

Media Development Authority of Singapore Bill

Bill No. 37/2002.

Read the first time on 1st October 2002.

THE MEDIA DEVELOPMENT AUTHORITY OF SINGAPORE ACT 2002

(No. of 2002)

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A BILL

i n t i t u l e d

An Act to establish and incorporate the Media Development Authority of Singapore, to provide for its functions and powers, and for matters connected therewith, to amend the Singapore Broadcasting Authority Act (Chapter 297 of the 1995 Revised Edition), and to make consequential and related amendments to certain other written laws.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

PART I

PRELIMINARY

Short title and commencement

5 1. This Act may be cited as the Media Development Authority of Singapore Act 2002 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Interpretation

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

“appointed day” means the date of commencement of this Act;

10 “Authority” means the Media Development Authority of Singapore established under section 3;

“Chairman” means the Chairman of the Authority and includes a temporary Chairman of the Authority;

15 “chief executive” means the chief executive of the Authority appointed under section 28 and includes any person acting in that capacity;

“code of practice” means any code of practice or standard of performance issued by the Authority under section 17(1);

“document” includes —

20 (a) any map, plan, graph or drawing;

(b) any photograph;

(c) any label, marking or other writing which identifies or describes anything of which it forms a part, or to which it is attached by any means whatsoever;

25 (d) any disc, tape, sound-track, or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom;

30 (e) any film (including microfilm), negative, tape, disc or other device in which one or more visual images are embodied so

as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and

- (f) any paper or other material on which there are marks, impressions, figures, letters, symbols or performances having a meaning for persons qualified to interpret them;

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“information” includes information contained in an electronic record as defined in section 2 of the Electronic Transactions Act (Cap. 88);

“media” means —

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- (a) any film as defined in section 2(1) of the Films Act (Cap. 107);

- (b) any newspaper as defined in section 2 of the Newspaper and Printing Presses Act (Cap. 206);

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- (c) any broadcasting service as defined in section 2(1) of the Broadcasting Act (Cap. 297);

- (d) any publication as defined in section 2 of the Undesirable Publications Act (Cap. 338); and

- (e) any other matter or thing as the Minister may, by order published in the *Gazette*, specify,

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and “media industry” and “media service” shall be construed accordingly;

“member”, in relation to the Authority, means a member of the Authority and includes a temporary member of the Authority;

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“Singapore Broadcasting Authority” means the Singapore Broadcasting Authority established under the Singapore Broadcasting Authority Act in force immediately before the appointed day;

“transferred agency” means any transferred agency specified in the second column of the First Schedule;

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“transferring body” means any transferring body specified in the first column of the First Schedule.

PART II

ESTABLISHMENT, INCORPORATION AND
CONSTITUTION OF AUTHORITY**Establishment and incorporation of Media Development Authority of
Singapore**

3. There is hereby established a body to be known as the Media Development Authority of Singapore which shall be a body corporate with perpetual succession and a common seal and shall, by that name, be capable of —

- (a) suing and being sued;
- (b) acquiring, owning, holding and developing, or disposing of property, both movable and immovable; and
- (c) doing and suffering all such other acts or things as a body corporate may lawfully do and suffer.

Common seal

4.—(1) The Authority shall have a common seal and such seal may, from time to time, be broken, changed, altered or made anew as the Authority thinks fit.

(2) All deeds and other documents requiring the seal of the Authority shall be sealed with the common seal of the Authority.

(3) All instruments to which the common seal is affixed shall be signed by any 2 members generally or specially authorised by the Authority for the purpose or by one member and the chief executive.

(4) The Authority may, by resolution or otherwise in writing, appoint any officer of the Authority or any other agent either generally or in any particular case to execute or sign on behalf of the Authority any agreement or other instrument not under seal in relation to any matter coming within the powers of the Authority.

(5) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to any document and shall presume that it was duly affixed.

Membership of Authority

5. —(1) The Authority shall consist of —

(a) a Chairman; and

(b) not less than 5 but not more than 16 other members,

5 all of whom shall be appointed by the Minister.

(2) The Minister may appoint the chief executive to be a member.

Chairman may delegate functions

6. The Chairman may, in writing, authorise any other member to exercise any power or perform any function conferred on the Chairman by or under this Act.

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Term of office of members

7. —(1) The Chairman and every other member shall hold office on such conditions and for such term, not exceeding 3 years, as the Minister shall specify in his appointment.

15 (2) Any member may at any time, by notice in writing to the Minister, resign from his office.

(3) The Minister may at any time revoke the appointment of any member as he considers necessary in the interest of the effective performance of the functions of the Authority under this Act, or in the public interest.

20 (4) If a member dies or resigns or has his appointment revoked, the Minister may appoint any person to fill the vacancy for the residue of the term for which the vacating member was appointed.

25 (5) The Authority shall pay to the Chairman and other members, out of the funds of the Authority, such salaries, fees and allowances as the Minister may, from time to time, determine.

Temporary Chairman, etc.

8. —(1) The Minister may appoint any person to be a temporary Chairman or temporary member during the temporary incapacity from illness or otherwise, or during the temporary absence from Singapore, of the Chairman or any member, as the case may be.

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(2) The temporary Chairman or temporary member appointed under subsection (1) shall have all the powers and functions conferred on the Chairman or member, as the case may be, by or under this Act.

Meetings and proceedings of Authority

5 **9.**—(1) At all meetings of the Authority, 4 members shall form a quorum.

(2) The Chairman shall preside at all meetings of the Authority and, in the absence of the Chairman, the members present shall elect one of their number to preside.

10 (3) All meetings of the Authority shall be held at such times and places as the Chairman may determine.

(4) All questions arising at any meeting shall be decided by a majority of votes of the members present and voting.

15 (5) At any meeting of the Authority, the Chairman shall have a deliberative vote and, in the case of an equality of votes, the Chairman or in his absence the member presiding shall have a casting vote.

(6) The validity of any proceedings of the Authority shall not be affected by any vacancy amongst its members or by any defect in the appointment of any member.

20 (7) Subject to the provisions of this Act, the Authority may regulate its own proceedings.

Disclosure of interest by members

25 **10.**—(1) A member who is in any way, directly or indirectly, interested in a transaction or project of the Authority shall disclose the nature of his interest at a meeting of the Authority.

(2) The disclosure by a member of his interest shall be recorded in the minutes of the Authority and that member shall not take part in any deliberation of the Authority with respect to the transaction or project.

30 (3) For the purpose of determining whether there is a quorum, a member shall be treated as being present at a meeting notwithstanding that, by virtue of subsection (2), he cannot vote or has withdrawn from the meeting.

(4) For the purposes of this section, a member whose spouse, parent, son, adopted son, daughter or adopted daughter has an interest in the transaction or project referred to in subsection (1) shall be deemed to be interested in such transaction or project.

