

GIBRALTAR BROADCASTING CORPORATION ACT**Principal Act**

Act. No. 1963-15	<i>Commencement</i>	12.12.1963
	<i>Assent</i>	12.12.1963

Amending enactments	Relevant current provisions	Commencement date
Acts. 1987-31	s.9A	24.12.1987
1989-20	ss. 3(2) and 9(2)(o)	10.8.1989
LN. 1995/107	ss.2, 8(3A) to (3C) & (4), 10A to 10H & 10J	13.7.1995
2011/207	ss. 2, 8(3A), (3B) & (3C), 10A to 10J	20.10.2011

EU Legislation/International Agreements involved:

Directive 89/552/EEC

English sources:

None

1963-15

Gibraltar Broadcasting Corporation

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AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A CORPORATION TO CARRY ON A SOUND AND TELEVISION BROADCASTING SERVICE IN GIBRALTAR AND FOR MATTERS CONNECTED THEREWITH.

PART I.
PRELIMINARY.

Short title.

1. This Act may be cited as the Gibraltar Broadcasting Corporation Act.

Interpretation.

2. In this Act, unless the context otherwise requires,—

“Board” means the Board of the Corporation established by section 3;

“broadcasting” means radio communication, whether by sound or vision, for reception by members of the general public;

“Chairman” means the chairman of the Board;

“Corporation” means the Gibraltar Broadcasting Corporation established by section 3;

“radio communication” 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;

“television” means the transmission or reproduction by radio communication of images of objects in movement or at rest;

“transmitting station” means a station for the transmission by radio communication of messages or other matter including matter sent by television.

PART II.
ESTABLISHMENT AND CONSTITUTION
OF CORPORATION.

Establishment of Corporation and appointment of Board.

3. (1) For the purposes of this Act there is hereby established a Corporation to be called the Gibraltar Broadcasting Corporation.

(2) Subject to this Act, the operations of the Corporation shall be controlled and governed by a Board which shall consist of a Chairman and not more than nine other members appointed by the Governor by notice in the Gazette.

(3) The Board may appoint a secretary of the Corporation.

Tenure and vacation of membership.

4. (1) The Chairman or any member of the Board shall hold office for such period as may be specified in the instrument appointing him:

Provided that, if the Governor is satisfied that the Chairman or any member—

- (a) has been absent from meetings of the Board for a period longer than three consecutive months without the permission of the Board; or
- (b) has become bankrupt; or
- (c) is incapacitated by physical or mental illness; or
- (d) is otherwise unable or unfit to discharge the functions of Chairman or member,

the Governor may by notice in the Gazette declare his office as Chairman or a member of the Board to be vacant and thereupon his office shall become vacant.

(2) Notwithstanding the foregoing provisions of this section the Chairman or any member may resign his office by giving written notice to the Deputy Governor.

(3) The Chairman or any member of the Board who ceases to be a member shall be eligible for re-appointment.

Meetings and proceedings.

5. (1) The quorum at all meetings of the Board shall be four voting members including the Chairman or other person presiding.

(2) At all meetings of the Board the Chairman or, in his absence, such member as the Board may select shall preside.

(3) All questions coming or arising before a meeting of the Board shall be decided by a majority of the persons present qualified to vote and voting thereon at the meeting, and, in the case of an equality of votes, the person presiding shall have a second or casting vote.

(4) The Board may appoint committees and, subject as aforesaid, may make rules governing their own procedure and that of their committees.

(5) All orders and directions of the Board shall be made or given under the hand of the Chairman of the Board or secretary of the Corporation.

Corporation to be body corporate.

6. (1) The Corporation shall be a body corporate under the name of the Gibraltar Broadcasting Corporation with perpetual succession and a common seal which shall be officially and judicially noticed and with power to acquire and hold land. The seal shall be authenticated by the signature of the Chairman and one other member of the Board authorized either generally or specially by the Board to act in that behalf.

(2) The Corporation may sue and be sued in its corporate name. Service of any process or notice on the Corporation may be effected by leaving the same at the office of the Corporation, with the Chairman of the Board or secretary of the Corporation.

No personal liability to attach to members.

