



REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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## STAATSKOERANT

### VAN DIE REPUBLIEK VAN SUID-AFRIKA

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

No. 63 of 1996: Sentech Act, 1996.

PRESIDENT'S OFFICE

KANTOOR VAN DIE PRESIDENT

No. 1809.

8 November 1996

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 63 van 1996: Wet op Sentech, 1996.

# ACT

**To provide for the transfer of all the shares of the South African Broadcasting Corporation in Sentech (Pty) Ltd. to the State; for the conversion of Sentech (Pty) Ltd. from a private to a public company, Sentech Ltd.; for the control of Sentech Ltd.; and for matters connected therewith.**

*(Afrikaans text signed by the President.)  
(Assented to 30 October 1996.)*

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

### Definitions

- 1.** In this Act, unless the context otherwise indicates—
- (i) “broadcasting licensee” means a broadcasting licensee as defined in section 1(1) of the Independent Broadcasting Authority Act; (vii)
  - (ii) “broadcasting signal distribution” means broadcasting signal distribution as defined in section 1(1) of the Independent Broadcasting Authority Act; (viii)
  - (iii) “common carrier” means the holder of a broadcasting signal distribution licence contemplated in section 33(1)(a)(i) of the Independent Broadcasting Authority Act; (i)
  - (iv) “Companies Act” means the Companies Act, 1973 (Act No. 61 of 1973); (iii)
  - (v) “Company” means the public company, Sentech Limited, contemplated in section 4; (ii)
  - (vi) “Independent Broadcasting Authority Act” means the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993); (ix)
  - (vii) “Minister” means the Minister charged with the administration of this Act; (iv)
  - (viii) “SABC” the South African Broadcasting Corporation mentioned in section 2 of the Broadcasting Act, 1976 (Act No. 73 of 1976); (v)
  - (ix) “Sentech (Pty) Ltd.” means Sentech (Proprietary) Limited, a private company having a share capital which is registered as such in terms of the Companies Act and which is a wholly owned subsidiary of the SABC. (vi)

### Transfer of shareholding in Sentech (Pty) Ltd. to State

- 2.** (1) The SABC shall transfer all its shares in Sentech (Pty) Ltd. to the State in accordance with the provisions of the Companies Act. 25  
 (2) No stamp duty shall be payable in respect of the transfer of shares in terms of subsection (1).

### Transfer of assets and liabilities regarding signal distribution

- 3.** (1)(a) Before or as soon as possible after the transfer of the shares in Sentech (Pty) Ltd. to the State in terms of section 2(1), such assets, liabilities, rights and obligations (including any claim to copyright, trademarks and patentable inventions) of the SABC which relate to or are connected with broadcasting signal distribution as the SABC and the Minister may agree upon, shall be transferred to Sentech (Pty) Ltd. or, if it has been already converted into a public company as contemplated in section 4, to that company. 30  
 (b) In the absence of such an agreement between the SABC and the Minister, the assets, liabilities, rights and obligations to be so transferred shall be determined by arbitration in accordance with the provisions of the Arbitration Act, 1965 (Act No. 42 of 1965).

# WET

**Om voorsiening te maak vir die oordrag van al die aandele van die Suid-Afrikaanse Uitsaaikorporasie in Sentech (Edms.) Bpk. na die Staat; vir die omskepping van Sentech (Edms.) Bpk. van 'n private na 'n publieke maatskappy, Sentech Bpk.; vir die beheer van Sentech Bpk.; en vir aangeleenthede wat daarmee in verband staan.**

*(Afrikaanse teks deur die President geteken.)  
(Goedgekeur op 30 Oktober 1996.)*