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PART III

FUNCTIONS, DUTIES AND POWERS OF AUTHORITY

Functions and duties of Authority

11.—(1) Subject to the provisions of this Act, the functions and duties of the Authority shall be —

- 10 (a) to exercise licensing and regulatory functions in respect of media services in Singapore, including the establishment of guidelines and standards relating to the content of media services, and any equipment or facility used in connection with the provision of media services;
- 15 (b) to encourage, promote and facilitate the development of the media industries in Singapore;
- (c) to advise and make recommendations to the Government on matters, measures and regulations related to or connected with the media;
- 20 (d) to facilitate the provision of an adequate range of media services in Singapore which serve the interests of the general public;
- (e) to maintain fair and efficient market conduct and effective competition in the media industries in Singapore or, in the absence of a competitive market, to prevent the misuse of
- 25 monopoly or market power;
- (f) to ensure that media services in Singapore are maintained at a high standard in all respects and, in particular, in respect of the quality, balance and range of subject-matter of their content;
- 30 (g) to encourage and regulate public service broadcast programming by broadcasting licensees under the Broadcasting Act (Cap. 297);

(*h*) to ensure that nothing is included in the content of any media service which is against public interest or order, or national harmony, or which offends against good taste or decency; and

5 (*i*) to exercise any other function or duty conferred on the Authority by or under this Act, the Films Act (Cap. 107), the Newspaper and Printing Presses Act (Cap. 206), the Broadcasting Act (Cap. 297), the Undesirable Publications Act (Cap. 338) or any other written law.

10 (2) The Authority may undertake such other functions or duties as the Minister may assign to the Authority and, in so doing, the Authority shall be deemed to be fulfilling the purposes of this Act, and the provisions of this Act shall apply to the Authority in respect of such other functions or duties, as the case may be.

15 (3) Nothing in this section shall be construed as imposing on the Authority, directly or indirectly, any form of duty or liability enforceable by proceedings before any court to which it would not otherwise be subject.

Powers of Authority

20 **12.** The Authority shall have power to do anything for the purpose of discharging its functions and duties under this Act or any other written law, or which is incidental or conducive to the discharge of those functions and duties and, in particular, may —

(*a*) design and administer systems for the granting of licences, permits and approvals;

25 (*b*) determine the hours during which broadcasting services may be transmitted;

(*c*) conduct investigations relating to the granting of licences, permits and approvals;

30 (*d*) re-assign, from electromagnetic spectrum and satellite orbits assigned to the Authority by the Info-communications Development Authority of Singapore for the purpose of broadcasting, specific frequencies in such spectrum and satellite orbits to broadcasting licensees under the Broadcasting Act for the provision of broadcasting services in Singapore;

- (e) charge fees for the issuance of any licence, permit or approval, and fees, charges or commissions for services rendered by the Authority or for the use of any facilities or equipment of the Authority;
- 5 (f) conduct or commission research into community attitudes on issues relating to media content, the state of public opinion concerning media content, and the effect of any media content published, shown or broadcast on the attitudes and behaviour of persons who read, watch or listen to them;
- 10 (g) conduct researches and investigations necessary for the improvement and development of media in Singapore;
- (h) develop codes of practice relating to content or technical standards for media services or to standards of fair market conduct in any media industry, and monitor compliance with such codes;
- 15 (i) carry on such businesses and do such things as may arise out of the activities of the Authority or as may be necessary or expedient for the purpose of turning to account any property or rights of the Authority;
- 20 (j) incorporate companies for the purpose of performing things ancillary to its functions or duties;
- (k) with the approval of the Minister, enter into joint ventures or partnerships with other media authorities, international agencies or private organisations for the purpose of promoting media services;
- 25 (l) enter into such contracts as may be necessary or expedient for the purpose of discharging its functions or duties;
- (m) become a member or affiliate of any international body, the functions or duties of which are similar to those of the Authority;
- 30 (n) acquire or dispose of, in accordance with the provisions of this Act, any property, whether movable or immovable, which the Authority thinks necessary or expedient for the purpose of carrying out its functions or duties;

- (o) purchase, construct, reconstruct, install and maintain broadcasting apparatus, and all buildings and works used in connection therewith, for the purpose of carrying out its functions or duties;
- 5 (p) use all the property of the Authority, whether movable or immovable, in such manner as the Authority may think expedient, including the raising of loans by mortgaging property;
- (q) receive grants, donations or contributions from any source, or raise funds by all lawful means, and apply such moneys for any of its functions or duties;
- 10 (r) provide training schemes, whether by itself or with the co-operation of other persons or bodies as the Authority thinks fit, for the officers and employees of the Authority and others concerned with media services;
- 15 (s) grant loans to any officer or employee of the Authority for such purposes specifically approved by the Authority as are likely to increase the efficiency of such officer or employee;
- (t) grant or guarantee loans to any officer or employee of the Authority for the purchase of a house, land or a flat or for the renovation of a house or a flat for the use or occupation of the officer or employee and his family (if any);
- 20 (u) provide recreational facilities and promote recreational activities for, and activities conducive to, the welfare of officers and employees of the Authority;
- 25 (v) make provision for gratuities, pensions, allowances or other benefits for officers or employees, or former officers or employees, of the Authority or its predecessors;
- (w) provide financial grant, aid or assistance to any person for all or any of the purposes of this Act or any other written law; and
- 30 (x) do anything incidental or necessary to any of its functions, duties or powers under this Act or any other written law.

Directions by Minister

13.—(1) The Minister may give such directions, not inconsistent with the provisions of this Act, as to the performance of the functions and duties and the exercise of its powers by the Authority.

5 (2) The Authority shall give effect to any direction given under subsection (1).

Committees

14.—(1) The Authority may, from time to time, appoint, alter or discharge committees, consisting of one or more persons (whether
10 members or not), and define or vary the terms of reference of those committees.

(2) Subject to this Act and to the control of the Authority, each committee appointed under subsection (1) may regulate its procedure in such manner as the committee thinks fit.

Delegation of powers

15 15.—(1) The Authority may, from time to time, in respect of a specified matter or class of matters, delegate, by writing, to a member, officer or committee of the Authority any of its powers under this Act or under any other written law, except —

20 (a) the power of delegation conferred by this section; and

(b) the power to make any subsidiary legislation.

(2) Every member, officer or committee purporting to act pursuant to a delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

25 (3) A delegation under this section shall be revocable at will, and no delegated person shall prevent the exercise of any power, function or duty by the Authority.

PART IV

COMPETITION

Application of this Part

5 **16.**—(1) This Part shall apply to all individuals, whether resident in Singapore or not and whether citizens of Singapore or not, and to all bodies corporate or unincorporate, whether incorporated or carrying on business in Singapore or not.

(2) Nothing in this Part shall be construed to limit or in any way affect the operation of, or the exercise of any power by any person conferred by or under, any other written law.

(3) In this Part, “regulated person” means —

(a) such person —

(i) who is the proprietor of any newspaper as defined in section 2 of the Newspaper and Printing Presses Act (Cap. 206); or

15 (ii) who holds any broadcasting licence granted under the Broadcasting Act (Cap. 297), whether before, on or after the appointed day; or

(b) in the case of section 23, such newspaper company as defined in section 2 of the Newspaper and Printing Presses Act,

20 as the Minister may, by notification in the *Gazette*, specify.

Codes of practice

17.—(1) The Authority may, by publication in the *Gazette*, issue one or more codes of practice and standards of performance for all or any of the following purposes:

25 (a) to enable and maintain fair market conduct in any media industry in Singapore;

(b) to safeguard the interests of consumers of media services and of the public generally;

30 (c) to provide guidance in relation to the operation of any provision of this Part;

- (d) for the regulation of activities and conduct in any media industry, and for matters connected therewith;
 - (e) generally for carrying out the purposes and provisions of this Part and for the due administration thereof.
- 5 (2) A code of practice may, in particular —
- (a) specify the duties and obligations of any person in relation to his business operations in any media industry; and
 - (b) provide for such fees or charges as may be payable to the Authority in relation to any application or request made to it.
- 10 (3) The Authority may, at any time, by publication in the *Gazette*, add to, vary or revoke any code of practice.
- (4) The Authority may exempt, either generally or subject to such terms or conditions as the Authority may specify, any person from any provision in any code of practice.

