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**CHAPTER 214
BROADCASTING AND TELEVISION**

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ARRANGEMENT OF SECTIONS

PART 1 – PRELIMINARY

1. Interpretation

**PART 2 – ESTABLISHMENT AND PROCEDURES OF THE VANUATU
BROADCASTING AND TELEVISION CORPORATION**

2. Establishment of the Vanuatu Broadcasting and Television Corporation
- 3 Constitution of the Corporation
4. Casual vacancies among members
5. Seal of the Corporation
6. Meetings of the Corporation
7. Rules of the Corporation
8. Allowances of the members of the Corporation
9. Temporary appointments of members of the Corporation
10. Functions and duty of the Corporation
11. Powers of the Corporation
12. Staff of the Corporation
13. Appointment of officers
14. Provisions for employees of the Radio Vanuatu
15. Powers of the Corporation in regard to the staff of the Corporation
16. Corporation's financial year
17. Funds of the Corporation
18. Accounts and audit and annual report
19. Submissions of estimates for purpose of grants
20. Submissions of programme of work to the Minister for his approval
21. Loans
22. Transfer of property etc. to the Corporation
23. Contracts
24. Rules made by the Corporation
25. Prohibition
26. Exemption
27. Penalties
28. Protection for action taken under this Act
29. Returns and information
30. Power to enter any land or premises
31. Intrusion, trespass or obstruction
32. Corporation may insure employees
33. When copyright in musical works not infringed by Corporation
34. Delegation of powers of the Corporation
35. Corporation to comply with Government policy
36. Proceedings conducted by officers of the Corporation
37. Sanction of Public Prosecutor

38. Offence by body corporate
39. Corporation's symbol
40. General penalties
41. Minister to give directions
42. Establishment of advisory committee

PART 3 – LICENSING

43. Licensing
44. Minister may delegate his powers
45. Licensing of broadcasting station
46. Validity of licence
47. Power of Minister to vary, revoke or impose further conditions
48. Revocation or suspension of licence
49. Penalties
50. Search warrants
51. Non-compliance with this Part
52. Trial of offences
53. Compounding of offences
54. Regulations

PART 4 – MISCELLANEOUS

55. Savings of prosecutions under other written laws
56. Regulations
57. Provisions of this Act to prevail

BROADCASTING AND TELEVISION

An Act to provide for the control of broadcasting and television services; for the establishment of a corporation known as the Vanuatu Broadcasting and Television Corporation; for the purpose of carrying on the services of broadcasting and television in Vanuatu; for the issue of licences by the Minister for the establishment of private broadcasting stations; and for matters connected therewith.

PART 1 – PRELIMINARY

1. Interpretation

In this Act unless the context otherwise requires –

"broadcasting" means the transmission by radio, television or satellite of any message or other broadcast matter for reception by the general public;

"broadcasting apparatus" means:

(a) any satellite dish or satellite decoder; or

(b) any other apparatus capable of or designed or constructed for the transmission or reception of broadcast matter by radio waves, wire, cable, optical fibre, satellite or any other means or a combination of those means;

"broadcast matter" means any signs or signals transmitted by a broadcasting station or a satellite transponder, whether for aural or visual reception or both, and includes any

music, theatrical or other entertainment, concert, lecture, speech, address, parade, sports event, rally, advertisement, news and information of any kind so transmitted;

"broadcasting service" means a service whereby sounds or visual images are transmitted by the person operating the service to listeners or viewers of the service by means of radio waves, wire, cable, optical fibre, satellite or any other means or a combination of any of those means;

"broadcasting station" means a station which transmits broadcast matter by radio waves, wire, cable, optical fibre, satellite or any other means or a combination of any of those means for reception by the general public and includes the studio, transmitting station and technical equipment used for transmitting broadcast matter;

"Chairman" means the Chairman of the Corporation appointed under subsection (2) of section 3 and includes any person appointed to act as Chairman;

"Corporation" means the Vanuatu Broadcasting and Television Corporation established under section 2;

"Deputy Chairman" means the Deputy Chairman of the Corporation appointed under subsection (2) of section 3 and includes any person appointed to act as Deputy Chairman;

"General Manager" means the General Manager of the Corporation appointed under subsection (1) of section 12, and includes any person acting in that capacity;

