

# **Broadcasting and Publications Authority**

Commencement: 12th January 1979

## **LAWS OF KIRIBATI REVISED EDITION 1979**

### **CHAPTER 6A**

#### **BROADCASTING AND PUBLICATIONS AUTHORITY**

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**An Ordinance to create a corporation to be known as the Broadcasting and Publications Authority, to provide for the membership of the Authority, to confer powers and liabilities upon the Authority, and for purposes connected therewith**

16 of 1978

Commencement: 12th January 1979

**PART I  
PRELIMINARY**

**Short title**

- 1.** This Ordinance may be cited as the Broadcasting and Publications Authority Ordinance.

**Constitution of Authority**

- 2.** (1) There shall be an authority to be called the Broadcasting and Publications Authority (in this Ordinance referred to as "the Authority") which shall consist of a Chairman, and such other members, not being less than 5, as the Minister may from time to time determine.

- (2) The provisions of Schedule 1 (which relate to the appointment and remuneration of

members of the Authority and to the procedure of and other similar matters concerning the Authority) shall have effect with respect to the Authority.

Schedule 1

## **PART II BROADCASTING**

### **Function and duties of Authorities relating to broadcasting**

**3.** (1) The function of the Authority relating to broadcasting shall be to provide in accordance with the provisions of this Ordinance such local sound broadcasting services for Kiribati as may from time to time be reasonably practicable.

(2) It shall be the duty of the Authority-

- (a) to provide local sound broadcasting; services as a public service for disseminating information, education and entertainment; and
- (b) to ensure that the programmes broadcast by the Authority maintain a high general standard in all respects, and in particular in respect of their content and quality, and a proper balance and wide range in their subject-matter, having regard both to the programmers as a whole and also to the days on which the programmes are broadcast.

(3) Without prejudice to the powers conferred on the Authority by this Ordinance, the programmes broadcast by the Authority may include advertisements.

(4) It is hereby declared that the Authority in the exercise of its functions under this Part is not to be treated for the purposes of the enactments and rules of law relating to the privileges of the Republic as a body exercising functions on behalf of the Republic.

### **Powers of Authority**

**4.** (1) The Authority shall, subject to the provisions of this Ordinance, have power to do all such things as are in its opinion necessary for or conducive to the proper discharge of its function as described in section 3 (1) and, in particular and without prejudice to the generality of the foregoing provision, it shall, for the purpose of discharging that function, have power to arrange for the provision and equipment of, or if need be, itself to provide and equip, studios and other premises for sound broadcasting purposes.

(2) Notwithstanding anything in this section, the Authority shall not carry on business as seller of, or, except with the approval of the Minister, itself engage in the manufacture or sale of apparatus for wireless telegraphy or any other telegraphic equipment.

(3) The Authority shall have exclusive rights in respect of the broadcasting of any matters.

(4) Nothing in this section shall be construed as authorising the Authority to do anything

for the doing of which a licence is requisite under any law for the time being in force.

### **General provisions with respect to content of programmes**

**5.** (1) It shall be the duty of the Authority to satisfy itself that as far as possible the programmes broadcast by the Authority comply with the following requirements-

- (a) that nothing is included in the programmes which offends against good taste or decency or is likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling; and
- (b) that a sufficient amount of time in the programmes is given to news and news features and that all news given in the programmes (in whatever form) is presented with due accuracy and impartiality; and
- (c) that substantial proportions of the recorded and other matter in the programmes are of Kiribati origin and performed by I-Kiribati; and
- (d) that due impartiality and opportunity are preserved on the part of the persons providing the programmes as respects matters of political or industrial controversy or relating to current public policy.

(2) In applying subsection (1) (d), a series of programmes may be considered as a whole.

(3) Without prejudice to the generality of subsection (1), it shall be the duty of the Authority to secure the exclusion from the programmes broadcast by it of all expressions of its own opinion as to any of the matters referred to in subsection (1) (d), or the opinion as to any such matters of any of its members or officers.

(4) For the purpose of maintaining supervision and control over the programmes (including advertisements) broadcast by it, the Authority may make sound records of those programmes or any part thereof, and the making and use by the Authority of any such record exclusively for that purpose shall not constitute an infringement of the copyright in any work or sound recording.

