

The Gazette

Mass Media Law

General Provisions

Chapter 1

Preamble

Article 1:

This Law has been enacted, taking into account the principles of the holy religion of Islam, pursuant to Article 34 of the Constitution and Article 19 of the Universal Declaration of Human Rights, to ensure the protection of freedom of thought and speech and regulate activities of mass media in the country.

Objectives:

Article 2:

1. Promote and guarantee the right to freedom of thought and speech;
2. Protect the rights of journalists and safeguard conditions for the free operations of the mass media;
3. Promote and develop free, independent and pluralistic mass media.
4. Provide a suitable environment for free expression of views and feelings of the citizens, and for fair reflection of truth through speech, writing, drawing, picture, recording, acting, movement and other scientific, artistic and literary phenomena as well as printing and broadcasting.
5. Observe the right to freedom of speech and mass media as enshrined in the Universal Declaration of Human Rights, observing the provisions of principles of the sacred religion of Islam.
6. Support the sound development of the mass media in a manner to become effective means for broadcasting of accurate news, information, learning, promoting of knowledge, culture in the country and reflect the public opinions in accordance with journalistic standards, principles and values (honesty, impartiality and balance).

Definitions:

Article 3:

The terms shall have the following meanings in this law:

1. **Media:** means the instrument of disseminating messages, news and information using the following tools:
 - Electronic Media: radio, television, cable network, and the Internet;
 - Print Media: newspaper, magazine (weekly, biweekly, monthly, quarterly, annual), gazette, poster and bulletin;

2. Mass media: is divided into the following categories in this law:

- Public Media: is the media that belongs to the general public and is funded by government and through advertisement.
- Private Media: is the media that belongs to individuals, political, economic, social and cultural organizations and are funded and equipped by them.

3. Journalist: is a professional person who produces and presents content of materials for publishing/broadcasting through media.

4. Printing House (Printing press): is an economical and technical apparatus that offers printing services.

5. Printer: is a real or legal person who by ownership or representation is in charge of printing house.

6. Publisher: is a real or legal person who is authorized to print and publish non-periodical (i.e. martial that is not time-bound) works.

7. Publishing: is the practice of disseminating messages and news through mass media.

8. Movie Production Institution: is an organization, which produces documentaries and movies, pictures and slides in accordance with its charter and objectives.

9. Publishing Institution: is a legal entity established pursuant to a charter and engages in publication and dissemination of works of electronic and print media, periodical or on periodical in line with its objectives.

10. Journalism Training Institute: is an institute that provides short-term or long-term professional trainings in journalism.

11. Translation Center: is a legal entity authorized to translate texts and materials from one language into another in accordance with its charter.

12. News Agency: is a legal person, which works in the field of communications, collecting and dissemination of information.

13. Advertising Company: is a commercial incorporeal entity engaged in advertising and publicity in accordance with its charter.

14. Copyright: means the intellectual property right and privilege of published materials, which will be regulated in accordance with accepted norms by a separate Law.

15. Proprietor: is a real or legal person who sets up and establishes electronic or print medium, news agency, journalism training institutes, printing house, publishing

institution, translation center, news agency, film production institution and advertising company.

16. Editor-in-Chief: is a person responsible for managing the publishing affairs related to institutions as stated in paragraph 15 of this article.

17. Radio: is a means for audio mass media.

18. Television: is a means for audio-visual mass media.

19. Cable Network: is audio and visual mass media instrument that broadcasts various national and international informational, educational, cultural, and entertainment programs to its subscribers.

20. Advertisement: is supply of audio-visual services to real or legal persons in return for money or other similar considerations in the electronic and print mass media.

21. Donation: is provision of any types of assistance by real or legal persons for material or moral strengthening of mass media.

Chapter Two

Rights and Obligations

Freedom of Thought and Expression

Article 4:

1. Every person has the right to freedom of thought and speech, which includes the right to seek, obtain and disseminate information and views within the limit of law without any interference, restriction and threat by the government or officials. The right also includes free activity of means of publication, distribution, and reception of information.

2. Government shall support, strengthen, and guarantee the freedom of mass media. Except as authorized under this law, no real or legal person including government and government offices may ban, prohibit, censor or limit the informational activities of mass media or otherwise interfere in their affairs.

Seeking Information

Article 5:

Every person has the right to request and receive information from the state. Government shall provide the information sought by the citizens, unless the information sought is confidential and its disclosure endangers the security, national interests and territorial integrity of the country, or damages the rights of other people.

Legal Protection

Article 6:

1. Journalists shall enjoy legal protection in carrying out their professional activities, including publishing reports and critical views.
2. Journalists shall have the right to avoid disclosing their source of information, except that a competent court orders the disclosure.

Right to Respond**Article 7:**

1. Every real or legal person who is attacked by mass media, and his personality, good standing or material interests are damaged, has the right to refute it in the same media.
2. The concerned media shall, without delay and free of charge, publish the response in the upcoming edition or broadcast of the same media outlet.
3. The response provided shall have no criminal nature and refers exclusively to the allegation in the media, and it shall be in written form signed by the affected person or his lawyer and presented to the editor in chief.
4. Any complaints about non-publishing of response shall be referred to the relevant Commission.
5. The right to respond shall not apply to the reports from the sessions of National Assembly and open trials unless the reports from the sessions mentioned above are transposed by media.

Non-publication of Response**Article 8:**

Mass media may refrain from publishing a response in the following cases:

1. The response is outside the point of discussion.
2. The response is received more than ninety days later by the media.

