

ACT 449

NATIONAL MEDIA COMMISSION ACT, 1993

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ACT 449

NATIONAL MEDIA COMMISSION ACT, 1993¹

AN ACT in respect of the 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.

*Establishment and Functions of the Commission***1. Establishment of the Commission**

(1) There is established in accordance with article 166 of the Constitution a body to be known as the National Media Commission.

(2) The Commission is 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 performance of its functions, purchase, hold, manage or dispose of movable or immovable property and may enter into contracts and transactions that are reasonably related to its functions.

2. Functions of the Commission

(1) In accordance with article 167 of the Constitution, the functions of the Commission are

- (a) to promote and ensure the freedom and independence of the media for mass communication or information as guaranteed by article 162 of the Constitution;
- (b) to take the appropriate measures that 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 consonant with article 163 of the Constitution;
- (e) to appoint in consultation with the President, the chairmen and the 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, which Regulation shall not provide for the exercise of a direction or control over the professional functions of a person engaged in the production of newspapers or other means of mass communication; and

1. This Act was assented to on 6th July, 1993.

- (g) to perform any other functions that may be prescribed by law not inconsistent with the Constitution.

(2) In performing its functions the Commission shall not, in conformity with article 162 of the Constitution, by the Regulations or any other act, require a person to obtain or maintain a licence as a condition for the establishment of a newspaper, journal or any other written publication.

3. Independence of the Commission

Except as otherwise provided in the Constitution or by any other law not inconsistent with the Constitution, the Commission is not subject to the direction or control of a person or an authority in the performance of its functions.

4. Independence of journalists

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

Composition of the Commission

5. Composition of the Commission

(1) In accordance with article 166 of the Constitution the Commission consists of

- (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,
 - (viii) the Ghana National Association of Teachers,
 - (ix) the National Council of Women and Development,
 - (x) the Trades Union Congress, and
 - (xi) the Association of private Broadcasting;²
- (b) two representatives nominated by the Ghana Journalists Association;
- (c) two persons appointed by the President; 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.

2. Subparagraphs (ix), (x) and (xi) were added by the Constitution of the Republic of Ghana (Amendment) Act, 1996 (Act 527).

(4) In accordance with clause (3) of article 166 of the Constitution, a person who is a founding member of a political party, is a leader or a member of its executive or hold another office in a political party is not qualified to be a member of the Commission.³

6. Qualifications of members of the Commission

- (1) A person is qualified to be a member of the Commission if that person
 - (a) is a citizen;
 - (b) has not been adjudged or otherwise declared
 - (i) bankrupt under a 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 a law in force in Ghana; or
 - (c) has not 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
 - (d) has not 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 office that person acquired assets unlawfully or defrauded the State or misused or abused the office of that person 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
 - (e) is not under sentence of death or other sentence of imprisonment imposed by a court; or
 - (f) is not otherwise disqualified by a law.

(2) Without prejudice to subsection (1), a member shall cease to be a member if, in the case of a person possessed of a professional qualification, the member is disqualified from practicing the profession of that person in Ghana by an order of a competent authority made in respect of that member personally, or ceases to be a member otherwise than at the request of that member.

7. Tenure of office of members

(1) A member shall hold office for a term of three years and is eligible for re-appointment or re-nomination.

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

(3) A member may resign from 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.

3. Added as clause (3) by the Constitution of the Republic of Ghana (Amendment) Act, 1996 (Act 527).

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

(5) The chairman and the other members do not hold full-time office on the Commission.

8. Filling of vacancies

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

(2) Where a member 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 office, another person may be appointed or nominated, to act until the member is able to perform the functions of 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 that person shall hold office for the remainder of the term of the previous chairman or member and is, subject to this Act, eligible for reappointment, re-election or re-nomination.

9. Meetings of the Commission

(1) The Commission shall meet at least once in every two months, at the times and at the places directed by the chairman.

