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GOVERNMENT NOTICES GOEWERMENTSKENNISGEWINGS

No. R 1226

25 September 1998

INDEPENDENT BROADCASTING AUTHORITY

REGULATIONS RELATING TO RECORDS TO BE KEPT BY TELEVISION BROADCASTING LICENSEES.

The Independent Broadcasting Authority has under Section 71(2) of the Independent Broadcasting Authority Act 1993 (Act No 153 of 1993), made the regulations in the Schedule.

SCHEDULE

1. Definitions

- 1.1 In these regulations, unless the context indicates otherwise, any word to which a meaning has been assigned to it in the Independent Broadcasting Authority Act (No. 153 of 1993) shall have that meaning.
- 1.2 **"Television Broadcasting licence"** means a broadcasting licence granted and issued for the purpose of providing a television broadcasting service.
- 1.3 **"Television Broadcasting licensee"** means a person holding a broadcasting licence, which has been issued for the purpose of providing a television broadcasting service.

2. Records to be kept by all television broadcasting licensees.

A television broadcasting licensee shall, to the satisfaction of the Authority, in addition to records prescribed by any other law, keep the following records relating to its broadcasting activities –

- (a) documentation relating to the person or entity who or which is in control of or in a position to exercise control over the licensee concerned including documentation relating to-
- (i) its legal status including all foundation pertaining to the licensed entity;
 - (ii) details of the directors, members or trustees including the gender, race and address of such person or entity, as the case may be; and
 - (iii) in the case of a licensee which is a company, the shareholding, the extent thereof and any changes which may occur in the control thereof;
- (b) an inventory of all capital assets including both movable and immovable items;
- (c) up to date books of account and relevant financial record together with all necessary supporting vouchers and documentation.
- (d) audited annual financial statements;
- (e) all documentation pertaining to the opening, maintenance and changes in the status of banking accounts;
- (f) copies of all contracts entered into by or on behalf of the licensee in connection with the daily operational activities of the licensee;

- (g) a log of all programmes broadcast in a form acceptable to the Authority;
 - (h) proposed monthly programme schedules in respect of future programming;
 - (i) a file accessible to the public for keeping –
 - (i) written complaints received by the licensee;
 - (ii) correspondence between the licensee and complainants
 - (iii) a log of telephonic complaints received by the licensee setting out the date, time, name and address of the complainant together with details of the nature of the complaint received;
 - (j) information pertaining to personnel records including full details of individuals employed by the licensee on a full time or part-time basis and this includes indication of the race and gender of each employee, the length of service and information pertaining to the occupation and level of each employee as well as training programmes arranged by a licensee;
 - (k) a log of all advertisements broadcast;
 - (l) a log of the percentage air-time per hour allocated to advertisements;
 - (m) during an election period a log of all party-political advertisements broadcast by the licensee;
 - (n) during an election period, where applicable, a log of all party election broadcasts broadcast by the licensee;
 - (o) a log of all sponsorships received for programmes, news, game shows, welfare activities or any similar programming together with details of payment, financial or otherwise, received from such sponsorship; and
 - (p) copies of all correspondence with the Authority.
3. The records prescribed in regulations 2 and 3 must be preserved for a period of 1(one) year.

4. A licensee may, by notice directed to him or her be required to produce or furnish to the Authority, at a time and place specified in the notice such records, including documents, accounts, estimates, returns and information as may be specified in such notice and relating to any matter in respect of which a duty or obligation is imposed on the licensee by the Act, or these regulations or by the relevant licence.

5. **Short**

The regulations may be cited as the Independent Broadcasting Authority Television Broadcasting Service Records Regulations, 1998.

No. R 1227

25 September 1998

REGULATIONS REGARDING FINES AND PENALTIES RELATING TO NON-COMPLIANCE OR NON-ADHERENCE BY LICENCEES TO PROVISIONS OF THE INDEPENDENT BROADCASTING AUTHORITY ACT, REGULATIONS ISSUES THEREUNDER AND LICENCE CONDITIONS.

