



# LAWS OF MALAYSIA

REPRINT

**Act 589**

## **MALAYSIAN COMMUNICATIONS AND MULTIMEDIA COMMISSION ACT 1998**

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**MALAYSIAN COMMUNICATIONS AND  
MULTIMEDIA COMMISSION ACT 1998**

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## Act 589

### MALAYSIAN COMMUNICATIONS AND MULTIMEDIA COMMISSION ACT 1998

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## LAWS OF MALAYSIA

### Act 589

#### MALAYSIAN COMMUNICATIONS AND MULTIMEDIA COMMISSION ACT 1998

An Act to provide for the establishment of the Malaysian Communications and Multimedia Commission with powers to supervise and regulate the communications and multimedia activities in Malaysia, and to enforce the communications and multimedia laws of Malaysia, and for related matters.

[1 November 1998, P.U. (B) 451/1998]

**BE IT ENACTED** by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same as follows:

#### PART I

#### PRELIMINARY

##### **Short title**

1. This Act may be cited as the Malaysian Communications and Multimedia Commission Act 1998.

##### **Commencement**

2. This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

##### **Interpretation**

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

“Chairman” means the Chairman of the Commission appointed under paragraph 6(a);

“Commission” means the Malaysian Communications and Multimedia Commission established under section 4;

“committee” means a committee appointed under section 15;

“communications and multimedia laws” means this Act and the Communications and Multimedia Act 1998 [Act 588], and includes any subsidiary legislation made under those laws, and any other written law under which the Commission is to exercise any function;

“employees” includes investigating officers appointed under section 49;

“Fund” means the Fund established under section 38;

“member” means the Chairman and other members of the Commission appointed under section 6;

“Minister” means the Minister charged with the responsibility for communications and multimedia.

## PART II

### THE COMMISSION

#### **Establishment of Commission**

4. (1) It is hereby established a body corporate by the name of “Malaysian Communications and Multimedia Commission”.

(2) The Commission shall have perpetual succession.

(3) The Commission may sue and be sued in its corporate name.

(4) Subject to and for the purposes of this Act, and upon such terms as it deems fit, the Commission may—

(a) enter into contracts; and



- (b) in respect of movable and immovable property and interest in movable and immovable property, of every description—
- (i) acquire, purchase and take such property and interest; and
  - (ii) hold, enjoy, convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer, or otherwise dispose of or deal with, such property and interest vested in the Commission.

### **Common seal**

**5.** (1) The Commission shall have a common seal which shall bear a device approved by the Commission.

(2) The common seal may, from time to time, be broken, changed, altered and made anew as the Commission thinks fit.

(3) Until a seal is provided by the Commission, a stamp bearing the words “Malaysian Communications and Multimedia Commission” may be used and shall be deemed to be its common seal.

(4) The common seal shall be kept in the custody of the Chairman or an authorized employee.

(5) The common seal shall be authenticated by either the Chairman or an authorized employee.

(6) All deeds, documents and other instruments purporting to be sealed with the common seal and authenticated as in subsection (5) shall, until the contrary is proven, be deemed to have been validly executed.

(7) Any deed, document or other instrument which, if executed by a person not being a body corporate, is not required to be under seal may in like manner be executed by a member of the Commission or an authorized employee on behalf of the Commission.

(8) The common seal of the Commission shall be officially and judicially noticed.

### **Membership of Commission**

6. The Commission shall consist of the following members who shall be appointed by the Minister:

- (a) a Chairman;
- (b) three members representing the Government; and
- (c) not less than two but not more than five other members.

### **Schedule**

7. (1) The provisions of the Schedule shall apply to members of the Commission.

(2) The Minister may amend the provisions of the Schedule by order published in the *Gazette*.

### **Statutory declaration by members of Commission**

8. (1) No person shall be appointed as a member of the Commission unless before such appointment such person makes a statutory declaration whether he has any interest, financial or otherwise, in any undertaking involving communications and multimedia activities.

