

REPUBLIC OF SOUTH AFRICA

SOUTH AFRICAN COMMUNICATIONS REGULATORY AUTHORITY BILL

(As introduced in the National Assembly as a section 75 Bill) (Explanatory summary of Bill published in Government Gazette No. 20915 of 18 February 2000) (The English text is the official text of the Bill)

(MINISTER OF COMMUNICATIONS)

[B 14—2000]

REPUBLIEK VAN SUID-AFRIKA

WETSONTWERP OP DIE SUID-AFRIKAANSE KOMMUNIKASIE- REGULERINGSOWERHEID

*(Soos ingedien in die Nasionale Vergadering as 'n artikel 75-wetsontwerp)
(Verduidelikende opsomming van Wetsontwerp in Staatskoerant No. 20915 van
18 Februarie 2000 gepubliseer) (Die Afrikaanse teks is die amptelike vertaling van
die Wetsontwerp)*

(MINISTER VAN KOMMUNIKASIE)

[W 14—2000]

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GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.
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BILL

To provide for the establishment of the South African Communications Regulatory Authority; to provide for the dissolution of the Independent Broadcasting Authority and the South African Telecommunications Regulatory Authority; to transfer the functions of the latter authorities to the South African Communications Regulatory Authority; to amend the Independent Broadcasting Authority Act, 1993, the Telecommunications Act, 1996, and the Broadcasting Act, 1999; and to provide for matters connected therewith.

PREAMBLE

Recognising that technological and other developments in the fields of broadcasting and telecommunications are causing a rapid convergence of these fields;

Acknowledging that a need exists to establish a regulatory body to regulate broadcasting and telecommunications,

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

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Definitions

- 1.** In this Act, unless the context indicates otherwise, any word or expression defined in the Broadcasting Act, the IBA Act and the Telecommunications Act has the meaning assigned to it in the Act in question and—
- (i) “Authority” means the South African Communications Regulatory Authority established by section 3; (ix) 30
 - (ii) “Broadcasting Act” means the Broadcasting Act, 1999 (Act No. 4 of 1999); (iv)
 - (iii) “Council” means the Council referred in section 3(2); (xi)
 - (iv) “establishment date” means the date determined as such by the Minister by notice in the *Gazette*; (iii) 35
 - (v) “family member”, in relation to any person, means his or her parent, child or spouse, and includes a person living with that person as if they were married to each other; (i)
 - (vi) “former authorities” means the IBA, SATRA or both, as the case may be; (xv) 40
 - (vii) “IBA” means the Independent Broadcasting Authority established by section 3 of the IBA Act; (vii)
 - (viii) “IBA Act” means the Independent Broadcasting Act, 1993 (Act No. 153 of 1993); (viii)
 - (ix) “Minister” means the Minister of Communications; (iv) 45
 - (x) “National Revenue Fund” means the Fund referred to in section 213 of the Constitution; (v)
 - (xi) “prescribe” means prescribe by regulation; (xvi)

- (xii) “President” means the President of the Republic; (x)
- (xiii) “SATRA” means the South African Telecommunications Regulatory Authority established by section 5 of the Telecommunications Act; (xii)
- (xiv) “Telecommunications Act” means the Telecommunications Act, 1996 (Act No. 103 of 1996); (xiii) 5
- (xv) “this Act” includes any regulation made under the underlying statutes; (ii)
- (xvi) “underlying statutes” means the Broadcasting Act, the IBA Act and Telecommunications Act. (vi)

Object of Act

- 2. The object of this Act is to establish an independent authority which is to— 10
 - (a) regulate broadcasting in the public interest and to ensure fairness and a diversity of views broadly representing South African society, as required by section 192 of the Constitution; and
 - (b) regulate telecommunications in the Republic.

