

ENUGU STATE BROADCASTING SERVICE LAW

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CHAPTER 42

ENUGU STATE BROADCASTING SERVICE LAW

A law to--MISSING----WORDS-----for radio and television broadcasting services for Enugu State and for related matters

E.N.S.L
1998/No.2

August, 1991

1 This Law may be cited as the Enugu State Broadcasting Services Law.

Short title

2. In this Law —

Interpretation

"Board" means the Board of the Corporation established by virtue of section 4 of this Law;

"broadcasting" means transmission or reception by wireless telegraphy of—

- (a) messages,
- (b) images transmitted with sounds, or
- (c) any other matter;

"Chairman means Chairman of the Board:

"Commissioner" means State Commissioner assigned with responsibility for information and broadcasting matters:

"Corporation" means Enugu State Broadcasting Services Corporation established by section 3 of this Law;

"distribution service" means any service by means of which any matter including a matter received from a transmitting station is distributed over wires from the receiving station to the premises of subscribers for general reception

"Governor" means Governor of the State;

"installation" includes aërials masts, overhead wires, underground cables and fixed apparatus, for wireless telegraphy or for electrical generation and radio or television distribution service.

"Managing Director" means Managing Director of the Corporation;

"member" means member of the Board and includes the Chairman;

"special programme" means programme designated by the Governor as being of special educational value or of special interest to the public in general or to a section or class of the public;

"sponsor" means a person other than the Corporation, an agent of the corporation or an actor or performer in broadcasting at whose expense a sponsored programme is provided;

"sponsored programme" means any-----MISSING-----is provided for broadcasting-----MISSING-----at the expense-----MISSING-----subject of a radio or television announcement -----MISSING----- or the goods or services of such sponsor

"State" means Enugu State of Nigeria

"transmitting station" means a place set aside by the Corporation for broadcasting purposes;

"wireless telegraphy" means a system of communication whereby messages, sounds, images and other matters are conveyed without connection, with the aid of any wires or other material substance.

PART II —ESTABLISHMENT OF CORPORATION

Establishment of
Corporation

3. There is hereby established a body to be known as the Enugu State Broadcasting Service Corporation which shall be a body corporate with perpetual succession and a common seal and with power to sue and be sued in its corporate name and to acquire, hold and dispose of property.

Board of
Corporation

- 4.(I) The Corporation shall have a Board membership of which shall consist of a Chairman, the Managing Director, the Permanent Secretary in the State Ministry responsible for matters relating to information or his representative who shall be *ex officio* members and not more than four other persons.

(2) The Chairman and members other than the *ex officio* members shall be appointed by the Governor on part-time basis and upon such other terms and conditions as he deems fit.

(3) The persons appointed pursuant to subsection (2) shall include at least a person who has experience in mass media, education, business staff management, finance, engineering arts and culture.

(4) Before appointing a person to be a member —

(a) the Governor shall satisfy himself that the person has not and will not have, such financial or other interests including financial or other interests in any advertising agency or business concerned with the manufacture or sale of apparatus for wireless telegraphy or other telegraphic equipment, as are likely to affect prejudicially the discharge by the person of his functions as a member, and

(b) that person shall, where the Governor requires him so to do, furnish the ---MISSING-----with -----MISSING-----information as the Governor seems fit----MISSING-----considering his appointment.

(5) The Chairman shall not -----MISSING WORDS-----

(a) hold any office, whether paid-----MISSING-----in or be a member of, any-----MISSING-----political organization;

(b) offer himself, or nominate any other person, as a candidate at any election, or at any stage of an election, of members to the legislature or a local government council;

(c) indicate publicly his support of, or opposition to any political party Governor, his membership shall forthwith determine.

(d) engage in canvassing on behalf of candidates of any political party;

(e) contribute to, whether anonymously or otherwise, or publish in any newspaper, magazine, periodical or other publication, or otherwise publish or cause to be published in any manner, any article or other matter of a political nature.

(f) speak in public or make any broadcast on any subject that may lend to show bias for or prejudice to any political party or functionary",

(g) allow himself to be interviewed or to express any opinion for publication on any subject that may tend to show bias or prejudice to any political party or functionary.

6.(1) A member of the Board who is directly or indirectly interested in a contract made or proposed to be made by the Corporation —

(a) shall disclose the nature of his interest at a meeting of the Board; and

(b) shall not take part in any deliberation or decision of the Board with respect to that contract.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

7 A member of the Board may at any time, by notice in writing to the Governor, resign his appointment and upon the receipt of the notice by the Governor, his membership shall forthwith determine.

8.(1) The term of office of a member---MISSING-----the instrument or letter of his appointment and at----MISSING-----term, the appointment of that member shall-----MISSING-----determine unless it is extended for ----MISSING-----the Governor.