15 **Essential resources**

18.—(1) Any person who owns or controls any essential resource shall comply with such conditions or obligations in relation to such essential resource as the Authority may specify in a code of practice.

- 20 (2) In subsection (1), “essential resource” means such apparatus, accessory, system, service, information or such other resource of any kind used or intended to be used in connection with the provision or delivery of any media service as the Authority may, by notification in the *Gazette*, specify.

Obligations of designated archive operators

25 **19.**—(1) The Authority may from time to time, by notification in the *Gazette*, specify one or more archive operators to be designated archive operators.

- (2) Every designated archive operator shall comply with such conditions or obligations in relation to his archive of materials as the Authority may
- 30 specify in a code of practice.

(3) In this section, “archive operator” means a person who —

- (a) owns or controls any archive of materials which were first published in Singapore whether before, on or after the appointed day; and
- (b) is a regulated person, or is otherwise related to a regulated person in such manner as the Authority may determine.

Agreements, etc., preventing, restricting or distorting competition

20.—(1) Subject to section 22, agreements, decisions or concerted practices specified by the Authority in a code of practice which have as their object or effect the prevention, restriction or distortion of competition in, or in any part of, any media industry in Singapore are prohibited.

(2) Subsection (1) shall apply only if the agreement, decision or concerted practice is, or is intended to be, implemented in Singapore.

(3) Subject to section 22, an agreement or a decision which is prohibited by subsection (1) is void.

(4) Subsection (1) shall apply to agreements, decisions and concerted practices implemented before, on or after the appointed day.

Abuse of dominant position

21.—(1) Subject to section 22, any conduct on the part of one or more regulated persons which amounts to the abuse of a dominant position in, or in any part of, any media industry in Singapore is prohibited if it may affect the media industry within Singapore.

(2) A regulated person is in a dominant position when, in the opinion of the Authority, that regulated person is able to act without significant competitive restraint from its competitors.

(3) In considering whether a regulated person is in a dominant position, the Authority shall have regard to relevant matters including such matters as may be specified in a code of practice.

(4) For the purposes of this section, the Authority may, by notification in the *Gazette*, specify the regulated persons whom it considers to have a dominant or non-dominant position in, or in any part of, any media industry in Singapore.

Exemption

22.—(1) The Authority may, on the application of any person or on its own initiative, grant an exemption from section 20(1) or 21(1) in relation to any agreement, decision, concerted practice or conduct.

5 (2) An exemption under subsection (1) —

(a) may be granted subject to such conditions or obligations as the Authority considers appropriate;

(b) shall have effect for such period as the Authority considers appropriate; and

10 (c) shall be in writing and sent by the Authority to the person to whom the exemption is granted.

(3) The Authority shall notify any applicant in writing of its decision under subsection (1) not to grant an exemption.

15 (4) An exemption under subsection (1) shall, unless previously revoked in accordance with the terms of such exemption or under subsection (5), continue in force for such period as is specified in such exemption.

(5) The Authority may, with the approval of the Minister, on the application of any person or on its own initiative —

20 (a) extend the period for which an exemption granted under subsection (1) has effect or revoke the exemption;

(b) vary or remove any condition or obligation specified in an exemption; or

(c) impose one or more additional conditions or obligations in an exemption.

25 Consolidations

23.—(1) No regulated person shall be merged or consolidated with, or be taken over by —

(a) any other regulated person; or

30 (b) any other person (not being a regulated person) carrying on business in any media industry,

without the prior written approval of the Authority.

(2) For the purposes of subsection (1), the Authority may specify in a code of practice the circumstances under which a regulated person would be considered to be merged or consolidated with, or taken over by, any other person.

5 **Power to investigate**

24. The Authority may conduct an investigation if there are reasonable grounds for suspecting that any provision of this Part or of any code of practice has been infringed.

Decision following investigation

10 **25.** Where, following an investigation conducted under section 24, the Authority considers that any provision of this Part or of any code of practice has been infringed and the Authority proposes to make a direction under section 26, the Authority shall —

- 15 (a) give written notice to the person likely to be affected by such direction; and
- (b) give such person an opportunity to make representations to the Authority.

Directions

20 **26.—(1)** The Authority may give directions for or with respect to any provision of this Part or of any code of practice to be observed by any regulated person or other person.

(2) Subject to section 17(4) and without prejudice to the generality of subsection (1), if the Authority is satisfied that any person is infringing, likely to infringe or has infringed any provision of this Part or of any code of practice, the Authority may, in writing —

- 25 (a) direct that person to comply with that provision or cease infringing that provision;
- (b) specify any procedure or action to be observed or taken by that person;
- 30 (c) impose such other direction or restriction as the Authority considers appropriate;

- (d) require that person to modify or terminate any agreement, decision or concerted practice;
 - (e) require that person to modify or cease any conduct in question; and
 - 5 (f) in addition to or in lieu of any of paragraphs (a) to (e), require that person to pay the Authority a financial penalty in respect of the infringement of an amount not exceeding \$1 million.
- 10 (3) Any person who, without reasonable excuse, fails to comply with any direction given under subsection (1) or (2) shall be guilty of an offence.

Resolution of disputes and appeals

15 **27.**—(1) If any dispute (whether between regulated persons or otherwise) arises from one or more provisions of a code of practice, the dispute shall, where it is so provided in such provisions, be determined by the Authority on the application for that purpose by any aggrieved person to the Authority.

20 (2) Any person who is aggrieved by any act, direction or decision of the Authority under this Part may, within 14 days of the date on which he is notified thereof or such longer period as the Minister may allow, appeal to the Minister in the prescribed manner.

(3) Unless otherwise provided or allowed by the Minister, where an appeal is lodged under this section, the decision or direction appealed against shall be complied with until the determination of the appeal.

25 (4) The Minister may confirm, vary or reverse the act, direction or decision of the Authority or give such directions in the matter as he thinks fit.

(5) The decision of the Minister in any appeal shall be final.

PART V

PROVISIONS RELATING TO STAFF

Appointment of chief executive and other staff

5 **28.**—(1) The Authority shall, with the approval of the Minister, appoint a chief executive on such terms and conditions as the Authority may determine.

(2) The chief executive —

- (a) shall be known by such designation as the Authority may determine;
- 10 (b) shall be responsible to the Authority for the proper administration and management of its functions and affairs in accordance with all policies laid down by the Authority; and
- (c) shall not be removed from office without the consent of the Minister.

15 (3) If the chief executive is temporarily absent from Singapore, or is temporarily unable to perform his duties by reason of illness or otherwise, another person may be appointed by the Authority, with the approval of the Minister, to act in the place of the chief executive during any such period of absence from duty.

20 (4) The Authority may, from time to time, appoint such other officers, employees, consultants or agents as it thinks fit for the effective performance of its functions.

Protection from liability

25 **29.** No suit or other legal proceedings shall lie personally against any member, officer or employee of the Authority or other person acting under the direction of the Authority for anything which is in good faith done or intended to be done in the execution or purported execution of this Act or any other written law.

Public servants

30. All members, officers and employees of the Authority shall be deemed to be public servants for the purposes of the Penal Code (Cap. 224).

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PART VI

FINANCIAL PROVISIONS

Financial year

31. The financial year of the Authority shall begin on 1st April of each year and end on 31st March of the succeeding year except that the first financial year of the Authority shall begin on the appointed day and end on 31st March of the succeeding year.

