes of this Act and as are within the knowledge of that person or in his custody or under his control.

(2) Any person who, on being required by any notice under subsection (1) to furnish any document or information, fails to comply with any requirement of the notice shall be guilty of an offence.

(3) Any person who —

(a) intentionally alters, suppresses or destroys any document which he has been required by any notice under subsection (1) to furnish; or

(b) in furnishing any estimate, return or other information required of him under any notice under subsection (1), makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,

shall be guilty of an offence.

(4) Any person guilty of an offence under subsection (2) or (3) shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

[63]

Power of police officer and other authorised persons against unlicensed broadcasting service or apparatus

51.—(1) Any police officer or any employee authorised by the Authority may, if he has reasonable grounds for believing that —

- (a) a broadcasting service has been or is being provided in contravention of this Act;
- (b) a broadcasting service has been or is being provided in breach of any licence; or
- (c) any broadcasting apparatus used is not licensed by the Authority,

enter and inspect any premises and seize any broadcasting apparatus found therein which appears to be used for or in connection with broadcasting.

(2) If there is no prosecution with regard to any broadcasting apparatus seized under this section, such broadcasting apparatus shall be taken and deemed to be forfeited to the Authority unless a claim is made within 2 months from the date of seizure.

(3) Any person asserting that he is the owner of any broadcasting apparatus so seized may personally or by his authorised agent give written notice to the Authority that he claims the same.

(4) On receipt of the notice, the Authority may direct that the broadcasting apparatus be released or may refer the matter to a District Court or a Magistrate's Court.

(5) The District Court or the Magistrate's Court may proceed to the examination of the matter and upon examination shall order that the broadcasting apparatus be forfeited or released.

[64]

Power of arrest and search

52.—(1) The chief executive or any employee of the Authority authorised by him to act under this section may arrest without warrant —

(a) any person found committing or attempting to commit or employing or aiding any person to commit a seizable offence under this Act; or

(b) any person against whom a reasonable suspicion exists that he has been guilty of a seizable offence under this Act,

and may search any person so arrested, except that no female shall be searched except by a female.

(2) Every person so arrested shall, together with any article as to which an offence may have been committed or attempted to be committed, be taken to a police station.

(3) For the purposes of this section, offences punishable under sections 30, 46, 47 and 48 shall be deemed to be seizable offences within the meaning of the Criminal Procedure Code (Cap. 68).

[65]

No entitlement to costs or damages

53. No person shall, in any proceedings before any court in respect of any apparatus, equipment, article, book or document seized in the exercise or the purported exercise of any power conferred under this Act, be entitled to the costs of the proceedings or to any damages or other relief other than an order for the return of the apparatus, equipment, article, book or document or the payment of their value unless the seizure was made without reasonable or probable cause.

[66]

Offence against other laws

54. Nothing in this Act shall prevent any person from being prosecuted under any other written law for any act or omission which constitutes an offence under that law, or from being liable under that other written law to any punishment or penalty higher or other than that provided by this Act, but no person shall be punished twice for the same offence.

[67]

Conduct of proceedings by officers

55. Proceedings in respect of any offence under this Act may be conducted by an officer of the Authority or an officer of the Government authorised in writing in that behalf by the chief executive.

[68]

Corporate offenders and unincorporated associations

56.—(1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the body corporate, the officer as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

[19/2002]

(2) Where the affairs of the body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

[19/2002]

(3) Proceedings for an offence alleged to have been committed under this Act by an unincorporated association shall be brought against the association in its own name (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to service of documents shall have effect as if the association were a corporation.

[19/2002]

(4) Where an offence under this Act committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, the partner as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

[19/2002]

(5) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the association or a member of its governing body, the officer or member as well as the association shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

[19/2002]

(6) Without prejudice to the generality of section 66, the Authority may make regulations to provide for the application of any provision of this section, with such modifications as the Authority considers appropriate, to a body corporate or unincorporated association formed or recognised under the law of a country or territory outside Singapore.