CHAPTER II 15

SOUTH AFRICAN COMMUNICATIONS REGULATORY AUTHORITY

Establishment of South African Communications Regulatory Authority

- 3. (1) The authority contemplated in section 192 of the Constitution is hereby established as a juristic person to be known as the South African Communications Regulatory Authority. 20
- (2) The Authority acts through the Council contemplated in section 5.

Functions of Authority

- 4. (1) The Authority—
 - (a) must perform the duties imposed upon the former authorities by or under the underlying statutes; 25
 - (b) may exercise the powers conferred upon the former authorities by or under the underlying statutes;
 - (c) subject to section 231 of the Constitution, must act in a manner that is consistent with the obligations of the Republic under any applicable international agreement. 30
- (2) The Authority is subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999).

Constitution of and appointment of councillors to Council

- 5. (1) The Council consists of no fewer than five and no more than seven councillors appointed by the President on the advice of the Portfolio Committee on Communications of the National Assembly according to the following principles, namely— 35
 - (a) participation by the public in the nomination process;
 - (b) transparency and openness; and
 - (c) the publication of a shortlist of candidates for appointment, with due regard to subsection (3) and section 6. 40
- (2) The President must appoint one of the councillors as chairperson of the Council.
- (3) Persons appointed to the Council must be persons who—
 - (a) are committed to fairness, openness and accountability on the part of those entrusted with the governance of a public service; and
 - (b) when viewed collectively— 45
 - (i) are representative of a broad cross-selection of the population of the Republic;
 - (ii) possess qualifications, expertise and experience in the fields of, amongst others, broadcasting and telecommunications policy, engineering, technology, frequency band planning, law, economics, business practice and finance. 50
- (4) A councillor appointed under this section must, before he or she begins to perform his or her functions, take an oath or affirm that he or she—

- (a) is committed to fairness, openness and accountability; and
- (b) will uphold and protect the Constitution and the laws of the Republic, including this Act and the underlying statutes.

Disqualification

6. (1) A person may not be appointed or continue to serve as a councillor if he or she— 5
- (a) is not a citizen of the Republic;
 - (b) is not permanently resident in the Republic;
 - (c) is a public servant or the holder of any other remunerated position under the State;
 - (d) is a member of Parliament, any provincial legislature or any municipal 10 council;
 - (e) is an office-bearer or employee of any party, movement or organisation of a party-political nature;
 - (f) or his or her family member has a controlling interest or any substantial financial interest in the telecommunications or broadcasting industry; 15
 - (g) or his or her business partner holds an office in or with, or is employed by, any person or body, whether corporate or unincorporated, which has an interest contemplated in paragraph (f);
 - (h) is an unrehabilitated insolvent;
 - (i) has been declared by a court to be mentally ill or disordered; 20
 - (j) has at any time been convicted, whether in the Republic or elsewhere, of—
 - (i) theft, fraud, forgery or uttering a forged document, perjury, an offence in terms of the Corruption Act, 1992 (Act No. 94 of 1992), or any other offence involving dishonesty; or
 - (ii) an offence under this Act or the underlying statutes; or 25
 - (k) has at any time been removed from an office of trust on account of misconduct.
- (2) A person who is subject to a disqualification contemplated in subsection (1)(b) to (i) may be nominated for appointment as a councillor, but may only be appointed if at the time of such appointment he or she is no longer subject to that disqualification. 30

Terms of office

7. (1) (a) Subject to paragraph (b), councillors hold office for four years.
- (b) The Council must at its first meeting designate three of its members to hold office for two years.
- (c) If the Council fails to designate three such members, the Minister must do so 35 forthwith and notify the three councillors concerned in writing.
- (2) A councillor may at any time, upon at least one month's written notice tendered to the President, resign from office.
- (3) Despite subsection (1), the councillors remain in office after expiry of their term of office until the commencement of the term of office of their successors, but the 40 extended term of office may not exceed 45 days.
- (4) A councillor may at the end of his or her term of office be reappointed in terms of section 5 for one additional term.
- (5) Every councillor serves in a full-time capacity and may not take up any other remunerative employment, occupation or office. 45