(2) If a member of the Commission acquires any interest, financial or otherwise, in any undertaking involving communications and multimedia activities he shall, within one month after such acquisition, give notice in writing to the Minister specifying the interest acquired, and the Minister may, after taking the matter into consideration, if he thinks fit, declare that the person has vacated his office.

### **Approval to hold other office**

9. The Chairman shall not, while holding such office, hold any other office or employment, whether remunerated or not, without the Minister's written approval.

**Tenure of office**

**10.** (1) Members of the Commission shall each be appointed for a term of two years.

(2) Members of the Commission shall be eligible for reappointment but no member shall hold office for more than five terms.

**Remuneration and allowances**

**11.** (1) The Chairman shall be paid such remuneration and allowances as the Minister may determine, after consultation with the Minister of Finance.

(2) All other members of the Commission shall be paid such allowances at such rates as the Minister may determine, after consultation with the Minister of Finance.

**Revocation of appointment and resignation**

**12.** (1) The Minister may at any time revoke the appointment of any member of the Commission without assigning any reason therefor.

(2) A member of the Commission may, at any time, resign from his appointment by giving a notice in writing to the Minister.

**Vacation of office**

**13.** The office of a member of the Commission shall be vacated—

(a) if he dies;

(b) if there has been proved against him, or he has been convicted on, a charge in respect of—

(i) an offence involving fraud, dishonesty or moral turpitude;

(ii) an offence under any law relating to corruption;  
or

- (iii) any other offence punishable with imprisonment (in itself only or in addition to or in lieu of a fine) for more than two years;
- (c) if his conduct, whether in connection with his duties as a member of the Commission or otherwise, has been such as to bring discredit on the Commission;
- (d) if he becomes a bankrupt;
- (e) if he is of unsound mind or is otherwise incapable of discharging his duties;
- (f) in the case of the Chairman, if he absents himself from a meeting of the Commission without leave of the Minister;
- (g) in the case of a member of the Commission other than the Chairman, if he absents himself from three consecutive meetings of the Commission without leave in writing of the Chairman;
- (h) if his appointment is revoked by the Minister; or
- (i) if his resignation is accepted by the Minister.

### **Temporary exercise of functions of Chairman**

**14.** The Minister may appoint any member to act as the Chairman—

- (a) during any period when the office of the Chairman is vacant;
- (b) during any period when the Chairman is absent from duty or from Malaysia; and
- (c) during any period when the Chairman is, for any other reason, unable to perform the duties of his office.

### **Committees**

**15.** (1) The Commission may establish any committees as it considers necessary or expedient to assist it in the performance of its functions under the communications and multimedia laws.

(2) The Commission may elect any of its members to be the chairman of a committee.

(3) The Commission may appoint any person to a committee.

(4) A member of a committee shall hold office for such term as may be specified in his letter of appointment and is eligible for reappointment.

(5) The Commission may revoke the appointment of any member of a committee without assigning any reason therefor.

(6) A member of a committee may, at any time, resign by giving a notice in writing to the chairman of the committee.

(7) The Commission may, at any time, discontinue or alter the constitution of a committee.

(8) A committee may regulate its own procedure.

(9) A committee shall be subject to, and act in accordance with, any direction given to it by the Commission.

(10) Meetings of a committee shall be held at such times and places as the chairman of the committee may determine.

(11) A committee shall cause—

(a) minutes of all its meetings to be maintained and kept in a proper form; and

(b) copies of the minutes of all its meetings to be submitted to the Commission as soon as practicable.

(12) A committee may invite any person to attend any of its meeting for the purpose of advising it on any matter under discussion but that person shall not be entitled to vote at the meeting.

(13) Members of a committee and any person invited under subsection (12) shall be paid such allowances and other expenses as the Commission may determine, after consultation with the Minister.