[19/2002]

(7) In this section —

“officer” —

- (a) in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity; or
- (b) in relation to an unincorporated association (other than a partnership), means the president, the secretary and members of the committee of the association and includes persons holding positions analogous to those of president, secretary or member of a committee;

“partner” includes a person purporting to act as a partner.

[69

[19/2002]

Composition of offences

57.—(1) The Authority may, in its discretion, compound any offence under this Act which is prescribed as being an offence which may be compounded by collecting from the person reasonably suspected of having committed the offence a sum not exceeding \$1,000.

(2) The Authority may, with the approval of the Minister, make regulations prescribing the offences which may be compounded.

(3) All sums collected under this section shall be paid to the Authority.

[70

Jurisdiction of court

58. Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court and a Magistrate’s Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of the offence.

[71

PART XII

MISCELLANEOUS PROVISIONS

Appeal to Minister

59.—(1) Any licensee aggrieved by —

- (a) any decision of the Authority in the exercise of any discretion vested in it by or under this Act; or
- (b) anything contained in any Code of Practice or direction issued by the Authority,

may appeal to the Minister.

(2) Unless otherwise provided, where an appeal is lodged under this section, the decision, direction or other thing appealed against shall be complied with until the determination of the appeal.

(3) The Minister may determine an appeal under this section by confirming, varying or reversing any decision or direction of the Authority or by amending any Code of Practice.

(4) The decision of the Minister in any appeal shall be final.

[72]

Exemption

60. The Minister may, subject to such terms and conditions as he may impose, by order published in the *Gazette*, exempt —

- (a) any class or description of shares or interests in shares from section 35 or 36 or both; and
- (b) any person or class of persons from all or any of the provisions of this Act or any subsidiary legislation made thereunder.

[73]

[19/2002]

Equipment of licensee not subject to distress, etc.

61.—(1) No equipment or related facility of a licensee used for providing, transmitting or delivering licensable broadcasting services shall be subject to distress or be liable to be taken in execution under any process of a court in any bankruptcy or insolvency proceedings by any person without the prior approval of the Minister in writing.

(2) This section shall not apply to any class licensee.

[74]

International dealings of Authority

62. For the purposes of the conduct of any international broadcast and subject to this Act, the Authority may enter into direct communication, arrangement and agreement with the lawfully constituted broadcasting authority of any country or with any duly authorised international agency or organisation concerned with broadcasting, as the case may be, for —

- (a) the purpose of providing facilities, fixing rates, arranging terms of payment or accounting;
- (b) operational, engineering or administrative purposes; or
- (c) any other purpose necessary for the proper fulfilment of its functions under this Act.

[75]

Government's right to determine international relations

63.—(1) Nothing in section 62 shall be deemed to abrogate the right of the Government at any time to determine its relations with any country or with any international agency or organisation.

(2) The Authority and each broadcasting licensee shall so discharge their responsibilities and conduct their business as to comply with and fulfil all international agreements, conventions or undertakings relating to broadcasting to which Singapore is a party.

[76]

Service of notice, etc.

64.—(1) Unless otherwise expressly provided in this Act, any notice, order or document required or authorised by this Act to be given or served on any person, and any summons issued by a court in connection with any offence under this Act may be served on the person concerned —

- (a) by delivering it to the person or to some adult member or employee of his family at his last known place of residence;
- (b) by leaving it at his usual or last known place of residence or business in a cover addressed to him;
- (c) by affixing it to some conspicuous part of his last known place of residence;
- (d) by sending it by registered post addressed to the person at his usual or last known place of residence or business; or

(e) where the person is a body corporate —

- (i) by delivering it to the secretary or other like officer of the body corporate at its registered or principal office; or
- (ii) by sending it by registered post addressed to the body corporate at its registered or principal office.

(2) Any notice, order, document or summons sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly served on the person to whom the letter is addressed at the time when the letter would, in the ordinary course of post, be delivered and in proving service of the same it shall be sufficient to prove that the envelope containing the notice, order, document or summons was properly addressed, stamped and posted by registered post.

