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NOTIFICATION

The provisions of section 3 shall come into force as from the date of publication of this Ordinance. The following Central ordinance hereby published for general information.

Rolura Sailo,
Joint Secretary to the Govt. of Mizoram,
Law and Judicial Department.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

New Delhi, the 29th August, 1998/Bhadra 7, 1920 (Saka)

PRASAR BHARATI (BROADCASTING CORPORATION OF INDIA) AMENDMENT ORDINANCE, 1998

Promulgated by the President in the Forty-ninth Year of the Republic of India.

An Ordinance further to amend the Prasar Bharati (Broadcasting Corporation of India) Act, 1990.

WHEREAS the Prasar Bharati (Broadcasting Corporation of India) Amendment Bill, 1998 has been passed by the House of the People and is pending in the Council of States;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the said Bill and to make certain other amendments to the Prasar Bharati (Broadcasting Corporation of India) Act, 1990;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1.(1) This Ordinance may be called the Prasar Bharati (Broadcasting Corporation of India) Amendment Ordinance, 1998.

(2) The provisions of section 5 shall come into force at once and remaining provisions of this Ordinance shall be deemed to have come into force on the 6th day of May, 1998.

Substitution
of new
section for
section 2.

2. For section 2 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

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

(a) "Akashvani" means the offices, stations and other establishments, by whatever name called, which, immediately before the appointed day, formed part of or were under the Directorate-General, All India Radio of the Union Ministry of Information and Broadcasting;

(b) "appointed day" means the date appointed under section 3;

(c) "broadcasting" means the dissemination of any form of communication like signs, signals, writing, pictures, images and sounds of all kinds by transmission of electro-magnetic waves through space or through cables intended to be received by the general public either directly or indirectly through the medium of relay stations and all its grammatical variations and cognate expressions shall be construed accordingly;

Short title
and com-
mencement.

25 of 1990.

- (d) "Board" means the Prasar Bharati Board;
- (e) "Broadcasting Council" means the Council established under section 14;
- (f) "Chairman" means the Chairman of the Corporation appointed under section 4;
- (g) "Corporation" means the Prasar Bharati (Broadcasting Corporation of India) established under section 3;
- (h) "Doordarshan" means the offices, kendras and other establishments, by whatever name called, which, immediately before the appointed day, formed part of or were under the Directorate-General, Doordarshan of the Union Ministry of Information and Broadcasting;
- (i) "elected Member" means a Member elected under section 3;
- (j) "Executive Member" means the Executive Member appointed under section 4;
- (k) "kendra" means any telecasting centre with studios or transmitters or both and includes a relay station;
- (l) "Member" means a Member of the Board;
- (m) "Member (Finance)" means the Member (Finance) appointed under section 4;
- (n) "Member (Personnel)" means the Member (Personnel) appointed under section 4;
- (o) "Nominated Member" means the Member nominated by the Union Ministry of Information and Broadcasting under section 3;
- (p) "Non-lapsable Fund" means the Fund created from the commercial revenues of Akashvani and Doordarshan to meet expenditure on certain schemes;
- (q) "notification" means a notification published in the Official Gazette;
- (r) "Part-time Member" means a Part-time Member of the Board appointed under section 4, but does not include an *ex-officio* Member, the Nominated Member or an elected Member;

(s) "prescribed" means prescribed by rules made under this Act;

(t) "Recruitment Board" means a board established under sub-section (1) of section 10;

(u) "regulations" means regulations made by the Corporation under this Act;

(v) "station" means any broadcasting station with studios or transmitters or both and includes a relay station;

(w) "Whole-time Member" means the Executive Member, Member (Finance) or member (Personnel);

(x) "year" means the financial year."

3. In section 3 of the principal Act, for sub-sections (5) and (6), the following sub-section shall be substituted, namely:—

Amendment
of section 3.

"(5) The Board shall consist of—

- (a) a Chairman;
- (b) one Executive Member;
- (c) one Member (Finance);
- (d) one Member (Personnel);
- (e) six Part-time Members;
- (f) Director-General (Akashvani), *ex-officio*;
- (g) Director-General (Doordarshan), *ex-officio*;

(h) one representative of the Union Ministry of Information and Broadcasting, to be nominated by that Ministry; and

(i) two representatives of the employees of the Corporation, of whom one shall be elected by the engineering staff from amongst themselves and one shall be elected by the other employees from amongst themselves.

(6) The Corporation may appoint such committees as may be necessary for the efficient performance, exercise and discharge of its functions, powers and duties:

Provided that all or a majority of the members of each committee shall be Members and a member of any such committee who is not a Member shall have only the right to attend meetings of the committee and take part in the proceedings thereof, but shall not have the right to vote."

