

NO. 4 OF 1996: INDEPENDENT BROADCASTING AUTHORITY AMENDMENT, 1996.**No. 487. 22 March 1996**

It is hereby notified that the President has assented to the following Act which is hereby published for general information:-

General Explanatory Note:

Words *in bold italics* indicate omissions from existing enactments.

Words *in italics* indicate insertions in existing enactments.

ACT

To amend the Independent Broadcasting Authority Act, 1993, so as to regulate broadcasting and the vesting of powers in relation to the administration, management, planning and use of the broadcasting service frequency bands in the territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei; to further regulate the application of the Act to existing providers of broadcasting signal distribution and broadcasting services in the said territories; to provide for the amendment of certain laws dealing with the jurisdiction of the Independent Broadcasting Authority or the application of the Act in or its incorporation into the law of those territories; to provide for the rationalised and uniform application of the Act in the whole of the national territory of the Republic; and to provide for matters connected therewith.

(English text signed by the President.) (Assented to 12 March 1996.)

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

Amendment of section 29 of Act 153 of 1993, as amended by section 5 of Act 36 of 1995

1. Section 29 of the Independent Broadcasting Authority Act, 1993 (hereinafter referred to as the principal Act), is hereby amended by the insertion after subsection (4) of the following subsection:

" (4A) In the application of subsections (1), (2), (3) and (4) in the territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei after the commencement of the Independent Broadcasting Authority Amendment Act, 1996-

(a) the reference in subsections (1) and (4)(a) to the Radio Act, 1952, shall be construed

(i) in relation to Venda, as a reference to the Radio Act, 1984 (Act No. 15 of 1984)

(Venda); and

(ii) in relation to the other territories, as a reference to the Radio Act, 1952, to the extent that it is in force in the territories;

(b) the reference in subsection (1)(b) to the Minister of Posts and Telecommunications shall be construed as a reference to the responsible Minister of the territory concerned;

(c) the reference in subsection (1)(b) to the Postmaster General shall be construed as a reference to the Postmaster General of the territory concerned;

(d) the reference in subsection (1) to 28 January 1994 shall be construed as a reference to 30 March 1994; and

(e) the reference in subsection (4)(c) to 1 September 1993 shall be construed as a reference to—

(i) 7 December 1993 in relation to Transkei;

(ii) 16 March 1994 in relation to Bophuthatswana;

(iii) 3 December 1993 in relation to Venda; and

(iv) 4 February 1994 in relation to Ciskei."

Amendment of section 33 of Act 153 of 1993, as amended by section 8 of Act 36 of 1995

2. Section 33 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

"(4) *Where the Republic has, in terms of section 79, entered into an agreement with any state or territory referred to in that section, the* The provisions of subsections (2) and (3) shall mutatis mutandis apply in relation to any person who, immediately prior to ***the date of entry into force of such an agreement*** 30 March 1994, lawfully ***provides provided*** broadcasting signal distribution in ***that state or the territory of any of the former Republics of Transkei, Bophuthatswana, Venda or Ciskei*** in a manner not inconsistent with the provisions of this Act ***and in such application—***

(a) the reference in subsection (2) (a) to a period of 12 months from the said date, shall be construed as a reference to a period of six months from the date of commencement of the Independent Broadcasting Authority Amendment Act, 1996, or such extended period as the Authority may on good cause shown allow;

(b) the reference in subsection (2)(b)(i) to

(i) 30 March 1995, shall be construed as a reference to the date immediately following the expiry of the period of six months or extended period referred to in

paragraph (a), as the case may be;

(ii) 30 March 1996, shall be construed as a reference to a date 12 months after the date contemplated in subparagraph (i)."

Amendment of section 45 of Act 153 of 1993, as amended by section 14 of Act 36 of 1995

3. Section 45 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

(4)(a) *Where the Republic has in terms of section 79 entered into an agreement with a state or territory referred to in that section, the* The provisions of subsection (3) of this section shall mutatis mutandis apply in respect of any person who immediately prior to ***the entry into force of such agreement, provides*** 30 March 1994, provided one or more public broadcasting services in ***such state or the*** territory of any of the former Republics of Transkei, Bophuthatswana, Venda or Ciskei in accordance with the laws in force therein at the time, and in such application the reference in subsection (3) to

(i) the date of commencement of this Act, shall be construed as a reference to 30 March 1994;

(ii) a period of 12 months as from such date of commencement, shall be construed as a reference to a period of six months as from the date of commencement of the Independent Broadcasting Authority Amendment Act, 1996, or such extended period as the Authority may on good cause shown allow.