[77]

Amendment of First, Second and Third Schedules

65.—(1) The Minister may, by notification in the *Gazette*, at any time amend the First, Second or Third Schedule.

[18/2001]

(2) The Minister may, in any notification made under subsection (1), make such incidental, consequential or supplementary provisions as may be necessary or expedient.

[78]

Regulations

66. The Authority may, with the approval of the Minister, make regulations —

- (a) required or permitted to be prescribed by this Act; and
- (b) necessary or convenient to be prescribed for carrying out or giving effect to the purposes of this Act.

[79]

References in other written laws and documents

67. Insofar as it is necessary for preserving the effect of any written law or document on or after 1st January 2003[†] —

- (a) a reference therein to the Singapore Broadcasting Authority Act (Cap. 297, 1995 Ed.) shall be read as a reference to the Broadcasting Act; and

[†]Date of commencement of the Media Development Authority of Singapore Act 2002 (Act 34 of 2002).

- (b) a reference to the Singapore Broadcasting Authority shall be read as a reference to the Media Development Authority of Singapore.

[34/2002]

Transitional and savings provisions

68.—(1) All acts done by the Singapore Broadcasting Authority before 1st January 2003[†] shall continue to remain valid and applicable as though done by the Authority, until such time as invalidated, revoked, cancelled or otherwise determined by the Authority.

[34/2002]

(2) Any decision, document, licence, consent, approval or authorisation prepared, made, issued or granted by the Singapore Broadcasting Authority under the Singapore Broadcasting Authority Act (Cap. 297, 1995 Ed.) before 1st January 2003 shall, insofar as it is not inconsistent with the provisions of this Act, be deemed to be a decision, document, licence, consent, approval or authorisation prepared, made, issued or granted by the Authority.

[34/2002]

(3) Where anything has been commenced by or on behalf of the Singapore Broadcasting Authority before 1st January 2003, such thing may be carried on and completed by or under the authority of the Authority.

[34/2002]

(4) Notwithstanding the repeal of Part XI of the Singapore Broadcasting Authority Act (Cap. 297, 1995 Ed.), as from 1st January 2003, sections 49 to 53 of that Act shall continue in force and to apply to the broadcasting successor companies mentioned in those sections as if that Part has not been repealed.

[34/2002]

(5) In this section, “broadcasting successor companies” means companies nominated by the Minister for the purposes of the repealed section 49 of the Singapore Broadcasting Authority Act (Cap. 297, 1995 Ed.).

[†]Date of commencement of the Media Development Authority of Singapore Act 2002 (Act 34 of 2002).

FIRST SCHEDULE

Section 2 (1)

BROADCASTING APPARATUS

1. Broadcast television receiver.
2. Broadcast sound receiver.
3. Television receive-only satellite receiving system (TVRO system).

For the purposes of this Schedule —

“broadcast sound receiver” means any apparatus used for the aural reception of any broadcasting service;

“broadcast television receiver” means any apparatus used for the visual and aural reception in monochrome or colour of any broadcasting service;

“television receive-only satellite receiving system” means any apparatus (including a dish antenna) or any combination of apparatus capable of direct reception of any broadcasting service emitted from or passing through any communication or broadcast satellite in extra-terrestrial space.

SECOND SCHEDULE

Section 2 (1)

LICENSABLE BROADCASTING SERVICES

1. Free-to-air nationwide television services.
2. Free-to-air localised television services.
3. Free-to-air international television services.
4. Subscription nationwide television services.
5. Subscription localised television services.
6. Subscription international television services.
7. Special interest television services.
8. Free-to-air nationwide radio services.
9. Free-to-air localised radio services.
10. Free-to-air international radio services.
11. Subscription nationwide radio services.
12. Subscription localised radio services.
13. Subscription international radio services.

SECOND SCHEDULE — *continued*

14. Special interest radio services.
15. Audiotext services.
16. Videotext services.
17. Teletext services.
18. Video-on-demand services.
19. Broadcast data services.
20. Computer on-line services.

For the purposes of this Schedule, a delivery system shall not, by reason only that facilities or expertise are provided for the delivery of any broadcasting service, be deemed to be a licensable broadcasting service.

