



TURKS AND CAICOS ISLANDS

CHAPTER 110

BROADCASTING ORDINANCE

Revised Edition
showing the law as at 15 May 1998

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance 1997.

This edition contains a consolidation of the following laws—

BROADCASTING ORDINANCE

Ordinance 35 of 1994 .. in force 28 December 1994 (L.N. 1/1995)

Amended by Ordinance 9 of 1998 .. in force 15 May 1998

No Subsidiary Legislation has been made under this Ordinance

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CHAPTER 110

BROADCASTING ORDINANCE

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CHAPTER 110

BROADCASTING ORDINANCE

(Ordinances 35 of 1994 and 9 of 1998)

AN ORDINANCE TO ESTABLISH AND PROVIDE FOR THE FUNCTIONS OF THE BROADCASTING COMMISSION OF THE TURKS AND CAICOS ISLANDS; TO PROVIDE FOR THE ESTABLISHMENT OF A PUBLIC BROADCASTING SERVICE AND THE APPOINTMENT OF A DIRECTOR OF BROADCASTING; TO ESTABLISH A BROADCASTING COMPLAINTS COMMITTEE; AND FOR CONNECTED PURPOSES.

[28 December 1994]

Commencement

1. This Ordinance may be cited as the Broadcasting Ordinance.

Short title

2. In this Ordinance—

Interpretation

“broadcasting” means the sending out by radio of any message or other matter for the information, education or entertainment of the public or any section of the public;

“Commission” means the Broadcasting Commission of the Turks and Caicos Islands established by section 3;

“Committee” means the Broadcasting Complaints Committee referred to in section 15;

“Director” means the Director of Broadcasting appointed under section 6(1);

“Minister” means the Minister for the time being responsible for administering this Ordinance;

“programme” includes any advertisement;

“programme code” means the programme code referred to in section 5(3);

“public broadcasting service” means the public broadcasting service for the provision of which the Minister has assigned any frequency under section 4;

“radio” means the transmission over any distance without connecting wires of programmes of television or sound, or both, by means of Hertzian waves and includes the reception of such programmes;

“television” means the instant production at a distance of a transient visible image of an actual or recorded scene by means of any electrical system of telecommunication.

Establishment,
constitution and
meetings of
Commission

3. (1) There is hereby established a body corporate called the Broadcasting Commission of the Turks and Caicos Islands which shall have perpetual succession and a common seal and may in pursuance of its functions under this Ordinance buy, lease, sell, hold, deal in and otherwise acquire and dispose of property of whatever nature and enter into contracts of any nature, and may sue and be sued in its corporate name.

(2) The Commission shall consist of the following five persons appointed by the Governor—

- (a) two persons nominated by the Minister of whom one shall, on the nomination of the Minister, be the chairman of the Commission;
- (b) one person nominated by the Leader of the Opposition appointed under section 28 of the Constitution.
- (c) one person nominated by the Minister for his knowledge of or experience in broadcasting; and
- (d) one person nominated by the Minister after consultation with the Attorney General, being a person qualified to practise as an attorney in the Islands;

who shall hold office for two years and be eligible for re-appointment.

(3) No person who is a member of the Legislative Council may be nominated for appointment under subsection (2).

(4) There may be paid from moneys appropriated under section 9(1) (a) to each member who is not a public officer such remuneration and allowances as the Governor, after consultation with the Minister and the Minister responsible for finance, may determine.

(5) Schedule I has effect with respect to the meetings and proceedings of the Commission.

(6) A member may resign his office by giving notice in writing to the Governor and the Minister, but the resignation shall not take effect until the notice has been received by the Governor and the Minister.

(7) The Governor shall cause every appointment, removal, resignation and death of a member to be published in the *Gazette*.

- (8) A member shall vacate his office—
- (a) upon becoming a member of the Legislative Council;
 - (b) upon termination of his appointment made at the recommendation of the Minister on the grounds of the misbehaviour or physical or mental incapacity of the member; or
 - (c) if he absents himself, except with leave granted by the chairman of the Commission, from three consecutive meetings of the Commission.

(9) The Minister shall, after consultation with the Commission, appoint a person (not being a member) to be the secretary of the Commission, who shall be present at all meetings of the Commission and take minutes of the business transacted.