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All moneys recovered to be paid to Authority

32. All moneys recovered or charges or composition fines collected under this Act shall be paid into and form part of the moneys of the Authority.

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Grants

33. For the purpose of enabling the Authority to carry out its functions under this Act, the Minister may, from time to time, make grants to the Authority of such sums of money, as the Minister may determine, out of moneys to be provided by Parliament.

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Power to borrow

34. For the discharge of its functions or duties under this Act or any other written law, the Authority may, from time to time, raise loans from the Government or, with the approval of the Minister for Finance, raise loans from banks or other financial institutions (whether in Singapore or elsewhere) by —

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- (a) mortgage, overdraft or otherwise;
- (b) charge, whether legal or equitable, on any property vested in the Authority or on any other revenue receivable by the Authority under this Act or any other written law; or

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(c) the creation and issue of debentures or bonds.

Issue of shares, etc.

5 **35.** As a consequence of the vesting of any property, rights or liabilities of the Government in the Authority under this Act, or of any capital injection or other investment by the Government in the Authority in accordance with any written law, the Authority shall issue such shares or other securities to the Minister for Finance as that Minister may, from time to time, direct.

Bank accounts

10 **36.—**(1) The Authority shall open and maintain one or more accounts with such bank or banks as the Authority thinks fit.

(2) Every such account shall be operated by such person or persons as may, from time to time, be authorised in that behalf by the Authority.

Application of moneys

15 **37.** The moneys of the Authority shall be applied only in payment or discharge of the expenses, obligations and liabilities of the Authority and in making any payment that the Authority is authorised or required to make.

Investment

20 **38.** Moneys belonging to the Authority may, from time to time, be invested in such funds, securities or investments as may be authorised by the Minister.

Accounts

25 **39.** The Authority shall keep proper accounts and records of its transactions and affairs and shall do all things necessary to ensure that —

(a) all payments out of its moneys are correctly made and properly authorised; and

(b) adequate control is maintained over the assets of, or in the custody of, the Authority and over the expenditure incurred by
30 the Authority.

Audit of accounts

5 **40.**—(1) The accounts of the Authority shall be audited by the Auditor-General or such other auditor as may be appointed annually by the Minister in consultation with the Auditor-General (referred to in this Act as the auditor).

(2) A person shall not be qualified for appointment as an auditor under subsection (1) unless he is an approved company auditor under the Companies Act (Cap. 50).

10 (3) The Authority shall, as soon as practicable after the close of each financial year, prepare and submit financial statements in respect of that financial year to the auditor who shall audit and report on them.

(4) The auditor shall in his report state —

(a) whether the financial statements show fairly the financial transactions and the state of affairs of the Authority;

15 (b) whether proper accounting and other records have been kept, including records of all assets of the Authority whether purchased, donated or otherwise;

20 (c) whether the receipts, expenditure and investment of moneys and the acquisition and disposal of assets by the Authority during the financial year were in accordance with the provisions of this Act; and

(d) such other matters arising from the audit as the auditor considers necessary.

25 (5) The auditor shall, as soon as practicable after the accounts have been submitted for audit, send a report of his audit to the Authority.

(6) The auditor shall submit such periodical and special reports to the Minister and to the Authority as may appear to the auditor to be necessary or as the Minister or the Authority may require.

Powers of auditor

30 **41.**—(1) The auditor or any person authorised by him (referred to in this section as an authorised person) shall be entitled at all reasonable times to full and free access to all accounting and other records relating, directly or indirectly, to the financial transactions of the Authority.

(2) The auditor or an authorised person may make copies of, or extracts from, any such accounting or other records.

(3) The auditor or an authorised person may require any person to furnish him with such information which such person possesses or has access to as the auditor or authorised person considers necessary for the purpose of the functions of the auditor under this Act.

(4) Any person who fails, without reasonable excuse, to comply with any requirement of the auditor or authorised person under subsection (3) or who otherwise hinders, obstructs or delays the auditor or authorised person in the performance of his duties or the exercise of his powers under this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part thereof during which the offence continues after conviction.

Presentation of financial statements and auditor's report to Parliament

42.—(1) The Authority shall, as soon as its accounts and financial statements have been audited in accordance with the provisions of this Act, send to the Minister a copy of the audited financial statements signed by the Chairman, together with a copy of the report made thereon by the auditor.

(2) Where the Auditor-General is not the auditor of the Authority, a copy of the audited financial statements and any report made thereon by the auditor shall be forwarded to the Auditor-General at the same time they are submitted to the Authority.

(3) The Minister shall, as soon as practicable, cause a copy of the audited financial statements and of the report referred to in subsection (1) to be presented to Parliament.

PART VII

TRANSFER OF PROPERTY, LIABILITIES AND EMPLOYEES

Transfer to Authority of property, assets and liabilities

43.—(1) As from the appointed day —

(a) all movable and immovable property vested in the transferring bodies and used or managed by the transferred agencies and all assets, interests, rights, privileges, liabilities and obligations relating to the transferred agencies; and

5 (b) all movable and immovable property vested in the Singapore Broadcasting Authority and all assets, interests, rights, privileges, liabilities and obligations relating to the Singapore Broadcasting Authority,

10 shall be transferred to and shall vest in the Authority without further assurance, act or deed.

(2) If any question arises as to whether any particular property, asset, interest, right, privilege, liability or obligation has been transferred to or vested in the Authority under subsection (1), a certificate under the hand of the Minister for Finance shall be conclusive evidence that the property, asset, interest, right, privilege, liability or obligation was or was not so transferred or vested.

20 (3) Any immovable property to be transferred to and vested in the Authority under subsection (1) shall be held by the Authority upon such tenure and subject to such terms and conditions as the President may determine.

(4) All proceedings in respect of the transferred properties by or against a transferring body or the Singapore Broadcasting Authority which are pending on the appointed day may be continued, completed and enforced by or against the Authority.

25 (5) Every agreement relating to any of the transferred properties to which a transferring body or the Singapore Broadcasting Authority was a party immediately before the appointed day, whether or not of such nature that the rights and liabilities thereunder could be assigned, shall have effect as from that day as if —

30 (a) the Authority had been a party to such an agreement; and

(b) for any reference to the transferring body or the Singapore Broadcasting Authority, as the case may be, there were substituted in respect of anything to be done on or after the appointed day a reference to the Authority.

Transfer of employees

44.—(1) As from the appointed day, such persons or categories of persons who, immediately before that day, were —

5 (a) employed by the transferring bodies and posted to the transferred agencies; or

(b) employed by the Singapore Broadcasting Authority,

shall be transferred to the service of the Authority on terms no less favourable than those enjoyed by them immediately prior to their transfer.

10 (2) If any question arises as to whether any person or category of persons has been transferred to the service of the Authority under subsection (1), a certificate under the hand of the Minister shall be conclusive evidence that the person or category of persons was or was not so transferred.

15 (3) Until such time as terms and conditions of service for every person transferred to the service of the Authority under subsection (1) are drawn up by the Authority, the scheme and terms and conditions of service in the transferring body or the Singapore Broadcasting Authority from which the person was transferred shall continue to apply to every person so transferred as if he were still in the employment of the transferring body or
20 the Singapore Broadcasting Authority, as the case may be.

Pension rights, etc., of Government employees to be preserved

25 45.—(1) The terms and conditions of service to be drawn up by the Authority shall take into account the terms and conditions of service (including salaries and accrued rights to leave) enjoyed by the persons transferred to the service of the Authority under section 44 while in the employment of the Government.