"member of the Corporation" includes the Chairman and the Deputy Chairman of the Corporation;

"Minister" means the Minister responsible for broadcasting and television;

"private broadcasting station" means a broadcasting station established or operated by some person other than the Corporation;

"satellite decoder" means a device for transforming signals from a satellite dish or a satellite transponder into sounds and/or images;

"satellite dish" means a device for the transmission of signals from the earth to a satellite transponder or for the reception on the earth of signals transmitted from a satellite transponder;

"satellite transponder" means a device in a space satellite that is capable of receiving signals from a satellite dish and immediately retransmitting those signals for reception by a satellite dish;

PART 2 – ESTABLISHMENT AND PROCEDURES OF THE VANUATU BROADCASTING AND TELEVISION CORPORATION

2. Establishment of the Vanuatu Broadcasting and Television Corporation

There is hereby established a Corporation to be called the Vanuatu Broadcasting and Television Corporation which shall be a body corporate with perpetual succession and a common seal and in that name may sue and be sued.

3. Constitution of the Corporation

(1) The Corporation shall consist of members not less than 5 and not more than 7 appointed

by the Minister, on the recommendation of the Council of Ministers, from amongst persons appearing to him to be qualified by reasons of experiences in broadcasting, television, engineering (especially telecommunications, electronics or computer technology), journalism, public relations, communications, administration, finance, law, accountancy or other related subject.

(2) The Minister shall appoint a Chairman and a Deputy Chairman of the Corporation from amongst the members of the Corporation.

(3) A person shall be disqualified for being appointed or continuing, as a member of the Corporation –

- (a) if he is or becomes a member of Parliament; or
- (b) if he is or becomes a member of a local government council; or
- (c) if he is or becomes a member of a municipal council; or
- (d) if he exercises a position of responsibility within a political party;
- (e) if he is or becomes the owner, a partner, a director, manager or a major shareholder of or in any business which has a business transaction with the Corporation.

(4) Every member of the Corporation unless he vacates office under subsection (7) shall hold office for such period not exceeding 3 years as is specified by the Minister and shall be eligible for reappointment.

(5) A member of the Corporation may at any time, by notice in writing to the Minister, resign from the Corporation.

(6) *(Repealed)*

(7) The Minister may remove the Chairman, Deputy Chairman and any member of the Corporation if he or she:

- (a) is incapacitated by physical and mental illness; or
- (b) has performed unsatisfactorily for a significant period of time; or
- (c) is convicted of an offence involving dishonesty or fraud; or
- (d) is absent from 4 consecutive meetings of the Corporation unless the member is excused by the Corporation for having been absent from those meetings; or
- (e) becomes bankrupt; or
- (f) is otherwise unfit or unable to discharge the functions of a member.

(8) No act or proceeding of the Corporation shall be invalid by reason only of the existence of any vacancy amongst its members or any irregularity in the appointment of a member thereto.

(9) All appointments made under this section shall be published in the Gazette.

4. Casual vacancies among members

(1) If a member of the Corporation dies or resigns or is removed from office, the Minister may appoint any other person to be a member in place of the member who dies or resigns or is

removed from office.

(2) A member appointed under subsection (1) shall, unless he earlier resigns or vacates office by death or removal, hold office for the unexpired part of the term of office of the member whom he succeeds.

5. Seal of the Corporation

(1) The seal of the Corporation shall be in the custody of the Corporation.

(2) The seal of the Corporation may be altered in such manner as may be determined by the Corporation.

(3) The application of the seal of the Corporation shall be authenticated by the signature of –

(a) the Chairman of the Corporation or some other member of the Corporation authorized by the Corporation to authenticate the application of the seal; and

(b) the General Manager of the Corporation or some other officer of the Corporation authorized by name by the Corporation to act in his stead in that behalf.

6. Meetings of the Corporation

(1) The Chairman shall summon meetings as often as may be required, but not less frequently than once in three months.

(2) The quorum for any meeting of the Corporation shall be four members of the Corporation, one of whom shall be the Chairman or in his absence the Deputy Chairman.

(3) The Chairman or in his absence the Deputy Chairman shall preside at all meetings of the Corporation.

7. Rules of the Corporation

The Corporation may make rules to provide for the holding of meetings and the procedure to be followed at such meetings.