## PART III

## POWERS AND FUNCTIONS OF COMMISSION

**Powers and functions of Commission**

**16.** (1) The Commission shall have all the functions imposed on it under the communications and multimedia laws and, without prejudice to the generality of the foregoing, the Commission shall also have the following functions:

- (a) to advise the Minister on all matters concerning the national policy objectives for communications and multimedia activities;
- (b) to implement and enforce the provisions of the communications and multimedia laws;
- (c) to regulate all matters relating to communications and multimedia activities not provided for in the communications and multimedia laws;
- (d) to consider and recommend reforms to the communications and multimedia laws;
- (e) to supervise and monitor communications and multimedia activities;
- (f) to encourage and promote the development of the communications and multimedia industry including in the area of research and training;
- (g) to encourage and promote self-regulation in the communications and multimedia industry;
- (h) to promote and maintain the integrity of all persons licensed or otherwise authorized under the communications and multimedia laws;
- (i) to render assistance in any form to, and to promote cooperation and coordination amongst, persons engaged in communications and multimedia activities; and
- (j) to carry out any function under any written law as may be prescribed by the Minister by notification published in the *Gazette*.

(2) The Commission shall have all such powers as may be necessary for, or in connection with, or reasonably incidental to, the performance of its functions under the communications and multimedia laws.

### **Delegation of power**

**17.** (1) The Commission may, in writing, delegate any of the functions and powers imposed or conferred on it by the communications and multimedia laws, except the power to make subsidiary legislation, to—

- (a) the Chairman;
- (b) a member of the Commission;
- (c) a committee; and
- (d) the chief executive of the Commission.

(2) Any person delegated with such function or power shall be bound to observe and have regard to all conditions and restrictions imposed by the Commission and all requirements, procedures and matters specified by the Commission.

(3) Any function and power delegated under this section shall be performed and exercised in the name and on behalf of the Commission.

(4) The delegation under this section shall not preclude the Commission itself from performing or exercising at any time any of the delegated functions and powers.

### **Direction by Minister**

**18.** (1) The Commission shall be responsible to the Minister.

(2) The Minister may give to the Commission directions of a general character not inconsistent with the provisions of this Act relating to the performance of the functions and powers of the Commission and the Commission shall give effect to such directions.

**Returns, reports, accounts and information**

**19.** (1) The Commission shall furnish to the Minister, and any public authority as may be specified by the Minister, such returns, reports, accounts and information with respect to its activities and finances as the Minister may, from time to time, require or direct.

(2) The returns, reports, accounts and information shall be in such form and shall contain such information relating to the proceedings and policy of the Commission and any other matter as the Minister may, from time to time, specify.

**PART IV****EMPLOYEES OF COMMISSION****Chairman shall be chief executive**

**20.** (1) Without prejudice to the other provisions of this Act, the Chairman shall also be the chief executive of the Commission.

(2) The Commission shall vest in the chief executive such power and impose upon him such duties as may be determined by the Commission.

(3) The chief executive shall be responsible for the overall administration and management of the functions and the day to day affairs of the Commission.

(4) The chief executive shall have general control of the employees of the Commission.

(5) The chief executive shall perform such further duties as the Minister and the Commission may, from time to time, direct.

(6) In discharging his duties, the chief executive shall act under the general authority and directions of the Commission.



### **Temporary exercise of functions of chief executive**

**21.** The Minister may appoint any officer of the Commission to act as the chief executive—

- (a) during any period when the office of the Chairman is vacant;
- (b) during any period when the Chairman is absent from duty or from Malaysia; and
- (c) during any period when the Chairman is, for any other reason, unable to perform the duties of the chief executive.

### **Appointment of employees**

**22.** The Commission may appoint such number of employees as it thinks desirable and necessary and upon such terms as it considers appropriate for carrying out the purposes of the communications and multimedia laws.

### **Conditions of service**

**23.** The Commission may, with the approval of the Minister, make regulations with respect to the conditions of service of its employees.

### **Loans and advances**

**24.** The Commission may grant loans and make advances to its employees for such purposes and on such terms as the Commission may determine.

### **Payment of retirement benefits, etc.**

**25.** The Commission may make arrangements for the payment to its employees and their dependants of such retirement benefits, gratuities and other allowances as the Commission may determine.