Code of
conduct of
Chairman of
Board

Board
member's
interest in
contracts

Registration
of Board
members

Tenure of
office of
Board
members

(2) The Governor-----MISSING-----from office a member other than an *ex officio* member -----MISSING-----considers that-

(a) the member is-----MISSING-----

(b) the member is involved in or guilty of misconduct; or

(c) it is in the interest of the Corporation, the Board or the public generally that the membership of the person shall determine.

(3) Without prejudice to other provisions of this section, a member who is absent from three consecutive ordinary meetings 'of the Board shall file in writing with the Secretary his explanations for his absence from each meeting for consideration by the board; and where the Board is not satisfied with the explanations, it may advise the Governor to terminate the membership of such member.

Remuneration
of Board
members

9. Without prejudice to the generality of the provisions of section 4(1), members of the Board other than *ex officio* members or members who hold offices in the public service of the State, of any other State or of the Federation, shall be paid such remuneration, fees or allowances as the Governor may, from time to time determine.

PART III—FUNCTIONS

Functions of
Corporation

10.(1) The main function of the Corporation is to provide for the State, broadcasting services and facilities in accordance with this Law.

(2) In accordance with subsection (1), the Corporation shall have power —

(a) to erect, construct, acquire, establish, maintain, install and operate transmitting and receiving stations.

(b) to develop, extend and improve broadcasting service;

(c) provide to other bodies or persons in such manner as it may deem convenient, matters to be broadcast in the radio or television stations of those bodies or persons; and receive from other bodies or persons in similar manner, matters to be broadcast in the-----MISSING-----corporation;

(d) ---MISSING-----print, publish, issue, circulate or distribute, with or without-----MISSING-----, periodicals, books and other -----MISSING-----of the objects of the Corporation

(e) to organize, provide or -----MISSING-----educational or other entertainments and other-----MISSING-----in connection with broadcasting or for any purpose incidental thereto;

(f) to collect news and information in such manner as it thinks fit, and establish and subscribe to news agencies:

(g) to acquire by registration, purchase or obtain in any other manner, copyright in any matter whatsoever as well as in any trade mark and trade name; and use, exercise, develop

and grant licences in respect of or otherwise turn to account the same with a view to the furtherance of any of the functions or purposes of the Corporation,

(h) to produce, manufacture, purchase, acquire, use, sell, rent or dispose of films and records including tapes and any other devices from which messages, images, sounds or other matters may be reproduced, and material and apparatus for use in connection with such films and records:

(i) to enter into arrangements with any person or body for obtaining concessions, licences, privileges and other rights:

(j) to manufacture, produce, purchase or otherwise acquire gramophone and other mechanical records as well as materials and apparatus for use in connection with broadcasting;

(k) to associate or go into partnership with other person or persons or organizations for the purpose of enhancing its revenue generally;

(l) to do such things as may improve the skill of persons employed in broadcasting or the efficacy of the equipment used in broadcasting or the manner in which such equipment used in broadcasting or the manner in which such equipment is operated including the providing by the Corporation of facilities for training or education of its staff; and

(m) to carry out such other activities as are necessary or expedient for the discharge by the corporation of all or any of its functions under the Law.

Functions of Corporation

11.(1) Subject to any specific or general direct-----MISSING-----
-----which the Governor may at any time give-----MISSING-----
-----Law. It shall be the duty of the Board-----MISSING-----
effective-----MISSING-----

(2) Without prejudice-----MISSING-----of subsection (1), the Board shall be the governing -----the Corporation and shall in that capacity-

(a) exercise all the functions of the Corporation under section 10 of this Law, and

(b) manage all the business and keep and preserve all the property of the Corporation.

Directions of Governor

12.(1) The Governor may give to the Corporation directions of a general or specific nature as to the performance of any function under this Law and the Board or an appropriate staff of the Corporation shall effectually comply with such directions.

(2) In particular and without prejudice to the generality of subsection (1), the Governor may direct that the Corporation shall —

(a) act in accordance with a general programme of policy or development as the Governor may from time to time prescribe;

or

(b) discontinue or modify such programme.

13 The Corporation shall —

- (a) from time to time as the Governor may require furnish the Governor with any information and returns relating to the activities of the Corporation or of any person or body that carries on any activities with the assistance of or in association with the Corporation —
- (i) if such information is in the possession of or can with due diligence or reasonable facility, be obtained by the Corporation, or
- (ii) where such returns may provide the information; and
- (b) in such-----MISSING----- such times as the Governor may require, -----MISSING-----facility of verifying any information -----MISSING-----I

14. -----MISSING-----WORDS-----
-----authorized officer in the-----MISSING-----service
of the-----MISSING-----
Government notice or announcement-----Corporation may when broadcasting such notice or announcement use its discretion, announce that it is broadcast at the request of an officer of a specified department of the State.