7. Subject to the provisions of section 34 no personal liability shall attach to any member of the Board in respect of anything done or suffered in good faith and without negligence under the provisions of this Act.

PART III.

FUNCTIONS OF THE CORPORATION.

Duties and powers of the Corporation.

8. (1) It shall be the duty of the Corporation to maintain a sound and television broadcasting service as a means of information, education and entertainment and to develop the service to the best advantage and interest of Gibraltar.

(2) The Corporation shall have power to provide sound and television programmes to the public distributed by means of buried or overhead wires, or by a combination of such means and radio communication.

(3) Subject to any directions of the Governor the Board shall be responsible for the policy to be adopted by the Corporation in the provision of such services.

(3A)-(3C) *Deleted.*

(4) The Corporation or Board may delegate any of their duties, except the Board's responsibility for policy or the duty under subsection (5), to Managing Agents.

(5) *Omitted.*

Powers of Corporation.

9. (1) Subject to the provisions of this Act the Corporation may do all things necessary and convenient for the carrying out of its duties under this Act.

(2) Without prejudice to the generality of the provision of subsection (1) the corporation may—

- (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 otherwise acquire and hold and may take on lease any real property and any interest therein required for the purposes of this Act;
- (c) provide to, and receive from, other persons, material to be broadcast;
- (d) organize, provide and subsidize public entertainment for broadcasting;
- (e) collect news and information in or from any part of the world and in any manner that may be thought fit and establish and subscribe to news agencies;
- (f) acquire or sell copyright;
- (g) erect, equip and maintain plant, buildings, stations and equipment necessary for broadcasting;
- (h) employ, remunerate and terminate the appointment of Managing Agents or a manager and such other servants as it may deem requisite;

- (i) 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;
- (j) pay contributions to the Government in respect of the pension rights of personnel lent to the Corporation by the Government;
- (k) contract with any person or Government for the supply of services essential to broadcasting;
- (l) provide broadcasting facilities for commercial, social or recreational organizations including the broadcasting of advertisements and make charges therefor;
- (m) compile and prepare, print, publish, issue, circulate and distribute, whether gratis or otherwise, such papers, magazines, periodicals, books and other literary matter as may seem conducive to the objects of the Corporation or enter into a contract with any person for that purpose;
- (n) make payments to the Chairman and members of the Board in respect of expenses incurred by them with the authority of the Board;
- (o) borrow money for the purposes of the Corporation in any way, including the issuing of bonds or debentures as it shall think fit.

(3) In this section “broadcast” and “broadcasting” include distribution of programmes by means of wired circuits.

Leasing of transmitters, etc.

9A. (1) Subject to subsection (2), it shall be lawful for the Corporation to enter into agreements with persons or organisations (to be known as “programme contractors”) on such terms and conditions as shall be agreed, with a view to making the facilities, equipment and staff of the Corporation available for transmission of sound and television programmes (including satellite television, commercial and other advertising programmes) supplied by the programme contractor.

(2) In the making of, and carrying out, any agreement mentioned in subsection (1), it shall be the duty of the Corporation to ensure that—

- (i) no programmes shall be transmitted which in the sole judgement of the Board offend against the good taste, morals or public policy or, in any respect, conflict or do not conform with any directions made by the Governor under section 8(3);

- (ii) no programmes shall be transmitted which infringe, or in the opinion of the Board, are likely to infringe the copyright or a similar right of any person;
- (iii) the timing of the transmission of such programmes does not conflict with the timing of the transmission which it is the general duty of the Corporation to provide as required of it by the provisions of the Act.

Corporation to have exclusive right of broadcasting subject to certain exceptions.

10. Notwithstanding anything contained in the Wireless Telegraphy Act*, the Corporation shall have the exclusive right—

- (a) to maintain a service to the public consisting of sound programmes or television programmes or a combination thereof, transmitted from a transmitting station by means of radio communication or distributed therefrom over buried or overhead wires or by a combination of such means;
- (b) to relay, exhibit or reproduce to the public for reward from any place in Gibraltar by any means any sound or television programmes whether broadcast or emanating from Gibraltar or elsewhere:

Provided that nothing in paragraph (a) shall affect any station operated by any Forces Broadcasting Service in Gibraltar whether by means of radio communication or by buried or overhead wires or by a combination of such means.