**Discipline**

**26.** The Commission shall have disciplinary authority over all its employees and shall exercise disciplinary control in respect of all such persons.

**Disciplinary committees**

**27.** (1) The Commission may establish different disciplinary committees for different categories of its employees.

(2) The following shall apply to a disciplinary committee:

(a) a disciplinary committee shall consist of any number of members of the Commission other than the Chairman or employees of the Commission, or any combination of such members and employees; and

(b) an employee who is a member of a disciplinary committee shall not be lower in rank than an employee over whom the disciplinary committee of which he is a member has disciplinary authority.

(3) A disciplinary committee shall exercise its powers in all matters relating to the discipline of employees placed under its jurisdiction.

(4) In the exercise of its disciplinary functions and powers, a disciplinary committee shall have the power to take disciplinary action and impose any disciplinary punishment or any combination of two or more disciplinary punishments as may be provided for under any disciplinary regulations made under section 28.

**Disciplinary regulations**

**28.** (1) The Commission may, with the approval of the Minister, make regulations to provide for the discipline of its employees.

(2) The disciplinary regulations made under this section—

(a) may create disciplinary offences;

(b) may provide for such disciplinary punishments as the Commission may deem appropriate and the punishments may extend to—

- (i) a warning;
- (ii) a fine;
- (iii) a forfeiture of emoluments;
- (iv) a deferment of salary movement;
- (v) a reduction of salary;
- (vi) a reduction in rank; and
- (vii) a dismissal;

(c) shall provide for an opportunity to the employee against whom disciplinary proceedings are taken to make representations against the disciplinary charge laid against him before a decision is arrived at by the disciplinary committee except in the following cases:

- (i) where an employee is dismissed or reduced in rank on the ground of misconduct in respect of which a criminal charge has been proved against him;
- (ii) where the Commission, on the recommendations of the Minister charged with the responsibility for home affairs, is satisfied that in the interest of the security of Malaysia or any part of Malaysia it is not expedient to carry out the requirements of this paragraph; or
- (iii) where there has been—
  - (A) made against an employee any order of detention, supervision, restricted residence, banishment or deportation; or
  - (B) imposed on an employee any form of restriction or supervision by bond or otherwise,

under any law relating to the security of Malaysia or any part of Malaysia, prevention of crime, preventive detention, restricted residence, banishment, immigration, or protection of women and girls;

- (d) may provide for the interdiction with reduced emoluments of an employee during the pendency of a criminal proceeding against him or disciplinary proceeding against him with the view to his dismissal or reduction in rank;
- (e) may provide for the suspension without emoluments of an employee—
  - (i) where the employee has been convicted by a criminal court; or
  - (ii) where an order of detention or restriction has been imposed on the employee; and
- (f) may provide for the procedure for the hearing of an appeal by the Disciplinary Appeal Board established under section 29.

### **Disciplinary Appeal Board**

**29.** (1) A decision of a disciplinary committee shall be appealable to the Disciplinary Appeal board which shall consist of the following members:

- (a) the Chairman of the Commission, who shall be the chairman of the Disciplinary Appeal Board and who shall have the casting vote; and
- (b) two other members of the Commission, not being members of the disciplinary committee whose decision is the subject-matter of the appeal, to be appointed by the chairman of the Disciplinary Appeal Board with the approval of the Commission for the purpose of the appeal.

(2) When the Disciplinary Appeal Board considers an appeal, a member of the disciplinary committee against whose decision the appeal is made shall not be present or in any way participate in any proceedings relating to that appeal.

(3) The Disciplinary Appeal Board may confirm, reverse or vary the decision of a disciplinary committee.

### **Termination of service on grounds of public interest**

**30.** (1) Where the Commission finds or where representations are made to the Commission that it is desirable that the service of an employee be terminated in the public interest, the Commission may call for a full report from the superior officer of the employee which shall contain particulars relating to the work and conduct of the employee.