Duty to
broadcast
Government
announcement

(2) In this section "authorized officer in the public service of the State means any officer declared in writing to be such by the Governor for the purpose of this Law.

15. The Corporation shall in the performance of its broadcasting functions comply with the terms, conditions and restrictions of any licence which it is required obtain under any written law.

Duty to comply
with terms of
licence

16.(1) The Corporation shall satisfy itself that the programmes broadcast by it, or on its behalf, comply with the following requirements that is to say —

Duty of the
Corporation as
to programmes
and
publications

- (a) that nothing is included therein which is likely —
 - (i) to offend good taste, decency, or public feeling;
 - (ii) to encourage or incite the commission of an offence;
 - (iii) to lead to a disorderly conduct or public disorder;
 - (iv) to contain an offensive representation of or reference to, a living person;
- (b) that the programmes maintain a proper standard or quality and balance in their subject matter;
- (c) that news given in the programmes is presented with due regard for accuracy, impartiality and objectivity;
- (d) that due impartiality is maintained as regards matters of political or industrial controversy or relating to current public policy; and

(e) subject to subsection (2) that no matter designed to serve the interests of a political party is included in the programmes.

(2) Nothing in paragraph (c) of subsection (I) of this section shall prevent —

(a) the inclusion in the programmes, of property balanced discussions or debates in which the persons part in such discussions or debates express opinions -----MISSING-----
-----or a political character; or

(b) the inclusion in the-----MISSING-----WORDS-----political broadcast aimed at-----MISSING-----of the-----MISSING----- political parties-----MISSING-----which-----MISSING-----representatives of the-----MISSING-----to the Corporation to be equitable.

(3) The Corporation shall secure the exclusion from publication issued by it or on its behalf, of all expressions of opinion as to the matters referred to in paragraph (d) of subsection (I) of this section, concerning-

(a) the Corporation, or

(b) a member of the Board or staff of the Corporation,

(4) Nothing in this section shall be construed as authorizing partisan political propaganda while political parties remain banned under any law in force in the Federal Republic of Nigeria.

17 (1) The Governor may appoint a committee to be known as the General Advisory Committee which shall advise the Corporation on all matters that may be of concern to the Corporation or to any person or body interested in the broadcasting functions of the Corporation.

(2) The procedure for the Committee including the quorum of its meetings shall be determined by the Board.

PART IV —STAFF OF THE CORPORATION

18.(1) The Board shall, subject to the approval of the Governor, appoint any person it deems suitable to be the Managing Director of the Corporation upon such terms as to remuneration, tenure and other conditions of service as the Board may determine.

(2) The Managing Director shall be the Chief Executive of the Corporation and shall be responsible for the execution of the policy decisions of the Board and for co-ordination of the functions of various departments of the two branches of the Corporation comprising radio and television broadcasting.

(3) The Board may delegate to the Managing Director such of its functions under this Law as are necessary to enable him carry out effectively the day-to-day functions or business of the Corporation.

- (3). The Deputy Managing Director (Television) shall-
- (a) be the head of the television branch of the Corporation having responsibility for matters relating to television broadcasting;
 - (b) be responsible to the Managing Director in the performance of his duties under this Law;
 - (c) conduct such day-to-day administration of the affairs of the Corporation as may from time to time be assigned to him by the Board or the Managing Director.
- (4) The Deputy Managing Director (Radio) shall -
- (a) be the head of the radio branch of the Corporation having responsibility for matters relating to radio broadcasting;
 - (b) be responsible to the Managing Director in the performance of his duties under this Law.
 - (c) conduct such day-to-day administration of the affairs of the Corporation as may from time to time be assigned to him by the Board or the Managing Director.

20. The Board may appoint any person it deems suitable to be Secretary to the Corporation who shall-

Secretary

- (a) upon the direction of the Chairman, summon all meetings of the Board;
- (b) record and keep in a book provided for that purpose, the proceedings of the meetings of the Board;
- (c) keep custody of the seal of the Corporation; and
- (d) perform such other duties as may from time to time be assigned to him by the Managing Director or the Board.

21. Subject to other provisions of this Law, the Board may upon such terms and conditions as it may determine, employ any persons it deems suitable to be staff or servants of the Corporation and appoint such agents as it deems necessary for the performance of the functions of the Corporation under this Law.

Other staff

(b) petitions or appeals by the staff and agents against the dismissal or other disciplinary measures.

(2) Nothing in subsection (1) shall authorize the Board to make regulations providing that the conditions of services of the suit of the Corporation shall be less favourable than the conditions of employment obtainable in comparable sectors of the public service of the State

PART V —LAND

Power to enter
land

23.(1) The Corporation shall have power —

(a) to enter on any land for the purpose of erecting, maintaining or inspecting any installation belonging to the Corporation or of repairing, altering or removing any such installation and to remain there for such reasonable time, execute and do all such works as may be necessary for the purposes of this Law; and

(b) to cut and remove on each side of any proposed or existing installation, all such trees and underwood as may interfere with the construction or proper working of any installation.