8. Allowances of the members of the Corporation

The members of the Corporation shall be paid such allowances in such manner and at such rate as may be determined by the Minister with the approval of the Minister responsible for finance.

9. Temporary appointments of members of the Corporation

Where a member of the Corporation is by reason of illness, infirmity or absence from Vanuatu, temporarily unable to perform the duties of his office, the Minister may appoint another person to act in his place.

10. Functions and duty of the Corporation

(1) The functions of the Corporation shall be –

(a) to provide television and sound broadcasting services within Vanuatu, for disseminating information, education and entertainment;

(b) to secure proper standards of television and sound broadcasting with regard to both

programme content and technical performance of broadcasts;

(c) to exercise licensing and regulatory functions in respect of the sale and use of television receivers and broadcasting receiving apparatus;

(d) to act internationally as the national authority or representative of Vanuatu in respect of matters relating to broadcasting;

(e) to advise the Minister in respect of matters relating to broadcasting;

(f) to exercise and perform such functions and duties in relation to broadcasting as are conferred or imposed under this Act.

(2) It shall be the duty of the Corporation –

(a) to provide adequate and comprehensive programmes with a view to serving the best interests of the general public;

(b) to develop the television and sound broadcasting services to the best advantage and interest of the country subject to such directions as the Minister may from time to time lay down;

(c) to ensure that nothing is included in the programmes broadcast by the Corporation which –

(i) offends against good taste or decency; or

(ii) is likely to incite crime or lead to disorder; or

(iii) offends any racial group or may promote ill will between different races or different groups of people; or

(iv) offends the followers of any religious faith or order; or

(v) may outrage public feelings in general;

(d) that a sufficient amount of time is given to news, news features and current affairs and to ensure that all news, in whatever form, is presented with due accuracy and impartiality and with due regard to the public interest.

11. Powers of the Corporation

(1) The Corporation shall subject to the provisions of this Act, have power to do all things necessary and conducive for the proper discharge of its functions under this Act.

(2) Without prejudice to the generality of the provisions of subsection (1), the Corporation may –

(a) establish, install and operate stations for television and sound broadcasting;

(b) subject to the approval of the Minister, purchase, lease, sublease or otherwise acquire and hold any property (movable or immovable) required for the carrying out of its functions under this Act;

(c) erect, alter, reconstruct, equip any television or sound broadcasting station, or any building or structure on any land belonging to or administered by the Corporation for use in connection with any sound or television broadcasting station or in connection

with the exercise of its powers;

(d) with the prior approval of the Minister, dispose by sale, lease, or sublease or otherwise, of any land or interest in land;

(e) take or lease, rent or purchase houses or purchase or take or lease sites and erect houses for the use of its officers;

(f) to provide training schemes, whether by itself or with the co-operation of other persons or bodies as the Corporation thinks fit, for the employees of the Corporation and other persons or bodies concerned with television or sound broadcasting and cognate or ancillary services;

(g) to conduct researches and investigations necessary for the improvement and development of broadcasting and reception thereof;

(h) with the approval of the Minister, to enter into joint ventures or partnerships with other broadcasting authorities or international agencies or private organizations for the purpose of promoting broadcasting services;

(i) to produce, manufacture, or otherwise acquire films and records (including compact discs and tapes and any other devices from which visual images or sounds may be reproduced) and material and apparatus for use in connection with films and such records and to employ such films, records, material and apparatus in connection with the broadcasting and televising services of the Corporation or for any purpose incidental thereto and to sell, rent or otherwise dispose of such films and records;

(j) to determine the hours during which the television and sound broadcasting programmes may be transmitted;

(k) to accept advertising materials and programmes for television and sound broadcasting upon payment of such charges as may be determined by the Corporation from time to time and to determine the conditions subject to which advertisements may be accepted for transmissions;

(l) to provide broadcasting and television facilities for commercial and social activities including the broadcasting and televising of advertisements and make charges therefore;

(m) to utilize all the property of the Corporation, movable and immovable, in such manner as the Corporation may think expedient including the raising of loans by mortgaging such property;

(n) to sell, hire, let or otherwise supply television and sound equipment and install, repair, maintain or remove any such equipment;

(o) to publish or arrange for the publication of such periodicals or other publications as it may consider of benefit to any broadcasting service carried on by the Corporation;

(p) to do all such things as the Corporation considers to be in the interests of the community for the purpose of developing and improving broadcasting talent; and

(q) to act in combination or association with any person or body of persons, whether incorporated or not and whether in Vanuatu or not for any of the purposes referred to in this subsection.