(2) If, after considering the report received under subsection (1), the Commission is satisfied that having regard to the conditions of service, the usefulness of the employee, the work and conduct of the employee and all the other circumstances of the case, it is desirable in the public interest so to do, the Commission may terminate the service of the employee with effect from such date as the Commission shall specify.

(3) It shall be lawful for the appropriate disciplinary committee to recommend to the Commission that the service of an employee be terminated in the public interest, even though disciplinary proceedings have not been carried out under this Act, and the Commission may then terminate the service of the employee.

(4) Notwithstanding anything in this Act and any other law to the contrary, in terminating the service of an employee in the public interest under this section, the employee may not be given an opportunity to be heard and an employee whose service has been terminated in the public interest under this section shall not be regarded as having been dismissed, regardless of whether the termination of service of the employee involved an element of punishment or was connected with conduct in relation to his office which the Commission regards as unsatisfactory or blameworthy.

### **Imposition of surcharge**

**31.** (1) A person who is or was in the employment of the Commission may be surcharged if it appears to the Commission that the person—

(a) has failed to collect money owing to the Commission for the collection of which he is or was responsible;

- (b) is or was responsible for any improper payment of money from the Commission or for any payment of money which is not duly approved;
- (c) is or was responsible, directly or indirectly, for any deficiency in, or for the destruction of, any money, store or other property of the Commission;
- (d) has failed to make any payment, or is or was responsible for any delay in the payment from the Commission, of any money to any person to whom such payment is due under any law, or under any contract, agreement or arrangement entered into between that person and the Commission; or
- (e) being or having been an accounting officer, fails or has failed to keep proper accounts or records.

(2) In this section, “accounting officer” includes an employee who is charged with—

- (a) the duty of collecting, receiving or accounting for, or who in fact collects, receives or accounts for, any money of the Commission;
- (b) the duty of disbursing, or who does in fact disburse, any money of the Commission; or
- (c) the duty of receiving, keeping in custody, disposing of or accounting for, any store and property of the Commission or who in fact receives, holds, disposes or accounts for such store and property.

### **Show cause notice before surcharge**

**32.** The Commission shall, before a person is surcharged, serve on him a written notice calling on him to show cause why he should not be surcharged.

### **Amount of surcharge**

**33.** If a satisfactory explanation is not received within fourteen days from the date a notice is served on a person under section 32, the Commission may—

- (a) in the case of any of the acts or omissions mentioned in paragraphs 31(1)(a), (b) and (c), surcharge against the

person a sum not exceeding the amount not collected, or of the improper payment made, or of the value of the deficiency in the property or of the property destroyed; and

- (b) in the case of any of the acts or omissions mentioned in paragraphs 31(1)(d) and (e), surcharge against the person such sum as the Commission thinks fit.

### **Notification of surcharge**

**34.** The Commission shall notify the person surcharged in respect of any surcharge made under section 33.

### **Withdrawal of surcharge**

**35.** Notwithstanding sections 33 and 34, the Commission may at any time withdraw any surcharge in respect of which a satisfactory explanation has been received or if it otherwise appears that no surcharge should have been made, and the Commission shall forthwith notify the person surcharged of the withdrawal.

### **Recovery of surcharge**

**36.** The amount of any surcharge made under section 33 and not withdrawn under section 35 shall be a debt due to the Commission from the person surcharged and may be sued for and recovered in any court at the suit of the Commission and may also, if the Commission directs, be recovered by deduction—

- (a) from the salary of the person surcharged; or  
(b) from the pension of the person surcharged,

by equal monthly instalments not exceeding one-fourth of the total monthly salary or pension, as the case may be, of that person.

### **Commission may adopt regulations, etc.**

**37.** In making any regulations under this Part, the Commission may, with the approval of the Minister, adopt with such modifications as it deems fit any regulations, rules, policies, circulars and directives enacted or issued by the Federal Government.

## PART V

## FINANCE

**The Fund**

**38.** (1) There is hereby established a Fund to be known as the “Malaysian Communications and Multimedia Commission Fund” to be administered and controlled by the Commission.