(2) Except for the purpose of removing danger to life or property, this section shall not authorize the Corporation —

(a) to enter on any land which is used as a burial ground or cemetery or which contains any grave, grotto area, tree or thing held to be sacred or held to be an object of veneration; or

(b) to cut any trees or underwood held to be sacred or held to be an object of veneration; unless the person having the right of occupancy over such land or the occupier or any person in-charge of that land has given his consent.

No. 23(3) & 24 Unavailable for reading

Notice of
entry on land

(2). The notice may be served either personally on the occupier or by posting it in any conspicuous place in his abode.

(3) Where the condition of any installation is such as to endanger life or property, the Corporation may, without serving notice on any person, enter on the on which it is situated for any of the purposes set out in section 23.

25.(1) In exercise of the powers conferred by this Part, the Corporation shall use its best endeavours to minimize loss or damage to property and shall pay compensation for any damage done to any building, crops or economic trees,

Compensation

(2) Any dispute as to the sufficiency or otherwise of the amount of compensation payable under this section, may be heard and determined by a court or body of competent jurisdiction.

PART VI —FUNDS AND PROPERTY

26. The funds of the Corporation shall consist of—

Funds

- (a) such money as may at any time be provided to it by the State Government for purpose of this Law;
- (b) such money as may from time to time be lent to the Corporation by any person or body.
- (c) such money as may at any time be collected or received by the Corporation from other sources whether in relation to the execution of its functions or accruing from any properly of the Corporation; and
- (d) any other monetary asset accruing to the Corporation in any manner whatsoever.

Expenditure

No, 27 (a) & (b) with 28(a) & (b) unavailable for reading

Borrowing
powers

- 28. (c) the particular purpose for which the loan is required; and
- (d) the terms upon which the loan is to be raised;

borrow any sum required for meeting its obligations or discharging its functions under this Law

Reports and
Accounts

29.(1) As soon as may be after the end of each financial year but not later than the 30th day of March next following, the Corporation shall —

- (a) prepare a general report of its proceedings and activities during the preceding year; and
 - (b) transmit to the governor through the Commissioner that report together with a certified copy of the audited accounts of the Corporation.
 - (c) prepare in respect of each financial year a statement of accounts in a form prescribed by the Permanent Secretary of the State Ministry responsible for finance matters.
- (3) The accounts of the Corporation shall be audited annually by the State Auditor-General.

PART VII —LEGAL PROCEEDINGS

Limitation of
action against
Corporation

30.(1) No suit against the Corporation or any staff or servant of the Corporation for any act done in pursuance of or execution or intended execution, of any law or of any public duty or authority, or in respect of any alleged neglect or default in the execution of such law, duty or authority, shall lie or be instituted in any court unless it is commenced within twelve months immediately after the occurrence of the act, neglect or default complained of; or in the case of a continuing damage or injury, then within twelve months immediately after such damage or injury has ceased.

No 30 (2a-d) Not available to be read

31. The notice referred to in section 30 and any summons, notice or other document required to authorize to be served upon the Corporation under the provisions of this Law or any other Law may, unless in any case there is express provision to the contrary be served by -

Service of
documents

- (a) delivering the same to the Chairman, Managing Director or Secretary; or
- (b) sending it by registered post addressed to the Managing Director at the principal office of the Corporation.

32 In any suit against the Corporation no writ of execution or attachment or other process in the nature of any such writ, may be issued against the Corporation but any judgment debt accruing against the Corporation shall be paid from the funds of the Corporation.

Restriction on
execution

33.(1) At any stage of the proceedings in any suit, the Corporation may be represented by—

- (a) a servant of the Corporation duly authorized in that behalf in writing by the Board; or
- (b) a legal practitioner authorized in writing in that behalf by the Board.

Representation
in courts

(2) For the purpose of this Part —

“suit” includes any action or any civil proceeding commenced by a writ of summons or in such other manner as may be prescribed by rules of court but does not include a criminal proceeding.

PART VIII — MISCELLANEOUS

Ministerial
control

No. 34 & 35 (a & b) Not Readable

Seal of
Corporation

Proof of
document under
seal

36. Any document purporting to be a document duly executed or issued under the seal of the Corporation on behalf of the Corporation shall, unless the contrary is proved, be received in evidence and be deemed to be a document so executed or issued, as the case may be, without further proof.

Contracts by
the
Corporation

37. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Corporation by any person generally or specifically authorized by it for that purpose.

Regulations
generally

38. The Board may with the approval of the Commissioner make regulations relating to the carrying out by the Corporation or the Board of its functions under this Law.