10A-10J. *Deleted.*

Officers seconded from Government service.

11. (1) The Corporation may, subject to the provisions of this section, employ such public officers or other officers as may be lent by the Governor from the service of the Government to the Corporation.

(2) The Governor may at any time determine the loan of any officer who has been lent to the service of the Corporation under the provisions of this section, and the Corporation may request the Governor to determine the loan of any such officer:

* Repealed by the Telecommunications Act (2000-18).

Provided that no such request shall be made unless the Corporation shall first have given to the officer at least one month's written notice of its intention to make such request.

(3) The salary of an officer (including pension contributions as mentioned in paragraph (j) of section 9(2)) whilst on loan to the Corporation in pursuance of this section shall be paid by the Corporation.

Items of public interest.

12. The Corporation shall include in its programme free of charge any item which the Deputy Governor considers it expedient in the public interest to be disseminated and notifies the Corporation to that effect personally or through the Public Relations Officer.

Power to prohibit dissemination of certain matter.

13. The Governor may, by notice in writing delivered at the principal office of the Corporation, prohibit the Corporation from disseminating any matter or matter of any class or character specified in the notice. Any such notice may specify whether or not the Corporation may at its discretion announce that the notice has been given.

PART IV. ACCOUNTS.

Establishment and operation of general fund.

14. The Corporation shall establish a general fund—

- (a) into which all moneys received by the Corporation shall be paid; and
- (b) out of which all payments made by the Corporation shall be paid.

Accounts and audit.

15. (1) The Corporation 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 Corporation shall be audited by an auditor to be appointed annually by the Corporation with the approval of the Governor.

(3) The auditors shall, with reference to the accounts of the Corporation, report—

- (a) whether they have obtained all the information and explanations which to the best of their knowledge and belief were necessary for the purposes of their audit; and
- (b) whether, in their opinion, proper books of account have been kept by the Corporation, so far as appears from their examination of those books; and
- (c) whether the Corporation's balance sheet and statement of income and expenditure are in agreement with the books of account; and
- (d) whether, in their opinion, and to the best of their information and according to the explanations given them, those accounts give a true and fair view—
 - (i) in the case of the balance sheet, of the state of the Corporation's affairs as at the end of its financial year; and
 - (ii) in the case of the statement of income and expenditure, of the income and expenditure for its financial year; and
- (e) whether the provisions of this Act and any directions of the Governor, in so far as they relate to the accounts, have been complied with.

Corporation's powers with regard to receipt of moneys.

16. The Corporation is hereby empowered to receive and apply for the furtherance of its purposes—

- (a) all funds which may from time to time be voted by the Parliament for the purposes of the Corporation; and
- (b) revenue accruing from wireless and television licences and advertisements; and
- (c) any money properly accruing to the Corporation from any other source.

Financial year.

17. The financial year of the Corporation shall coincide with that of the Government.

Annual report and periodical returns.

18. (1) The Corporation shall as soon as possible after the end of each financial year furnish to the Financial and Development Secretary—

- (a) a report dealing with the activities, policy and financial position of the corporation during that year;
- (b) a copy of the Corporation's accounts for that year audited in accordance with the provisions of section 25(3) together with the auditor's report thereon.

(2) The Financial and Development Secretary shall, at the earliest available opportunity, lay a copy of every such annual report and audited accounts before the Parliament.

(3) The Corporation shall furnish to the Financial and Development Secretary such financial and statistical returns as he may from time to time require.

Wireless licence fees to be paid to Corporation.

19. As soon as may be after the end of each month the Accountant General shall pay to the Corporation all fees received during the month in respect of licences for wireless receiving sets, including television receiving sets, issued in Gibraltar.

PART V. EMERGENCY POWERS.

Provisions applicable in emergency conditions.