Removal from office

8. (1) A councillor may at any time be removed from office by the President on account of—
- (a) misconduct;
 - (b) inability to perform the duties of his or her office effectively; 50
 - (c) absence from three consecutive meetings of the Council without the prior permission of the Council, except on good cause shown;
 - (d) his or her having performed other remunerative work in contravention of section 7(5);

- (e) failure to disclose an interest in terms of section 12(2)(a) or voting or attendance at, or participation in, proceedings of the Council while having an interest contemplated in section 12(1); or
 - (f) any other good reason.
- (2) A councillor may not be removed from office except after due enquiry. 5

Vacancies

9. (1) A vacancy in the Council occurs if a councillor—
- (a) becomes subject to a disqualification referred to in section 6;
 - (b) tenders his or her resignation as contemplated in section 7(2) and the resignation takes effect; 10
 - (c) is removed from office in terms of section 8; or
 - (d) dies or becomes permanently incapable of doing his or her work.
- (2) (a) Where a vacancy has arisen as contemplated in subsection (1), the procedure contemplated in section 5(1) applies.
- (b) Any councillor appointed under this subsection holds office for the rest of the period of the predecessor's term of office. 15

Remuneration

10. The chairperson and other councillors must be paid such remuneration and allowances and be entitled to such benefits as the Minister may determine with the approval of the Minister of Finance. 20

Meetings of Council

11. (1) (a) Meetings of the Council must be held at such times and places as the Council may determine.
- (b) However, the first meeting must be held at such time and place as the chairperson determines. 25
- (2) (a) The chairperson may at any time convene a special meeting of the Council, which must be held at such time and place as the chairperson determines.
- (b) If at least two councillors request a special meeting in writing, the chairperson must convene such a meeting within two days after receiving the request.
- (c) If the chairperson fails to convene a special meeting within two days after receiving the request, the councillors concerned may convene a special meeting. 30
- (3) The quorum for any meeting of the Council is a majority of the councillors in office at the time.
- (4) (a) Subject to subsection (3), a decision of the Council is taken by resolution agreed to by the majority of councillors at any meeting of the Council. 35
- (b) In the event of an equality of votes regarding any matter the chairperson has a casting vote in addition to his or her deliberative vote.

Conflicting interests

12. (1) A councillor may not vote at, attend or participate in, any meeting or hearing of the Council, nor be present at the place where the meeting is held, if— 40
- (a) in relation to an application relating to a licence, he or she or his or her family member is a director, member or business partner of or has an interest in the business of the applicant or of any person who made representations in relation to the application; or
 - (b) in relation to any matter before the Council, he or she has any interest which may preclude him or her from performing his or her functions as a councillor in a fair, unbiased and proper manner. 45
- (2) (a) If, during the course of any proceedings before the Council, there is reason to believe that a councillor has any interest contemplated in subsection (1), that councillor must immediately fully disclose the nature of his or her interest and leave the meeting or hearing in question so as to enable the remaining councillors to discuss the matter and 50

determine whether or not that councillor should be allowed to participate in the proceedings.

(b) The disclosure, and the decision taken by the remaining councillors, must be recorded in the minutes of the proceedings in question.

(3) A councillor is guilty of an offence and liable on conviction to a maximum fine of R100 000 if he or she—

- (a) contravenes subsection (1); or
- (b) fails to disclose any interest or fails to leave the meeting or hearing as required by subsection (2).

Validity of proceedings

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13. If a decision was taken by a majority of the councillors lawfully entitled to vote and present at the time, and those councillors constituted a quorum, such decision taken by the Council or an act performed under that decision is not invalid merely because of—

- (a) any irregularity in the appointment of a councillor;
- (b) a vacancy in the Council;
- (c) the fact that a councillor who voted when the decision was taken, is guilty of an act or omission justifying his or her removal from office; or
- (d) the fact that any person who is disqualified from being a councillor, or who had been removed from that office, sat as such in the Council when the decision was taken.