(10) The seal of the Commission shall be authenticated by the chairman or a member authorised by the chairman in that behalf, and by the secretary, but all documents not required by law to be under seal may be signed by the chairman, any member authorised in that behalf, the Director or the secretary.

4. (1) For the purpose of providing a public broadcasting service to the people of the Turks and Caicos Islands, the Minister shall, by notice in the *Gazette*, assign to the Commission such frequencies on the radio spectrum as he may determine after consultation with the Commission.

Assignment of
frequencies for a
public
broadcasting
service

(2) Any frequency so assigned may be assigned for use only in such area or areas, and under such name or names, as the Minister, after consultation with the Commission, may specify when making the assignment.

(3) No frequency may be assigned under this section to the Commission which, at the commencement of this Ordinance, is reserved or assigned to a broadcasting service not operated by or on behalf of the Government of the Islands.

(4) The Minister may by notice in the *Gazette* revoke the assignment of any frequency under this section.

5. (1) It shall be the duty of the Commission to maintain the public broadcasting service as a means of information, education and entertainment and to develop the service to the best advantage and interest of the people of the Turks and Caicos Islands.

Functions of
Commission

(2) In pursuance of its duty the Commission shall ensure that the public broadcasting service complies with the following

requirements, namely—

- (a) that nothing is included in the programmes of the service which offends against good taste or decency;
- (b) that any news given in its programmes is presented with accuracy and impartiality;
- (c) that impartiality is preserved as respects issues of political controversy or current public policy;
- (d) that responsibility is exercised with respect to the content of any religious programme, and that in particular any such programme does not involve—
 - (i) improper exploitation of any susceptibility of those listening or watching the programmes; or
 - (ii) abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination.

(3) The Commission shall draw up and from time to time review a programme code giving guidance as to the rules to be observed in securing the requirements mentioned in subsection (2).

(4) In the pursuance of its duty the Commission shall have the powers specified in Schedule II.

Director of
Broadcasting and
staff of public
broadcasting
service

6. (1) The Commission shall, after consultation with the Minister, appoint a person to be the Director of Broadcasting, on such terms and conditions as it agrees with the Minister.

(2) The Director shall—

- (a) be the chief executive officer of the Commission having immediate oversight of the staff and the content of the programmes of the public broadcasting service;
- (b) enter into advertising contracts on behalf of the Commission;
- (c) present to the Commission an annual report on operation of the public broadcasting service and such interim or further reports as the Commission may require;
- (d) account to the Commission for the finances of the public broadcasting service; and
- (e) perform such other duties as may be assigned by the Commission.

(3) The Director may attend meetings of the Commission and participate in its deliberations but shall not have a vote on any matter put to the vote by the Commission.

(4) The Commission may employ such professional, administrative and other staff as it considers necessary for the operation of the public broadcasting service.

(5) The terms and conditions of service of members of the staff of the public broadcasting service shall be fixed by the Commission in consultation with the Minister.

7. The Commission shall, in consultation with the Director, from time to time fix a tariff of advertising charges for the broadcasting of advertisements by the public broadcasting service.

Advertising

8. Schedule III has effect with respect to the provision of broadcasting time free of charge by the public broadcasting service for Government, political and election purposes to the persons and extent there specified.

Provision of free
broadcasting
time

9. (1) The funds of the Commission shall consist of—

Financial
provisions

- (a) such sums as may be appropriated for the purpose of the Commission by the Legislative Council;
- (b) advertising revenue received by virtue of section 7;
- (c) amounts borrowed by the Commission pursuant to section 10;
- (d) miscellaneous receipts, including interest on and service of investments;

and such funds shall within seven days of receipt be paid into a bank account.

(2) The funds of the Commission shall be applied to—

- (a) the remuneration and allowances to members of the Commission;
- (b) the salaries of the Director and staff of the public broadcasting service;
- (c) the repair and maintenance of buildings and equipment and other recurrent expenses;
- (d) the reserve fund referred to in section 11;
- (e) the repayment of overdraft, if any, on current account;
- (f) any interest on loans;

(g) any sinking fund on loan redemption;

(h) such other expenditure as may be approved by the Minister.

