

# **Government Gazette**

### **REPUBLIC OF SOUTH AFRICA**

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### THE PRESIDENCY

No. 277 10 March 2009

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:-

No. 4 of 2009: Broadcasting Amendment Act, 2009.



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#### **EXPLANATORY NOTE:**

[	]	Words between brackets, in bold print, indicate omissions from current provisions.
		Words underlined indicate new insertions.

### **ACT**

To amend the Broadcasting Act, 1999, so as to delete "frequency planning" as one of the fields of qualifications, expertise and experience which the members of the Board of the South African Broadcasting Corporation Limited must have when viewed collectively; to provide for the removal of a member of the Board from office and for the resignation of a member; to make provision for a resolution of the National Assembly calling for the removal of a member and for the dissolution of the Board; to provide for the appointment of an interim board; and to provide for matters connected therewith.

**R**E IT ENACTED by Parliament of the Republic of South Africa, as follows:—

## Amendment of section 13 of Act 4 of 1999, as amended by section 14 of Act 64 of 2002

- **1.** Section 13 of the Broadcasting Act, 1999, is hereby amended by the substitution in subsection (4) for paragraph (a) of the following paragraph:
  - "(a) be persons who are suited to serve on the Board by virtue of their qualifications, expertise and experience in the fields of broadcasting policy and technology, broadcasting regulation, media law, [frequency planning,] business practice and finance, marketing, journalism, entertainment and 10 education, social and labour issues."

#### Substitution of section 15 of Act 4 of 1999

**2.** The following section is hereby substituted for section 15 of the Broadcasting Act, 1999:

#### "Removal from office and resignation of member

**15.** (1) The appointing body—

(a) may remove a member from [the] office on account of misconduct or inability to perform his or her duties efficiently after due inquiry and upon recommendation by the Board; or

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(b) must remove a member from office after a finding to that effect by a committee of the National Assembly and the adoption by the National Assembly of a resolution calling for that member's removal from office in terms of section 15A.

(2) A non-executive member of the Board may resign by three months' written notice addressed to the appointing body, provided that the appointing body may on good cause shown allow a shorter period.".

### Insertion of section 15A in Act 4 of 1999

**3.** The following section is hereby inserted in the Broadcasting Act, 1999, after section 15:

# "Resolution for removal of member, dissolution of Board and appointment of interim Board $\,$

<b>15A.</b> (1) (a) The National Assembly may, after due inquiry and by the	
adoption of a resolution, recommend the removal of a member from office	10
on account of any or all of the following:	
(i) Misconduct;	
<ul> <li>(ii) inability to perform the duties of his or her office efficiently;</li> <li>(iii) absence from three consecutive meetings of the Board without the permission of the Board, except on good cause shown;</li> <li>(iv) failure to disclose an interest in terms of section 17 or voting or attendance at, or participation in, proceedings of the Board while having an interest contemplated in section 17; and</li> </ul>	15
(v) his or her becoming disqualified as contemplated in section 16.	
(b) The National Assembly may, after due inquiry and by the adoption of	20
a resolution, recommend the dissolution of the Board if it fails in any or all	
of the following:	
(i) Discharging its fiduciary duties;	
(ii) adhering to the Charter; and	
(iii) carrying out its duties as contemplated in section 13(11).	25
(2) The appointing body—	
<ul><li>(a) may suspend a member from office at any time after the start of the proceedings of the National Assembly for the removal of that member;</li><li>(b) must act in accordance with a recommendation contemplated in subsection (1) within 30 days;</li></ul>	
(c) must dissolve the Board if the resolution recommends the removal of all the members of the Board.	
(3) (a) Upon the dissolution of the Board contemplated in subsection	
(2)(c), the appointing body must appoint an interim Board consisting of the	
persons referred to in section $12(b)$ and five other persons recommended by	35
the National Assembly.	
(b) The interim Board must be appointed within 10 days of receiving	
such recommendations and is appointed for a period not exceeding six	
months.	1,0
(4) The appointing body, on the recommendation of the National	40
Assembly, must designate one of the members of the interim Board as the	
chairperson and another member as the deputy chairperson, both of whom must be non-executive members of the interim Board.	
(5) A quorum for any meeting of the interim Board is six members.".	1
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**4.** This Act is called the Broadcasting Amendment Act, 2009.