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Staff

14. (1) The Council must establish its own administration to assist the Authority in the performance of its functions and to this end the Council must appoint—

- (a) a suitably qualified and experienced person as chief executive officer of the Council for the purpose of assisting the Authority, subject to the Council's direction and control, in the performance of all financial, administrative and clerical functions and work arising from the administration of this Act; and
- (b) such other staff as the Council may deem necessary to assist the Authority with all such work as may arise through the performance of its functions.

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(2) The Council must, in the appointment of its staff—

- (a) provide for the advancement of persons disadvantaged by unfair discrimination, with the aim that its staff, when viewed collectively, represents a broad cross-section of the population of the Republic;
- (b) subject to paragraph (a), apply equal opportunity employment practices.

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(3) The Authority may pay to the persons in its employ such remuneration and allowances and provide them with such pension and other employment benefits as are consistent with that paid in the public sector.

Financing of and accounting by Authority

15. (1) The Authority is financed from money appropriated by Parliament.

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(2) The Authority—

- (a) must in each financial year, at a time determined by the Minister, submit a statement of estimated income and expenditure for the following financial year to the Minister for his or her approval, granted with the approval of the Minister of Finance;
- (b) may in any financial year submit adjusted statements of estimated income and expenditure to the Minister for his or her approval, granted with the approval of the Minister of Finance; and
- (c) must use its money in accordance with the statement of estimated expenditure.

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(4) All revenue received by the Authority in a manner other than in accordance with subsection (1) must be paid into the National Revenue Fund as soon as is reasonably practicable after receipt of such revenue.

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(5) The financial year of the Authority commences on 1 April of a particular year and ends on 31 March of the next year, but the first financial year of the Authority commences on the establishment date.

(6) The chief executive officer referred to in section 14(1) is the accounting officer of the Authority and is charged with the responsibility of ensuring that all moneys received and payments made on behalf of the Authority are duly accounted for. 5

(7) The accounting officer must in respect of each financial year cause such records of account to be kept, in accordance with established accounting practice, principles and procedures, as are necessary to—

(a) fairly, sufficiently and clearly reflect the revenue, expenditure and transactions of the Authority during that year and the state of its assets, liabilities and financial affairs at the end of such year; and 10

(b) sufficiently explain such revenue, expenditure, transactions and financial affairs.

(8) As soon as may be reasonably practicable after the end of each financial year, the accounting officer must, in conformity with established accounting principles and procedures, prepare or cause to be prepared financial statements comprising, with sufficient particulars— 15

(a) the income and expenditure of the Authority in respect of that financial year; and 20

(b) a balance sheet showing the state of its assets, liabilities and financial affairs as at the end of that financial year.

(9) The financial statements referred to in subsection (8), must—

(a) fairly reflect the transactions and financial affairs of, and the operational results of the Authority; and 25

(b) refer to any relevant matter which materially affects or is likely so to affect the affairs of the Authority, amplifying and explaining, where necessary, any figures in the financial statements.

(10) The accounts of the Authority must be audited by the Auditor-General.

(11) Cheques drawn by the Authority must have been duly issued and signed on its behalf if issued under the joint signatures of any two members of the staff of the Authority designated by the chairperson of the Council. 30

Annual report

16. (1) The Council must—

(a) supply the Minister with such information and particulars as he or she may in writing require in connection with the activities of the Authority; and 35

(b) as soon as may be reasonably practicable after the end of each financial year, but in any event within three months of the end of the financial year, supply the Minister with a report in regard to the functions and financial position of the Authority in respect of that financial year. 40

(2) The annual report referred to in subsection (1)(a) must include, amongst others—

(a) information regarding licences granted, renewed, amended, transferred, suspended or revoked; and

(b) such other information as the Minister may in writing require.