30 (2) Any term or condition relating to the length of service with the Authority shall recognise the length of service of the persons so transferred while in the employment of the Government to be service with the Authority.

(3) Nothing in the terms and conditions of service to be drawn up by the Authority shall adversely affect the conditions that would have been applicable to persons transferred to the service of the Authority as regards

any pension, gratuity or allowance payable under the Pensions Act (Cap. 225).

(4) Where a person is transferred to the service of the Authority under section 44 while in the employment of the Government, the Government shall be liable to pay the Authority such portion of any pension, gratuity or allowance payable to the person on his retirement as the same shall bear to the proportion which the aggregate amount of his pensionable emoluments during his service with the Government bears to the aggregate amount of his pensionable emoluments during his service under both the Government and the Authority.

(5) Where any person in the service of the Authority, whose case does not fall within the scope of any pension or other schemes established under this section, retires or dies in the service of the Authority or is discharged from such service, the Authority may grant him or such other person wholly or partly dependent on him, as the Authority thinks fit, such allowance or gratuity as the Authority may determine.

No benefits in respect of abolition or reorganisation of office

46. Notwithstanding the provisions of the Pensions Act, no person who is transferred to the service of the Authority under section 44 while in the employment of the Government shall be entitled to claim any benefit under that Act on the ground that he has been retired from the service of the Government on account of abolition or reorganisation of office in consequence of the establishment and incorporation of the Authority.

Existing contracts

47. All deeds, contracts, schemes, bonds, agreements, instruments and arrangements subsisting immediately before the appointed day —

- (a) to which any transferring body is a party and relating to any transferred agency;
- (b) to which the Singapore Broadcasting Authority is a party; or
- (c) relating to any person transferred to the service of the Authority under section 44,

shall continue in force on and after that day and shall be enforceable by or against the Authority as if the Authority had been named therein or had

been a party thereto instead of the transferring body or the Singapore Broadcasting Authority, as the case may be.

Continuation and completion of disciplinary proceedings and other legal proceedings

5 **48.**—(1) Where, on the appointed day, any disciplinary proceedings were pending —

 (a) against an employee of a transferring body transferred to the service of the Authority; or

 (b) against an employee of the Singapore Broadcasting Authority,

10 the proceedings shall be carried on and completed by the Authority.

 (2) Where, on the appointed day, any matter was in the course of being heard or investigated or had been heard or investigated by a committee acting under due authority but no order, ruling or direction had been rendered thereon, the committee shall complete the hearing or
15 investigation and make such order, ruling or direction as it could have made under the authority vested in it before that day.

 (3) Any order, ruling or direction made or given by a committee under this section shall be treated as an order, ruling or direction of the Authority and have the same force or effect as if it had been made or given by the
20 Authority pursuant to the authority vested in the Authority under this Act.

 (4) All proceedings or causes of action pending or existing immediately before the appointed day —

 (a) by or against a transferring body in respect of its transferred agency; or

25 (b) by or against the Singapore Broadcasting Authority,

may be continued, completed and enforced by or against the Authority.

Misconduct or neglect of duty by employee before transfer

30 **49.** The Authority may reprimand, reduce in rank, retire, dismiss or punish in some other manner any person who had, whilst he was in the employment of a transferring body or the Singapore Broadcasting Authority, been guilty of any misconduct or neglect of duty which would have rendered him liable to be reprimanded, reduced in rank, retired,

dismissed or punished in some other manner if he had continued to be in the employment of the transferring body or the Singapore Broadcasting Authority, as the case may be, and if this Act had not been enacted.

PART VIII

MISCELLANEOUS

5

Annual report

50.—(1) The Authority shall, as soon as practicable after the end of each financial year, cause to be prepared and transmitted to the Minister a report dealing generally with the activities of the Authority during the preceding financial year and containing such information relating to the proceedings and policy of the Authority as the Minister may, from time to time, direct.

(2) The Minister shall, as soon as practicable, cause a copy of every such report to be presented to Parliament.

Symbol or representation of Authority

51.—(1) The Authority shall have the exclusive right to the use of such symbol or representation as it may select or devise and thereafter display or exhibit such symbol or representation in connection with its activities or affairs.

(2) Any person who uses a symbol or representation identical with that of the Authority, or which so resembles the Authority's symbol or representation as to deceive or cause confusion, or to be likely to deceive or to cause confusion, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

Power to require documents or information

52.—(1) For the purposes of discharging its functions and duties under this Act, the Authority may, by notice in writing to any person, require the person to produce to the Authority a specified document, or to provide the Authority with specified information, which the Authority considers relates to any matter relevant to such purposes.

(2) The Authority may specify in the notice —

- (a) the time and place at which any document is to be produced or any information is to be provided; and
- (b) the manner and form in which it is to be produced or provided.

5 (3) The power under this section to require a person to produce a document includes the power —

(a) if the document is produced —

(i) to take copies of it or extracts from it; and

10 (ii) to require such person, or any person who is a present or past officer of his, or is or was at any time employed by him, to provide an explanation of the document; or

(b) if the document is not produced, to require such person to state, to the best of his knowledge and belief, where it is.

(4) In subsection (1), “specified” means —

15 (a) specified or described in the notice; or

(b) falling within a category which is specified or described in the notice.

Power to enter premises under warrant

20 **53.**—(1) The Authority may apply to a District Court for a warrant and the Court may issue such a warrant if it is satisfied that —

(a) there are reasonable grounds for suspecting that there are on any premises documents the production of which has been required under section 52; or

(b) there are reasonable grounds for suspecting that —

25 (i) there are on any premises documents which the Authority has power under section 52 to require to be produced; and

(ii) if the documents were required to be produced, they would not be produced but would be concealed, removed, tampered with or destroyed.

(2) A warrant under this section shall authorise a named officer of the Authority, and any other of its officers whom the Authority has authorised in writing to accompany the named officer —

- 5 (a) to enter the premises specified in the warrant, using such force as is reasonably necessary for the purpose;
- (b) to search the premises and take copies of, or extracts from, any document appearing to be of a kind in respect of which the application under subsection (1) was granted (referred to in this section as the relevant kind);
- 10 (c) to take possession of any document appearing to be of the relevant kind if —
 - (i) such action appears to be necessary for preserving the document or preventing interference with it; or
 - (ii) it is not reasonably practicable to take copies of the document on the premises;
- (d) to take any other steps which appear to be necessary for the purpose mentioned in paragraph (c)(i);
- (e) to require any person to provide an explanation of any document appearing to be of the relevant kind or to state, to the best of his knowledge and belief, where it may be found; and
- 20 (f) to require any information which is held in a computer and is accessible from the premises and which the named officer considers to relate to any matter relevant to the investigation, to be produced in a form —
 - 25 (i) in which it can be taken away; and
 - (ii) in which it is visible and legible.

30 (3) If, in the case of a warrant under subsection (1)(b), the District Court is satisfied that it is reasonable to suspect that there are also on the premises other documents relating to the investigation concerned, the warrant shall also authorise the action mentioned in subsection (2) to be taken in relation to any such document.

(4) If there is no one at the premises when the named officer proposes to execute such a warrant, he shall, before executing it —

(a) take such steps as are reasonable in all the circumstances to inform the occupier of the intended entry; and

(b) if the occupier is informed, afford him or his legal or other representative a reasonable opportunity to be present when the warrant is executed.