Amendment 4. In section 4 of the principal Act, for sub-section (3), section 4. the following sub-section shall be substituted, namely:—

“(3) The Chairman and the Part-time Members shall be persons of eminence in public life; the Executive Member shall be a person having special knowledge or practical experience in respect of such matters as administration, management, broadcasting, education, literature, culture, arts, music, dramatics or journalism; the Member (Finance) shall be a person having special knowledge or practical experience in respect of financial matters and the Member (Personnel) shall be a person having special knowledge or practical experience in respect of personnel management and administration.”.

Amendment 5. For section 6 of the principal Act, the following section shall be substituted, namely:—

“6. (1) The Chairman shall be a Part-time Member and shall hold office for a term of six years from the date on which he enters upon his office.

(2) The Executive Member, the Member (Finance) and the Member (Personnel) shall be Whole-time Members and every such Member shall hold office for a term of six years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier:

Provided that any person holding office as a Whole-time Member immediately before the commencement of the Prasar Bharati (Broadcasting Corporation of India) Amendment Ordinance, 1998, shall, in so far as his appointment is inconsistent with the provisions of this sub-section, cease to hold office on such commencement as such Whole-time Member and shall not be entitled to any compensation because of his ceasing to hold such office.

(3) The term of office of Part-time Members shall be six years, but one-third of such Members shall retire on the expiration of every second year:

Provided that every Part-time Member holding office as such, immediately before the commencement of the Prasar Bharati (Broadcasting Corporation of India) Amendment Ordinance, 1998, shall, notwithstanding anything contained in this sub-section as amended by the Prasar Bharati (Broadcasting Corporation of India) Amendment Second Ordinance, 1997, retire in accordance with the provisions of sub-section (5):

Provided further that no such Part-time Member shall be entitled to any compensation for curtailment of the term of his office under sub-section (5).

(4) The term of office of an elected Member shall be two years or till he ceases to be an employee of the Corporation, whichever is earlier.

(5) As soon as may be after the establishment of the Corporation, the President of India may, by order, make such provision as he thinks fit for curtailing the term of office of some of the Part-time Members then appointed in order that one-third of the Members holding office as such Part-time Members shall retire in every second year thereafter.

(6) Where before the expiry of the term of office of a person holding the office of Chairman, or any other Member, a vacancy arises, for any reason whatsoever, such vacancy shall be deemed to be a casual vacancy and the person appointed or elected to fill such vacancy shall hold office for the unexpired period of the term for which his predecessor in office would have held office if such vacancy had not arisen.

(7) In the event of the occurrence of any vacancy by reason of death, resignation or otherwise in the office of—

(a) the Executive Member, senior most among the members referred to in clauses (c) and (d) of sub-section (5) of section 3, failing which senior most among the Members referred to in clauses (f) and (g) of that sub-section, shall perform the duties of the Executive Member until the date on which a new Executive Member appointed in accordance with the provisions of this Act to fill such vacancy enters upon his office;

(b) any other Whole-time Member, the Executive Member shall perform the duties of such Whole-time Member until the date on which a new Whole-time Member appointed in accordance with the provisions to this Act to fill such vacancy enters upon his office.

(8) The Central Government shall, in the case of occurrence of vacancy by reason of death, resignation or otherwise of any Whole-time Member, within two weeks from the date of occurrence of such vacancy, make a reference to the committee referred to in sub-section (1) of section 4.

(9) The Whole-time Members shall be the employees of the Corporation and as such shall be entitled to such salaries and allowances and shall be subject to such conditions of service in respect of leave, pension (if any), provident fund and other matters as may be prescribed:

Provided that the salaries and allowances and the conditions of service shall not be varied to their disadvantage after their appointment.

(10) The Chairman and Part-time Members shall be entitled to such allowances as may be prescribed.”.

6. In section 7 of the principal Act,—

Amendment
of section 7.

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Notwithstanding anything contained in sub-section (1), the President may, by order, remove the Chairman or any Whole-time Member from his office if such Chairman or such Whole-time Member—

(a) ceases to be a citizen of India; or

(b) is adjudged an insolvent; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) is convicted of any offence involving moral turpitude; or

(e) is, in the opinion of the President, unfit to continue in office by reason of infirmity of body or mind;

Provided that the President may, by order, remove any Part-time Member from his office if he is adjudged an insolvent or is convicted of any offence involving moral turpitude or where he is, in the opinion of the President, unfit to continue in office by reason of infirmity of body or mind.”;

(b) for sub-section (4), the following sub-section shall be substituted, namely;—

“(4) If the Chairman or any Whole-time Member, except any *ex-officio* Member, the Nominated Member or any elected Member, is, or becomes in any way concerned or interested in any contract of agreement made

by or on behalf of the Corporation or the Government of India or the Government of a State or, participates in any way in the profit thereof, or in any benefit or emolument arising therefrom than as a member, and in common with other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.”.

