

NATIONAL MEDIA COMMISSION ACT, 1993 (ACT 449)

As amended by

NATIONAL MEDIA COMMISSION (AMENDMENT) ACT, 1998 (ACT 561)1

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REPUBLIC OF GHANA

**THE FOUR HUNDRED AND FORTY-NINTH
ACT
OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED
THE NATIONAL MEDIA COMMISSION ACT, 1993**

AN ACT to establish a National Media Commission to promote and ensure the freedom and independence of the media for mass communication and information in accordance with Chapter Twelve of the Constitution and to provide for related matters.

DATE OF ASSENT: 6TH JULY, 1993

BE IT ENACTED by Parliament as follows—

PART I—ESTABLISHMENT AND FUNCTIONS OF COMMISSION

Section 1—Establishment of National Media Commission.

- (1) There is established by this Act a body to be known as the National Media Commission referred to in this Act as "the Commission".
- (2) The Commission shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.
- (3) The Commission may for and in connection with the discharge of its functions purchase, hold, manage or dispose of any movable or immovable property and may enter into such contracts and transactions as may be reasonably related to its functions.

Section 2—Functions of the Commission.

- (1) The functions of the Commission are—
 - (a) to promote and ensure the freedom and independence of the media for mass communication or information;
 - (b) to take all appropriate measures to ensure the establishment and maintenance of the highest journalistic standards in the mass media, including the investigation, mediation and settlement of complaints made against or by the press or other mass media,

- (c) to insulate the state-owned media from governmental control;
- (d) to take measures to ensure that persons responsible for state-owned media afford fair opportunities and facilities for the presentation of divergent views and dissenting opinions;
- (e) to appoint in consultation with the President, the chairmen and other members of the governing bodies of public corporations managing the state-owned media;
- (f) to make regulations by constitutional instrument for the registration of newspapers and other publications, except that the regulations shall not provide for the exercise of any direction or control over the professional functions of a person engaged in the production of newspapers or other means of mass communication; and
- (g) to perform such other functions as may be prescribed by law not inconsistent with the Constitution.

(2) In carrying out its functions the Commission shall not by regulations or any other act, require any person to obtain or maintain a licence as a condition for the establishment of a newspaper, journal or any other written publication.

Section 3—Independence of the Commission.

Except as otherwise provided in the Constitution or by any other law not inconsistent with the Constitution, the Commission shall not be subject to the direction or control of any person or authority in the Performance of its functions.

Section 4—Independence of Journalists.

Subject to its functions as provided in this Act, the Commission shall not exercise any control or direction over the professional functions of a person engaged in the production of newspapers or other means of communication.

PART II—COMPOSITION OF THE COMMISSION

Section 5—Composition of the Commission.

- (1) The Commission shall consist of the following members—
 - (a) one representative each nominated by—
 - (i) the Ghana Bar Association;
 - (ii) the Publishers and owners of the Private Press;
 - (iii) the Ghana Association of Writers and the Ghana Library Association;
 - (iv) the Christian Group (the National Catholic Secretariat, the Christian Council, and the Ghana Pentecostal Council)
 - (v) the Federation of Muslim Councils and Ahmadiyya Missions;
 - (vi) the training institutions of journalists and communicators;
 - (vii) the Ghana Advertising Association and the Institute of Public Relations of Ghana; and
 - (viii) the Ghana National Association of Teachers;

- (ix) the National Council on Women and Development;
 - (x) the Trade Unions Congress;
 - (xi) the Association of Private Broadcasters; [As Inserted by National Media Commission (Amendment) Act, 1998 (Act 561)].
 - (b) two representatives nominated by the Ghana Journalists Association;
 - (c) two persons appointed by the Parliament; and
 - (d) three Persons nominated by Parliament.
- (2) The Commission shall elect one of its members as Chairman.
- (3) A person shall not hold office as Chairman of the Commission for more than two terms in succession.

Section 6—Qualifications of members of Commission.

- (1) No person is qualified to be a member of the Commission who—
- (a) is not a citizen of Ghana;
 - (b) has been adjudged or otherwise declared—
 - (i) bankrupt under any law in force in Ghana and has not been discharged; or
 - (ii) to be of unsound mind or is detained as a criminal lunatic under any law in force in Ghana; or
 - (c) has been convicted—
 - (i) for high crime under the Constitution or high treason or treason or for an offence involving the security of the State, fraud, dishonesty or moral turpitude; or
 - (ii) for any other offence punishable by death or by a sentence of not less than ten years; or
 - (c) has been found by the report of a commission or a committee of inquiry to be incompetent to hold public office or is a person in respect of whom a commission or committee of inquiry has found that while being a public officer he acquired assets unlawfully or defrauded the State or misused or abused his office, or wilfully acted in a manner prejudicial to the interest of the State, and the findings have not been set aside on appeal or judicial review; or
 - (d) is under sentence of death or other sentence of imprisonment imposed on him by any court; or
 - (f) is otherwise disqualified by a law for the time being in force.
- (2) Without prejudice to subsection (1) of this section a member of the Commission shall cease to be a member if, in the case of person possessed of professional qualification, he is disqualified from practising his profession in Ghana by an order of any competent authority made in respect of him personally or he ceases to be a member otherwise than at his own request.