5

(5) If the named officer is unable to inform the occupier of the intended entry, he shall, when executing the warrant, leave a copy of it in a prominent place on the premises.

(6) On leaving any premises into which he has entered by virtue of a warrant under this section, the named officer shall, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured as he found them.

10

(7) A warrant under this section continues in force until the end of the period of one month beginning from the day on which it is issued.

15

(8) Any document of which possession is taken under subsection (2)(c) may be retained for a period of 3 months.

(9) In this section —

“named officer” means the officer named in the warrant;

20

“occupier”, in relation to any premises, means a person whom the named officer reasonably believes to be the occupier of those premises.

Privileged communication

54. A person shall not be required under this Act to produce or disclose a communication —

25

(a) between a professional legal adviser and his client; or

(b) made in connection with, or in contemplation of, legal proceedings and for the purposes of those proceedings,

which in proceedings in a court would be protected from disclosure on grounds of privilege.

Offences relating to enforcement

55.—(1) Any person who fails to comply with a requirement imposed on him under section 52 or 53 shall be guilty of an offence.

(2) If a person is charged with an offence under subsection (1) in respect of a requirement to produce a document, it shall be a defence for him to prove that —

- (a) the document was not in his possession or under his control; and
- (b) it was not reasonably practicable for him to comply with the requirement.

(3) If a person is charged with an offence under subsection (1) in respect of a requirement —

- (a) to provide information;
- (b) to provide an explanation of a document; or
- (c) to state where a document is to be found,

it shall be a defence for him to prove that he had a reasonable excuse for failing to comply with the requirement.

(4) Failure to comply with a requirement imposed under section 52 is not an offence if the person imposing the requirement has failed to act in accordance with that section.

Destroying or falsifying documents

56. Any person who, having been required to produce a document under section 52 or 53 —

- (a) intentionally or recklessly destroys or otherwise disposes of it, falsifies it or conceals it; or
- (b) causes or permits its destruction, disposal, falsification or concealment,

shall be guilty of an offence.

False or misleading information

57. Any person who provides information to the Authority or its authorised officer in connection with any function or duty of the Authority

under this Act which is false or misleading in a material particular shall be guilty of an offence.

Obstruction of officers, etc.

5 **58.**—(1) In addition to the powers conferred on him by or under this Act or any other written law, an officer or employee of the Authority may, in relation to any offence under this Act or such written law, on declaration of his office and production to the person against whom he is acting such identification card as the chief executive may direct to be carried by officers or employees of the Authority, require any person whom he
10 reasonably believes to have committed an offence under this Act or such other written law to furnish evidence of the person's identity.

(2) Any person who —

(a) refuses to give access to, or assaults, obstructs, hinders or delays, an officer or employee of the Authority in the discharge of the
15 duties by such officer or employee under this Act or any other written law; or

(b) fails to comply with a lawful demand of an officer or employee of the Authority in the discharge of the duties by such officer or employee under this Act or any other written law,

20 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

Preservation of secrecy

25 **59.**—(1) Except for the purpose of the performance of his duties or the exercise of his functions or when lawfully required to do so by any court or under the provisions of any written law, no person who is or has been —

(a) a member, an officer, an employee, an agent or a consultant of the Authority; or

30 (b) a member of a committee of the Authority,

shall disclose any information relating to the affairs of the Authority or of any other person which has been obtained by him in the performance of his duties or the exercise of his functions.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both.

Corporate offenders and unincorporated associations

5 **60.**—(1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the body corporate, the officer as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and
10 punished accordingly.

(2) Where the affairs of the body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

15 (3) Proceedings for an offence alleged to have been committed under this Act by an unincorporated association shall be brought against the association in its own name (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to service of documents shall have effect as if the association were a
20 corporation.

(4) Where an offence under this Act committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, the partner as well as the partnership shall be guilty of that offence and shall be liable to be
25 proceeded against and punished accordingly.

(5) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the association or a member of its governing
30 body, the officer or member as well as the association shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(6) Without prejudice to the generality of section 65, the Authority may make regulations to provide for the application of any provision of this
35 section, with such modifications as the Authority considers appropriate, to

a body corporate or unincorporated association formed or recognised under the law of a country or territory outside Singapore.

(7) In this section —

“officer” —

5 (a) in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body or person purporting to act in any such capacity; or

10 (b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, a member of the committee of the association, or any person holding a position analogous to that of president, secretary or member of the committee;

“partner” includes a person purporting to act as a partner.

15 **Jurisdiction of court**

61. Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court or a Magistrate’s Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of any such offence.

20 **Evidence**

25 **62.**—(1) Subject to subsection (3), a document or certificate, purporting to be a report under the hand of the chief executive or any officer authorised by him upon any matter or thing in connection with the administration or enforcement of this Act or with an investigation carried out under this Act, shall be admissible as evidence in any proceedings under this Act and shall be prima facie evidence of the facts stated therein.

30 (2) For the purposes of this section, a document purporting to be a certificate referred to in subsection (1) on its production by the prosecution shall, until the contrary is proved, be deemed to be such a certificate.

(3) A certificate referred to in subsection (1) shall not be received in evidence under that subsection unless the person charged has been given —

- (a) a copy of the certificate; and
- (b) notice of the intention of the prosecution to produce the certificate as evidence in the proceedings,

not less than 10 clear days before the commencement of the proceedings.

- 5 (4) Where a certificate of the chief executive or any officer authorised by him is admitted in evidence under subsection (1), the person charged may require the chief executive or such officer to be called as a witness for the prosecution and be cross-examined as if he had given evidence of the matters stated in the certificate.

10 **General penalty**

- 15 **63.** Any person guilty of an offence under this Act for which no penalty is expressly provided shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$250 for every day or part thereof during which the offence continues after conviction.

Composition of offences

- 20 **64.—**(1) The Authority may, in its discretion, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence —

- (a) a sum of money not exceeding \$500, in the case of an offence punishable on conviction with a fine not exceeding \$1,000 (whether with or without imprisonment); or
- 25 (b) a sum of money not exceeding \$1,000, in the case of an offence punishable on conviction with a fine exceeding \$1,000 (whether with or without imprisonment).

(2) On payment of such sum of money, no further proceedings shall be taken against such person in respect of the offence.

- 30 (3) The Authority may, with the approval of the Minister, make regulations to prescribe the offences which may be compounded.

Regulations

65. The Authority may, with the approval of the Minister, make regulations for one or both of the following purposes:

- 5 (a) regulating the proceedings of the Authority or of the committees of the Authority;
- (b) prescribing any matter which is required or permitted to be prescribed by this Act, or which may be necessary or expedient to be prescribed to give effect to the provisions of this Act.

Amendments of Singapore Broadcasting Authority Act

10 66. The Singapore Broadcasting Authority Act (Cap. 297) is amended —

- (a) by deleting the long title and substituting the following long title:
 - 15 “An Act to regulate dealing in, the operation of and ownership in broadcasting services and broadcasting apparatus, and for matters connected therewith.”;
- (b) by deleting the words “Singapore Broadcasting Authority Act” in section 1 and substituting the words “Broadcasting Act”;
- (c) by deleting the definition of “Authority” in section 2(1) and substituting the following definition:
 - 20 “ “Authority” means the Media Development Authority of Singapore established under the Media Development Authority of Singapore Act 2002;”;
- (d) by deleting the definition of “Deputy Chairman” in section 2(1);
- (e) by repealing Part II;
- 25 (f) by deleting the words “FUNCTIONS, DUTIES AND POWERS OF AUTHORITY” in the 2nd line of PART III and substituting the words “PROVISIONS RELATING TO AUTHORITY”;
- (g) by repealing sections 6, 7 and 9 to 15;
- 30 (h) by inserting, immediately after subsection (2) of section 24, the following subsection:

“(3) In this section, “Code of Practice” includes a code of practice issued under the Media Development Authority of Singapore Act 2002.”; and

(i) by repealing Part XI, section 80 and the Third to Sixth Schedules.