(3) The Minister must table a copy of the annual report in Parliament within 30 days after it has been received by him or her if Parliament is then sitting and, if Parliament is not sitting, within 14 days after the next ensuing sitting of Parliament. 45

CHAPTER III

COMMITTEES

Standing and special committees 50

17. (1) The Council may establish standing committees or special committees for such purposes as the Council may deem necessary with a view to assisting it in the effective exercise and performance of its powers and duties.

(2) Each committee established in terms of this section must consist of—

(a) one or more councillors designated by the Council; and 55

(b) such additional members as the Council may determine.

- (3) The additional members referred to in subsection (2)(b) must be persons who—
- (a) are not subject to any disqualification contemplated in section 6(1)(e) to (k); and
 - (b) on account of their expertise, qualifications and experience are suited to serve on the relevant committee. 5
- (4) The Council must appoint the chairperson of each committee from the councillors designated in terms of subsection (2)(a).
- (5) A committee must perform such functions as may be delegated or assigned to it.
- (6) The meetings of a committee (including any special meetings) must be convened by the chairperson, who determines the procedure at the meeting. 10
- (7) Section 11 is applicable, with the necessary changes, as regards the meetings of any committee.
- (8) The members of any committee who are not councillors or members of the staff of the Authority must be paid such remuneration and allowances as the Council determines with the approval of the Minister and the Minister of Finance. 15
- (9) For the purposes of subsection (8), the Council may differentiate between different committees and different members thereof.

CHAPTER IV

TRANSITIONAL PROVISIONS

Dissolution of IBA and SATRA, and first meeting of Council 20

18. (1) The IBA and SATRA are hereby dissolved with effect from the establishment date.
- (2) (a) The councillors of the Council referred to in section 3(2) of the IBA Act and the councillors of the Council referred to in section 6 of the Telecommunications Act remain in office until immediately before the commencement of the first meeting of the Council. 25
- (b) If any councillor contemplated in paragraph (a) is not appointed in terms of section 5, that councillor must be dealt with in accordance with section 189 of the Labour Relations Act, 1995 (Act No. 66 of 1996), and any other applicable provisions of that Act, with the changes required by the context. 30
- (3) The first meeting of the first Council constituted in terms of section 5 must be held within three months of the establishment date.

Transfer of staff

19. (1) (a) Every person appointed under section 14 of the IBA Act, and every person appointed under or transferred in terms of section 17 of the Telecommunications Act, who is in the service of the IBA and SATRA immediately before the establishment date, is, as from that date, hereby transferred to the service of the Authority. 35
- (b) Every person so transferred must be regarded as having been appointed in terms of section 14.
- (2) The remuneration and other terms and conditions of service of any person transferred as contemplated in subsection (1) may not be less favourable than the remuneration, terms and conditions applicable to that person immediately before the establishment date and he or she remains entitled to all rights, benefits and privileges to which he or she was entitled immediately before that date, including, where applicable— 45
- (a) membership of a pension fund;
 - (b) membership of a medical aid scheme;
 - (c) employer contributions in connection with the memberships contemplated in paragraphs (a) and (b);
 - (d) accrued pensionable service; 50
 - (e) accrued leave benefits; and
 - (f) retirement at a specific age.
- (3) Any person transferred to the service of the Authority as contemplated in subsection (1), who immediately before such transfer was a member of a pension fund of any former authority, remains a member of that pension fund upon such transfer despite any provision to the contrary in any law or in the rules of that pension fund and the Authority must contribute to the pension fund in respect of that person to the same 55

extent as an employer is required in terms of the laws and rules regulating that pension fund to contribute in respect of an employee who is a member of that fund.

(4) For purposes of the Income Tax Act, 1962 (Act No. 58 of 1962), no change of employer must be regarded as having taken place when a person is transferred to the service of the Authority as contemplated in subsection (1) and the position of those persons in respect of the phasing-in of tax levied on benefits or advantages derived by reason of employment or the holding of any office as contemplated in Schedule 7 to the Income Tax Act, 1962, must be regarded as remaining unchanged. 5

Passing of assets and liabilities to Authority

20. (1) All assets, rights, liabilities and obligations which, immediately before the establishment date, vest in the former authorities pass to the Authority on that date. 10

(2) The registrar of deeds must make the necessary entries or endorsements for the transfer of any property in terms of subsection (1), and no transfer fee, office fee or other charge is payable in respect of that entry or endorsement.