(3) The Commission shall, in consultation with the Minister, cause estimates of expenditure and revenue to be prepared and adopted each year in respect of the following financial year ending on the 31st March and, when adopted, the Minister shall lay a copy of the estimates before the Legislative Council and cause them to be published in the *Gazette*.

Loans in favour
of Commission

10. The Government may make loans to the Commission of such sums and on such conditions as may be approved by the Legislative Council by means of a Loans Ordinance.

Reserve fund

11. (1) The Commission shall maintain a reserve fund to meet future anticipated liabilities and commitments in respect of its obligations under this Ordinance.

(2) Subject to subsections (3) and (4), management of the reserve fund, the sums to be carried from time to time to its credit, and its application, shall be as the Commission may determine.

(3) No part of the reserve fund shall be applied otherwise than for the purposes of the Commission.

(4) The power of the Minister under section 14 to give directions to the Commission shall extend to giving it directions as to any matter relating to the establishment or management of the reserve fund, and the carrying of funds to its credit or its application, notwithstanding that the direction may be of a specific character.

(5) The Commission may, with the approval of the Minister, invest its reserve fund at interest.

Balancing of
revenue account

12. The Commission shall so exercise and perform its functions as to ensure that its funds are sufficient to meet all sums properly chargeable to the Commission, taking one year with another.

Accounts, audit
and report

13. (1) The Commission shall keep proper accounts of all its transactions to the satisfaction of the Minister responsible for finance and in a form according with the best commercial standards.

(2) Within the period of four months after the 31st day of March of each year the Commission shall prepare and submit to

the Chief Auditor in respect of the year ending on the 31st March—

- (a) a statement of assets and liabilities of the Commission;
- (b) a statement of revenue and expenditure by the Commission during that year; and
- (c) such other statements as may be specified by the Minister responsible for finance.

(3) On receipt of the statements referred to in subsection (2), the Chief Auditor shall examine and audit the statements and certify the statements subject to such report, if any, which he may think fit to make.

(4) The Chief Auditor shall, within a period of four months after the receipt of the statements, return to the Commission the statements as certified together with his report, if any.

(5) Within two months of receipt from the Chief Auditor of the certified statements and his report, if any, the Commission shall prepare and submit to the Minister and the Minister responsible for finance a report of the financial and other activities of the Commission during the year to which the certified statements relate, which report shall include a copy of the certified statements and of the Chief Auditor's report, if any, together with the observations of the Commission on any matter raised by the Chief Auditor in such report. (*Amended by Ord. 9 of 1998*)

(6) The report of the Commission together with a copy of the Chief Auditor's report, if any, shall be laid by the Minister on the table of the Legislative Council as soon as practicable after he receives it.

(7) In relation to the certified statements and the Chief Auditor's report, if any, section 63(2) of the Finance and Audit Ordinance shall apply to the Minister as it applies to the Minister responsible for finance.

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14. (1) The Minister may give such general directions in the national interest as to the policy to be followed by the Commission in the performance of its duty, and the Commission shall give effect to any such directions.

General
directions by
Minister

(2) The Commission shall, in its annual report mentioned in section 13(5), publish any directions given to it by the Minister under subsection(1).

15. (1) There shall be a Broadcasting Complaints Committee of the Commission for the purpose of considering and adjudi-

Broadcasting
Complaints
Committee

cating upon complaints of—

- (a) unjust or unfair treatment in programmes broadcast by the public broadcasting service;
- (b) unwarranted infringement of privacy in, or in connection with, the obtaining of material included in such programmes; and
- (c) bad taste, indecency or lack of responsibility in such programmes.

(2) Schedule IV has effect with respect to the constitution and operation of the Committee.

Limitation of liability

16. No member of the Commission or the Committee nor the Director or any member of staff of the public broadcasting service shall be personally liable for any act or default of the Commission or the Committee done or omitted to be done in good faith in the pursuance of their functions.

Secondment and transfer of public officers

17. (1) The Governor may, in his discretion and subject to such conditions as he may impose, approve the secondment of any public officer for service with the public broadcasting service for a period not exceeding two years.

(2) Any public officer on secondment to the public broadcasting service shall, in relation to salary, pension, gratuity and the like and to other rights and to discipline, be treated as if he was not seconded.