### **Audience research**

**6.** The functions of the Authority shall include the making of arrangements for bringing the programmes (including advertisements) broadcast by the Authority and the other activities of the Authority under constant and effective review, and in particular for ascertaining the state of public opinion concerning the programmes (including advertisements) broadcast by the Authority and for encouraging the making of useful comments and suggestions by members of the public, and the arrangements shall include provision for full consideration by the Authority of the facts, comments and suggestions so obtained.

### **Code for programmes other than advertisements**

**7.** (1) The Authority shall avoid the inclusion in sound broadcasts of sounds suggestive of violence, particularly when large other than numbers of children and young persons may

be expected to be advertisements listening to the programmes, and in considering what other matters ought to be observed shall have special regard to programmes broadcast when large numbers of children and young persons may be expected to be listening.

(2) The Authority shall, in the discharge of its general responsibility for programmes other than advertisements, impose requirements as to standards and practice for such programmes prohibiting or restricting items of a specified Mass or description or as respects a particular item.

### **Programme prizes**

**8.** A programme (other than an advertisement) broadcast by the Authority-

- (a) shall not include anything which offers any prize of significant value (whether competed for or not) or any gift of significant value unless-
  - (i) the value of the prize or gift does not exceed an amount previously approved by the Authority for that prize or gift in relation to that programme; and
  - (ii) the aggregate value of all such prizes and gifts offered in the programme does not exceed an amount previously approved by the Authority for that programme; and
- (b) shall not include anything which offers any prize or gift of significant value in connection with a game, competition or test of any kind unless the rules governing the conduct of the game, competition or test have been previously approved by the Authority.

### **Advertisements**

**9.** (1) The programmes broadcast by the Authority may, so long as the provisions of this Ordinance are complied with in relation thereto, include advertisements inserted therein in consideration of payments to the Authority.

(2) Orders for the insertion of the said advertisements may be received either through agents or direct from the advertiser, but the Authority shall not act as an advertising agent.

(3) It shall be the duty of the Authority to secure that the relevant provisions of Schedule 2 are complied with in relation to the advertisements included in the programmes broadcast by the Authority.

Schedule 2

(4) After consultation with the Authority the Minister may make rules amending, repealing or adding to the provisions of the said Schedule.

(5) Subject to subsections (7) and (8), nothing shall be included in any programme broadcast by, the Authority, whether in an advertisement or not, which states, suggests or implies, or could reasonably be taken to state, suggest or imply, that any part of any programme broadcast by the Authority which is not an advertisement has been supplied

or suggested by any advertiser, and, except as an advertisement, nothing shall be included in any programme broadcast by the Authority which could reasonably be supposed to have been included therein in return for payment or other valuable consideration to the Authority.

(6) Nothing in subsection (5) shall be construed as prohibiting the inclusion, in any part of a programme broadcast by the Authority which is not an advertisement, of any of the following matters-

- (a) items designed to give publicity to the needs or objects of any association or organisation conducted for charitable or benevolent purposes; and
- (b) reviews of literary, artistic or other publications or productions, including current entertainments; and
- (c) items consisting of factual portrayals of doings, happenings, places or things, being items which in the opinion of the Authority are proper for inclusion by reason of their intrinsic interest or instructiveness and do not comprise an undue element of advertisement; and
- (d) announcements of the place of any performance included in the programme, or of the name and description of the persons concerned as performers or otherwise in any such performance, announcements of the number and description of any record so included, and acknowledgements of any permission granted in respect of any such performance, persons or record; and
- (e) items inserted at the request, or under the authority, of the Minister; and
- (f) such other matters (if any) as are prescribed by the rules made under subsection (4),

or as prohibiting the inclusion of an advertisement in any programme broadcast by the Authority by reason only of the fact that it is related in subject-matter to any part of that programme which is not an advertisement.

(7) So much of subsection (6) as prohibits the inclusion in programmes (other than advertisements) broadcast by the Authority of anything which could reasonably be supposed to have been included therein in return for payment or other valuable consideration to the Authority shall not apply to any programme so broadcast in an educational service provided under this Ordinance.

(8) Any rules made under subsection (4) shall be subject to annulment in pursuance of a resolution of the Maneaba ni Maungatabu at a meeting next following the date when any such rules are made, and subject to annulment shall have full force and effect from the date when the rules are made.

### **Government control over Authority as to certain matters**

**10.** (1) The Minister may, if it appears to him to be necessary or expedient to do so in connection with his functions as such, at any time by notice in writing require the Authority to broadcast, at such times as may be specified in the notice, any announcement so specified, and it shall be the duty of the Authority to comply with the notice.