(3) A person who is a founding member of a political party, is a leader or a member of its executive or holds any office in a political party shall not be qualified to be a member of the Commission; and [As Inserted by National Media Commission (Amendment) Act, 1998 (Act 561)].

Section 7—Tenure of Office of Members.

(1) The members of the Commission shall hold office for a term of three years and shall be eligible for re-appointment or re-nomination.

(2) A person shall not be a member of the Commission for more than two terms in succession.

(3) A member of the Commission may at any time resign his office by giving one month's notice in writing addressed to the Chairman and in the case of the Chairman, the letter of resignation shall be addressed to the Executive Secretary.

(4) A person shall cease to be a Chairman of the Commission when he ceases to be a member of the Commission or when he is removed from the chairmanship by the Commission.

(5) For the avoidance of doubt, the Chairman and other members of the Commission shall not be considered as holding full-time office on the Commission.

Section 8—Filling of Vacancies.

(1) Where the Chairman of the Commission dies, resigns, is removed from office or is absent from Ghana for a period exceeding three months or is by reason of illness unable to perform the functions of his office, the members of the Commission shall elect one of their members to act as Chairman until such time as the Chairman is able to perform the functions of his office or until a new Chairman is elected.

(2) Where a member of the Commission dies, resigns or otherwise ceases to hold office, or is by reason of illness or any other sufficient cause unable to perform the functions of his office, another person may be appointed or nominated as the case may be, to act in his place until such time as the member is able to perform the functions of his office or until a new member is appointed or nominated to fill the vacancy.

(3) where a person is elected as Chairman or appointed a member to fill a vacancy he shall hold office for the remainder of the term of the previous Chairman or member as the case may be and shall, subject to the provisions of this Act be eligible for re-appointment, re-election or re-nomination.

Section 9—Meetings of the Commission.

(1) The Commission shall ordinarily meet at such times and at such places as the Chairman may direct but shall meet at least once in every two months.

(2) The Chairman shall upon the request of not less than one third of the membership convene a special meeting of the Commission

(3) At every meeting of the Commission the Chairman shall preside and in his absence a member elected by the members from among their number shall preside.

(4) The quorum for any meeting of the Commission shall be eight members. [As Amended by the National Media Commission (Amendment) Act, 1998 (Act 561)].

(5) Every question before a meeting of the Commission shall be determined by a simple majority of votes of members present and voting, and where there is equality of votes, the Chairman or person presiding shall have a second or casting vote

(6) Any member who fails to attend three consecutive ordinary meetings of the Commission without reasonable excuse shall cease to be a member.

(7) A member of the Commission who has any interest in a contract proposed to be made with the Commission or any matter for discussion by the Commission shall disclose the nature of his interest to the Commission and shall, unless the meeting otherwise directs, be disqualified from participating in any deliberations on that contract or matter and shall, in any case be disqualified from voting on any decision on that contract or matter.

(8) A member who fails to disclose his interest under sub-section (7) of this section shall be removed from the Commission.

(9) The validity of any proceedings of the Commission shall not be affected by any vacancy among its members or by any defect in their appointment.

(10) Except as otherwise expressly provided in this Act, the Commission shall determine the procedure for its meetings.

Section 10—Commission to Appoint Committees.

The Commission may for the discharge of its functions appoint committees comprising members or non-members or both and may assign to them such functions as the Commission may determine except that a committee composed entirely of non-members may only advise the Commission.

Section 11—Allowances of Chairman and Other Members of Commission.

The allowances, facilities and privileges payable or available to the chairman and the other members of the Commission shall be determined by the President in accordance with article 71 of the Constitution.

PART III—COMPLAINTS SETTLEMENT

Section 12—Settlement Committee.

(1) Without prejudice to section 10 of this Act there is hereby established a Complaints Settlement Committee of the Commission hereafter referred to as "the Settlement Committee".

(2) The Settlement Committee shall consist of the Chairman of the Commission and six members of the Commission three of whom shall be persons not ordinarily employed or involved in the media industry.

Section 13—Complaint may be Lodged with the Commission.

(1) Any person aggrieved by a publication or by the act or omission of any journalist, newspaper proprietor, a publisher or any person in respect of any publication in the media may

lodge a complaint against the editor, publisher, proprietor or other person before the Commission.