(2) The Fund shall consist of—

- (a) moneys transferred from the Telecommunications Fund established under the Telecommunications Act 1950 [*Act 20*], which has been dissolved under the Communications and Multimedia Act 1998;
- (b) such sums as may be provided by Parliament, from time to time, for the purposes of the communications and multimedia laws;
- (c) all or any part of the licence fees, administration charges, levies or other charges imposed by or payable to the Commission under the communications and multimedia laws;
- (d) all moneys derived as income from investments by the Commission;
- (e) all moneys derived from the sale, disposal, lease or hire of, or any other dealing with, any property, mortgages, charges or debentures vested in or acquired by the Commission;
- (f) all moneys earned from consultancy and advisory services and any other service provided by the Commission;
- (g) all other moneys and property which may in any manner become payable to or vested in the Commission in respect of any matter incidental to its functions and powers;
- (h) sums borrowed by the Commission under section 43; and
- (i) all other moneys lawfully received by the Commission, including interest.



(3) Notwithstanding paragraph 38(2)(c), monies referred to in that paragraph which are in excess of the financial requirements of the Commission for the performance of its functions under this Act may be paid into the Consolidated Fund.

### **Expenditure to be charged on Fund**

**39.** (1) The Fund shall be expended for the following purposes:

- (a) paying any expenditure lawfully incurred by the Commission;
- (b) paying for the remuneration, allowances and other expenses of the members of the Commission, members of committees, and employees of the Commission, including loans and advances, superannuation allowances, retirement benefits, pensions and gratuities;
- (c) paying any expenses, costs or expenditure in relation to the procurement of goods or services, including but not limited to the engagement of consultants, legal fees and costs and other fees and costs, properly incurred or accepted by the Commission in the performance of its functions and the exercise of its powers under the communications and multimedia laws;
- (d) purchasing or hiring equipment, machinery and any other material, acquiring land and any assets, and erecting buildings, and carrying out any other works and undertakings in the performance of its functions and the exercise of its powers under the communications and multimedia laws;
- (e) repaying any moneys borrowed under section 43 and the interest due thereon;
- (f) granting loans and advances to its employees under section 24; and
- (g) generally, paying any expenses for carrying into effect the provisions of the communications and multimedia laws.

(2) Notwithstanding subsection (1), the Fund may be expended for the purpose of—

- (a) implementing any projects to be identified by the Minister to increase the access to network services or applications services or both by the community; and
- (b) contributing to any account or fund established by the Government for purposes which are consistent with the objects and objectives set out in section 3 of the Communications and Multimedia Act 1998.

### **Conservation of Fund**

**40.** It shall be the duty of the Commission to conserve the Fund by so performing its functions and exercising its powers under this Act as to secure that the total revenue of the Commission are sufficient to meet all sums properly chargeable to its revenue account including depreciation and interest on capital taking one year with another.

### **Expenditure and preparation of estimates**

**41.** (1) The expenditure of the Commission up to such amount as may be authorized by the Minister for any one year shall be defrayed out of the Fund.

(2) Before 1 September each year, the Commission shall submit to the Minister an estimate of its expenditure (including the expenditure for research and development programmes) for the following year in such form and containing such particulars as the Minister may direct.

(3) The Minister shall, before 1 January the following year, notify the Commission of the amount authorized for expenditure generally or of the amount authorized for each description of expenditure based on the estimate prepared under subsection (2).

(4) The Commission may, at any time, submit to the Minister a supplementary estimate of its expenditure for any one year and the Minister may allow the whole or any part of the additional expenditure included therein.

### **Bank accounts**

**42.** The Commission shall open and maintain an account or accounts with such bank or banks in Malaysia as the Commission thinks fit, after consulting the Minister; and every such account shall be operated upon as far as practicable by cheques signed by such person or persons as may, from time to time, be authorized by the Commission.

### **Power to borrow**

**43.** The Commission may, from time to time, borrow in such form and at such rate of interest and for such period and upon such terms as to the time and method of repayment and otherwise, as the Minister may, with the concurrence of the Minister of Finance, approve, any money required by the Commission for meeting any of its obligations or discharging any of its duties.