(2) Where the Authority broadcasts any announcement in pursuance of a notice under the preceding subsection it may, if it thinks fit, announce that it is doing so in pursuance of such a notice.

(3) Subject to subsection (4), the Minister may at any time by notice in writing require the Authority to refrain from broadcasting any matter or classes of matter specified in the notice, and it shall be the duty of the Authority to comply with the notice.

(4) If under subsection (3) the Minister by notice in writing requires the Authority to refrain from broadcasting anything, the Authority may, if it thinks fit, broadcast an announcement of the notice or of the revocation or expiration of the notice.

(5) The powers conferred by this section are in addition to any powers specifically conferred on the Minister by any other provisions of this Ordinance.

### **PART III PUBLICATIONS**

#### **Power to publish**

**11.** The function of the Authority relating to publications shall be to carry on the production, printing, publication and distribution of the "Atoll Pioneer", and of "Te Uekera", and to sell those and such other publications as the Authority, with the consent of the Minister, may be authorised to produce, print, publish and distribute.

#### **Powers ancillary to publication**

**12.** The Authority shall have power for the purpose of carrying out its functions under this Part to do all such acts as appear to it to be requisite, advantageous or convenient for or in connection with the carrying out of its functions under this Part, or to be incidental to their proper discharge.

#### **Public interest to be served**

**13.** (1) In carrying out its functions under this Part the Authority shall have regard to the needs of the public to be well, currently and fully informed of all matters of public interest.

(2) The Authority's general duty includes that of promoting the publication of news and information of general and special interest to all people.

#### **Ministerial directions**

**14.** (1) The Minister, after consultation with the Authority, may give to the Authority such directions of a general character with respect to the performance of any functions of

the Authority under this Part as appear to the Minister to be requisite in the public interest.

(2) The Authority may cause to be tabled a report to the Maneaba ni Maungatabu for any year of any directions given by the Minister under subsection (1) unless the Minister shall have notified the Authority that in his opinion it is against the interests of national security to do so.

(3) It shall be the duty of the Authority to comply with any directions given by the Minister under this section.

### **Liabilities and obligations**

**15.** The Authority in the exercise of its functions under this Part shall be neither exempt from any liability or obligation imposed or arising under any law for the time being in force nor entitled to the benefit of any privilege as if it were a body exercising functions on behalf of the Republic.

### **Standards to be observed in publications**

**16.** The duties of the Authority in relation to its functions under this Part relating to publications shall be exercised substantially in conformity with the provisions relating to the content of programmes contained in Part II, and in particular with the provisions of section 5(1) (a), (c) and (d), and, in relation to the advertisements contained in publications substantially in conformity with the provisions of section 8(1), (2), (5) and (6), substituting in each case for the purposes of the construction of the sections contained in Part II and applied by this section by reference to this Part the word "publications" wherever the word "programmes", appears, and making such other consequential amendments as shall be necessary to give effect to this section.

## **PART IV FINANCES OF AUTHORITY**

### **Broadcasting and publication to be financed by Authority**

**17.** (1) The funds and resources of the Authority shall consist of-

- (a) such sums as may be provided by the Maneaba ni Maungatabu for the purposes of the Authority; and
- (b) any sums which may in any manner become payable to or vest in the Authority in respect of the performance of its functions.

(2) It shall be the duty of the Authority so to conduct its affairs as to secure that its revenues become at the earliest possible date, and thereafter continue, at least sufficient-



(a) to meet all sums properly chargeable to revenue account (including sums which are required for the repayment of loans and interest thereon), for provision for depreciation and for the establishment and maintenance of a reserve fund; and

(b) to make provision towards, and as soon as practicable for, necessary capital expenditure for the purposes of its undertaking.

(3) The Authority shall establish and maintain a reserve fund, and, [subject to](#) the following provisions of this section, the management of the fund, the sums to be carried from time to time to the credit of the fund, and the application of the fund, shall be as the Authority may determine.

(4) No part of those funds shall be applied otherwise than for the purposes of the Authority's undertaking for which the fund was established.

(5) The Minister may, with the approval of the Minister of Finance, give to the Authority such directions as he may think fit as to any matter relating to the establishment or management of those funds, the carrying of sums to the credit thereof or the application thereof, and the Authority shall comply with the directions.