12. Staff of the Corporation

(1) The Corporation must, with the approval of the Minister, appoint as General Manager a competent and qualified person experienced in the field of management and, if possible, broadcasting, finance, law or journalism.

(2) The General Manager who shall be the chief executive officer shall, subject to the general direction of the Corporation on matters of policy, be charged with the direction of the business of the Corporation and the exercise, performance and discharge of its powers, duties and functions and the administrative control of the employees of the corporation.

(3) The General Manager may, with the approval in writing of the Corporation, delegate in writing to any other employee of the Corporation such of his powers, duties or functions as he may, from time to time consider necessary and any employee to whom such powers, duties or functions so delegated shall exercise, perform and discharge such powers, duties and functions subject to the general or special directions of the General Manager.

(4) The General Manager shall subject to the provisions of this section hold office for a period of three years.

(5) The Corporation may at any time, with the prior approval of the Minister, remove from office, the General Manger.

(6) If the General Manager is temporarily absent from Vanuatu, or is temporarily unable to perform his duties due to illness or other incapacity, another person may be appointed by the Corporation with the approval in writing of the Minister, to act in place of the General Manager until he is able to resume duties.

13. Appointment of officers

The Corporation may appoint at such remuneration and upon such term and conditions as it thinks fit, such other officers, employees, agents, advisers or consultants as may be required for the proper and efficient discharge of the functions of the Corporation.

14. Provisions for employees of the Radio Vanuatu

Upon the commencement of this Part, every employee of the Radio Vanuatu which, prior to the commencement of this Part, is the sound broadcasting branch of the Department of Media Services –

(a) may be offered employment with the Corporation on new terms and conditions as may be mutually agreed upon by such employee and Corporation;

(b) may retire or be retired from service on such terms and conditions as may be determined in accordance with the law.

(c) may be transferred within the Public Service on such terms and conditions as may be determined by the Public Service Commission.

15. Powers of the Corporation in regard to the staff of the Corporation

(1) Subject to the provisions of this Act, the Corporation may –

(a) dismiss and exercise disciplinary control over the staff of the Corporation;

(b) fix the wages, salary or allowances or other remuneration of such staff; and

(c) determine the terms and conditions of the service of such staff.

(2) Rules may be made by the Corporation under this Part in respect of all or any of the matters referred to in subsection (1).

16. Corporation's financial year

The financial year of the Corporation shall begin on the 1st day of January of each year and end on the 31st day of December of that year except that the first financial year of the Corporation shall begin on the date of the establishment of the Corporation and shall end on the 31st day of December, 1992.

17. Funds of the Corporation

(1) The funds of the Corporation shall consist of –

- (a) grants from the Government or from other sources, for the use of the Corporation;
- (b) monies advanced to the Corporation from time to time by the Minister responsible for Finance;
- (c) monies received by the Corporation in the course of the discharge of its functions.

(2) There shall be paid out of the funds of the Corporation all such sums of money as may be required to defray any expenditure incurred by the Corporation in the exercise, performance and discharge of its powers, duties and functions.

(3) All monies of the Corporation which are not immediately required for the discharge of the functions of the Corporation under this Act may be invested by the Corporation in such manner, or in such securities, as may be authorized by the Minister with the approval of the Minister responsible for finance.

18. Accounts and audit and annual report

(1) The Corporation shall keep proper accounts and other records in respect of its income and expenditure and shall cause to be prepared an annual statement of accounts in respect of each financial year.

(2) The accounts of the Corporation shall be audited by the Auditor-General in accordance with the Expenditure Review and Audit Act [Cap. 241].

(3) The Auditor-General is entitled at all reasonable times to full and free access to all accounting and other records relating directly or indirectly to the financial transactions of the Corporation.