(2) The chairman shall on the request of not less than one third of the membership convene a special meeting of the Commission.

(3) The chairman shall preside at meetings of the Commission and in the absence of the chairman a member elected by the members from among their number shall preside.

(4) The quorum for a meeting of the Commission is seven members.

(5) A 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 an equality of votes, the chairman or person presiding shall have a second or casting vote.

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

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

(8) A member who fails to disclose an interest under subsection (7) shall cease to be a member of the Commission.

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

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

10. Commission to appoint committees

The Commission may, for the performance of its functions, appoint committees comprising of members or non-members or both and may assign to a committee the functions that the Commission determines except that a committee composed entirely of non-members may only advise the Commission.

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.

Complaints

12. Settlement committee

Without prejudice to section 10, there is established a complaints settlement committee of the Commission consisting of

- (a) the chairman, and
- (b) six members three of whom are persons not ordinarily employed or involved in the media industry.

13. Complaint may be lodged with the Commission

(1) A person aggrieved by a publication or by the act or omission of a journalist, newspaper proprietor, a publisher or any other person in respect of a publication in the media may lodge a complaint before the Commission against the editor, publisher, proprietor or that other person.

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

14. Reference to settlement committee

(1) A complaint lodged with the Commission shall be referred to the settlement committee which shall make 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 the circumstances of the case.

15. Ruling of settlement committee

- (1) The settlement committee may, in a complaint before it,
- (a) order publication of a correction and an apology with equal prominence as the original offensive material,
 - (b) order publication of a rejoinder, or
 - (c) direct disciplinary action for breach of the code of ethics.

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

(3) Where an order is made against a person under subsection (1) of section 15, whether or not the findings of the settlement committee are published, recommendations for disciplinary action shall be made where applicable to the appropriate professional association.

(4) The settlement committee shall in its deliberations be guided by the rules of natural justice.

16. Compulsory rejoinders

(1) Without prejudice to anything contained in sections 12 to 15, a medium for the dissemination of information to the public which publishes a statement about or against a person shall be obliged to publish a rejoinder 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) the person aggrieved may apply to the Commission or the High Court for an order to enforce subsection (1).

*Management and Staff of the Commission***17. Executive secretary**

(1) The Commission shall, in consultation with the Public Services Commission, appoint a full time executive secretary to the Commission.

(2) The executive secretary is the administrative head of the Commission and is, under the general supervision and direction of the Commission, responsible for the day-to-day management and administration of the affairs of the Commission.

(3) The executive secretary is, subject to the directions of the chairman, responsible for the discipline of the staff of the Commission.

- (4) The executive secretary
- (a) is the secretary to the Commission and shall, as far as practicable attend the meetings of the Commission; and
 - (b) shall, in consultation with the chairman, arrange the business and cause to be recorded and kept minutes of the meetings of the Commission.

18. Other staff of Commission

(1) The Commission shall appoint other officers and other employees as are reasonably necessary for the effective performance 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 the terms and conditions approved by the Public Services Commission.

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

*Miscellaneous and General Provisions***19. Access to media by President**

The President shall 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 a matter which appears to the President to be in the public interest.

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.

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 the form directed by the Auditor-General.

22. Financial year of Commission

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

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.

24. Regulations

(1) The Commission may, by Legislative Instrument, prescribe

(a) procedure to be followed by the settlement committee; and

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

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

25. Interpretation

In this Act, unless the context otherwise requires,

“**chairman**” means the chairman of the Commission;

“**citizen**” means a citizen of Ghana;

“**Commission**” means the National Media Commission established by virtue of article 166 of the Constitution;

“**member**” means a member of the Commission;

“**Regulations**” means Regulations made by the Commission or by virtue of paragraph (f) of subsection (1) of section 2;

“**settlement committee**” means the complaints settlement committee established by section 12.

26. Repeal and transitional provisions

*Spent.*⁴

4. The section reads as follows:

“(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.”

