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Supplement "C" to The Gambia Gazette No. _____ of _____, 2004
Gambia Radio and Television Services Corporation Act, 2004.



THE GAMBIA

NO. 5 OF 2004.

Assented to by The President,
this 22nd day of April, 2004.


YAHYA A. J. J. JAMMEH
President.

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AN ACT to establish the Gambia Radio and Television Services Corporation, to provide for its powers and functions and for matters connected therewith.

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ENACTED by the President and the National Assembly.

PART I – PRELIMINARY

1. This Act may be cited as the Gambia Radio and Television Services Corporation Act, 2004.
2. In this Act, unless the context otherwise requires -

Short title

Interpretation

"Board" means the Board of Directors established for the Corporation under section 4;

"broadcasting" includes the broadcasting of radio and television programmes through cable, satellite microwave and internet technologies;

"Corporation" means the Gambia Radio and Television Services Corporation established under section 3;

"programme" includes any signal, announcement, item of communication, picture and other matter broadcast or intended to be broadcast from a broadcasting station for reception by the public;

"Secretary of State" means the Secretary of State responsible for the administration of this Act.

PART II - ESTABLISHMENT OF THE GAMBIA RADIO AND TELEVISION SERVICES CORPORATION AND ITS BOARD OF DIRECTORS, ETC.

3. (1) There is hereby established a Corporation to be known as the Gambia Radio and Television Services Corporation.

(2) The Corporation is a body corporate with perpetual succession and a common seal and may –

- (a) sue or be sued in its corporate name;
- (b) enter into contracts and acquire, hold and dispose of property; and
- (c) so far as is possible for a body corporate exercise the rights, powers and privileges, and incur the liabilities and obligations of a natural person of full age and capacity.

Establishment
of the
Gambia Radio
and Television
Services
Corporation

(3) The application of the common seal of the Corporation shall be authenticated by the signature of the Chairperson or any other person as may be authorised by the Corporation to sign on its behalf, and every document bearing the imprint of the seal of the Corporation shall be deemed to be properly sealed unless the contrary is proved.

4. (1) There is hereby established for the Corporation a Board of Directors, which shall be the governing body of the Corporation.

(2) The Board shall comprise –

- (a) a Chairperson who shall be from the private sector;
 - (b) the Permanent Secretary of the Department of State responsible for the administration of this Act;
 - (b) the Permanent Secretary of the Department of State responsible for finance;
 - (d) the Managing Director of the Gambia Telecommunications Company Limited;
 - (e) two persons from the private sector with experience in the media, one of whom should be female; and
 - (f) the Director General of the Corporation.
- (3) The Chairperson and other members who are not *ex-officio* members shall be appointed by the President on the recommendation of the Secretary of State.

Establishment
of the Board
of Directors
of the
Corporation

Tenure of office of members of the Board

5. (1) The members of the Board, other than ex-officio members, shall hold office for a term of three years and may be re-appointed for one further term of three years.

(2) No person shall be qualified to be a member or continue to be a member of the Board if -

- (a) he or she is adjudged to be a person of unsound mind;
- (b) he or she has been convicted of an offence involving dishonesty or fraud and has not been granted pardon;
- (c) in the case of a person who has professional qualifications, he or she is disqualified or suspended otherwise than at his or her request, from practising his or her profession by the order of a competent authority made in respect of him or her personally.

(3) A member of the Board may resign his or her office as a member of the Board by notice in writing addressed to the Secretary of State.

General powers of the Board

6. The Board shall give general directions as to the management of the property, business and funds of the Corporation and other matters relating to the Corporation.

Assignment of powers of the Board

7. For the purpose of discharging its functions under the Act, the Board may assign to the Director General powers to -

- (a) sign any contract for or on behalf of the Corporation;

(b) collect or cause to be collected monies due to the Corporation, including monies due from commercial activities and budgetary allocations, and discharge debts owed to the Corporation;

(d) sign, accept, negotiate, endorse and receive any negotiable instrument on behalf of the Corporation;

(e) acquire or authorize the acquisition of any movable or immovable property and transfer or allocate any funds of the Corporation for that purpose;

(f) authorize the disposal of securities of any kind belonging to the Corporation;

(g) open and operate current, deposit or credit account on behalf of the Corporation at any bank or financial institution; and

(h) negotiate and obtain loans on behalf of the Corporation and determine the nature and conditions of the loans.

Meetings of the Board

8. (1) The Board shall meet for the discharge of its business at least once in every three months at such time and place as the Chairperson shall appoint.

(2) The Chairperson shall, at the written request of the Director General or not less than four members of the Board, convene a special meeting of the Board to transact any business on a date specified in the request.

(3) A written notice of a special meeting of the Board shall -

- (a) be sent to each member not later than twenty-four hours before the meeting; and
- (b) specify the business for which the meeting is being convened.

(4) Where a request under subsection (2) is made by members, other than the Director General, the request shall be transmitted to the Director General, stating the business to be transacted, at least three working days before the date specified in the request.

