

28. The political party which commanded the majority of the membership of the House of Assembly immediately prior to the last dissolution of Parliament shall, if it so desires, have the right of the last broadcast during an election period and in that event, the Official Opposition party shall have the right to the first broadcast.

Right to first and last broadcast.

29. Nothing in these Rules shall be construed as precluding a Minister from broadcasting —

Saving of powers of Ministers to broadcast.

- (a) an explanation of legislation passed or action taken or to be taken or Government policy or policy approved by Parliament; or
- (b) an appeal on a matter of national importance.

30. (1) A candidate or political party aggrieved by any decision of the general manager in respect of any matter provided for by these Rules may make a complaint to the Council in respect of the grievance and the Council may, after consideration of the complaint, give as soon as practicable to the general manager such instructions as the Council sees fit.

Appeal.

(2) The general manager shall give effect to any instructions issued by the Council under paragraph (1).

(3) The regular authority of the Corporation over the general manager shall, during an election period, be subordinate to any instructions issued by the Council in respect of any political broadcast or political advertisement.

BROADCASTING (LICENSING) RULES, 1993

S.I. 77/1993

(SECTION 18)

[Commencement 16th December, 1993]

1. These rules may be cited as the Broadcasting (Licensing) Rules, 1993.

Citation.

2. In these rules —

Interpretation.

“applicant” means a person applying for the grant of a licence, or for the renewal of a licence, as the case may be;

“Bahamian citizen” means —

- (a) a citizen of The Bahamas; or

(b) a body corporate established under the laws of The Bahamas, and having its principal place of business in The Bahamas, of which the beneficial ownership belongs wholly to citizens of The Bahamas;

“broadcasting station” or “station” means any premises used in connection with broadcasting;

“chief executive officer” means a person employed who is the chief executive officer responsible to the licensee for the operation of the broadcasting station and notified as such to the Minister;

“firearms” and “ammunition” have the respective meanings assigned to those expressions by the Firearms Act;

“International regulations” means any rules and regulations of any international regulatory body or the provisions of any international Convention to which The Bahamas is a party;

“licence” means a licence granted pursuant to these rules;

“licensee” means a person to whom a licence has been granted ;

“political broadcast” means a broadcast by radio designed to promote or reduce the popularity of a political party or a candidate for an election;

“political party” means a political party which —

- (a) has policies on a wide range of national issues;
- (b) has an elected leader;
- (c) holds a national conference of members of the party at least once in any period of eighteen months; and
- (d) nominates candidates for not less than one sixth of the seats of the House of Assembly at the current general election.

3. (1) Any person intending to apply for the grant of a licence authorising the provision of a broadcasting service shall submit to the Minister an application in Form 1 prescribed in the First Schedule.

(2) An applicant shall submit, together with his application, written particulars as to —

Ch. 213.

Application for licence.

Form 1.
First Schedule.

- (a) the area of The Bahamas in respect of which the applicant proposes to provide that service;
- (b) the volume of transmitter power proposed for use in that service;
- (c) the type of programmes to be provided in that service;
- (d) the capital cost of providing that service; and
- (e) the source from which that service is funded.

(3) As soon as practicable after receipt of an application, the Minister shall consider the application and make a determination as to whether or not a licence should be granted; and, in his consideration of the application, the Minister may require the applicant to submit to the Minister such further information as the Minister may reasonably see fit to request.

(4) The determination made by the Minister in respect of an application shall be communicated to the applicant and, in the case of a favourable determination, the Minister shall, upon receipt of the appropriate fee specified in the Second Schedule, grant to the applicant a licence authorising the provision of a broadcasting service.

Second Schedule.

4. A licence granted to an applicant shall be in Form 2 prescribed in the First Schedule.

Form of licence.
Form 2.
First Schedule.

5. The following conditions shall be observed with respect to the grant of all licences —

Conditions governing grant and duration of licence.