Amendment of Schedules

18. (1) The Minister may, by notice published in the *Gazette* made on the advice of the Commission, amend Schedules I, II, III or IV.

(2) Every notice made under subsection (1) shall be laid as soon as possible before the Legislative Council and shall be subject to annulment by resolution of the Legislative Council.

Succession of Commission to certain contracts

19. (1) Any contract entered into by the Government of the Turks and Caicos Islands respecting Radio Turks and Caicos and subsisting immediately before the commencement of this Ordinance shall be of full force and effect against or in favour of the Commission and enforceable as fully and effectively as if, instead of the Government, the Commission had been named in the contract and had been a party to it.

(2) In this section “Radio Turks and Caicos” means the department of Government which, immediately before the commencement of this Ordinance, provided a broadcasting service to the people of the Turks and Caicos Islands.

SCHEDULE I

(Section 3(5))

PROCEEDINGS OF THE COMMISSION

1. The validity of any proceedings of the Commission shall not be affected by any vacancy in its membership or by any defect in the appointment of a member.

Validity of proceedings of the Commission
2. The Minister, after consultation with the Commission, may appoint a person to be a temporary member to act for a member who for any reason is temporarily incapable of performing the duties of his office, and such temporary member shall, for the duration of his appointment, be deemed to be a member.

Temporary appointments
3. The Commission shall meet at least six times in every calendar year, and the chairman shall call a special meeting within seven days of the receipt by him of a requisition for that purpose addressed to him by any two members.

Ordinary and special meetings
4. At every meeting of the Commission—

 - (a) the chairman or, in the chairman's absence, a member elected by the Commission, shall preside;
 - (b) three members shall form a quorum; and
 - (c) decisions of the Commission shall be arrived at by a majority vote of the members present, the member presiding having a casting vote in the event of a tie.

Procedure at meetings
5. (1) To assist it in any matter, the Commission may appoint one or more committees consisting of such persons, whether members of the Commission or not, as the Commission thinks fit, but any such committee shall include at least one member of the Commission.

Committees of Commission

(2) This Schedule and section 3 (4) of the Ordinance shall apply with necessary modifications to a committee and a member of a committee as they apply to the Commission and a member of the Commission.
6. The Commission may invite one or more persons to attend any of its meetings for the purpose of advising or assisting it, but no such person may vote at its meetings.

Attendance of invited persons at meetings
7. If a member or other person present at a meeting of the Commission is directly or indirectly interested in any contract or proposed contract or other matter he shall disclose the fact of his interest and not partake in the consideration of or voting on such contract or other matter.

Personal interest

Minutes

8. The Commission shall cause minutes to be kept of every meeting. The minutes shall be confirmed by the Commission and signed by the chairman.

Procedure
generally

9. Subject to the Ordinance, the Commission shall otherwise have power in all respects to regulate its own procedure, including the manner in which matters subject to the determination of the Commission are determined by it.

SCHEDULE II

(Section 5)

POWERS OF THE COMMISSION

1. To erect, equip and maintain plant, buildings, stations and equipment necessary for broadcasting.

2. To provide broadcasting facilities for commercial and social activities including the broadcasting of advertisements.

3. To compile and prepare, print, publish, issue, circulate and distribute, whether gratis or otherwise, such papers, magazines, periodicals, books and other literary matter as may seem conducive to the objects of the Commission.

4. To collect news information in any part of the world and in any manner that may be thought fit and establish and subscribe to news agencies.

5. To acquire by registration, purchase or otherwise copyrights in any matter whatsoever, including literary, musical and artistic works, plays, songs, gramophone, compact disc and other records, and news, and any trademarks and trade names, and use, exercise, develop or grant licences in respect of or otherwise turn to account the same with a view to the furtherance of the objects of the Commission.

6. To produce, manufacture, purchase or otherwise acquire films, gramophone, compact disc and other records, and material and apparatus in connection with the broadcasting service of the Commission or for any purpose incidental thereto, and sell, rent or otherwise dispose of such films and records.

7. To establish and maintain a national broadcasting archive for the preservation of all recordings of such programmes of the public broadcasting service or other material as the Commission thinks fit for preservation.

