



Tonga

TONGA BROADCASTING COMMISSION ACT

Chapter 15.05

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TONGA BROADCASTING COMMISSION ACT

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TONGA BROADCASTING COMMISSION ACT

AN ACT TO ESTABLISH A BROADCASTING COMMISSION TO CARRY ON A BROADCASTING SERVICE IN THE KINGDOM¹

Commencement [1st February, 1961]

PART I - PRELIMINARY

1 Short title

This Act may be cited as the Tonga Broadcasting Commission Act.

2 Interpretation

In this Act, unless the contrary intention appears —

“**broadcasting**” means the sending out by radio of any message or other matter for the information, education or entertainment of the public or any class of the public;

“**Commission**” means the Tonga Broadcasting Commission established under this Act;

“**radio**” means the transmission over any distance without connecting wires of writing, signs, signals, facsimiles, sounds and other matter of all kinds by means of Hertzian waves, and includes the reception of such writing, signs, signals, facsimiles, sounds or other matter;

“**Board**” means the Tonga Broadcasting Commission Board;

“**Minister**” means the Minister responsible for communications.²

PART II - THE TONGA BROADCASTING COMMISSION

3 Tonga Broadcasting Commission

- (1) There shall be a Tonga Broadcasting Commission.
- (2) The Commission —
 - (a) is a body corporate;
 - (b) shall have a seal; and
 - (c) is capable of acquiring, holding and disposing of real and personal property and of suing and being sued.

4 Establishment of Tonga Broadcasting Commission Board

- (1) The Board shall consist of —
 - (a) the Minister, who shall be the Chairman;³
 - (b) the Manager of the Commission; and
 - (c) five members who shall be appointed by Cabinet at 3 yearly periods. Any or all such members may be re-appointed.⁴
- (2) In the event of a member appointed under paragraph (c) of subsection (1) ceasing to hold office before the termination of his period of office, the period of appointment of a person appointed in his place shall be the remainder of the period of office of the member so ceasing to hold office.
- (3) The Board may pay to any member such remuneration as it may deem necessary.⁵

5 Termination of appointment

- (1) It shall be lawful for the Board with the approval of Cabinet to terminate the appointment of any member who is —
 - (a) incompetent; or
 - (b) persistently absent from meetings of the Board.
- (2) Any member may resign by giving written notice to the Board.⁶

6 Board meetings

- (1) The Board shall meet at such times and places as the Board determines or as the Chairman directs.

- (2) The Chairman shall preside at all meetings and shall have a deliberative vote, and in the event of an equality of votes, shall have a casting vote.
- (3) A quorum at a meeting shall be 5 members provided the Chairman is one of them.⁷

7 Personal interest to be disclosed

A member of the Board who is directly or indirectly interested in a contract or proposal to be made by, with or to the Commission shall disclose the nature of his interest at the meeting of the Board at which such contract or proposal is submitted.⁸

8 Manager to be appointed

There shall be a manager of the Commission who shall serve as the chief executive of the Commission. He shall carry out all the decisions of the Board and may do all things on —

- (a) all matters of an administrative nature within the limits of policy already laid down by the Board;
- (b) all questions relating to personnel administration;
- (c) any other matter arising between meetings of the Board, and which shall be submitted for ratification at the next meeting.⁹

9 Terms of appointment

- (1) The manager —
 - (a) shall be appointed by the Board;
 - (b) shall be appointed for a period not exceeding 3 years, but is eligible for re-appointment;
 - (c) holds office subject to good behaviour.

In addition to his duties as manager he shall also perform the duties of Secretary to the Board.¹⁰

- (2) The manager shall be paid by the Commission such salary and allowances as the Board determines.¹¹

10 Termination of appointment

If the manager —

- (a) becomes permanently incapable of performing his duties;
- (b) becomes bankrupt or compounds with his creditors, or makes an assignment (other than an assignment or mortgage to the Government) of his salary for their benefit; or

(c) resigns his office by writing under his hand addressed to the Chairman, the Board shall terminate his appointment.¹²

PART III - THE COMMISSION - POWERS AND DUTIES

11 Duties

It shall be the duty of the Commission to set up, commence and maintain a broadcasting service as a means of information, education and entertainment and to develop the service to the best advantage and interest of the Kingdom.