- (a) every licence shall be granted in respect of a broadcasting service named and described in the licence;
- (b) a licence shall not be assignable or transferable, and a licensed broadcasting service shall be operated by the licensee;
- (c) a licence shall not be granted to any member of Parliament, any holder of an office in a political party, any political party or any person who is not a Bahamian citizen;
- (d) except with the approval of the Minister, no licensee shall be affiliated with the Corporation;
- (e) a licence shall not be granted unless the Minister is satisfied that the applicant is a fit and proper person to be entrusted to provide a broadcasting service;

- (f) subject to the provisions of these rules, a licence, if not renewed, shall cease to be in force upon the expiration of the period of twelve months next following the date of grant; but, if the licence is renewed, the licence shall, if not again renewed, cease to be in force upon the expiration of the period of three years next following the date of renewal;
- (g) a licence shall authorise the provision of a broadcasting service in such areas of The Bahamas as may be specified in the licence but there shall not be in force, at any time, more than three licences respectively authorising the provision of broadcasting services throughout The Bahamas.

Renewal of
licences.
Form 1.
First Schedule.

6. (1) Any person intending to apply for the renewal of a licence relating to any broadcasting service, shall submit to the Minister an application in Form 1 prescribed in the First Schedule, together with written particulars as to —

- (a) the number of persons who, at the date of the application, are employed by the applicant for the purpose of providing that service; and
- (b) the ownership of that service, including —
 - (i) where that service is owned by a company, the names of all beneficial shareholders and the amount of shares held by each shareholder;
 - (ii) where that service is owned by persons carrying on business as partners, the names of the partners.

(2) As soon as practicable after receipt of an application under paragraph (1), the Minister shall consider the application and make a determination as to whether or not the renewal of the licence should be granted and shall communicate the determination to the applicant, and, in the case of a favourable determination, the Minister shall upon receipt of the appropriate fee specified in the Second Schedule, renew the licence.

Second Schedule.

Employment of
chief executive
officer.

7. Every licensee shall at all times employ and keep employed a chief executive officer and shall within seven days of the commencement of any such employment notify the same to the Minister.

8. (1) Every licensee shall cause each broadcasting station operated by him to be identified at intervals provided by international regulations, and for this purpose shall at all times cause to be kept upon the station in studios from which broadcasts may originate a reliable clock set to local time. Station identification.

(2) The frequencies or channels on which the station is licensed to operate shall be stated at least twice in every twenty-four hour period, one of those times being required to be between 5:00 a.m. and 7:00 p.m.

9. (1) Every licensee shall cause to be kept a book and such other records as may be necessary to enable the Minister if he desires so to do readily to ascertain — Records to be kept.

- (a) the day and time at which each station identification was made;
- (b) the title of each broadcast programme;
- (c) the time at which each broadcast programme commenced and ended;
- (d) whether any form of electro-mechanical reproduction was used in the course of any broadcast and the nature of this reproduction;
- (e) in relation to any talk or speech broadcast by the licensee —
 - (i) the name of the speaker;
 - (ii) any organisation under whose auspices the talk or speech was given; and
 - (iii) if the speech was made on behalf of any political party with a view to promoting the election to any public or municipal office of any person, the name of such political party or the political affiliations, if any, of such persons as the case may be;
- (f) the duration of each advertisement or other announcement or any other matter and the time at which it was broadcast;
- (g) the name of the sponsor of any announcement or other matter;
- (h) the time and duration of any interruption of a broadcast and the reasons for such interruption.

(2) Key letters and abbreviations may be used for the purpose of making any record of the nature referred to in paragraph (1) if the meaning of such key letters or abbreviations is clearly set out in the document containing such record or in some other document readily available for inspection at the time when the documents containing such records are inspected.

(3) In addition to the records required to be kept under paragraph (1) the licensee shall also keep slow tapes of all broadcasts for at least thirty days or a longer period when so required by the Minister.

(4) The originals of all records required to be kept under this rule shall be available to the Minister at the broadcasting station of the licensee and may be required by the Minister by notice in writing and shall be available for inspection at any reasonable time by any person authorised by the Minister in writing to carry out such inspection; but the Minister shall give notice in writing at least twenty-four hours before any such inspection.

Matters not
permitted to be
broadcast.