The Independent Broadcasting Authority has under section 66(1) (d) of the Independent Broadcasting Authority Act (Act No. 153 of 1993) made the regulations in the Schedule.

SCHEDULE

1. Definitions

1.1 "category one contravention" means a contravention of:

- 1.1.1 sections 35(1), 35(2), 36, 38A(1), 38A(2), 48, 49(1), 49(2), 49(3), 49(4), 49(5), 50(1), 58, 59(1), 59(5), 59(6), 59(7), 59(8), 60 and 61 of the Act;
- 1.1.2 regulations issued by the Authority from time to time, relating to compliance by licensees with such technical specifications or requirements as are set out;
- 1.1.3 regulations issued by the Authority in respect of broadcasting activities during election periods;
- 1.1.4 provisions of the licence conditions defining the broadcasting service as community, public or private, as set out in section 1 of the Act; and,
- 1.1.5 provisions of the licence conditions defining the technical specifications of a licensee and imposing obligations on a licensee in respect of the operation of technical equipment and use of the frequency spectrum, and as set out in the relevant schedules to the licence.

1.2 "category two contravention", means a contravention of:

- 1.2.1 sections 37, 55(1), 56, 57(1) and 72 of the Act;
- 1.2.2 regulations relating to the broadcasting of South African Music by licensees;
- 1.2.3 regulations relating to the broadcasting of South African Television Content by licensees;
- 1.2.4 licence conditions pertaining to programming and advertising as set out in the relevant schedules to the licence;
- 1.2.5 licence conditions pertaining to the promise of performance by the licensee, as set out in the relevant schedule to the licence; and,
- 1.2.6 licence conditions pertaining to human resources requirements to be fulfilled by the licensee as set out in the relevant schedule to the licence.

1.3 "category three contravention" means a contravention which does not include any matter listed in categories one or two and which relates to formal requirements in the licence conditions or any other matter which, in the opinion of the Authority falls within this category.

1.4 "contravention" means an instance of non-compliance or non-adherence as referred to in section 62(3) of the Act and "contravenes" and "contravening" shall have corresponding meanings.

1.5 "licensee" means any broadcasting licensee or signal distribution licensee.

1.6 "the Act" means the Independent Broadcasting Authority Act 153 of 1993.

and any word or expression to which a meaning has been assigned in the Act shall bear such meaning.

2. Fines and Penalties

2.1 A licensee who contravenes a provision of the Act, regulations or licence conditions, as contemplated under category one, shall be liable to a fine not exceeding R500 000.

2.2 A licensee who contravenes a provision of the Act, regulations or licence conditions as contemplated under category two shall be liable to:

2.2.1 a fine not exceeding R250 000; or,

2.2.2 where applicable, in the case of a contravention contemplated in 1.2.2, 1.2.3, 1.2.4 or 1.2.5 of these regulations, increasing its programming quota, as determined by the Authority but not exceeding the percentage quota which the licensee has failed or neglected to broadcast in terms of its minimum programming requirements in the licence conditions; or

2.2.3 both 2.2.1 and 2.2.2 above.

2.3 A licensee who contravenes a provision of the regulations or licence conditions as contemplated under category three shall be liable to a fine not exceeding R20 000.

3. Method of Payment

- 3.1 Any fine or penalty imposed on a licensee in terms of these regulations shall be made to the Authority within 30 days of the order under section 66(1)(d) of the Act.
- 3.2 Payment made under regulation 3.1 shall be by means of a crossed bank-guaranteed cheque made out to the Independent Broadcasting Authority, or such payment as approved by the Authority in writing from time to time.
- 3.3 Failure by a licensee to effect payment within the prescribed period shall render such licensee liable to:
- 3.3.1 interest on the fine or penalty at a rate of prime plus 2%; or
- 3.3.2 prosecution for an offence under section 67(2) of the Act; or
- 3.3.3 both 3.3.1 and 3.3.2 above

4. Short Title

These regulations may be cited as the Independent Broadcasting Authority Fines and Penalties Regulations 1998.

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