**D**AAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

**Woordomskrywing**

- 1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
  - 5 (i) "algemene verspreider" die houer van 'n uitsaai-seindistribusielisensie in artikel 33(1)(a)(i) van die Wet op die Onafhanklike Uitsaai-owerheid beoog;
  - (iii)
  - (ii) "Maatskappy" die publieke maatskappy, Sentech Beperk, in artikel 4 beoog;
  - (v)
  - 10 (iii) "Maatskappywet" die Maatskappywet, 1973 (Wet No. 61 van 1973); (iv)
  - (iv) "Minister" die Minister aan wie die uitvoering van hierdie Wet opgedra is;
  - (vii)
  - 15 (v) "SAUK" die Suid-Afrikaanse Uitsaaikorporasie in artikel 2 van die Uitsaai-wet, 1976 (Wet No. 73 van 1976), vermeld; (viii)
  - (vi) "Sentech (Edms.) Bpk." Sentech (Eiendoms) Beperk, 'n private maatskappy met 'n aandelekapitaal wat as sodanig ingevolge die Maatskappywet geregistreer is en wat 'n volfiliaal van die SAUK is; (ix)
  - (vii) "uitsaailisensiehouer" 'n uitsaailisensiehouer soos in artikel 1(1) van die Wet op die Onafhanklike Uitsaai-owerheid omskryf; (i)
  - 20 (viii) "uitsaai-seindistribusie" uitsaai-seindistribusie soos in artikel 1(1) van die Wet op die Onafhanklike Uitsaai-owerheid omskryf; (ii)
  - (ix) "Wet op die Onafhanklike Uitsaai-owerheid" die Wet op die Onafhanklike Uitsaai-owerheid, 1993 (Wet No. 153 van 1993). (vi)

**Oordrag van aandeelhouding in Sentech (Edms.) Bpk. aan Staat**

- 25 2. (1) Die SAUK moet al sy aandele in Sentech (Edms.) Bpk. aan die Staat ooreenkomstig die bepalings van die Maatskappywet oordra.
  - (2) Geen seëlreg is betaalbaar ten opsigte van die oordrag van aandele ingevolge subartikel (1) nie.

**Oordrag van bates en laste betreffende seindistribusie**

- 30 3. (1)(a) Voor of so gou as moontlik na die oordrag van die aandele in Sentech (Edms.) Bpk. aan die Staat ingevolge artikel 2(1), word die bates, laste, regte en verpligte (met inbegrip van enige aanspraak op oueursreg, handelsmerke en patenteerbare uitvindings) van die SAUK wat betrekking het op of verband hou met uitsaai-seindistribusie waarop die SAUK en die Minister ooreenkomen, aan Sentech (Edms.) Bpk. of, indien dit alreeds in 'n publieke maatskappy soos beoog in artikel 4 omskep is, aan daardie maatskappy, oorgedra.
  - (b) By ontstentenis van so 'n ooreenkoms tussen die SAUK en die Minister, word die bates, laste, regte en verpligte wat so oorgerdra moet word, by arbitrasie ooreenkomstig die bepalings van die Wet op Arbitrasie, 1965 (Wet No. 42 van 1965), bepaal.

(2) In order to effect the transfer of any land or real right contemplated in subsection (1), the Registrar of Deeds who exercises jurisdiction over the area in which the land involved is situated, shall effect the entries, notes and endorsements that he or she considers necessary in or on any relevant register, title deed or other document in his or her office or submitted to him or her.

(3) The Minister may on behalf of the State apply for the registration of any registerable right relating to intellectual property, including the registration as patents of patentable inventions, transferred in terms of subsection (1).

(4) In order to give effect to the transfer of any trade mark referred to in subsection (1), the Registrar of Trade Marks shall make the entries, notes and endorsements that he or she considers necessary in or on any relevant register, certificate or other document in his or her office or submitted to him or her.

(5) The Registrar of Deeds concerned or the Registrar of Trade Marks may request the Minister to produce or submit to him or her the information or document that he or she considers necessary for the purpose of subsection (2) or (4), as the case may be.

(6) No transfer duty, stamp duty, registration fee or any other tax, levy or fee imposed by law shall be payable in respect of the transfer of any asset or right in terms of this section.

### **Conversion of Sentech (Pty.) Ltd. into public company**

**4.** (1) As soon as possible after the transfer of the shares in Sentech (Pty.) Ltd. to the State in terms of section 2(1), the Minister shall on behalf of the State request the Registrar of Companies in writing to convert Sentech (Pty.) Ltd. into a public company having a share capital in accordance with the provisions of the Companies Act.

(2) The request shall be accompanied by the memorandum of association and articles of association of the intended public company which shall be—

- (a) framed in accordance with the provisions of the Companies Act, but subject to the provisions of this Act; and
- (b) signed by the Minister on behalf of the State.