5 **References in other written laws and documents**

67. Insofar as it is necessary for preserving the effect of any written law or document on or after the appointed day —

(a) a reference therein to the Singapore Broadcasting Authority Act shall be read as a reference to the Broadcasting Act; and

10 (b) a reference to the Singapore Broadcasting Authority shall be read as a reference to the Media Development Authority of Singapore.

Consequential and related amendments to other written laws

15 68.—(1) The provisions of the Acts specified in the first column of the Second Schedule are amended in the manner set out in the second column thereof.

(2) The Minister may, by regulations, repeal or amend any other written law which appears to him to be unnecessary having regard to the provisions of this Act.

Transitional and savings provisions

20 69.—(1) All acts done by the Singapore Broadcasting Authority before the appointed day shall continue to remain valid and applicable as though done by the Authority, until such time as invalidated, revoked, cancelled or otherwise determined by the Authority.

25 (2) Any decision, document, licence, consent, approval or authorisation prepared, made, issued or granted by the Singapore Broadcasting Authority under the Singapore Broadcasting Authority Act (Cap. 297) before the appointed day shall, insofar as it is not inconsistent with the provisions of this Act, be deemed to be a decision, document, licence, consent, approval or authorisation prepared, made, issued or granted by
30 the Authority.

(3) Where anything has been commenced by or on behalf of the Singapore Broadcasting Authority before the appointed day, such thing

may be carried on and completed by or under the authority of the Authority.

(4) Notwithstanding the repeal of Part XI of the Singapore Broadcasting Authority Act (Cap. 297), as from the appointed day, sections 49 to 53 of that Act shall continue in force and to apply to the broadcasting successor companies mentioned in those sections as if that Part has not been repealed.

(5) The Minister may, by regulations, prescribe such other transitional, savings and consequential provisions as he may consider necessary or expedient.

FIRST SCHEDULE

Section 2

TRANSFERRING BODIES AND TRANSFERRED AGENCIES

<i>First column</i>	<i>Second column</i>
<i>Transferring body</i>	<i>Transferred agency</i>
1. Government (Ministry of Information, Communications and the Arts)	Films and Publications Department
2. National Arts Council	Singapore Film Commission.

SECOND SCHEDULE

Section 68

CONSEQUENTIAL AND RELATED AMENDMENTS
TO OTHER WRITTEN LAWS*First column**Second column*

- (1) Copyright Act
(Chapter 63, 1999 Ed.)

Section 7(1)

Insert, immediately after the definition of “broadcast”,
the following definition:

“ “broadcasting licence” and “broadcasting
licensee” have the same meanings as in section
2(1) of the Broadcasting Act (Cap. 297);”.

- (2) Films Act
(Chapter 107, 1998 Ed.)

New section 39A

Insert, immediately after section 39, the following
section:

“Payment of fees, etc.

39A. All fees and other moneys collected under
this Act or any subsidiary legislation made
thereunder shall be paid to the Media
Development Authority of Singapore established
under the Media Development Authority of
Singapore Act 2002.”.

<i>First column</i>	<i>Second column</i>
<p>(3) Newspaper and Printing Presses Act (Chapter 206, 1991 Ed.)</p> <p>New section 33B</p>	<p>Insert, immediately after section 33A, the following section:</p> <p style="padding-left: 40px;">“Payment of fees, etc.</p> <p style="padding-left: 80px;">33B. All fees, composition fines and other moneys collected under this Act or any subsidiary legislation made thereunder shall be paid to the Media Development Authority of Singapore established under the Media Development Authority of Singapore Act 2002.”.</p>
<p>(4) Parliamentary Elections Act (Chapter 218, 2001 Ed.)</p> <p>Section 78A(3)</p>	<p>(i) Delete the words “Singapore Broadcasting Authority” in the 8th and 9th and in the 15th and penultimate lines of the definition of “relevant person” and substitute in each case the words “Media Development Authority of Singapore”.</p> <p>(ii) Insert, immediately after the definition of “election period”, the following definition:</p> <p style="padding-left: 40px;">“ “Media Development Authority of Singapore” means the Media Development Authority of Singapore established under the Media Development Authority of Singapore Act 2002;”.</p> <p>(iii) Delete the definition of “Singapore Broadcasting Authority”.</p>

<i>First column</i>	<i>Second column</i>
(5) Undesirable Publications Act (Chapter 338, 1998 Ed.)	
(a) Sections 2 (definitions of “authorised officer” and “controller”) and 18(1) and (3)	Delete the words “public officer” and substitute in each case the word “person”.
(b) Section 17	<p>Repeal and substitute the following section:</p> <p>“Corporate offenders and unincorporated associations</p> <p>17.—(1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the body corporate, the officer as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.</p> <p>(2) Where the affairs of the body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.</p> <p>(3) Proceedings for an offence alleged to have been committed under this Act by an unincorporated association shall be brought against the association in its own name (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to service of documents shall have effect as if the association were a corporation.</p> <p>(4) Where an offence under this Act committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, the partner as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.</p>

*First column**Second column*

(5) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the association or a member of its governing body, the officer or member as well as the association shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(6) The Minister may make regulations to provide for the application of any provision of this section, with such modifications as the Minister considers appropriate, to a body corporate or unincorporated association formed or recognised under the law of a country or territory outside Singapore.

(7) In this section —

“officer” —

(a) in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body or person purporting to act in any such capacity; or

(b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, a member of the committee of the association, or any person holding a position analogous to that of president, secretary or member of the committee;

“partner” includes a person purporting to act as a partner.”.

(c) Section 21

Insert, immediately after subsection (4), the following subsection:

“(5) All fees collected under this section shall be paid to the Media Development Authority of Singapore established under the Media Development Authority of Singapore Act 2002.”.

EXPLANATORY STATEMENT

This Bill seeks to —

- (a) establish and incorporate a new public corporation to be called the Media Development Authority of Singapore (the Authority);
- (b) transfer to the Authority the functions, property, liabilities and employees of the Films and Publications Department in the Ministry of Information, Communications and the Arts, the Singapore Broadcasting Authority and the Singapore Film Commission; and
- (c) make consequential and related amendments to the Singapore Broadcasting Authority Act (Cap. 297) and certain other written laws.

PART I

PRELIMINARY

Clause 1 relates to the short title and commencement.

Clause 2 defines certain terms used in the Bill.

PART II

ESTABLISHMENT, INCORPORATION AND CONSTITUTION OF AUTHORITY

Clause 3 establishes and incorporates the Media Development Authority of Singapore.

Clause 4 relates to the common seal of the Authority.

Clause 5 provides for the appointment of members of the Authority.

Clause 6 allows the Chairman of the Authority to authorise any other member of the Authority to exercise his powers or perform his functions under the Bill.

Clause 7 provides for the term of office of members of the Authority.

Clause 8 empowers the Minister to appoint a temporary Chairman or temporary member of the Authority under certain circumstances.

Clause 9 deals with the meetings and proceedings of the Authority.

