

# **Broadcasting Ordinance 1959**

**CONSOLIDATED ACTS OF SAMOA 2008**

## **BROADCASTING ORDINANCE 1959**

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**THE BROADCASTING ORDINANCE 1959**

**1959 No. 7**

**AN ORDINANCE** to make provision for the carrying on of a broadcasting service in Samoa, and to provide for certain other matters in relation to broadcasting.

*(31 August 1959)*

*(Commencement date 1 October 1959)*

**1. Short title and commencement** - This Ordinance may be cited as the [Broadcasting Ordinance 1959](#) and shall come into force on the 1st day of October 1959.

**2. Interpretation** - In this Ordinance, unless the context otherwise requires:

**"Department"** means the Broadcasting Department of Samoa.

**"Director"** means the Director of Broadcasting appointed under this Ordinance, and in the Director's absence the person lawfully acting in the place of the Director.

**"Minister"** means the Minister for the time being charged with the administration of this Ordinance.

**"Private broadcasting station"** means a broadcasting station established or operated by some person other than the Government.

**"Programme"** includes any signal, announcement, item, communication or other matter transmitted or intended to be transmitted from a Broadcasting Station for reception by the public.

**3. Constitution of Department** - There is hereby constituted and established a department of the Government of Samoa to be known as a Broadcasting Department which, under the control of the Minister, shall be charged with the administration of this Ordinance.

**4. Minister to carry on broadcasting service** - (1) The Minister shall carry on the broadcasting service heretofore carried on by the Government of Samoa and may develop and improve that service from time to time.

(2) The power conferred by the last preceding subsection shall be deemed to include power to do all or any of the following acts:

- (a) To use the facilities and equipment of the department for the purpose of promoting and assisting in the development and carrying on of those artistic, cultural, educational and informational pursuits which are usually included in the purpose of broadcasting;
- (b) To organise and present concerts and entertainments for the general public, notwithstanding that the concerts or entertainments may not be broadcast;
- (c) To organise and present concerts and entertainments for persons in hospitals and other similar institutions;

(d) To do all such things as appear necessary or expedient in the interests of the community for the purpose of developing and improving broadcasting talent;

(e) To collaborate with any society, association or body of persons not formed for the purpose of pecuniary gain for any of the foregoing purposes.

**5. Director of Broadcasting** - There shall from time to time be appointed an officer of the Public Service to be called the Director of Broadcasting who shall be the Administrative Head of the department.

**6. Appointment of other officers and employees** - There may from time to time be appointed under the [Public Service Act 2004](#) such other officers and employees of the department as may be necessary.

**7. Existing appointments deemed to be made under this Ordinance** - (1) The person holding office at the commencement of this Ordinance as Director shall be deemed to have been appointed to that office as aforesaid under this Ordinance.

(2) All other persons who at the commencement of this Ordinance are officers or employees of the department and have been so appointed under the Samoa Amendment Act 1949 (N.Z.) shall be deemed to have been so appointed under this Ordinance.

**8. Officers to act under the direction of the Director** - All officers and other employees

of the department shall act under the direction of the Director in the exercise and performance of the powers and functions imposed upon them by this enactment.

**9. Delegation of powers of Minister** - (1) The Minister may from time to time, by writing under his or her hand, either generally or particularly, delegate to the Director all or any of the powers which are conferred on the Minister of Broadcasting by this enactment or by any other enactment, including powers delegated to the Minister under any enactment:

**PROVIDED THAT** this power of delegation shall not include power to delegate to the Director the Minister's power to delegate under this section or to consent to a delegation under section 10.

(2) Subject to any general or special directions given or conditions attached by the Minister, the Director may exercise any power delegated to him or her as aforesaid in the same manner and with the same effect as if they had been conferred on him or her directly by this section and not by delegation.

(3) Where the Director purports to act pursuant to any delegation under this section, he or she shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(4) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister.

(5) Unless and until such delegation is revoked it shall continue in force according to its tenor. In event of the Minister by whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made by the person for the time being holding office as Minister and, in the event of the Director to whom such delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding office as Director or, if there is no Director in office or if the Director is absent from duty, to the person for the time being lawfully directed to act in the place of the Director.

**10. Delegation of powers by Director** - (1) The Director may from time to time, by writing under his hand, either generally or particularly, delegate to such officer or officers, or employee or employees of the department as he thinks fit all or any of the powers exercisable by him under this enactment, including any powers delegated under any enactment, but not including this present power of delegation:

**PROVIDED THAT** the Director shall not delegate any power delegated by the Minister without the written consent of the Minister, or any power delegated by the Public Service Commission of Samoa without the written consent of such Commission.

(2) Subject to any general or special direction given or conditions attached by the Director, the officer or employee to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had

been conferred on him or her directly by this section, and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(4) Any delegation under this section may be made to a specified officer or employee or to officers or employees of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.

(5) Every such delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Director.

(6) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding that the Director by whom it was made may have ceased to hold office and shall continue to have effect as if made by the successor in office of that Director.

**11. Commercial broadcasting prohibited** - Except in accordance with regulations made under this Ordinance, and until regulations are made, no programme or part of a programme intended to serve as an advertisement for the pecuniary benefit of any person shall be transmitted from any broadcasting station, whether operated by the Minister or by any other person:

**PROVIDED THAT** the prohibition contained in this section shall not apply to news relating to shipping or air services.

**11A. Private broadcasting station** - (1) No person may establish or operate a private broadcasting station except pursuant to the terms and conditions of a licence granted by the Minister under this Act.