(3) On receipt of the request and the memorandum and articles so signed the Registrar of Companies shall—

- (a) register the conversion of Sentech (Pty.) Ltd. into a public company having a share capital, as well as the memorandum and articles; and
- (b) issue an amended certificate of incorporation.

(4) The name of the public company referred to in subsection (3)(a) shall be Sentech Limited.

(5) No additional fee referred to in section 63(2) of the Companies Act shall be payable in respect of the registration of the memorandum and articles referred to in subsection (3)(a).

(6) The Registrar of Companies shall issue such directives and authorise such deviations from the regulations in force in terms of the Companies Act and the documents prescribed in terms thereof as he or she may consider necessary in order to give effect to this section.

(7) The rights which, in terms of section 29(1) of the Companies Act, are not affected by the conversion of Sentech (Pty.) Ltd. into a public company, shall, without limiting the generality of that section, include the broadcasting signal distribution licence granted to Sentech (Pty.) Ltd. in terms of section 33(1)(a)(i) of the Independent Broadcasting Authority Act.

(8) Sections 66, 190 and 344(d) of the Companies Act shall not apply to the public company referred to in subsection (3)(a).

### **Main object and business of Company**

**5.** The main object and the main business of the Company shall be to provide, as a common carrier, broadcasting signal distribution for broadcasting licensees in accordance with the provisions of the Independent Broadcasting Authority Act.

### **Shareholding of Company**

**6.** (1) Notwithstanding section 32 of the Companies Act, the State shall be the only member and shareholder of the Company.

(2) Ten einde aan die oordrag van enige grond of saaklike reg beoog in subartikel (1) gevolg te gee, maak die Registrateur van Aktes watregsbevoegdheid oor die gebied waar die betrokke grond geleë is, uitoefen, die inskrywings, aantekeninge en endossemente wat hy of sy nodig ag in of op enige tersaaklike register, titelbewys of ander dokument in sy of haar kantoor of aan hom of haar voorgelê.

(3) Die Minister kan namens die Staat aansoek doen om die registrasie van enige registreerbare reg ten opsigte van intellektuele goedere, met inbegrip van die registrasie as patente van patenteerbare uitvindings, wat ingevolge subartikel (1) oorgedra is.

(4) Ten einde aan die oordrag van enige handelsmerk bedoel in subartikel (1) gevolg te gee, maak die Registrateur van Handelsmerke die inskrywings, aantekeninge en endossemente wat hy of sy nodig ag in of op enige tersaaklike register, sertifikaat of ander dokument in sy of haar kantoor of aan hom of haar voorgelê.

(5) Die betrokke Registrateur van Aktes of die Registrateur van Handelsmerke kan die Minister versoek om die inligting of dokument wat hy of sy vir die doel van subartikel (2) of (4), na gelang van die geval, nodig ag, aan hom of haar te verstrek of voor te lê.

(6) Geen hereregte, seëlreg, registrasiegelde of enige ander belasting, heffing of geldie is betaalbaar ten opsigte van die oordrag van enige bate of reg ingevolge hierdie artikel nie.

## 20 Omskepping van Sentech (Edms.) Bpk. in publieke maatskappy

**4.** (1) So gou as moontlik na die oordrag van die aandele in Sentech (Edms.) Bpk. aan die Staat ingevolge artikel 2(1), moet die Minister namens die Staat die Registrateur van Maatskappye skriftelik versoek om Sentech (Edms.) Bpk. in 'n publieke maatskappy met 'n aandelekapitaal ooreenkomsdig die bepalings van die Maatskappywet te omskep.

(2) Die versoek gaan vergesel van die akte van oprigting en statute van die voorgenome publieke maatskappy wat—

(a) ooreenkomsdig die bepalings van die Maatskappywet, maar behoudens die bepalings van hierdie Wet, opgestel is; en  
 30 (b) deur die Minister namens die Staat onderteken is.

(3) By ontvangs van die versoek en die akte en statute wat aldus onderteken is—  
 (a) registreer die Registrateur van Maatskappye die omskepping van Sentech (Edms.) Bpk. in 'n publieke maatskappy met 'n aandelekapitaal, sowel as die akte en statute; en

35 (b) reik hy of sy 'n gewysigde sertifikaat van inlywing uit.

(4) Die naam van die publieke maatskappy bedoel in subartikel (3)(a) is Sentech Beperk.