(4) The Auditor-General shall in his report state –

- (a) whether the financial statements show fairly the financial transactions and the state of affairs of the Corporation;
- (b) whether proper accounting and other records have been kept, including records of all assets of the Corporation whether purchased, donated or otherwise;
- (c) whether the receipts, expenditure, and investment of moneys and the acquisition and disposal of assets by the Corporation during the financial year were in accordance with the provisions of this Act; and
- (d) such other matters arising from the audit as he considers necessary.

(5) Within 4 months of the end of each financial year the Corporation shall transmit to the Minister an annual report of its activities together with the audited accounts including the report of the Auditor-General therein.

(6) The Minister shall cause a copy of the annual report and audited report to be laid before Parliament.

19. Submissions of estimates for purpose of grants

If the Corporation shall need a grant from the Government, it shall not less than 90 days before the commencement of the financial year during which the grant is required, submit to the Minister estimates of expenditure and income for that year and of unexpended funds carried forward.

20. Submission of programme of work to the Minister for his approval

The Corporation shall before the first day of August in each financial year transmit to the Minister for his approval a programme of the work involving capital expenditure which is to be undertaken by the Corporation during the following financial year, and the Corporation shall have regard to any directions given by the Minister in respect of that programme.

21. Loans

The Corporation may, from time to time, for the purposes of this Act, raise loans from the Government or, with the consent of the Minister, from any other source.

22. Transfer of property etc., to the Corporation

(1) As from the date of commencement of this Part –

(a) all lands, buildings, plants, machinery, apparatus, equipment and other property movable or immovable, which immediately before the date of commencement of this Part are held by or on behalf of the Government by the Radio Vanuatu which, prior to the date of commencement of this Act, is the sound broadcasting branch of the Department of Media Services, for the purpose of sound broadcasting; and

(b) all assets, powers, rights, interests and privileges as well as all debts, liabilities and obligations of the Department of Media Services in connection therewith or appertaining thereto,

shall be transferred to and vested in and held by the Corporation.

(2) All debts, liabilities, obligations, and contracts of the Radio Vanuatu which, prior to the date of commencement of this Act, is the sound broadcasting branch of the Department of Media Services, in respect of sound broadcasting, outstanding or subsisting at the date of commencement of this Part, shall with effect from that date be deemed to be the debts, liabilities, obligations and contracts of the Corporation.

23. Contracts

(1) Contracts on behalf of the Corporation may be made as follows:

(a) a contract which if made between private persons would by law be valid although made by parol only and not reduced in writing, may be made on behalf of the Corporation in writing under the common seal of the Corporation;

(b) a contract which if made between private persons is by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the Corporation in writing signed by any person or persons duly authorized thereto;

(c) a contract which if made between private persons would by law be valid although made by parol only and not reduced in writing, may be made by parol on behalf of the Corporation by any person or persons duly authorized thereto.

(2) A contract made according to this section shall be effectual in law and shall bind the Corporation and all other parties thereto.

24. Rules made by the Corporation

The Corporation may make rules in respect of any matters for which rules are authorized or required by this Act to be made.

25. Prohibition

(1) Subject to subsection (4) of this section and section 26 no person shall install or work any broadcasting apparatus in any place in Vanuatu or on board any ship, aircraft or vehicle registered in Vanuatu except under and in accordance with a licence issued under this Part.

(2) No person shall offer for sale, sell or have in his possession, with a view to sale, any broadcasting apparatus, except under and in accordance with a licence issued under this Part.

(3) Every such licence shall be in such form and for such period and may contain such terms and conditions as the Corporation may provide for in rules made by the Corporation.

(4) Subsection (1) shall not be construed as applying to any person who works a broadcasting apparatus –

(a) in the course of his duty as a member of the Vanuatu Police Force; or

(b) for the purpose of any department of the Government.

(5) To avoid doubt, this section applies in relation to a broadcasting apparatus whether worked or installed before, on or after the commencement of this subsection.

(6) The rules may prescribe different fees in relation to licences for different broadcasting apparatus and licences for different classes of broadcasting apparatus.

26. Exemption

The Minister may by order made under this Act exempt any person or class of persons from the requirement of licensing under section 25.

27. Penalties

(1) Any person, other than a person referred to in section 25(4) and any person exempted under section 26 who installs, works, sells, offers for sale or has in his or her possession with a view to sale any broadcasting apparatus without a licence shall be guilty of an offence and shall be liable on conviction to a fine not exceeding VT 1,000,000 or to imprisonment for a term not exceeding twelve months and in either case shall be liable to forfeit any broadcasting apparatus sold, installed or worked without a licence.