(2) A person who has lodged a complaint with the Commission shall unless he withdraws the complaint, exhaust all avenues available for settling the issue by the Commission before a recourse to the courts.

Section 14—Reference to Settlement Committee.

(1) A complaint lodged with the Commission shall be referred to the Settlement Committee which shall make such further investigation into the complaint as it considers necessary.

(2) The Settlement Committee may consider both documentary and oral evidence provided by the parties and shall rule on the issue as it considers just in all the circumstances of the case.

Section 15—Ruling of Settlement Committee.

(1) The Settlement Committee in any complaint before it may make any or all of the following orders—

(a) order publication of correction and an apology with equal prominence as the original offensive material;

(b) order publication of a rejoinder;

(c) direct disciplinary action for breach of code of ethics.

(2) The Settlement Committee may, where it considers it appropriate, publish in full or in an edited version, its findings in respect of any investigations carried out by it under subsection (1) of section 14 of this Act with the prior approval of the Commission.

(3) Where an order is made against any person under sub-section (1) of section 15 of this Act, whether or not the findings of the Settlement Committee are published, recommendations shall be made where applicable to the appropriate professional association for disciplinary action.

(4) The Settlement Committee shall in all its deliberations be guided by the rules of natural justice.

Section 16—Compulsory Rejoinders.

(1) Without prejudice to the provisions of this Part, any medium for the dissemination of information to the public which publishes a statement about or against any person shall be obliged to publish a rejoinder, if any, from the person in respect of whom the publication was then made.

(2) Where a person fails to publish a rejoinder in accordance with subsection (1) of this section, the person aggrieved may apply to the Commission or the High Court for an order to enforce the provision of subsection (1) of this section.

PART IV—MANAGEMENT AND STAFF OF THE COMMISSION

Section 17—Executive Secretary.

(1) The Commission shall in consultation with the Public Services Commission appoint a full time officer to be designated the Executive Secretary to the Commission.

(2) The Executive Secretary shall be the administrative head of the Commission and shall, under the general supervision and direction of the Commission be responsible for the day-to-day management and administration of the affairs of the Commission.

(3) The Executive Secretary shall, subject to the directions of the Chairman of the Commission, be responsible for the discipline of the staff of the Commission.

(4) The Executive Secretary shall—

(a) be the Secretary to the Commission and shall, as far as practicable attend all meetings of the Commission; and

(b) in consultation with the Chairman arrange the business and cause to be recorded and kept minutes of all meetings of the Commission.

Section 18—Other Staff of Commission.

(1) The Commission shall appoint such other officers and other employees as may be reasonably necessary for the effective discharge of its functions.

(2) The officers and other employees of the Commission shall be appointed by the Commission in consultation with the Public Services Commission.

(3) The staff shall hold office upon such terms and conditions as the Public Services Commission shall approve.

(4) Public officers may be transferred or seconded to the Commission or may otherwise give assistance to it.

PART V—MISCELLANEOUS AND GENERAL PROVISIONS

Section 19—Access to Media by President.

The President shall at all times have access to sound or television broadcasting, the Press and other media of mass communications or information which are financed from public funds for the purpose of broadcast, announcement or publication of any matter which appears to the President to be in the public interest.

Section 20—Funds of the Commission.

The administrative and operational expenses of the Commission including salaries and allowances payable to or in respect of persons serving with the Commission are charged on the Consolidated Fund.

Section 21—Accounts.

The Commission shall keep proper books of accounts and proper records in relation to the accounts and shall prepare at the end of each financial year within a period of six months after the end of the financial year a statement of its accounts in such form as the Auditor-General may direct.

Section 22—Financial Year of Commission.

The financial year of the Commission shall be the same as the financial year of the Government.

Section 23—Annual Report.

(1) The Commission shall in each year, submit to Parliament an annual report indicating the activities and operations of the Commission in respect of the preceding year.

(2) The annual report shall include a copy of the audited accounts together with the Auditor-General's report.

Section 24—Regulations.

(1) The Commission may, subject to the provisions of this Act, by legislative instrument, prescribe—

(a) procedure to be followed by the Complaint Settlement Committee; and

(b) any other matter that may be necessary for the efficient discharge of its functions under this Act.

(2) The exercise of the power to make regulation may be signified under the hand of the Chairman.

Section 25—Repeal and Transitional Provision.

(1) The National Media Commission Law, 1992 (P.N.D.C.L.299) is hereby repealed.

(2) Notwithstanding the repeal specified in subsection (1), any appointment made under the Law shall be valid unless revoked by the Commission.

(3) The first meeting of the Commission at which the Chairman of the Commission shall be elected shall be convened by the Executive Secretary.

As amended by