(5) Geen bykomende geld bedoel in artikel 63(2) van die Maatskappywet is betaalbaar ten opsigte van die registrasie van die memorandum en statute bedoel in subartikel (3)(a) nie.

(6) Die Registrateur van Maatskappye reik sodanige voorskrifte uit en magtig sodanige afwykings van die regulasies van krag ingevolge die Maatskappywet en die dokumente ingevolge daarvan voorgeskryf wat hy of sy nodig ag om aan hierdie artikel gevolg te gee.

45 (7) Die regte wat, ingevolge artikel 29(1) van die Maatskappywet, nie deur die omskepping van Sentech (Edms.) Bpk. in 'n publieke maatskappy geraak word nie, sluit ook in, sonder om aan die algemeenheid van daardie artikel afbreuk te doen, die uitsaai-seindistribusielisensie wat aan Sentech (Edms.) Bpk. ingevolge artikel 33(1)(a)(i) van die Wet op die Onafhanklike Uitsaai-owerheid toegestaan is.

50 (8) Artikels 66, 190 en 344(d) van die Maatskappywet is nie op die publieke maatskappy bedoel in subartikel (3)(a) van toepassing nie.

## Hoofdoelstelling en -besigheid van Maatskappy

**5.** Die hoofdoelstelling en die hoofbesigheid van die Maatskappy is om, as 'n algemene verspreider, uitsaai-seindistribusie aan uitsaalisensiehouers ooreenkomsdig die bepalings van die Wet op die Onafhanklike Uitsaai-owerheid te verskaf.

## Aandeelhouding van Maatskappy

**6.** (1) Ondanks artikel 32 van die Maatskappywet is die Staat die enigste lid en aandeelhouer van die Maatskappy.

(2) The total value and number of the shares of the Company shall be determined by the Minister with the concurrence of the Minister of Finance.

(3) The powers and duties of the State as member and shareholder of the Company shall, subject to subsection (4), be exercised by the Minister.

(4) The rights attached to the shares of the State in the Company shall be exercised by the Minister with the concurrence of the Minister of Finance. 5

(5) Any dividends received by the State in respect of its shares in the Company shall be paid into the National Revenue Fund.

(6) No amount referred to in section 75(3) of the Companies Act or stamp duty shall be payable in respect of the increase of the share capital or the number of shares of the 10 Company.

### **Control of Company**

**7.** (1) The articles of association of the Company shall provide that—

- (a) the directors, other than the managing director, shall fulfil a non-executive function; 15
- (b) the affairs of the Company shall be managed by a management board appointed in terms of the articles of association; and
- (c) one of the directors shall be appointed as managing director as well as chairperson of the management board.

(2) The Company shall borrow money only with the approval of the Minister granted 20 with the concurrence of the Minister of Finance.

### **Financial year and annual financial statements of Company**

**8.** (1) Notwithstanding section 285 of the Companies Act, the financial year of the Company shall be the year ending on 30 September.

(2) In addition to the annual financial statements to be drawn up in terms of the 25 Companies Act, the Minister may direct the Company to draw up annual financial statements in a form determined by him or her.

### **Expropriation powers of Company**

**9.** (1) The Company may, with the written approval of the Minister and subject to this section, expropriate any land or real right in or over land for the purpose of providing, 30 as a common carrier, broadcasting signal distribution for broadcasting licensees in accordance with the provisions of the Independent Broadcasting Authority Act.

(2) If the Company intends to expropriate any land or real right in terms of subsection (1), the management board referred to in section 7(1)(b) shall submit to the Minister a report explaining the intended expropriation. 35

(3) The Minister shall grant approval for the expropriation of any land or real right in terms of subsection (1) only if he or she is satisfied after considering the report referred to in subsection (2), that the Company—

- (a) requires the land or real right for the purpose mentioned in subsection (1); and
- (b) is unable to purchase the land or real right on reasonable terms. 40

(4) Sections 1, 7 to 15 and 18 to 22 of the Expropriation Act, 1975 (Act No. 63 of 1975), shall apply, with the necessary modifications, in respect of the expropriation of any land or real right in terms of subsection (1), and any reference in any of those sections—

- (a) to “Minister” and “State” shall be construed as a reference to the Company; 45
- (b) to “section 2”, shall be construed as a reference to this section; and

(c) to “this Act” shall be construed as a reference to this Act, unless the context otherwise indicates.