### **Investment**

**44.** The moneys of the Commission shall, in so far as they are not immediately required to be expended by the Commission under this Act, be invested in such manner as the Minister may, with the concurrence of the Minister of Finance, approve.

### **Limitation on contracts**

**45.** The Commission shall not, without the approval of the Minister and the concurrence of the Minister of Finance, enter into any contract under which the Commission is to pay or receive an amount exceeding five million ringgit.

### **Financial year**

**46.** The financial year of the Commission shall begin on 1 January and end on 31 December of each year.

### **Accounts**

**47.** (1) The Commission shall cause proper accounts of the Fund to be kept and shall, as soon as practicable after the end of each

financial year, cause to be prepared for that financial year a statement of accounts of the Commission which shall include a balance sheet and an account of income and expenditure.

(2) The Commission shall cause the statement of accounts to be audited by independent auditors appointed by the Commission.

(3) The Commission shall as soon as possible send a copy of the statement of accounts certified by the auditors and a copy of the auditor's report to the Minister who shall cause them to be laid before both Houses of Parliament, together with a report dealing with the activities of the Commission for the preceding financial year.

### **Non-application of Statutory Bodies (Accounts and Annual Reports) Act 1980**

**48.** The Statutory Bodies (Accounts and Annual Reports) Act 1980 [*Act 240*] shall not apply to the Commission.

## PART VI

### GENERAL

#### **Appointment and power of investigating officers**

**49.** (1) The Commission may appoint such number of investigating officers as it considers necessary to exercise the powers under the communications and multimedia laws.

(2) An investigating officer shall have all the powers necessary to carry out an inspection, and investigation of any offence, under the communications and multimedia laws.

#### **Public servant**

**50.** The Chairman, members of the Commission and of any committee, and employees and agents of the Commission, while discharging their duties under this Act as the Chairman, such members, employees or agents, shall be deemed to be public servants within the meaning of the Penal Code [*Act 574*].

## **Public Authorities Protection Act 1948**

**51.** The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against the Commission or against the Chairman, any member of the Commission, any member of a committee, and employees or agents of the Commission in respect of any act, neglect or default done or committed by him in good faith or any omission omitted by him in good faith, in such capacity.

### **Obligation of secrecy**

**52.** (1) Except for any of the purposes of this Act or for the purposes of any civil or criminal proceedings under any written law or where otherwise authorized by the Commission—

- (a) no member of the Commission or any of its committees or any employee or agent of the Commission or any person attending any meeting of the Commission or any of its committees, whether during his tenure of office or during his employment or thereafter, shall disclose any information obtained by him in the course of his duties; and
- (b) no other person who has by any means access to any information or document relating to the affairs of the Commission shall disclose such information or document.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding one month or to both.

### **Representation in civil proceedings**

**53.** Notwithstanding the provisions of any other written law—

- (a) in any civil proceedings by or against the Commission;
- or

- (b) in any other civil proceedings in which the Commission is required or permitted by the court to be represented, or to be heard, or is otherwise entitled to be represented or to be heard,

any person authorized by the Commission for that purpose may, on behalf of the Commission, institute such proceedings or appear therein and may make all appearances and applications and do all acts in respect of such proceedings on behalf of the Commission.

### **Power to employ**

**54.** The Commission may employ and pay agents and technical advisers, including advocates and solicitors, bankers, consultants and other persons, to transact any business or to do any act required to be transacted or done in the performance of its functions, the exercise of its powers or for the better carrying into effect of the purposes of this Act.

### **Things done in anticipation of the enactment of this Act**

**55.** All things done by any person or authority on behalf of the Commission in the preparation of and towards the proper implementation of any of the provisions of this Act, and any expenditure incurred in relation thereto, in anticipation of the enactment of this Act shall be deemed to have been authorized by this Act, and all rights acquired or obligations incurred on behalf of the Commission from anything so done shall upon the coming into operation of this Act be deemed to be the rights and obligations of the Commission.