(b) Any person who applies to the Authority within the period of six months or extended period referred to in paragraph (a)(ii), as the case may be, for a broadcasting licence in terms of subsection (3) and provides the Authority with satisfactory proof that he or she is entitled to the granting of such a licence shall, where such a licence is not issued before the expiry of that period, be deemed to be the holder of such a licence until the date of the issuing of the licence to which he or she is entitled.

(c) The provisions of section 33(2)(b)(ii) shall mutatis mutandis apply in relation to a licence contemplated in paragraph (b)."

Amendment of section 46 of Act 153 of 1993, as amended by section 15 of Act 36 of 1995

4. Section 46 of the principal Act is hereby amended-

(a) by the substitution for subparagraph (ii) of paragraph (b) of subsection (2) of the following subparagraph:

"(ii) Bophuthatswana Commercial Radio (Proprietary) Limited, a licensed broadcaster

according to Bophuthatswana law, shall be deemed to be the holder of an existing licence as contemplated in that paragraph ***unless an agreement such as that contemplated in section 79 has been entered into between the Governments of the Republics of South Africa and Bophuthatswana***: Provided that the licence which may be deemed to be held in terms of this subparagraph shall in no way derogate from the validity of the licence held under Bophuthatswana law and from the authority of the Bophuthatswana Government to enforce the terms and conditions of that licence, as in force on the second day of September, 1993, under Bophuthatswana law."; and

(b) by the substitution for subsection (3) of the following subsection:

"(3) Where the Republic has in terms of section 79 entered into an agreement with a state or territory referred to in that section, the The provisions of subsection (2) (a) shall *mutatis mutandis* apply in relation to any person who, immediately prior to ***the entry into force of such agreement, provides 30 March 1994, provided a*** private broadcasting service in ***such state or the territory of any of the former Republics of Transkei, Bophuthatswana, Venda or Ciskei*** under a valid licence in terms of the laws in force in such ***state or territory at the time.***". ***agreement such as that contemplated in section 79 has been entered into between the Governments of the Republics of South Africa and Bophuthatswana: Provided that the licence which may be deemed to be held in terms of this subparagraph shall in no way derogate from the validity of the licence held under Bophuthatswana law and from the authority of the Bophuthatswana Government to enforce the terms and conditions of that licence, as in force on the second day of September, 1993, under Bophuthatswana law.***"; and

(b) by the substitution for subsection (3) of the following subsection:

"(3) Where the Republic has in terms of section 79 entered into an agreement with a state or territory referred to in that section, the ***The provisions of subsection (2) (a) shall mutatis mutandis apply in relation to any person who, immediately prior to the entry into force of such agreement, provides 30 March 1994, provided a private broadcasting service in such state or the territory of any of the former Republics of Transkei, Bophuthatswana, Venda or Ciskei under a valid licence in terms of the laws in force in such state or territory at the time.***". ***agreement such as that contemplated in section 79 has been entered into between the Governments of the Republics of South Africa and Bophuthatswana: Provided that the licence which may be deemed to be held in terms of this subparagraph shall in no way derogate from the validity of the licence held under Bophuthatswana law and from the authority of the Bophuthatswana Government to enforce the terms and conditions of that licence, as in force on the second day of September, 1993, under Bophuthatswana law.***"; and

(b) by the substitution for subsection (3) of the following subsection:

Amendment of certain laws of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei

7. The laws mentioned in the second column of the Schedule are hereby amended to the extent as indicated in the third column of the Schedule.

Short title

8. This Act shall be called the *Independent Broadcasting Authority Amendment Substitution of section 79 of Act 153 of 1993*

6. The following section is hereby substituted for section 79 of the principal Act:

"Application of Act

79. This Act shall apply throughout the national territory of the Republic."

Amendment of certain laws of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei

7. The laws mentioned in the second column of the Schedule are hereby amended to the extent as indicated in the third column of the Schedule.

Short title

8. This Act shall be called the *Independent Broadcasting Authority Amendment Act, 1996*.

Schedule

Laws Amended

No – Short title – Extent of amendment year of law

Decree No. 13 of 1993 (Transkei) as amended

Decree No.13 (Application in Transkei of Certain South African Laws Relating to Transition to Democracy) of 1993

The amendment of section 1 by the deletion of the expressions "Act 153 of 1993" and "the Independent Broadcasting Authority Act, 1993".

Decree No.1 of 1994 (Bophuthatswana)

The Administration of Bophuthatswana Decree, 1994

The amendment of section 7 by the deletion of the expression "the Independent Broadcasting Authority Act, 1993, (Act No. 153 of 1993)".