Clause 10 requires a member of the Authority to disclose his interest in any transaction or project of the Authority.

PART III

FUNCTIONS, DUTIES AND POWERS OF AUTHORITY

Clauses 11 and 12 set out the functions, duties and powers of the Authority.

Clause 13 allows the Minister to give directions (which are consistent with the provisions of the Bill) to the Authority in the performance and exercise by the Authority of its functions and powers.

Clauses 14 and 15 empower the Authority to appoint committees and to delegate to any member, officer or committee of the Authority certain of its powers.

PART IV

COMPETITION

Clause 16 sets out the scope of application of the provisions of this Part, and defines the term “regulated person” which appears in this Part.

Clause 17 empowers the Authority to issue one or more codes of practice and standards of performance for the regulation of activities and conduct in any media industry, principally to safeguard competition and maintain fair market conduct in such industry. The Authority may exempt any person from any provision of a code of practice, or at any time modify it by publication in the *Gazette*.

Clause 18 requires a person who owns or controls any essential resource, as notified by the Authority in the *Gazette*, to comply with such conditions or obligations as the Authority may specify in a code of practice.

Clause 19 empowers the Authority to specify, by notification in the *Gazette*, persons whom it considers to be designated archive operators. These designated archive operators will be required to comply with such conditions or obligations as the Authority may specify in a code of practice.

Clause 20 provides that any agreement, decision or concerted practice which has the object or effect of preventing, restricting or distorting competition in, or in any part of, any media industry in Singapore is prohibited, and any agreement, decision or concerted practice which is prohibited is void.

Clause 21 provides that any conduct by one or more regulated persons which amounts to an abuse of a dominant position in, or in any part of, any media industry in Singapore is prohibited. The Authority may specify, by notification in the *Gazette*, the regulated persons whom it considers to have a dominant or non-dominant position in, or in any part of, any media industry in Singapore.

Clause 22 provides that the Authority may grant exemptions in respect of any prohibition referred to in clauses 20(1) and 21(1), subject to such conditions or obligations, and for such period, as the Authority considers appropriate.

Clause 23 provides for the approval of the Authority to be obtained by regulated persons who wish to merge or consolidate with each other, or with any other person who carries on business in any media industry.

Clause 24 provides that the Authority may conduct an investigation where it suspects that any provision of this Part or of any code of practice has been infringed.

Clause 25 provides that where the Authority considers that a provision of this Part or of a code of practice has been infringed and proposes to make a direction under clause 26, the Authority is to notify the person likely to be affected by such direction and give that person an opportunity to make representations.

Clause 26 provides that, where the Authority decides that a provision of this Part or of a code of practice has been infringed, the Authority may give directions in respect of such infringement, such as requiring the modification or termination of agreements or conduct and, where appropriate, the payment of a financial penalty. Failure to observe any direction is an offence.

Clause 27 provides that any dispute arising from any provision of a code of practice will, on the application by an aggrieved person, be determined by the Authority. A person who is aggrieved by any act, direction or decision of the Authority under this Part may appeal to the Minister whose decision will be final.

PART V

PROVISIONS RELATING TO STAFF

Clause 28 provides for the appointment of a chief executive of the Authority and other staff, consultants and agents.

Clause 29 confers upon members, officers and employees of the Authority and any other person acting under its direction protection from action or liability for anything done in good faith for the purposes of carrying out the provisions of the Bill or other written law.

Clause 30 deems members, officers and employees of the Authority to be public servants for the purposes of the Penal Code (Cap. 224).

PART VI

FINANCIAL PROVISIONS

Clause 31 relates to the financial year of the Authority.

Clause 32 provides that all moneys recovered and charges and composition fines collected under the Bill are to be paid into and form part of the moneys of the Authority.

Clause 33 provides for the giving of grants to the Authority to carry out its functions.

Clause 34 empowers the Authority to raise loans.

Clause 35 empowers the Authority to issue shares and other securities to the Minister for Finance as a consequence of property, rights or liabilities of the Government vested in the Authority or as a consequence of capital injection or other investment by the Government in the Authority.

Clauses 36 and 37 embody the financial provisions applicable to the Authority.

Clause 38 deals with the power to invest by the Authority.

Clauses 39 to 42 deal with the accounts and financial statements of the Authority.

PART VII

TRANSFER OF PROPERTY, LIABILITIES AND EMPLOYEES

Clause 43 provides for the transfer to the Authority of certain property vested in —

- (a) the Government for the purposes of the Films and Publications Department in the Ministry of Information, Communications and the Arts;
- (b) the National Arts Council for the purposes of the Singapore Film Commission; and
- (c) the Singapore Broadcasting Authority,

and the rights and liabilities connected therewith.

Clauses 44 to 49 deal with the transfer of employees from the Films and Publications Department in the Ministry of Information, Communications and the Arts, the Singapore Broadcasting Authority and the Singapore Film Commission to the Authority, the protection of their terms and conditions of service on transfer, and certain other transitional matters.

PART VIII

MISCELLANEOUS

Clause 50 deals with the annual report of the Authority.

Clause 51 confers on the Authority the exclusive right to use its symbol and representation.

Clause 52 empowers the Authority to obtain documents or information which the Authority considers relevant for the discharge of any of its functions or duties under the Bill, and provides for the procedure to be followed in connection thereto.

Clause 53 empowers the Authority to apply to a District Court for a warrant to enter premises on which there are reasonable grounds for suspecting that there are documents required to be produced under clause 52, and provides for the procedure relating thereto.

Clause 54 provides that communications qualifying for legal privilege are protected from disclosure under the Bill.

Clause 55 provides that it is an offence for a person to fail to comply with a requirement imposed on him under clause 52 or 53.

Clause 56 provides for offences relating to the destruction, disposal, falsification or concealment of documents which are required to be produced under clause 52 or 53.

Clause 57 provides that it is an offence to provide information which is false or misleading to the Authority or its authorised officer in connection with the Authority's functions and duties under the Bill.

Clause 58 makes it an offence for any person to refuse to give access to, assault, obstruct, hinder or delay any officer or employee of the Authority in the discharge of his duties under the Bill or any other written law.

Clause 59 prohibits a person who is or has been a member, an officer, an employee, an agent, a consultant or a member of a committee of the Authority from making unauthorised disclosure of information relating to the affairs of the Authority.

Clause 60 relates to offences committed by bodies corporate and to the liability of principals for offences committed by their agents.

Clause 61 confers jurisdiction on a District Court and a Magistrate's Court to try any offence under the Bill and to impose the full penalty or punishment in respect of any such offence.

Clause 62 relates to the admissibility as evidence of a document or certificate under the hand of the chief executive of the Authority or any officer authorised by him.

Clause 63 prescribes the penalty for offences under the Bill for which no penalty is expressly provided.

Clause 64 relates to the composition of offences under the Bill.

Clause 65 empowers the Authority to make regulations with the approval of the Minister.

Clauses 66, 67 and 68 and the Second Schedule provide for the related and consequential amendments to the Singapore Broadcasting Authority Act (Cap. 297) and certain other written laws.

Clause 69 empowers the Minister to make regulations to prescribe such transitional, savings and consequential provisions, in addition to those specified in the clause, as he considers necessary or expedient arising as a consequence of the Bill.

The First Schedule sets out the transferring bodies (namely, the Ministry of Information, Communications and the Arts of the Government and the National Arts Council) and the transferred agencies (namely, the Films and Publications Department and the Singapore Film Commission) referred to in clauses 2, 43, 44, 47 and 48.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