#### **Application of any excess of revenues over expenditure**

**18.** (1) Any excess of the revenues of the Authority for any financial year over the total sums properly chargeable by the Authority to revenue account for that year, including in such sums (without prejudice to the generality of the expression) sums credited under section 17 (3) to the reserve fund, shall be applied by the Authority in such manner as the Minister, with the approval of the Minister of Finance, after consultation with the Chairman of the Authority, may direct.

(2) A direction under subsection (1) may require the whole or any part of any excess of the revenues of the Authority to be paid into the Consolidated Fund.

#### **Advances to Authority for purposes of broadcasting and publications**

**19.** (1) For the purpose of enabling the Authority to defray expenditure properly attributable to capital account in respect of the provision of broadcasting and publication services, and for the purpose of furnishing the Authority with working capital in connection with those services, the Minister may, with the consent of the Minister of Finance, make advances to the Authority out of moneys provided by the Maneaba ni Maungatabu.

(2) Any sums advanced under this section shall be repaid to the Minister at such times and by such methods, and interest on those sums shall be paid to him at such times and at such rates, as he may from time to time direct with the consent of the Minister of Finance.

(3) All sums received by the Minister in pursuance of subsection (2) shall be paid into the

Consolidated Fund.

### **Accounts, audit and reports**

**20.** (1) The Authority shall keep proper accounts and proper records in relation to the accounts, and shall prepare in respect of each financial year a statement of accounts including statements of revenue and expenditure, and a balance sheet.

(2) The accounts of the Authority shall be audited by auditors to be appointed by the Authority with the approval of the Minister.

(3) As soon as may be after the end of every financial year, the Authority shall prepare a general report of its proceedings during that year, and transmit it to the Minister who shall consider it and lay copies of it before the Maneaba ni Maungatabu.

(4) The said report shall have attached to it the statement of accounts for the year and a copy of any report made by the auditor on that statement, and shall also include such information relating to the plans, and past and present activities, of the Authority, and the financial position of the Authority, as the Minister may from time to time direct.

(5) The Authority shall at all reasonable times upon demand made by the Minister or by any person authorised by him in that behalf-

(a) afford to him full liberty to examine, the accounts of the Authority, and

(b) furnish him with all forecasts, estimates, information and documents which he may require with respect to the financial transactions and engagements of the Authority.

### **PART V**

### **MISCELLANEOUS AND GENERAL**

#### **Arrangements for settling terms and conditions of employment of Authority's staff, etc.**

**21.** (1) The Authority shall act in accordance with the advice of the Public Service Commission before any appointment is settling terms made, and with a view to the conclusion between the Authority and that organisation of such agreements as appear to the parties to be desirable with respect to the establishment and maintenance, Authority's of arrangements for -

(a) the settlement by negotiation of terms and conditions of employment of persons employed by the Authority, with provision for reference to arbitration, in default of such settlement, of such cases as may be determined by or under the agreements; and

(b) the promotion and encouragement of measures affecting the safety, health, training and welfare of persons employed by the Authority, and the discussion of other matters of mutual interest to the Authority and such persons.

(2) The Authority shall send to the Minister and the Chairman of the Public Service

Commission copies of any such agreement and of any instrument varying the terms of any such agreement.

### **Approvals by Authority**

**22.** The Authority may, for the purposes of any provision in this Ordinance which makes anything subject to the approval of the Authority, give an approval in general terms applying to all cases within the terms in which the approval is given.

### **Variation and revocation of directions and notices**

**23.** Any direction or notice given by the Minister or by the Variation and Authority under any provision in this Ordinance may be varied or revoked by a subsequent direction or notice under that provision.

### **Exemption from income tax and customs duties**

**24.** Notwithstanding anything contained in the Income Tax or Customs Ordinance, the Authority shall not be liable for the payment of income tax or any customs duties.

Cap. 44

Cap. 22

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## **SCHEDULE 1**

### **PROVISIONS AS TO THE BROADCASTING AND PUBLICATION AUTHORITY**

#### **Appointment and Removal of Members**

1. (1) All the members of the Authority (including the Chairman who shall be appointed as such) shall be appointed by the Minister from among persons appearing to him to be qualified for the office.

(2) Subject to sub-paragraphs (3) and (4), every member of the Authority shall hold office for such period, not exceeding 3 years, as may be fixed at the time of his appointment, and shall, on ceasing to be a member, be eligible for re-appointment.

(3) The Minister may at any time direct by notice in writing that any member of the Authority shall cease to hold office, and any member of the Authority may at any time by notice in writing to the Minister resign his office.