12 Powers¹³

The Commission has such powers as necessary for the purposes of this Act, in particular, and in addition to any other powers conferred on it by this Act, has power to —

- (a) purchase or otherwise acquire and hold any personal property required for the purposes of this Act and may dispose of any such personal property no longer required for such purpose;
- (b) purchase or acquire any leasehold interest in land or take on lease any land for the purpose of this Act;
- (c) erect, equip and maintain plant, buildings, stations and equipment necessary for broadcasting, and for otherwise carrying out the purposes of this Act;
- (d) engage, employ, pay and dismiss such officers and staff as it deems necessary for the conduct of its business, in accordance with the provisions of this Act;
- (e) provide for persons in its employ or their dependants by means of insurance, pension or provident fund or otherwise, pecuniary benefits upon retirement, death or termination of service or in the event of illness;
- (f) enter into contracts for the supply of services essential to broadcasting;
- (g) provide broadcasting facilities for commercial and social activities including broadcasting of advertisements and make charges therefor;
- (h) compile and prepare, print, publish, issue, circulate and distribute, whether free or otherwise, such papers, magazines, periodicals, books and other literary matter as may seem conducive to the objects of the Commission;
- (i) make payment, otherwise authorised, to the Chairman and other members of the Board in respect of expenses incurred by them in attending meetings of the Commission and in carrying out their duties;

- (j) impose licence fees upon radio listeners.

13 Policy

Subject to this Act, the Board has power to determine the policy of the Commission in relation to any matter, and to control the affairs of the Commission.

14 Minister may require broadcasts

- (1) The Minister may by notice in writing require the Commission to include in any programme broadcast of the Commission such items of general interest or utility as the Minister may from time to time determine:

Provided that the requirements of the Minister under this section shall not be such as to entail the broadcasting of matter for a period in excess of 30 minutes in any period of 12 consecutive hours.¹⁴

- (2) The Commission may take charges for broadcasts required under this section in accordance with the usual rate of charges made for commercial broadcasts.

15 Cabinet may prohibit certain matters

The Cabinet may by notice in writing delivered at the principal office of the Commission prohibit the Commission from broadcasting any matter or matter of any class or character specified in the notice.

16 Power to borrow money

The Commission may borrow such sums as it may require for meeting its obligations and discharging its functions under this Act.¹⁵

17 Accounts

- (1) The Commission shall keep proper accounts and other records in relation thereto and shall prepare in respect of each financial year a statement of accounts.
- (2) The accounts of the Commission shall be audited annually by an auditor to be appointed annually by the Commission.¹⁶
- (3) As soon as the accounts have been audited, the Commission shall forward a copy of the statement of accounts referred to in subsection (1), to the Minister, together with a copy of any report made by the auditor on that statement of accounts or on the accounts of the Commission.¹⁷

- (4) The accounts of the Commission, as soon as may be after the close of each financial year and after audit, shall be published in such manner as the Cabinet decides.

18 Annual report

- (1) The Board shall as soon as practicable after the date of the report close of each financial year prepare a report on the operations of the Commission during the year ending on that day, and furnish the report to the Minister.¹⁸
- (2) The Minister shall cause a copy of the report of the Commission to be laid before the Legislative Assembly after he receives the report.¹⁹

19 Pensions of government officers transferred

In the event of any person employed by the Government in any pensionable office being transferred to the service of the Commission with the consent of the Cabinet and the Board, then such person shall retain all rights and privileges accrued to him under the Pensions Act and any regulations made thereunder, and on attaining the age provided by the Pensions Act and any regulations made thereunder may retire with his pension rights undiminished or affected according to law in that regard as if he had completed his service with the Government.

20 Regulations

The Minister with the consent of Cabinet may make regulations not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, or for the conduct of business of the Commission, and in particular prescribing penalties which shall not exceed \$200 for an offence against the regulations.²⁰

ENDNOTES

¹ **1988 Revised Edition Cap. 100**; Acts 15 of 1960, 9 of 1964, 11 of 1975, 21 of 1976

Amending Acts	Commencement
Act 8 of 1993	26 August 1993
Act 18 of 2000	7 November 2000
Act 10 of 2003	23 October 2003

² Inserted by Act 18 of 2000

³ Substituted by Act 18 of 2000

⁴ Amended by Act 10 of 2003

⁵ Substituted by Act 21 of 1976

⁶ Substituted by Act 21 of 1976

⁷ Substituted by Act 21 of 1976

⁸ Substituted by Act 21 of 1976

⁹ Substituted by Act 21 of 1976

¹⁰ Amended by Act 21 of 1976

¹¹ Amended by Act 21 of 1976

¹² Amended by Act 21 of 1976

¹³ Amended by Act 18 of 2000

¹⁴ Substituted by Act 18 of 2000

¹⁵ Substituted by Act 8 of 1993

¹⁶ Amended by Act 21 of 1976

¹⁷ Substituted by Act 18 of 2000

¹⁸ Amended by Acts 9 of 1964 and 21 of 1976

¹⁹ Substituted by Act 18 of 2000

²⁰ Substituted by Act 18 of 2000