(2) Any person who is in possession of any broadcasting apparatus or the occupier of any dwelling house or premises in which is installed broadcasting apparatus in respect of which a

licence is not in force shall, until the contrary is proved, be deemed to have worked the same.

(3) It shall be a defence to a prosecution for an offence under subsection (2) that such occupier was not aware and could not with reasonable diligence have become aware of the existence in the dwelling house or premises of the broadcasting apparatus in question.

28. Protection for action taken under this Act

(1) No suit or prosecution shall lie –

(a) against the Corporation for any matter or thing or act done or any contract entered into in good faith by the Corporation under this Act or any regulation made thereto; or

(b) against any member, officer, servant or agent of the Corporation for any act which in good faith is done or purported to be done by him under this Act or any regulation made thereunder, or on the direction of the Corporation.

(2) Any expenses incurred by the Corporation in any suit or prosecution brought by or against the Corporation before any Court shall be paid out of the funds of the Corporation, and any costs paid to, or recovered by the Corporation in any such suit or prosecution shall be credited to the funds of the Corporation.

(3) Any expenses incurred by any such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or purported to be done by him under this Act, or any regulation made thereunder or on the direction of the Corporation shall, if the court holds that such act was done in good faith, be paid out of the funds of the Corporation unless such expenses are recovered by him in such suit or prosecution.

29. Returns and information

The Corporation or any person authorized in that behalf by the Corporation may by notice in writing require any person to furnish to the Corporation or the person so authorized, within such period as shall be specified in the notice, all such returns or information relating to all such matters as may be necessary for the Corporation under this Act and as are within the knowledge of that person.

30. Power to enter any land or premises

Any officer or servant of the Corporation who is generally or specially authorized in that behalf by the Corporation may, at all reasonable times, enter upon any land or premises and there do such acts as may be reasonably necessary for the purpose of carrying out any work of the Corporation, or of making any survey, examination or investigation preliminary or incidental to the exercise of any power, or the discharge of any function, of the Corporation.

31. Intrusion, trespass or obstruction

Any person who –

(a) enters any part of the Corporation's establishment including studios and transmitting installations without the permission of the officer in charge; or

(b) enters a fenced enclosure, building, room or vehicle belonging to the Corporation in contravention of any regulations made under this Act or any notice not to do so; or

(c) refuses to quit such enclosure, building, room or vehicle on being requested to do so by any officer of the Corporation; or

(d) wilfully obstructs or impedes any officer of the Corporation or agent in the performance of his duty,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding VT 250,000.

32. Corporation may insure employees

(1) The Corporation may from time to time enter into contracts of insurance, insuring employees of the Corporation against personal accident arising out of and in the exercise or performance by them of any power or duty conferred or imposed upon the Corporation under this Act and may pay the premium payable in respect of any such contracts.

(2) The categories of employees to be so insured shall be determined by the Corporation having regard to the risk undertaken by such categories of employees.

33. When copyright in musical works not infringed by Corporation

(1) Notwithstanding anything contained in any other written law –

(a) the copyright in a musical work or in any sound recording is not infringed by the Corporation when it causes the musical work or sound recording to be heard in public by means of a radio or television broadcast; and

(b) the copyright in a musical work is not infringed by the Corporation when it makes a sound recording of that musical work solely for the purpose of broadcasting that musical work by means of a radio or television broadcast.

(2) When a radio or television broadcast is made by the Corporation and a person, by the reception of that broadcast, causes a musical work or sound recording to be heard in public, he does not thereby infringe the copyright in that musical work or sound recording.

34. Delegation of powers of the Corporation

(1) The Corporation may, subject to such conditions as may be specified in writing, delegate to the General Manager any power, duty or function conferred or imposed on or assigned to the Corporation.

(2) Notwithstanding any such delegation, the Corporation may exercise, perform or discharge any such power, duty or function.

35. Corporation to comply with Government policy

In the exercise of its functions and powers under this Part the Corporation shall comply with the general policy of the Government with respect to broadcasting.