(4) If any member of the Authority dies or ceases to hold office before the expiration of the term for which he was appointed, the term of office of his successor shall be so fixed as to expire at the end of the first-mentioned term, but the Minister may, if he thinks fit to

do so, defer the making of an appointment until the expiration of the said first-mentioned term.

#### Remuneration of Members

2. The Authority shall pay to each of its members, in respect of his office as such, such remuneration (whether by way of salary or fees) and such allowances as the Minister may, with the approval of the Public Service Commission, determine in the case of those members respectively, and in determining the remuneration and allowances to be paid under this sub-paragraph, different provision may be made as regards the Chairman and the other members.

#### Incorporation and Capacity of Authority

3. (1) The Authority shall be a body corporate with perpetual succession and a common seal.

(2) The Authority may act notwithstanding a vacancy among its members.

(3) It shall be within the capacity of the Authority as a statutory corporation to do such things and enter into such transactions as are incidental or conducive to the exercise and performance of its powers and duties under this Ordinance, including the borrowing of money.

#### Quorum of Authority

4. The quorum of the Authority shall be 3, or such number not being less than 3 as the Authority may from time to time determine.

#### Duty of Members to Disclose Interest in Contracts

5. (1) A member of the Authority who is in any way directly or indirectly interested in a contract made or proposed to be made by the Authority shall, as soon as possible after the relevant circumstances have come to his knowledge, disclose the nature of his interest at a meeting of the Authority.

(2) Any disclosure made under sub-paragraph (1) shall be recorded in the minutes of the Authority, and the member-

(a) shall not take part after the disclosure in any deliberation or decision of the Authority with respect to that contract; and

(b) shall be disregarded for the purpose of constituting a quorum of the Authority for any such deliberation or decision.

#### Power of Authority to Regulate own Procedure

6. Subject to the preceding provisions of this Schedule, the Authority may regulate its own procedure.

#### Officers and Employees of Authority

7. The Authority, acting on the recommendation of the Public Service Commission, may appoint a secretary and such other officers, and take into its employment such other persons, as the Authority may determine.

#### Authentication of Authority's Seal

8. The application of the seal of the Authority shall be authenticated by the signatures-

- (a) of the Chairman of the Authority or some other member of the Authority authorised by the Authority to authenticate the application of the Authority's seal; and
- (b) of the secretary of the Authority or some other officer of the Authority authorised by the Authority to act in that behalf.

#### Presumption of Authenticity of Documents Issued by Authority

9. Any document purporting to be an instrument issued by the Authority and sealed as aforesaid or signed on behalf of the Authority shall be received in evidence and shall be deemed to be such an instrument without further proof unless the contrary is shown.

#### Protection of Members of Authority

10. No personal liability shall attach to any member of the Authority in respect of anything done or suffered in good faith under the provisions of this Ordinance.

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## **SCHEDULE 2**

### **RULES AS TO ADVERTISEMENTS**

1. (1) The advertisements must be clearly distinguishable as such and recognisably separate from the rest of the programme.

(2) Successive advertisements must be recognisably separate.

(3) Advertisements must not be arranged or presented in such a way that any separate advertisement appears to be part of a continuous feature.

2. The standards and practice to be observed in carrying out the requirements of the preceding paragraph shall be such as the Authority may determine either generally or in

particular cases.

3. The amount of time given to advertising in the programmes shall not be so great as to detract from the value of the programmes as a medium of information, education and entertainment.

4. Advertisements shall not be inserted otherwise than at the beginning or the end of the programme or in natural breaks therein.

5. (1) Rules (to be agreed upon from time to time between the Authority and the Minister or settled by the Minister in default of such agreement) shall be observed as to the classes of broadcasts (which shall in particular include the broadcast of any religious service) in which advertisements may not be inserted, and the interval which must elapse between any such broadcast and any previous or subsequent period given over to advertisements.

(2) The Minister may, after consultation with the Authority, impose rules as to the minimum interval which must elapse between any 2 periods set aside for advertisements, and the rules may make different provision for different circumstances.

6. In the acceptance of advertisements there must be no unreasonable discrimination either against or in favour of any particular advertiser.

7. (1) The charges made for advertisements shall be in accordance with tariffs fixed by the Minister from time to time, being tariffs drawn up in such detail and published in such form and manner as the Authority may determine.

(2) Any such tariffs may make provision for different circumstances, and, in particular, may provide, in such detail as the Authority may determine, for the making, in special circumstances, of additional special charges.

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