(2) Any person who contrary to the provisions of this section establishes or operates a private broadcasting station commits an offence and is liable on conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding 10 penalty units and ( if the offence is a continuing one) to a further fine not exceeding 2 penalty units for every day during which the offence has continued, or to both imprisonment and fine.

**11B. Application for licence** - (1) Every person who desires to establish or operate a private broadcasting station shall make application to the Minister in such form as may be prescribed.

(2) Every such application shall specify the place of business of the applicant and where the applicant proposes to establish or operate his private broadcasting station. The application shall also contain such other particulars as may be prescribed.

(3) Every person upon making application for a private broadcasting licence shall pay a

fee of \$25.

**11C. Minister may issue licences** - (1) The Minister may grant the issue or refuse to grant the issue of a licence to any applicant for a licence to establish or operate a private broadcasting station.

(2) In considering any application for a licence to establish or operate a private broadcasting station, the Minister before determining whether to grant or refuse the application, shall have regard to:

(a) The general policy of the Government in relation to broadcasting and the required standards of broadcasting;

(b) The extent to which the proposed service is necessary or desirable in the public interest;

(c) The economic effect which the establishment of a private broadcasting station to which the application relates may have in respect of broadcasting stations already in operation;

(d) The needs of Samoa or the locality or localities to be served, in respect of broadcasting services;

(e) The financial ability of the applicant to carry on the proposed service;

- (f) The likelihood of the applicant carrying on the proposed service satisfactorily;
- (g) The results of any study conducted by the Department;
- (h) The hours during which the applicant proposes to broadcast programmes;
- (i) The extent of advertising matter which the applicant proposes to broadcast;
- (j) The proposed rates and charges to be made in respect of advertising programmes; and
- (k) Such other matters as may be prescribed by regulation.

(3) Every licence issued under this section shall prescribe:

- (a) The locality in which the private broadcasting station is to be situated;
- (b) The power of the private broadcasting station;
- (c) The hours during which the station may operate;
- (d) The times during which advertising of programmes may be transmitted;
- (e) The frequency on which the private broadcasting station may operate; and

(f) Such other matters as may be prescribed by regulations.

(4) No person who holds a licence under this Ordinance shall carry on a private broadcasting station unless he or she has paid an annual licence fee of \$100 which fee shall be paid not later than 31 December of every year.

(5) Any person who carries on a private broadcasting station contrary to subsection (4) commits an offence and is liable on conviction to a fine not exceeding 10 penalty units.

**11D. Licences may be cancelled or varied** - The Minister may cancel any existing licence or vary the conditions of any existing licence issued under this Ordinance if the Minister is satisfied that any condition subject to which the licence was issued has not been complied with.

**12. Annual report** - (1) The Director shall as soon as practicable after the end of each financial year furnish to the Minister a report of the operations of the department for that year.

(2) A copy of the report shall be laid before the Legislative Assembly within 28 days after it has been furnished to the Minister if the Assembly is then in session, or if not, shall be laid before the Assembly within 28 days after the commencement of the next ensuing session thereof.

**13. Regulations** - (1) The Head of State, acting by and with the advice of Cabinet, may from time to time make such regulations as may be reasonably necessary or expedient for the purpose of giving full effect to the provisions of this Ordinance and for the due administration thereof.

(2) Regulations may be made authorising the institution of commercial broadcasting, and prescribing conditions subject to which such broadcasting may be carried on.

(3) It shall be the responsibility of the Minister to lay all regulations made under this section before the Legislative Assembly within 28 days after the date of the making thereof if the Assembly is then in session, or if not, to lay such regulations before the Assembly within 28 days after the commencement of the next ensuing session.

#### **REVISION NOTES 1997**

The [Broadcasting Ordinance 1959](#) appearing in this reprint comprised that Ordinance as it appears in the 1997 Reprint together with the amendments contained in the Broadcasting Amendment Act 1988.

The Amendment Act added the definition of "Private Broadcasting Station" to section 2 and added sections 11A to 11D.

#### **REVISION NOTES 2008**

This law has been generally edited as provided for by [section 5](#) of the [Revision and Publication of Laws Act 2008](#). The following general revisions have been made –

- (a) References to Western Samoa have been amended to Samoa in accordance with an amendment to the Constitution of Samoa in 1997.
- (b) The fines have been amended and are stated as penalty units as provided for by the [Fines \(Review and Amendment\) Act 1998](#).
- (c) All references to the male gender have been made gender neutral.
- (d) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.
- (e) Amendments have been made to up-date references to offices, officers and statutes.
- (f) Other minor editing has been done in accordance with the lawful powers of the Attorney General.

There were no amendments made to this law since the publication of the Western Samoa Statutes Reprint 1978-1996.

Revised and consolidated by Graham Bruce Powell

Under the supervision of Lalotoa Mulitalo (Parliamentary Counsel)

## **REVISION NOTES 2008 No. 2**

[Section 4](#) (general powers of the Attorney General) of the [Revision and Publication of Laws Act 2008](#) is used to insert the commencement date. There were no amendments

made to this law since the publication of the *Consolidated and Revised Statutes of Samoa 2007*.

Revised and consolidated by the Legislative Drafting Division under the supervision of Teleiai Lalotoa Sinaalamaimaleula Mulitalo (Parliamentary Counsel)

**The Broadcasting Ordinance 1959 is administered  
in the Ministry of Communications and Information Technology.**