36. Proceedings conducted by officers of the Corporation

Proceedings in respect of any offence under this Act or any regulations made thereunder may be conducted by an officer of the Corporation or an officer of the Government authorized in writing in that behalf by the Corporation.

37. Sanction of Public Prosecutor

No court shall take cognizance of any offence under this Act or any regulations made thereunder except with the sanction of the Public Prosecutor.

38. Offence by body corporate

Where an offence under this Act or any regulations made thereunder is committed by a body corporate, and it is proved to have been committed with the consent or connivance of, or to be attributable to, any act or default on the part of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

39. Corporation's symbol

(1) The Corporation shall have the exclusive right to the use of such symbol or representation as it may select or devise and thereafter display or exhibit in connection with its activities or affairs.

(2) Any person who uses a symbol or representation identical with that of the Corporation, or which so resembles the Corporation's symbol or representation as to deceive or cause confusion, or to be likely to deceive or to cause confusion, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding VT 250,000.

40. General penalties

(1) Every omission or neglect to comply with, and every act done or attempted to be done contrary to, this Part or any regulations made thereunder, or in breach of the conditions or restrictions subject to or upon which any licence has been issued shall be deemed to be an offence under this Act.

(2) Any person guilty of an offence under this Act or any regulations made thereunder for which no penalty is expressly provided shall, in addition to the forfeiture of any article seized, be liable on conviction to a fine not exceeding VT 250,000.

41. Minister to give directions

(1) The Minister may from time to time give general or special directions in writing as to the performance of the duties and the exercise of the powers of the Corporation and it shall be the duty of the Corporation to comply with such directions.

(2) Nothing in subsection (1) authorizes the Minister to give a direction in respect of –

(a) a particular programme;

(b) the gathering or presentation of news or the preparation or presentation of current affairs programmes; or

(c) contracts for the provision of programmes.

42. Establishment of Advisory Committee

(1) The Minister may make regulations for the purposes of the establishment of one or more consultative committees to advise the Corporation on such matters relating to broadcasting as may be referred to the committees by the Corporation.

(2) Regulations made under subsection (1) may prescribe the sitting allowances payable to the members of the consultative committee or committees.

PART 3 – LICENSING

43. Licensing

(1) No person other than the Corporation established under this Act shall maintain a broadcasting station unless such person has obtained a licence from the Minister.

(2) The Minister may, with the approval of the Council of Ministers, issue any person a license for the establishment and maintenance of a private broadcasting station:

Provided that no licence shall be granted for the licensing of any broadcasting station on board any ship registered in Vanuatu for the purposes of carrying out transmission of broadcast matter outside the territorial waters of Vanuatu.

(3) No licence shall be issued by the Minister unless he is satisfied that the person applying for a licence has such technical, financial and professional qualifications as may reasonably be required for the purpose of establishing and maintaining a private broadcasting station.

44. Minister may delegate his powers

The Minister may delegate all or any of his powers under this Part, except the power to issue licences under section 43, the power to revoke or suspend a licence under section 48 and the power to make regulations under section 54, to such officer or officers as he thinks fit, and may appoint officers for the purpose of carrying into effect the provisions of this Act.

45. Licensing of broadcasting station

(1) No person shall establish any private broadcasting station in Vanuatu except under and in accordance with a licence granted under this Act.

(2)

(a) Every such licence shall be in such form and may contain such terms and conditions as the Minister may prescribe;

(b) In addition to the terms and conditions as may be prescribed under this section the Minister may impose further terms and conditions on the licence as the Minister considers necessary.

(3) In granting a licence under this Act, the Minister may require the licensee to pay a premium for the issue of the licence or such annual fee as the Minister may prescribe.

46. Validity of licence

A licence granted under this Part shall, unless revoked or suspended, be valid for a period not exceeding 5 years from the date of the granting or issue of such licence.

47. Power of Minister to vary, revoke or impose further conditions

(1) Subject to subsection (2), the Minister may, during the currency of the licence, by notice in writing to the licensee, vary or revoke any of the conditions upon which the licence is granted or impose further conditions.

(2) The Minister shall give not less than 14 days' notice in writing of his intention to vary, or to impose a further condition and shall specify in the notice the variation proposed or the condition to be revoked or imposed.