8. After consultation with the Minister, to make rules—
 - (a) determining the proportion of time which may be devoted to advertising;
 - (b) providing for the employment, dismissal, control and remuneration of the Director and such members of the staff of the Commission, technical or otherwise, as may be necessary;
 - (c) generally in respect of any matter in connection with the public broadcasting service not otherwise provided for.
9. Subject to the Ordinance, to do all other things necessary and convenient for carrying out the objects of the Commission.

SCHEDULE III

(Section 8)

PROVISION OF FREE BROADCASTING TIME FOR GOVERNMENT, POLITICAL AND ELECTION PURPOSES

1. Subject to paragraph 2, the Commission shall authorise the provision of broadcasting time free of charge by the public broadcasting service for the purposes and to the persons and extent following—
 - (a) to the Governor or any member of Executive Council, such time as he may require in connection with the business of the Government so, however, that the aggregate time provided for the Governor and all members of the Executive Council does not exceed in any week six hours during that week from the beginning of transmission until 6.00 pm, and three hours during that week from 6.00 pm until closing time;
 - (b) to every political party represented in the Legislative Council, such time as the political party may require for political purposes, not exceeding in each year one hour for every seat held by the party concerned;
 - (c) to every member of the Legislative Council not belonging to a political party, such time as the member may require for political purposes not exceeding in each year one hour.
2. The Commission shall not authorise the provision of free broadcasting time in accordance with paragraph 1 after the publication of a proclamation dissolving the Legislative Council other than to—

- (a) the Governor; or
- (b) a member of the Executive Council for purposes not related to the general election.

3. During the period between the date fixed for nominating candidates for a general election or election to fill a vacancy in the Legislative Council, as the case may be, and 24 hours before the taking of the poll, the Commission shall authorise the provision of broadcasting time free of charge by the public broadcasting service for the purposes and to the persons and extent following—

- (a) in the case of a general election—
 - (i) to every political party represented in the Legislative Council immediately before it was dissolved, such time as the political party may require for the purposes of the election not exceeding 15 minutes for every seat held by that party in the Legislative Council immediately before it was dissolved; or
 - (ii) to every political party not represented in the Legislative Council immediately before it was dissolved but which nominates candidates for—

A. not less than seven electoral districts, such time as the political party may require for the purposes of the election not exceeding 15 minutes;

B. not less than four or more than six electoral districts, such time as the political party may require for the purposes of the election not exceeding 10 minutes; or

C. less than four electoral districts, such time as the political party may require for the purposes of the election not exceeding five minutes;

- (iii) to every candidate not belonging to political party—

A. who was a member of the Legislative Council immediately before it was dissolved, such time as the candidate may require for the purposes of the election not exceeding 10 minutes; or

B. who was not a member of the Legislative Council immediately before it was dissolved, such time as the candidate may require for the purposes of the election not exceeding five minutes;

- (b) in the case of an election to fill a vacancy in the Legislative Council—
 - (i) to the political party having the majority of seats in the Legislative Council immediately before the va-

- cancy arose, such time as it may require for the purposes of the election not exceeding 30 minutes;
- (ii) to any other political party represented in the Legislative Council immediately before the vacancy arose, such time as it may require for the purposes of the election not exceeding 15 minutes;
 - (iii) to every candidate not belonging to a political party, or belonging to a political party not represented in the Legislative Council immediately before the vacancy arose, such time as the candidate may require for the purposes of the election not exceeding five minutes.
4. Any broadcasting time in excess of that provided free for the purposes of paragraphs 1, 2 or 3 shall be paid for at the rate fixed by the tariff for advertising charges under section 7 of the Ordinance.
5. Programmes broadcast pursuant to this Schedule shall be required to conform to any programme code or rules in force under section 6 or Schedule II of the Ordinance, and the Director may edit them accordingly.
6. The allocation of time for the broadcasting of programmes pursuant to this Schedule shall be at the absolute discretion of the Commission, exercised on the advice of the Director.

7. In this Schedule—

“member”, in relation to the Executive Council, includes the Chief Secretary and the Attorney General;

“member”, in relation to the Legislative Council, includes the Chief Secretary, Attorney General and the members appointed under section 23 of the Constitution, but does not include the Speaker.