Amendment 7. In section 9 of the principal Act, for sub-section (1), of section 9. the following sub-section shall be substituted, namely:-

“(1) Subject to such control, restrictions and conditions as may be prescribed, the Corporation may appoint, after consultation with the Recruitment Board, the Director-General (Akashvani), the Director-General (Doordarshan) and such other officers and employees as may be necessary.”.

Amendment 8. In section 10 of the principal Act, for sub-section (1), of section 10. the following sub-section shall be substituted, namely:-

“(1) The Corporation shall, as soon as may be, after the appointed day and in such manner and subject to such conditions and restrictions as may be prescribed, establish for the purposes of section 9, one or more Recruitment Boards consisting wholly of persons other than the Members, officers and other employees of the Corporation:

Provided that for the purposes of appointment to the posts carrying scales of pay which are not less than that of a Joint Secretary to the Central Government, the Recruitment Board shall consist of the Chairman, other Members, the *ex-officio* Members, the Nominated Members and the elected Members.”.

Amendment 9. In section 11 of the principal Act,—
of section 11.

(a) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The provisions of sub-section (1) shall also apply to the members of the Indian Information Service, the Central Secretariat Service or any other service or to persons borne on cadres outside Akashvani and Doordarshan who have been working in Akashvani or Doordarshan immediately before the appointed day:

Provided that where any such member intimates, within the time specified in sub-section (1), his intention of not becoming an employee of the Corporation but to

continue on deputation, he may be allowed to continue on deputation in accordance with such terms and conditions as may be prescribed.”;

(b) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) Every officer or other employee transferred by an order made under sub-section (1) shall, within six months from the date of transfer, exercise his option, in writing, to be governed—

(a) by the scale of pay applicable to the post held by him in the Akashvani or Doordarshan immediately before the date of transfer or by the scale applicable to the post under the Corporation to which he is transferred;

(b) by the leave, provident fund, retirement or other terminal benefits admissible to employees of the Central Government in accordance with the rules or orders of the Central Government, as amended from time to time, or the leave, provident fund or other terminal benefits admissible to the employees of the Corporation under the regulations,

and such option once exercised under this Act shall be final:

Provided that the option exercised under clause (a) by an officer or other employee shall be applicable only in respect of the post under the Corporation to which such officer or other employee is transferred and on appointment to a higher post under the Corporation he shall be eligible only for the scale of pay applicable to such higher post:

Provided further that if immediately before the date of his transfer any such officer or other employee is officiating in a higher post under the Government either in a leave vacancy or any other vacancy of a specified duration, his pay on transfer shall be protected for the unexpired period of such vacancy and thereafter he shall be entitled to the scale of pay applicable to the post under the Government to which he would have reverted or to the scale of pay applicable to the post under the Corporation to which he is transferred, whichever he may opt:

Provided also that when an officer or other employee serving in the Union Ministry of Information and Broadcasting or in any of its attached or subordinate

offices is promoted to officiate in a higher post in the Ministry or office subsequent to the transfer to the Corporation of any other officer or employee senior to him in that Ministry or office before such transfer, the officer or other employee who is promoted to officiate in such higher post shall, on transfer to the Corporation, be entitled only to the scale of pay applicable to the post he would have held but for such promotion or the scale of pay applicable to the post under the Corporation to which he is transferred, whichever he may opt."

10. In section 12 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment
of section 12.

"(1) Subject to the provisions of this Act, it shall be the primary duty of the Corporation to organise and conduct public broadcasting services to inform, educate and entertain the public and to ensure a balanced development of broadcasting on radio and television:

13 of 1885.

Explanation.—For the removal of doubts, it is hereby declared that the provisions of this section shall be in addition to, and not in derogation of, the provisions of the Indian Telegraph Act, 1885."