[S 308/96]

THIRD SCHEDULE

Section 31 (6)

RELEVANT LICENSABLE
BROADCASTING SERVICE*First column*

Subscription nationwide television service

Second column

Starhub Cable Vision Ltd.

[18/2001]

LEGISLATIVE HISTORY

BROADCASTING ACT (CHAPTER 28)

(Formerly known as the Singapore Broadcasting Authority Act (Cap. 297, 1995 Ed.))

1. Act 15 of 1994 — Singapore Broadcasting Authority Act 1994

Date of First Reading	:	25.7.94 (Bill No. 20/94 published on 29.7.94)
Date of Second and Third Readings	:	26.8.94
Date of commencement	:	1.10.94

2. Act 41 of 1999 — Info-communications Development Authority of Singapore Act 1999

(Consequential amendments made by)

Date of First Reading	:	11.10.99 (Bill No. 36/99 published on 12.10.99)
Date of Second and Third Readings	:	23.11.99
Date of commencement	:	1.12.99

3. Act 18 of 2001 — Singapore Broadcasting Authority (Amendment) Act 2001

Date of First Reading	:	15.3.2001 (Bill No. 19/2001 published on 16.3.2001)
Date of Second and Third Readings	:	19.4.2001
Date of commencement	:	21.5.2001

4. Act 42 of 2001 — Securities and Futures Act 2001

(Consequential amendments made by)

Date of First Reading	:	25.9.2001 (Bill No. 33/2001 published on 26.9.2001)
Date of Second and Third Readings	:	5.10.2001
Dates of commencement	:	1.1.2002 Parts I, VIII, IX, X and XV (except sections 314 and 342 (1) and (3)), First Schedule, Second Schedule and items (4) (o) and (q) and (7) (c) of the Fourth Schedule 1.7.2002 Parts XIII and XIV, and items (1) (a), (3) (a), (4) (a) (i), (iii) to (ix), (b), (c), (f), (g), (h), (i), (l), (m), (t) and (u), (7) (b), (12) and (13) of the Fourth Schedule

LEGISLATIVE HISTORY

BROADCASTING ACT
(CHAPTER 28)*(Formerly known as the Singapore Broadcasting Authority Act (Cap. 297, 1995 Ed.))*

1.10.2002 Parts II to VII, XI and XII, sections 314 and 342 (1) and (3), Third Schedule and items (1) (b), (2), (3) (b), (4) (a) (ii), (d), (e), (j), (k), (n), (p), (r), (s) and (v), (5), (6) and (7) (a) and (d) and (8) to (11) of the Fourth Schedule.

5. Act 5 of 2002 — Statutory Corporations (Capital Contribution) Act 2002

Date of First Reading : 3.5.2002 (Bill No. 7/2002 published on 4.5.2002)

Date of Second and Third Readings : 24.5.2002

Date of commencement : 15.7.2002 (except item (18) of Schedule)
29.7.2002 (item (18) of Schedule)

6. Act 19 of 2002 — Singapore Broadcasting Authority (Amendment) Act 2002

Date of First Reading : 23.5.2002 (Bill No. 19/2002 published on 24.5.2002)

Date of Second and Third Readings : 8.7.2002

Date of commencement : 2.9.2002

7. Act 34 of 2002 — Media Development Authority of Singapore Act 2002

(Consequential amendments made by)

Date of First Reading : 1.10.2002 (Bill No. 37/2002 published on 2.10.2002)

Date of Second and Third Readings : 31.10.2002

Date of commencement : 1.1.2003

COMPARATIVE TABLE

BROADCASTING ACT (CHAPTER 28)

(Formerly known as the Singapore Broadcasting Authority Act (Cap. 297, 1995 Ed.))

The following provisions in the 1995 Revised Edition of the Singapore Broadcasting Authority Act have been renumbered by the Law Revision Commissioners in this 2003 Revised Edition.

This Comparative Table is provided for the convenience of users. It is not part of the Broadcasting Act.

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