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SCHEDULE

[Section 7]

**Times and places of meetings**

1. (1) The Commission is to hold as many meetings as are necessary for the efficient performance of its functions and such meetings are to be held at such places and times as the Chairman may decide, provided that the Chairman shall not allow more than two months to lapse between meetings.

(2) The Chairman shall call for a meeting if requested to do so in writing by the Minister or by at least two members of the Commission.

**Quorum**

2. The Chairman and two other members of the Commission shall form a quorum at any meeting of the Commission.

**Casting vote**

3. If on any question to be determined by the Commission there is an equality of votes, the Chairman shall have a casting vote in addition to his deliberative vote.

**Commission may invite others to meetings**

4. (1) The Commission may invite any person to attend any meeting or deliberation of the Commission for the purpose of advising it on any matter under discussion, but any person so attending shall have no right to vote at the meeting or deliberation.

(2) A person invited under subparagraph (1) shall be paid such allowances as may be determined by the Commission.

**Resolutions without meetings**

5. (1) A resolution is taken to have been passed at a meeting of the Commission if—

- (a) all members of the Commission have been informed of the proposed resolution, or reasonable efforts have been made to inform all members of the Commission of the proposed resolution; and

(b) without meeting, a majority of the members of the Commission indicate agreement with the resolution in accordance with the method determined by the Commission under subparagraph (2).

(2) Subparagraph (1) applies only if the Commission—

(a) decides that it applies; and

(b) decides the method by which members of the Commission are to indicate agreement with resolutions.

### **Minutes**

6. (1) The Commission shall cause minutes of all their meetings to be maintained and kept in a proper form.

(2) Minutes made of meetings of the Commission, if duly signed, shall, in any legal proceedings, be admissible as *prima facie* evidence of the facts stated therein without further proof.

(3) Every meeting of the Commission of which minutes have been made in accordance with subparagraphs (1) and (2) shall be deemed to have been duly convened and held and all members thereat to have been duly qualified to act.

### **Procedure**

7. The Commission may regulate its own procedure.

### **Disclosure of interest**

8. (1) A member of the Commission, whether directly or indirectly, by himself or his partner, who has any interest in a matter being considered by the Commission, must as soon as possible after the relevant facts have come to his knowledge, disclose the facts of his interest and its nature to the Commission.

(2) A disclosure under subparagraph (1) shall be recorded in the minutes of the Commission and, after the disclosure, unless the Chairman otherwise determines—

(a) such member shall not be present or take part in any deliberation or decision of the Commission about that matter; or

(b) such member shall be disregarded for the purpose of constituting a quorum of the Commission relating to that matter.

### **Validity of acts and proceedings**

9. No act done or proceeding taken under this Act shall be questioned on the ground of—

(a) any vacancy in the membership of, or any defect in the constitution of, the Commission;



- (b) a contravention by any member of the Commission of the provisions of paragraph 8; or
- (c) any omission, defect or irregularity not affecting the merits of the case.

**Members to devote time to business of Commission**

**10.** The members of the Commission shall devote such time to the business of the Commission as is necessary to discharge their duties effectively.

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**LAWS OF MALAYSIA****Act 589****MALAYSIAN COMMUNICATIONS AND  
MULTIMEDIA COMMISSION ACT 1998**

## LIST OF AMENDMENTS

Amending law	Short title	In force from
Act A1148	Malaysian Communications and Multimedia Commission (Amendment) Act 2002	15-06-2002
Act A1231	Malaysian Communications and Multimedia Commission (Amendment) Act 2004	01-08-2005

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# LAWS OF MALAYSIA

## Act 589

### MALAYSIAN COMMUNICATIONS AND MULTIMEDIA COMMISSION ACT 1998

#### LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
6	Act A1148	15-06-2002
	Act A1231	01-08-2005
10	Act A1231	01-08-2005
38	Act A1148	15-06-2002
39	Act A1231	01-08-2005

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