10. A licensee shall not permit to be broadcast from any broadcasting station operated by the licensee —

- (a) any matter in contravention of any written law;
- (b) any statement or comment upon the race, colour, creed, religion or sex of any person or persons which is abusive or derogatory except where such references are objectively reported and are contained in news reports, and programmes on matters of public interest;
- (c) any malicious, scandalous or defamatory matter;
- (d) any obscene, indecent or profane matter;
- (e) any advertising matter which the licensee or the chief executive officer knows or has reasonable cause to believe to be in whole or in part false or deceptive;
- (f) any news or matter which in the knowledge of the licensee or of any servant or agent of the licensee who is concerned in its collection, editing, publication or printing, is false or misleading;
- (g) any matter which describes offensively any function or symptomatic results of disturbance of the human body or relief in such disturbance through the use of any appliance or medicament;

- (h) any offensive description of mutilated disfigurement of the human form;
- (i) any matter concerning colleges, schools, institutions or agencies which offer as an inducement for enrolment as a student or client thereof promises of employment;
- (j) any matter advertising any matrimonial agency;
- (k) any matter which by sound supports the claim of any living person to any ability to foretell the future or to analyze the character of any other person by supernatural or psychic means or to the successful practice of astrology, numerology, obeh, occultism, palm reading, mind reading, fortune telling, phrenology or any other such business or design;
- (l) any matter which is likely to incite violence or crime or lead to a breach of the peace;
- (m) any description of violence which offends against good taste, decency, or public feeling;
- (n) any matter advertising any firearms or ammunition;
- (o) any matter advertising any tip sheets or other publications for the purpose of giving odds or promoting betting.

11. Every licensee shall ensure that studio and other facilities shall be provided for all its programmes. Facilities.

12. It shall be the duty of every licensee operating a broadcasting station to ensure to the satisfaction of the Minister that — Duty of licensees in relation to programmes.

- (a) as far as possible, programmes with a Bahamian flavour are developed and broadcast on a regular basis, Bahamian interests and concerns being taken into account; and
- (b) programmes conform to the type specified under rule 3(2)(c), unless otherwise authorised by the Minister.

13. It shall be the duty of every licensee in relation to all news broadcasts made by the licensee — Duty of licensees in relation to news broadcasts.

- (a) to regard the fundamental purpose of such broadcasts as being to present objectively facts concerning what is happening throughout The Bahamas and in countries overseas; and

- (b) to ensure so far as may be practicable that —
 - (i) news broadcasts are presented with fairness, accuracy and good taste; and
 - (ii) news is selected and presented in a manner to ensure that it is factual and free from bias and not prejudiced by the opinions of the licensee or of any person concerned in its preparation or transmission or, as in the case of sponsored news broadcasts, of the sponsors thereof.

Advertisements of drugs, etc.

14. Every licensee shall ensure that any advertisement in relation to any drug, patent medicine or similar article broadcast from any station operated by the licensee shall comply with the provisions of any written law.

Restrictions on advertising content or programmes.

- 15.** (1) Every licensee shall ensure —
- (a) that advertising matter is broadcast only in spaces between programmes and in natural breaks;
 - (b) that the proportion of time which may be devoted to advertising in any one programme shall be as follows —
 - (i) eight minutes in any one hour programme (not exceeding eight announcements);
 - (ii) six minutes in a half hour programme (not exceeding six announcements);
 - (iii) three minutes in a quarter hour programme (not exceeding three announcements); and
 - (c) that advertising magazines will whenever used not exceed two per broadcast day of not more than five minutes each, and only one of such magazines may be aired between 7:00 p.m. and 11:00 p.m.

(2) In the event the licensee broadcasts programmes as a public service or where there is a national broadcast which in either event interrupts the scheduled programmes resulting in loss of advertising time, the licensee shall be entitled to recover any such loss over the next following seven days.

Control of programmes.

16. (1) No advertisement for spirits or tobacco products shall be accepted for broadcast, but advertisements may be accepted for beer and wines.

(2) In no case, whether the full air time rate has been paid or not, shall any solicitation for funds be made in any religious programme, except the customary announcement of the offering during a church service.

17. It shall not be lawful for any person who has purchased air time to sell or transfer the benefit of the same or any portion of the same for the purposes of political broadcasting or advertising. Re-sale of air time.

18. It shall be lawful for the chief executive officer to cancel broadcast time or to substitute another period to accommodate broadcasts of national interest or importance. Cancellation of broadcasts.

19. All contracts entered into by or on behalf of the licensee shall be subject to these rules. Contracts subject to rules.