48. Revocation or suspension of licence

(1) Subject to subsection (2), the Minister may, by notice in writing to the licensee, suspend or revoke a licence granted under this Part where he is satisfied that one of the following grounds exists:

- (a) the licensee has failed to pay the premium or the annual fee referred to in subsection (3) of section 45;
- (b) the licensee has failed to comply with the provisions of this Act;
- (c) the licensee is no longer a fit and proper person to hold the licence;
- (d) the licensee no longer has the financial, technical and management capabilities necessary to operate the broadcasting station;
- (e) the licensee has failed to comply with any direction given by the Minister;
- (f) the licensee has failed to comply with any conditions of the licence; or
- (g) it is advisable in the public interest for a special reason, to do so.

(2) The Minister shall before suspending or revoking any licence under the provisions of subsection (1), give the licensee notice in writing of his intention to do so and calling upon the person concerned to show cause to him why such licence should not be suspended or revoked, as the case may be.

49. Penalties

Any person who establishes a broadcasting station without a licence shall be guilty of an offence under this Part and shall be liable on conviction to a fine not exceeding five million vatu (VT 5,000,000) or to imprisonment for a term not exceeding 5 years.

50. Search warrants

If an officer appointed under section 44 has reason to believe that any provisions of this Part are being violated, such officer may apply to the Magistrates' Court for a search warrant to enter and inspect any place, ship or aircraft.

51. Non-compliance with this Part

Every omission or neglect to comply with, and every act done or attempted to be done contrary to this Part or the regulations made under this Part, or in breach of the conditions and restrictions subject to or upon which any licence has been issued, shall be deemed to be an offence under this Part and for every such offence not otherwise specially provided for, the offender shall, in addition to the forfeiture of any articles seized, be liable on conviction to a fine not exceeding VT 500,000.

52. Trial of offences

All offences under this Part or regulations thereunder shall be cognizable by the Supreme Court.

53. Compounding of offences

(1) Any officer, being authorized in writing in that behalf by the Minister, may compound any offence under this Part or regulations thereunder by accepting from a person reasonably suspected of having committed such offence a sum of money not exceeding VT 250,000.

(2) On payment of such sum of money, no further proceedings shall be taken against such person in respect of such offence.

54. Regulations

The Minister may make regulations in respect of all or any of the following matters:

- (a) the procedure to be followed in respect of applications for licences to be made under this Part, and the hearing of inquiries into such applications, for the issue of licences;
- (b) the terms and conditions on which licences are granted under this Part and the duties of the licensees;
- (c) the fees payable on the grant of such licences;
- (d) the control and supervision by the Minister of programmes broadcast from private broadcasting stations;
- (e) the furnishing or disclosure by any body of persons applying for a licence under this Part of information relating to such body and of its members;
- (f) the prohibition, regulation or control of the ownership of private broadcasting stations by prescribed persons or classes of persons;
- (g) the regulation or control of the transfer of shares in companies which hold licences for private broadcasting stations, and the transfer of interests on such stations;
- (h) the form of application for a licence under this Part and the form of such licence.

PART 4 – MISCELLANEOUS

55. Saving of prosecutions under other written laws

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 this Act or any regulations made thereunder, or from being liable under that other written law to any punishment or penalty, other than that provided by this Act or such regulations, except that no person shall be punished twice for the same offence.

56. Regulations

The Minister may make regulations relating to all or any of the matters prescribed or in respect of which regulations are required or authorized to be made under this Act.

57. Provisions of this Act to prevail

The provisions of this Act shall have effect notwithstanding anything contained in any other law, and accordingly in the event or any conflict or inconsistency between the provisions of this Act and such other law, the provisions of this Act shall prevail.

Table of Amendments

*1 Amended by Acts 13 of 2000, 11 of 2003
3(1), (2), (4), (5) Amended by Act 11 of 2003
3(6) Repealed by Act 11 of 2003
3(7) Substituted by Act 11 of 2003*

4(1) Amended by Act 11 of 2003

9 Amended by Act 11 of 2003

11(2(i) Amended by Act 11 of 2003

12(1) Substituted by Act 11 of 2003

12(5) & (6) Amended by Act 11 of 2003

25(5) & (6) Inserted by Act 13 of 2000

27(1) Amended by Act 13 of 2000

46 Amended by Act 13 of 2000