(5) The quorum of the Board at any meeting shall be four, including the Chairperson or the Director General.

(6) The Board shall take decisions by a simple majority of the votes of members present and, where there is an equality of votes, the person presiding shall have a casting vote.

(7) The Chairperson shall preside over every meeting of the Board at which he or she is present, and in his or her absence, the members of the Board present shall appoint one of their number to preside at the meeting.

(8) The minutes of every meeting of the Board shall be recorded, and signed by the person who presided over the meeting after confirmation by the Board.

(9) The Board may at any time co-opt any person to act as an adviser at any of its meetings, but no person so co-opted shall be entitled to vote at any meeting of the Board.

(10) The validity of any proceeding of the Board shall not be affected by -

- (a) a vacancy among its members; or
- (b) a defect in the appointment of any of its members.

9. If the office of Director General is vacant or the Director General is for any reason unable to attend a meeting of the Board, the person for the time being carrying out the duties of the Director General shall attend the meeting and may participate in its deliberations.

10. (1) A member of the Board who has an interest in a company or an undertaking with which the Corporation proposes to enter into a contract shall -

- (a) disclose the nature of his or her interest to the Board, and
- (b) not participate in any deliberation and voting of the Board in respect of the contract.

(2) A member who contravenes the provisions of subsection (1) may be removed from the Board by the President on the recommendation of the Secretary of State.

11. A resolution is a valid resolution of the Board if -

- (a) notice of the proposed resolution was given to each member and to the Director General; and
- (b) it is signed or assented to by a majority of the members,

notwithstanding that it was not passed at a meeting of the Board.

Powers of the Corporation

15. The Corporation shall have such powers as necessary to carry out its functions, and in particular shall have the power to –

- (a) establish, install and operate terrestrial and cable broadcasting stations;
- (b) acquire, lease, sublease or otherwise any land or interest in land, developed or undeveloped;
- (c) acquire by purchase or otherwise, property rights, or privileges that it considers necessary for the purpose of this Act;
- (d) with the prior approval of the Board, subscribe for, acquire, hold, dispose of or otherwise deal with shares or stock in any company, whether incorporated within or outside The Gambia, carrying on or intending to carry on the business of providing programmes for broadcasting;
- (e) publish such periodicals as it may consider benefit to the Corporation;
- (f) use its facilities and equipment to promote and assist in the development of arts and culture pursuits;
- (g) with the approval of the Secretary of State, Order published in the Gazette, impose such levies and fees for its services as it may determine;

(h) act in combination or in association with any person or body of persons for any of the purposes in this Act; and

(i) do all such things as the Corporation considers to be in the interest of the community for the purpose of developing and improving broadcasting talent.

Power to delegate functions

16. The Corporation may delegate to any member or committee of the Board or employee such of its functions or powers as it may determine.

PART IV – MANAGEMENT AND STAFF

Director General

17. (1) There shall be a Director General of the Corporation who shall be appointed by the President on the recommendation of the Secretary of State.

(2) The Director General shall be –

- (a) the Chief Executive of the Corporation; and
- (b) responsible for the execution and implementation of the policy of the Board and the transaction of the day-to-day business of the Corporation.

(3) The Board may delegate to the Director General such of its functions as are necessary to enable him or her to transact efficiently the day-to-day business of the Corporation, and for that purpose, the Board may, from time to time, issue written instructions.

Secretary
and other
staff

18. (1) The Board shall appoint a Secretary who shall-

- (a) keep the books and records and conduct the correspondence of the Board;
 - (b) prepare the agenda and record the minutes of meetings of the Board; and
 - (c) perform such other duties as may be assigned to him or her by the Board or Director General.
- (2) The Board shall appoint for the Corporation such other employees as it may think necessary for the discharge of the functions of the Corporation, on such terms as to remuneration or otherwise as it may determine.
- (3) The Board shall be responsible for the discipline and removal of employees of the Corporation.
- (4) The Board shall adopt suitable policies in respect of staff conditions and schemes of service which shall be compatible with those approved by the Government.
- (5) The Board shall, with the approval of the Secretary of State, make regulations establishing schemes for pensions, gratuities and other retirement benefits in respect of employees of the Corporation.
- (6) Regulations made under subsection (5) shall include provisions for the grant of benefits to the dependants or legal representatives of the employees of the Corporation.

(7) The Corporation shall, for the purpose of achieving maximum efficiency in the discharge of its functions under this Act, institute schemes for the training of its employees in journalism and broadcasting and in other capacities with a view to securing the benefit of their knowledge, experience and expertise in the conduct of the operations of the Corporation.

PART V – FINANCIAL PROVISIONS

Fund of the
Corporation

19. The Corporation shall maintain a fund into which shall be paid -

- (a) sums appropriated by the National Assembly;
- (b) loans granted to the Corporation;
- (c) monies accruing by way of users' fees, levies and charges collected by or on behalf of the Corporation; and
- (d) any grants and gifts, provided that the terms and conditions attached to the grant or gift are not inconsistent with its functions.