20. (1) If at any time the Governor is satisfied that it is necessary for the preservation of public security that the Government should have control over broadcasting by means of any transmitting station or by any other means owned or operated by the Corporation, he may declare that the provisions of this section shall come into operation and thereupon he or any person authorized by him in writing may—

- (a) take possession of any transmitting station, apparatus or equipment owned or operated by the Corporation, and use such station, apparatus or equipment for official purposes; or
- (b) place any person in control of such station, apparatus or equipment; or
- (c) direct the Corporation to submit to him all or any communication or matter tendered for broadcasting; or

- (d) stop or delay or direct the Corporation to stop or delay the broadcasting or delivery of any such matter or communication or to deliver them to him; or
- (e) direct the Corporation to comply with all such directions as he may think fit to give with reference to broadcasting.

In this subsection “broadcasting” includes distribution by means of wired circuits.

(2) If and whenever the Governor exercises the powers conferred upon him by subsection (1) the Corporation shall be entitled to receive from the Government—

- (a) compensation for any damage done to the property of the Corporation, being damage directly attributable to the exercise of any such powers; and
- (b) such sums as are required to defray any expenses or meet any liabilities which, regard being had to the nature of the circumstances, have been properly and necessarily incurred by the Corporation in respect thereof.

(3) In any case of dispute as to the amount of compensation payable under this section, the amount of the compensation shall be determined by reference to a single arbitrator and any such reference shall be deemed to be a submission for the purposes of the Arbitration Act¹ and shall be dealt with in accordance with the provisions of that Act.

PART VI. MISCELLANEOUS.

Acquisition of lands.

21. It is hereby declared for avoidance of doubt that for the purposes of the Land (Acquisition) Act² the provision and maintenance of sound and television services by broadcasting or wired circuits shall be deemed to be public purposes.

Exemption from licences under Wireless Telegraphy Act*.

¹ 1895-10

² 1973-22

* Repealed by the Telecommunications Act (2000-18).

22. Notwithstanding the provisions of the Wireless Telegraphy Act, the Corporation shall not require a licence under that Act to establish or use a station for wireless telegraphy or to install or use wireless apparatus therefor or to receive delivery of wireless apparatus therefor on importation.

Exemption from import duty.

23. Any apparatus or equipment to be imported by the Corporation, for the sole purposes of performing its functions under this Act, shall be admitted free of import duty, but shall become liable to duty and duty shall be paid by the Corporation if at any time it sells or disposes of such apparatus or equipment unless such sale or disposition is to the Government or is to a person outside Gibraltar and is followed by the export of such apparatus or equipment from Gibraltar within a reasonable time.

PART VII.
LEGAL PROCEEDINGS.

Proceedings on failure of Corporation to comply with Act.

24. (1) If at any time it appears to the Governor that the Corporation has failed to comply with any of the provisions of this Act, he may, by notice in writing, require the Board to make good the default within such time as may be specified in such notice.

(2) If the Board fail to comply with the requirements of a notice issued under the provisions of subsection (1) the Attorney General may apply to the Supreme Court for an order compelling the Board to remedy the default specified, and the Supreme Court may make such order on the application as it thinks fit, including an order as to costs. Any such order may be positive or negative in its terms, and the Chairman and every member of the Board shall be personally liable for compliance therewith to the best of his ability.

No suit against Corporation without prior written notice.

25. (1) No civil suit shall be commenced against the Corporation before the expiry of one month after written notice of intention to commence such suit shall have been served upon the Corporation by or on behalf of the intending plaintiff.

(2) A notice of intention issued under subsection (1) shall be served as soon as practicable after the accrual of the cause of action and shall clearly and explicitly state—

- (a) the cause of action;

- (b) full particulars of the claim;
- (c) the name and physical address of the intending plaintiff; and
- (d) the relief claimed.

Service of documents.

26. A notice of intention issued under the provisions of section 35 and any summons, notice or other document required or authorized to be served upon the Corporation under the provisions of this Act or of any other written law may, unless there is in any case specific provision to the contrary, be served by delivering the same to the Chairman of the Board or the secretary of the Corporation, or by sending it by registered post to the secretary at the principal office of the Corporation.

Restriction on execution.

27. (1) No execution by attachment of property or process in the nature thereof shall be issued against the Corporation in any suit against the Corporation.

(2) Any sum of money which may by judgment of any court be awarded against the Corporation shall, subject to any direction given by the court where notice of appeal has been given by the Corporation in respect of such judgment, be met from the funds of the Corporation.