SCHEDULE IV

(Section 15(2))

BROADCASTING COMPLAINTS COMMITTEE

1. The Committee shall comprise the following members—
- (a) a member of the Commission appointed by it (other than the chairman of the Commission) who shall be the chairman of the Committee; and
 - (b) the following members nominated by the Commission and appointed by the Minister—

Membership of
Committee

- (i) a person who is a justice of the peace or a notary public;
- (ii) a person who is qualified in or knowledgeable in broadcasting matters, other than a member of staff of the public broadcasting service;

who shall hold office for two years and be eligible for re-appointment.

Meetings and proceedings of Committee

2. (1) Two members of the Committee, including the chairman, shall form a quorum.

(2) Schedule I and section 3(4), (6), (8) and (9) of the Ordinance shall apply with necessary modifications to the Committee and a member of the Committee as they apply to the Commission and a member of the Commission.

Making of complaints

3. (1) This paragraph and paragraphs 4 and 5 shall apply only to complaints of the nature referred to in paragraphs (a) and (b) of section 15(1) of the Ordinance.

(2) Complaints shall be made in writing to the Committee by or on the authority of the person affected or, in the case of a body of persons, whether incorporated or not, by a person authorised by such body.

(3) Where the person affected is deceased, or is for any other reason unable to make a complaint himself and unable to authorise another person to do so for him, a complaint may be made by the personal representative of the person affected, a member of his family, his employer or a body of which he is or was at his death a member.

Complaints that may not be entertained

4. The Committee shall not entertain a complaint if it appears to it that—

- (a) the complaint relates to a programme broadcast more than 12 months before the Committee received the complaint;
- (b) the treatment or infringement complained of is the subject of proceedings in a court of law in the Islands;
- (c) the treatment or infringement complained of is a matter in respect of which the person affected has a remedy by way of proceedings in a court of law in the Islands, unless in the particular circumstances the Committee feels it is appropriate to consider the complaint;
- (d) the complaint is frivolous.

Consideration and adjudication of complaints

5. (1) Every complaint entertained by the Committee shall be considered by it either at a hearing or, if it thinks fit, without a hearing.

(2) Hearings shall be held in private, and each of the following persons shall be given an opportunity to attend and be heard, namely—

- (a) the complainant;
- (b) the Director;
- (c) any person not mentioned in subparagraph (a) or (b) who appears to the Committee to have been responsible for the making or provision of the programme;
- (d) any other person whom the Committee considers might be able to assist at the hearing.

(3) Before considering a complaint the committee shall send a copy of it to the Director and any other person referred to in subparagraph 2(c) or (d).

(4) The Director shall provide the Committee with a recording or transcript of any programme that is the subject of a complaint under consideration by it.

(5) The Committee may require the Director and any person referred to in subparagraph (2)(c) or (d) to furnish to the Committee and the complainant a written statement in answer to the complaint.

6. (1) The Committee may, in its absolute discretion, refuse to entertain any complaint made under section 15(1)(c) of the Ordinance.

Complaints
made under
section 15(1)(c)
of the Ordinance

(2) A complaint entertained by the Committee under this paragraph shall be considered without a hearing, and subparagraphs (2) and (3) of paragraph 3 and subparagraphs (3), (4) and (5) of paragraph 5 shall apply to the consideration of the complaint.

7. Where the Committee has considered and adjudicated upon a complaint, it may make the following directions or recommendation namely—

Findings of
Committee and
redress of
complaints

- (a) if it finds that a complaint of unjust or unfair treatment is justified, direct the public broadcasting service to provide such broadcasting time free of charge as it shall specify to redress the unjust or unfair treatment in such manner as the Committee thinks fit;
- (b) if it finds that a complaint of unwarranted infringement of privacy is justified, direct the public broadcasting service to broadcast that finding and make the appropriate apology;
- (c) if it finds that a complaint referred to in section 15(1)(c) of the Ordinance is justified, recommend to the Commission that it make the appropriate amendments to its programming code or rules made under paragraph 8 of Schedule II.

8. For the purpose of this Schedule, “unjust or unfair treatment” includes treatment which is unjust or unfair because of the way in which the material included in a programme has been selected or arranged, but

Interpretation of
“unjust or unfair
treatment”

does not include a matter with respect to which the Commission has exercised its discretion under paragraph 6 of Schedule III.

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