Expenses of
the
Corporation

20. The Corporation may, from time to time, apply the proceeds of the fund established in pursuance of section 19 for the following purposes -

- (a) the cost of administration of the Corporation;
- (b) the reimbursement to members of the Board or any committee set up by the Board for such expenses as may be authorised by the Board, in accordance with the rates approved by the Secretary of State;

(d) the payments of salaries, fees and other remuneration, allowances, pensions and gratuities payable to members of the Board, employees of the Corporation or experts or professionals appointed by the Corporation, and

(e) the maintenance of any property acquired or vested in the Corporation.

Estimates,
accounts
and audit

21. (1) The Corporation shall, not later than three months before the end of each financial year, submit to the Secretary of State for approval, estimates of the income and expenditure of the Corporation for the succeeding year.

(2) The Corporation shall keep proper records and books of accounts of its income and expenditure.

(3) The Corporation shall prepare a statement of accounts in respect of each financial year.

(4) The Corporation shall, within three months after the end of each financial year, submit, to the Auditor General for auditing, its statement of accounts.

(5) The audited accounts of the Corporation and the Auditor General's report on those accounts shall form part of the Auditor General's overall annual report to the National Assembly.

(6) The Corporation shall, on the request of the Secretary of State, cause a management audit to be prepared.

Annual report

22. (1) The Board shall, not later than three months after the end of each financial year, submit to the Secretary of State in respect of the financial year an annual report on the activities of the Corporation.

(2) The report under subsection (1) shall include -

(a) information with regard to the activities and policy of the Corporation;

(b) a copy of the audited accounts of the Corporation in respect of that year together with the Auditor General's report on the accounts; and

(c) such other information as the Secretary of State may request in writing.

(3) The Secretary of State shall, as soon as possible after receiving the annual report, cause it to be laid before the National Assembly.

(4) The Director General shall also, from time to time, provide the Secretary of State with such information relating to the affairs of the Corporation as the Secretary of State may request in writing.

23. The Corporation shall be exempted from such taxes and duties as the Secretary of State responsible for finance may determine.

Exemption
from duties

Notice of
action

PART VI - LEGAL PROCEEDINGS

24. (1) No action shall be brought against the Corporation unless at least one month's written notice of the intention to bring the action has been served on the Corporation by the intending plaintiff or his or her agent.

(2) The notice shall state the cause of action, the name and place of abode of the intending plaintiff and the relief which he or she claims.

Service

25. The notice referred to in section 24 and any summons, notice or other document required or authorized to be served on the Corporation in connection with any suit by or against the Corporation may be served by delivering it to or sending it by registered post addressed to the Director General.

Execution of judgment

26. In any action or suit against the Corporation, no –

- (a) execution or attachment or process in the nature thereof shall be issued against the Corporation; or
- (b) sums of money which may by judgment of the court be awarded against the Corporation be paid by the Corporation from its funds,

before the expiration of at least three months from the date of the judgment of the court.

Representation

27. In a suit against the Corporation before the court, the Corporation may be represented in court at any stage of the proceedings by an officer or other employee of the Corporation duly authorized in writing by the Corporation in that capacity.

Indemnity

28. No officer or employee of the Corporation or any person acting on the direction of the Corporation shall be personally liable in respect of any matter or thing done by him or her in good faith for the purposes of this Act.

PART VII - MISCELLANEOUS

29. (1) There shall be vested in the Corporation such assets as may be transferred to the Corporation by the Gambia Telecommunications Company Limited.

Assets transferred to and liabilities assumed by the Corporation

(2) The transfer of assets to the Corporation under subsection (1) shall be on such terms and conditions as may be agreed between the Corporation and the Gambia Telecommunications Company Limited with the approval of the Secretary of State.

30 (1) The administrative body known as the Gambia Radio and Television Services is hereby dissolved.

Dissolution of the Gambia Radio and Television Services and transitional provisions

(2) As from the commencement of this Act, all the rights, assets, liabilities and obligations of the Gambia Radio and Television Services existing immediately before the commencement of this Act shall be transferred to the Corporation.

(3) Any action or proceeding in any court, or any judgment, decision or order which was enforceable by or against the dissolved Gambia Radio and Television Services immediately before the commencement of this Act, may be continued and enforced by or against the Corporation.

(4) A person who was in the employment of the dissolved Gambia Radio and Television Services immediately before the commencement of this Act shall be transferred to and be deemed to be appointed by the Corporation unless he or she vacates the office or his or her appointment is terminated.

(5) The Secretary of State may within twelve months of the commencement of this Act by Order published in the Gazette make any further transitional provisions as may be necessary for the purposes of this Act.

Regulations

31. The Secretary of State may, on the recommendation of the Corporation, make regulations for the better carrying into effect of the provisions of this Act.

PASSED in the National Assembly this
in the year of Our Lord Two Thousand and Four

day of

M.S. JALLOW
Clerk of the National Assembly.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which was passed in the National Assembly, and found by me to be a true and correct copy of the said Bill.

M. S. JALLOW
Clerk of the National Assembly.