(b) in sub-section (2), for clause (n), the following clause shall be substituted, namely:—

"(n) providing comprehensive broadcast coverage through the choice of appropriate technology and the best utilisation of the broadcast frequencies available and ensuring high quality reception;"

(c) in sub-section (3), for clause (c), the following clause shall be substituted, namely:—

"(c) to negotiate for purchase of, or otherwise acquire, programmes and rights or privileges in respect of sports and other events, films, serials, occasions, meetings, functions or incidents of public interest, for broadcasting and to establish procedures for the allocation of such programmes, right or privileges to the services;"

(d) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) For the purposes of ensuring that adequate time is made available for the promotion of the objectives set out in this section, the Central Government shall have the power to determine the maximum limit of broadcast time in respect of the advertisement;"

(e) for sub-section (7), the following sub-section shall be substituted, namely:—

“(7) The Corporation shall have power to determine and levy fees and other service charges for or in respect of the advertisements and such programmes as may be specified by regulation:

Provided that the fees and other service charges levied and collected under this sub-section shall not exceed such limits as may be determined by the Central Government, from time to time.”.

Insertion of new sections 13 to 15.

11. After section 12 of the principal Act, the following sections shall be inserted, namely:—

Parliamentary Committee.

“13.(1) There shall be constituted a Committee consisting of twenty-two Members of Parliament, of whom fifteen from the House of the People to be elected by the Members thereof and seven from the Council of States to be elected by the Members thereof in accordance with the system of proportional representation by means of the single transferable vote, to oversee that the Corporation discharges its functions in accordance with the provisions of this Act and, in particular, the objectives set out in section 12, and submit a report thereon to Parliament.

(2) The Committee shall function in accordance with such rules as may be made by the Speaker of the House of the People.

Establishment of Broadcasting Council term of office and removal, etc., of members thereof.

14.(1) There shall be established, by notification, as soon as may be after the appointed day, a Council, to be known as the Broadcasting Council, to receive and consider complaints referred to in section 15 and to advise the Corporation in the discharge of its functions in accordance with the objectives set out in section 12.

(2) The Broadcasting Council shall consist of—

(i) a President and ten other members to be appointed by the President of India from amongst persons of eminence in public life;

(ii) four Members of Parliament, of whom two from the House of the People to be nominated by the Speaker thereof and two from the Council of States to be nominated by the Chairman thereof.

(3) The President of the Broadcasting Council shall be a whole-time member and every other member shall be a part-time member and the President or the part-time member shall hold office as such for a term of three years from the date on which he enters upon his office.

(4) The Broadcasting Council may constitute such number of Regional Councils as it may deem necessary to aid and assist the Council in the discharge of its functions.

(5) The President of the Broadcasting Council shall be entitled to such salary and allowances and shall be subject to such conditions of service in respect of leave, pension, (if any), provident fund and other matters as may be prescribed:

Provided that the salary and allowances and the conditions of service shall not be varied to the disadvantage of the President of the Broadcasting Council after his appointment.

(6) The other members of the Broadcasting Council and the members of the Regional Councils constituted under sub-section (4) shall be entitled to such allowances as may be prescribed.

15. (1) The Broadcasting Council shall receive and consider complaints from—

(i) any person or group of persons alleging that a certain programme or broadcast or the functioning of the Corporation in specific cases or in general is not in accordance with the objectives for which the Corporation is established;

(ii) any person (other than an officer or employee of the Corporation) claiming himself to have been treated unjustly or unfairly in any manner (including unwarranted invasion of privacy, misrepresentation, distortion or lack of objectivity) in connection with any programme broadcast by the Corporation.

(2) A complaint under sub-section (1) shall be made in such manner and within such period as may be specified by regulations.

(3) The Broadcasting Council shall follow such procedure as it thinks fit for the disposal of complaints received by it.

Jurisdiction of, and the procedure to be followed by, Broadcasting Council.

(4) If the complaint is found to be justified either wholly or in part, the Broadcasting Council shall advise the Executive Member to take appropriate action.

(5) If the Executive Member is unable to accept the recommendation of the Broadcasting Council, he shall place such recommendation before the Board for its decision thereon.

(6) If the Board is also unable to accept the recommendation of the Broadcasting Council, it shall record its reasons therefor and inform the Broadcasting Council accordingly.

(7) Notwithstanding anything contained in sub-sections (5) and (6), where the Broadcasting Council deems it appropriate, it may, for reasons to be recorded in writing, require the Corporation to broadcast its recommendations with respect to complaint in such manner as the Council may deem fit."

12. In section 16 of the principal Act, for clause (a), the following clause shall be substituted, namely:—

"(a) all property and assets (including the Non-lapsable Fund) which immediately before that day vested in the Central Government for the purpose of Akashvani or Doordarshan or both shall stand transferred to the Corporation on such terms and conditions as may be determined by the Central Government and the book value of all such property and assets shall be treated as the capital provided by the Central Government to the Corporation;"

Substitution of new section for section 25.