(3) All licences issued, rights granted and undertakings given by the former authorities by or under the IBA Act or Telecommunications Act, as the case may be, may be enforced by or against the Authority. 15

Pending matters

21. (1) Any application, proceedings or similar matter pending before the former authorities at the establishment date must be dealt with by the Authority under the relevant underlying statute. 20

(2) Any order, ruling or direction made or given by the former authorities immediately before the establishment date must be regarded as having been made or given by the Authority.

CHAPTER V

25

GENERAL

Repeal and amendment of laws

22. The laws specified in the second column of Schedule 1 are hereby repealed or amended to the extent indicated in the third column thereof.

Application of Act

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23. In the event of any conflict between the provisions of this Act and any other prior law relating to the regulation of broadcasting and telecommunications, the provisions of this Act prevail.

Short title and commencement

24. This Act is called the South African Communications Regulatory Authority Act, 2000, and comes into operation on a date fixed by the President by proclamation in the *Gazette*. 35

Schedule

LAWS AMENDED OR REPEALED

No. and year of law	Short title	Extent of amendment or repeal
Act No. 153 of 1993	Independent Broadcasting Act, 1993	1. The amendment of section 1 by the substitution for the definitions of “Authority”, “chairperson”, “Council” and “councillor” of the following definitions, respectively: (a) “ ‘Authority’ means the <u>South African Communications Regulatory Authority established by section 3 of the South African Communications Regulatory Authority Act, 2000;</u>”; (b) “ ‘chairperson’ means the chairperson appointed under section 5(2) of the <u>South African Communications Regulatory Authority Act, 2000;</u>”; (c) “ ‘Council’ means the Council contemplated in section 3(2) of the <u>South African Communications Regulatory Authority Act, 2000;</u>”; (d) “ ‘councillor’ means any councillor appointed under section 5(1) of the <u>South African Communications Regulatory Authority Act, 2000;</u>”. 2. The repeal of section 3. 3. The repeal of section 4. 4. The repeal of section 5. 5. The repeal of section 6. 6. The repeal of section 7. 7. The repeal of section 8. 8. The repeal of section 9. 9. The repeal of section 10. 10. The repeal of section 11. 11. The repeal of section 12. 12. The amendment of section 13 by the deletion of subsection (2). 13. The amendment of section 13A by the deletion of subsection (9). 14. The repeal of section 14. 15. The repeal of section 15. 16. The repeal of section 17(2). 17. The repeal of section 18. 18. The repeal of section 19. 19. The repeal of section 20. 20. The amendment of section 21 by the deletion of subsection (2). 21. The repeal of section 22. 22. The repeal of section 23. 23. The repeal of section 24. 24. The repeal of section 25. 25. The repeal of section 26. 26. The repeal of section 27. 27. The amendment of section 29 by the deletion of subsection (4)(a) and (b). 28. The amendment of section 67 by the deletion of subsection (1).