20. The provisions of Part III of the Broadcasting Rules, 1992 shall *mutatis mutandis* apply to any political broadcast or advertisement from any broadcasting station operated by a licensee and, in the application of those provisions, reference in those provisions — Political broadcasts.
S.I. 46/1992.

- (a) to the Corporation, shall be construed as references to the licensee;
- (b) to the general manager, shall be construed as references to the chief executive officer; and
- (c) to the assistant manager, shall be construed as references to any person authorised by the chief executive officer in that behalf.

21. Every licensee shall cause the licence to be posted in a conspicuous place on his licensed premises. Licence to be affixed.

22. Wherever a licensee represents to the Minister that a licence granted to him has been lost or destroyed, the Minister, shall grant a duplicate licence to the licensee and shall indicate on the face of the duplicate that the same has been supplied in the place of the licence which has been lost or destroyed, and the duplicate so granted shall have the same effect as the original licence. Replacement of licence.

- 23.** (1) If in the opinion of the Minister, a licensee — Revocation of licence.
- (a) has knowingly submitted to the Minister information which is false or misleading in any material particular;

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- (b) is, either in The Bahamas or elsewhere, contravening —
- Ch. 305. (i) the provisions of the Broadcasting Act or any rules made under the Act;
- (ii) any term or condition subject to which the licence was granted; or
- (iii) any international regulations; or
- (c) is operating a broadcasting service in a manner detrimental to the public interest, the Minister shall require the licensee forthwith to take such steps as may be necessary to rectify the matter and, if such steps are not taken, the Minister may revoke the licence.
- Ch. 316. (2) An appeal shall lie to the Supreme Court from any decision of the Minister revoking a licence under paragraph (1) and, for the purposes of any such appeal, the provisions of section 26 of the Banks and Trust Companies Act shall *mutatis mutandis* apply.
- Rules to be available. **24.** A copy of these rules shall be posted in a conspicuous place on the licensed premises of the licensee and shall be readily available at all times.
- Application. **25.** (1) Except as expressly provided in the Act or in these rules, the provisions of the Broadcasting Rules, 1992 do not apply to a licensee.
- S.I. 46/1992. (2) The provisions of these rules do not apply in respect of —
- (a) the functions conferred upon the Corporation by the Act;
- Ch. 303. (b) the functions conferred by The Bahamas Telecommunications Corporation Act upon the corporation established thereunder; or
- (c) any system operated by the Royal Bahamas Police or the Royal Bahamas Defence Force.
- Penalty. **26.** Any person who contravenes any of the provisions of these rules is guilty of an offence and liable on summary conviction to a fine of one thousand dollars or imprisonment for a term of six months or both such fine and imprisonment.

**FIRST SCHEDULE
(Sections 3(1) and 6(1))**

FORM 1

APPLICATION FOR COMMERCIAL AND NON-COMMERCIAL FM BROADCAST STATION

Please complete and return to: The Permanent Secretary
Office of The Prime Minister
Sir Cecil Wallace-Whitfield
Centre
P.O. Box N7147
Nassau, Bahamas

Name of Applicant:
.....

Ownership: (List names of shareholder(s); nationality; ownership percentage; directors & officers)

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.....
.....

Proposed location of station:
.....

Proposed main studio location:
.....

Transmitter location:
.....

Antenna height above terrain (feet):
.....

Remote control point:
.....

Antenna & Supporting Structure:
.....

North Latitude:
.....

West Longitude:
.....

Antenna:
.....

FORM 2

BROADCASTING LICENCE

THE BROADCASTING ACT

No.....

THIS LICENCE, granted pursuant to the Broadcasting Act, authorises..... of to provide a broadcasting service, to wit, at with the broadcast transmitting antenna located at..... subject to the provisions of the Broadcasting Act.

The conditions on which this licence is granted are endorsed on the back hereof.

THIS LICENCE is in force from the day of, 19 to the day of, 19

Dated the day of, 19

SECOND SCHEDULE
(Rules 3(4) and 6(2))

FEES

Fee for the grant or renewal of a licence to establish or operate an FM Broadcasting Station	\$10,000.00 plus a sum (payable upon the expiration of the period to which the licence relates) amounting to two per centum of the gross revenue earned, by the licensee during that period, from the operation of the broadcasting station.
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