### **Short title and commencement**

**10.** This Act shall be called the Sentech Act, 1996, and shall come into operation on 50 a date determined by the President by proclamation in the *Gazette*.

- (2) Die totale waarde en getal van die aandele van die Maatskappy word deur die Minister met die instemming van die Minister van Finansies bepaal.
- (3) Die bevoegdhede en pligte van die Staat as lid en aandeelhouer van die Maatskappy word, behoudens subartikel (4), deur die Minister uitgeoefen en verrig.
- 5 (4) Die regte verbonde aan die aandele van die Staat in die Maatskappy word deur die Minister met die instemming van die Minister van Finansies uitgeoefen.
- (5) Enige dividende wat deur die Staat ontvang word ten opsigte van aandele in die Maatskappy word in die Nasionale Inkomstefonds gestort.
- (6) Geen bedrag bedoel in artikel 75(3) van die Maatskappwyet of seëlreg is  
10 betaalbaar ten opsigte van die vermeerdering van die aandelekapitaal of die getal aandele van die Maatskappy nie.

### **Beheer van Maatskappy**

7. (1) Die statute van die Maatskappy moet bepaal dat—
- (a) die direkteure, behalwe die besturende direkteur, 'n nie-uitvoerende funksie  
15 vervul;
- (b) die sake van die Maatskappy bestuur word deur 'n bestuursraad wat ingevolge die statute aangestel word; en
- (c) een van die direkteure aangestel word as besturende direkteur sowel as voorsitter van die bestuursraad.
- 20 (2) Die Maatskappy leen geld alleenlik met die goedkeuring van die Minister wat met die instemming van die Minister van Finansies verleen is.

### **Boekjaar en finansiële jaarstate van Maatskappy**

8. (1) Ondanks artikel 285 van die Maatskappwyet is die boekjaar van die Maatskappy die jaar wat op 30 September eindig.
- 25 (2) Benewens die finansiële jaarstate wat ingevolge die Maatskappwyet opgestel moet word, kan die Minister die Maatskappy gelas om finansiële jaarstate op te stel in 'n vorm wat hy of sy bepaal.

### **Onteieningsbevoegdhede van Maatskappy**

9. (1) Die Maatskappy kan, met die skriftelike toestemming van die Minister en behoudens hierdie artikel, enige grond of saaklike reg in of oor grond onteien met die doel om, as 'n gemeenskaplike verspreider, uitsaai-seindistribusie aan uitsaailisensiehouers ooreenkomsdig die bepalings van die Wet op die Onafhanklike Uitsaai-owerheid te verskaf.

(2) Indien die Maatskappy van voorneme is om enige grond of saaklike reg  
35 ingevolge subartikel (1) te onteien, moet die bestuursraad bedoel in artikel 7(1)(b) 'n verslag wat die voorgenome onteiening verduidelik aan die Minister voorlê.

(3) Die Minister verleen goedkeuring vir die onteiening van enige grond of saaklike reg ingevolge subartikel (1) alleenlik indien hy of sy, na oorweging van die verslag bedoel in subartikel (2), oortuig is dat die Maatskappy—

- 40 (a) die grond of saaklike reg vir die doel vermeld in subartikel (1) benodig; en  
(b) nie in staat is om die grond of saaklike reg op redelike voorwaardes te koop nie.

(4) Artikels 1, 7 tot 15 en 18 tot 22 van die Onteieningswet, 1975 (Wet No. 63 van 1975), is met die nodige veranderinge van toepassing ten opsigte van die onteiening  
45 van enige grond of saaklike reg ingevolge subartikel (1), en enige verwysing in daardie artikels—

- (a) na "Minister" en "Staat" word uitgelê as 'n verwysing na die Maatskappy;  
(b) na "artikel 2" word uitgelê as 'n verwysing na hierdie artikel; en  
50 (c) na "hierdie Wet" word uitgelê as 'n verwysing na hierdie Wet,  
tensy uit die samehang anders blyk.

### **Kort titel en inwerkingtreding**

10. Hierdie Wet heet die Wet op Sentech, 1996, en tree in werking op 'n datum wat die President by proklamasie in die *Staatskoerant* bepaal.