No. and year of law	Short title	Extent of amendment or repeal
Act No. 103 of 1996	Telecommunications Act, 1996	1. The amendment of section 1— (a) by the substitution for the definitions of “Authority”, “Council” and “councillor” of the following definitions, respectively: (i) “ ‘Authority’ means the South African Communications Regulatory Authority established by section 3 of the South African Communications Regulatory Authority Act, 2000;”; (ii) “ ‘Council’ means the Council contemplated in section 3(2) of the South African Communications Regulatory Authority Act, 2000;”; (iii) “ ‘councillor’ means any councillor appointed under section 5(1) of the South African Communications Regulatory Authority Act, 2000;”; (b) by the insertion after the definition of “broadcasting signal distribution” of the following definition: “ ‘chairperson’ means the chairperson appointed under section 5(2) of the South African Communications Regulatory Authority Act, 2000;”; (c) by the deletion of the definition of “family member.”. 2. The amendment of section 5 by the deletion of subsections (1), (2) and (3). 3. The repeal of section 6. 4. The repeal of section 7. 5. The repeal of section 8. 6. The repeal of section 9. 7. The repeal of section 10. 8. The repeal of section 11. 9. The repeal of section 12. 10. The repeal of section 13. 11. The repeal of section 14. 12. The repeal of section 15. 13. The repeal of section 16. 14. The repeal of section 17. 15. The repeal of section 18. 16. The repeal of section 19. 17. The repeal of section 20. 18. The repeal of section 21. 19. The repeal of section 22. 20. The repeal of section 23. 21. The repeal of section 24. 22. The repeal of section 25. 23. The repeal of section 26. 24. The amendment of section 28— (a) by the substitution for paragraph (a) of subsection (3) of the following paragraph: “(a) The Authority [and the Independent Broadcasting Authority established by section 3 of the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993)] shall establish a [Joint] Liaison Committee consisting of [an equal] the number of Councillors determined by the Minister after consultation with the [two authorities, of members of the council of each authority] Authority.”; and

No. and year of law	Short title	Extent of amendment or repeal
		(b) by the substitution in subsection (3)(b) for the words preceding subparagraph (i) of the following words: “The [Joint] Liaison Committee shall—”. 25. The amendment of section 94 by the deletion of the expression “Authority and” wherever it appears in the heading and in subsections (1), (2) and (3).
Act No. 4 of 1999	Broadcasting Act, 1999	1. The amendment of section 1 by the substitution for the definition of “Authority” of the following definition: “ ‘<u>Authority</u>’ means the South African <u>Communications Regulatory Authority established by section 3 of the South African Communications Regulatory Authority Act, 2000;</u>”.

MEMORANDUM ON THE OBJECTS OF THE SOUTH AFRICAN COMMUNICATIONS REGULATORY AUTHORITY BILL, 2000

1. The main object of the Bill is to establish the South African Communications Regulatory Authority (“the Authority”). The Authority is established pursuant to the constitutional requirement that national legislation must establish an independent authority to regulate broadcasting in the public interest, and to ensure fairness and a diversity of views broadly representing South African society (section 192 of the Constitution). However, since technological and other developments in the fields of broadcasting and telecommunications are causing a rapid convergence of these fields, it is proposed that the Authority also be empowered to regulate telecommunications. It is also proposed that the Authority acts through a council, the councillors of which are to be appointed by the President on the advice of the Portfolio Committee on Communication.

2. The Bill seeks to dissolve the Independent Broadcasting Authority established by the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993), and the South African Telecommunications Regulatory Authority established by the Telecommunications Act, 1996 (Act No. 103 of 1996) (“the former authorities”). It is proposed that the functions set out in the Independent Broadcasting Authority Act, 1993, and the Telecommunications Act, 1996 (“the underlying statutes”), now be performed by the Authority.

3. The Bill also seeks to amend the underlying statutes to give effect to the proposals mentioned in paragraphs 1 and 2. Certain transitional provisions in respect of the transfer of staff from the former authorities to the Authority, the passing of assets and liabilities from the former authorities to the Authority and pending matters are also proposed in the Bill.

4. INSTITUTIONS CONSULTED

The South African Telecommunications Regulatory Authority (“SATRA”) and the Independent Broadcasting Authority (“IBA”) were consulted.

5. FINANCIAL IMPLICATIONS FOR STATE

The merged authority resulting from the Bill will utilise the budget presently allocated to the IBA and SATRA. There will therefore not be any additional financial implications for the State.

6. PARLIAMENTARY PROCEDURE

The State Law Advisers and the Department of Communications are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.