13. For section 25 of the principal Act, the following section shall be substituted, namely:—

Report to Parliament in certain matters and recommendations as to action against the Board.

"25. (1) Where the Board persistently makes default in complying with any directions issued under section 23 or fails to supply the information required under section 24, the Central Government may prepare a report thereof and lay it before each House of Parliament for any recommendation thereof as to any action (including supersession of the Board) which may be taken against the Board.

(2) On the recommendation of Parliament, the President may by notification supersede the Board for such period not exceeding six months, as may be specified in the notification.

Provided that before issuing the notification under this sub-section, the President shall give a reasonable opportunity to the Board to show cause as to why it should not be superseded and shall consider the explanations and objections, if any, of the Board.

(3) Upon the publication of the notification under sub-section (2),—

(a) all the Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Board, shall, until the Board is reconstituted under this Act, be exercised and discharged by such person or persons as the President may direct.

(4) On the expiration of the period of supersession specified in the notification issued under sub-section (2), the President may reconstitute the Board by fresh appointments, and in such a case any person who had vacated his office under clause (a) of sub-section (3) shall not be disqualified for appointment:

Provided that the President may, at any time before the expiration of the period of supersession, take action under this sub-section.

(5) The Central Government shall cause the notification issued under sub-section (2) and a full report of the action taken under this section to be laid before each House of Parliament.”.

Insertion of 26. After section 25 of the principal Act, the following new section shall be inserted, namely:—

Office of member not of the Broadcasting Council or of the Committee constituted under section 13 shall not disqualify its holder a Member of Parliament for being chosen as, or for being, a Member of either House of Parliament.”.

15. For sections 27 and 28 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 27 and 28.

45 of 1860.

“27. The Chairman and every other Member, officer or other employee of the Corporation and every member of a Committee thereof, the President and every member of the Broadcasting Council or every member of a Regional Council or a Recruitment Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Chairman,
Members, etc.,
to be public
servants.

28. No suit or other legal proceeding shall lie against the Corporation, the Chairman or any Member or officer or other employee thereof or the President or a member of the Broadcasting Council or a member of a Regional Council or a Recruitment Board for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or regulations made thereunder.”

Protection
of action
taken in
good faith.

16. For section 31 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new sec-
tion for sec-
tion 31.

“31.(1) The Corporation shall prepare once in every calendar year, in such form and within such time as may be prescribed, an annual report giving a full account of its activities (including the recommendations and suggestions made by the Broadcasting Council and the action taken thereon) during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Annual
report.

(2) The Broadcasting Council shall prepare once in every calendar year, in such form and within such time as may be prescribed, an annual report giving a full account of its activities during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before each House of Parliament.”

17. In section 32 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment
of section 32.

“(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matter, namely:—

(a) the salaries and allowances and conditions of service in respect of leave, pension (if any), provident fund and other matters in relation to the Whole-time Members under sub-section (9) of section 6;

(b) the allowances payable to the Chairman and Part-time Members under sub-section (10) of section 6;

(c) the control, restrictions and conditions subject to which the Corporation may appoint officers and other employees under sub-section (1) of section 9;

(d) the manner in which and the conditions and restrictions subject to which a Recruitment Board may be established under sub-section (1) of section 10;

(e) the qualification and other conditions of service of the members of a Recruitment Board and their period of office under sub-section (2) of section 10;

(f) the terms and conditions in accordance with which the deputation may be regulated under sub-section (2) of section 11;

(g) the salary and allowances and conditions of service in respect of leave, pension (if any), provident fund and other matters in relation to the President of the Broadcasting Council under sub-section (5) of section 14;

(h) the allowances payable to other members of the Broadcasting Council and the members of the Regional Councils under sub-section (6) of section 14;

(i) the manner in which the Corporation may invest its moneys under section 19;

(j) the form and manner in which the annual statement of accounts shall be prepared under sub-section (1) of section 21;

(k) the form in which and the time within which the Corporation and the Broadcasting Council shall prepare their annual report under section 31;

(l) any other matter which is required to be, or may be, prescribed."

Amendment of section 33. 18. In section 33 of the principal Act, in sub-section (2),—

(i) after clause (g), the following clause shall be inserted, namely;—

“(h) the manner in which and the period within which complaints may be made under sub-section (2) of section 15;”;

(ii) clause (h) shall be re-lettered as clause (i).

K.R. NARAYANAN,
President.

RAGHBIR SINGH,
Secy. to the Govt. of India.