Establishment of Union**Article 9:**

In order to defend their guild's rights, journalists and other members of mass media may establish associations, unions, or other independent guilds in accordance with the provisions of law.

Chapter Three**Establishment of Print Media**

Article 10:

1. Citizens of the country, political parties, social organizations, non-governmental organizations, foreign refugees and government organizations may establish printing media, in accordance with the provisions of this law.
2. Subject to compliance with diplomatic norms, foreign political agencies based in Afghanistan may publish newsletters.
3. International and inter-governmental agencies may perform academic research, and publish and distribute periodicals and non-periodicals within their area of activity subject to prior approval of concerned ministries and institutions.
4. Reporting and academic research shall be subject to prior approval of concerned ministries and institutions.
5. Foreign non-governmental organizations (NGOs) established in accordance with the provisions of law, may publish within their specialized area of activity and subject to authorization by Ministry of Information and culture, and under the editorship of an Afghan citizen, periodical and non-periodical.
6. Print media mentioned in paragraph 2 of article 3 of this law may be established and published without prior registration. In case a publication is published without prior registration, the proprietor is obliged to get his/her publication registered within two weeks in accordance with the provisions of this law.

Address and other specifications**Article 11:**

A printed media shall contain the name of the journal, specific address, name and location of the printing center, name of the proprietor and editor and date of publication.

Chapter Four**Establishment of Electronic Mass Media****Establishment of Electronic Media****Article 12:**

Citizens of the country, political parties, social organizations, national non-governmental organizations, private companies, and government institutions can establish electronic mass media in accordance with the provisions of this law.

Public Electronic Media**National Radio Television Afghanistan**

Article 13:

National Radio Television Afghanistan is a mass media that belongs to the Afghan nation and shall perform, as an independent directorate, within the framework of the Executive Branch and its budget shall be provided by the government, and through advertisements and provision of services.*

Article 14:

The Headquarter of National Radio Television Afghanistan (NRTA) shall be located in Kabul city and its local stations shall be located in the provinces.

Duties and Responsibilities:**Article 15:**

National Radio Television Afghanistan is obligated to adjust its programs in the light of the principles and provisions of the holy religion of Islam, national and spiritual values of the Afghan nation and in its programs shall consider dissemination of information, promotion of religious education, science, culture, economy, moral and psychological security (wellbeing).

Religious and National Programs:**Article 16:**

National Radio Television, in compliance with full impartiality in the interest of promoting national unity and strengthening religious and national values of the country, must organize its programs in such a way to reflect the culture, language and religious beliefs of all the ethnic groups residing in the country.

Operation of RTA in the Cases of Emergency:**Article 17:**

In case of emergency, National Radio Television shall operate under full supervision of the President.

Keeping of Programs:**Article 18:**

National Radio Television is obligated to keep all its recorded programs in the archive of National Radio Television.

Non-governmental Electronic Media:**Article 19:**

* The High Council of Supreme Court through its judicial ruling No. 6 dated April 15, 2009 considered paragraph 2 of Article 13 which reads "Director of RTA shall be appointed by the President and approved by Lower House of parliament," as 'inconsistent with the Afghan Constitution'.

Private radio and televisions shall carry out their activities in light of the provisions of this law.

Observation of Principles:

Article 20:

Private radio and televisions are obligated to observe the principles and provisions of the holly religion of Islam, and national, spiritual and moral values and the psychological security of the Afghan nation in their programming.

Freedom of Private Radio and Televisions:

Article 21:

Private radio and televisions shall have freedom in production and compiling of their programs, in compliance with the provisions of this law.

Maintaining Balance:

Article 22:

Private radio and televisions shall maintain balance relating to the adversary positions taken by political groups and personalities against each other, and broadcast the views of the parties involved impartially.

Maintaining Recorded Programs:

Article 23:

Private radio and televisions shall keep their recorded programs in the respective archives for at least three years.

Right to Claim:

Article 24:

If a real or legal person claims in writing that his rights have been affected by a mass medium's program, he may take a copy from the archive of that media at his own expenses and use it.

Obligations of the Editor-in-Chief of the Electronic Media:

Article 25:

(1) Editor-in-chiefs of electronic mass Medias shall include issues of religion and moral, health, environment, importance of education, harms of cultivation, production and consumption of drugs and narcotics in their educational programs.

(2) Editor-in-chiefs of the electronic Mass Media are obligated to broadcast five times Azan (Call for prayer), through their networks and should observe the sacred Islamic religious days and the holy month of Ramazan, in their programs.

Chapter Five

Financial Sources of the Mass Media

Financial Sources:

Article 26:

(1) Mass media can finance based on the provisions of this law as follows:

A- The private mass media may publish the advertisements, messages, and political, religious and social programs of real and legal persons, national and international manufacturing and trading companies, political and cultural entities, and political parties.

B- Receiving contributions from or real legal persons and national and international donor organizations, who work for development of mass media.

(2) Editors-in-chiefs of mass media are obligated to report their annual financial report to the High Media Council and Ministry of finance.

(3) The source and amount of contribution shall be clear and transparent.

(4) Providing professional and specialized services to the real or legal persons in return to money.

Establishing of printing houses and cultural Institutions

Right to Establish:

Article 27:

Citizens of the country, political parties, social organizations, national and international nongovernmental organizations, national and international private and personal companies, and government institutions have the right to establish printing houses, film production centers, publishing entity, journalism training institute, translation centre, news agency and companies for publicity and advertisements, in accordance with the provisions of this law.

License:

Article 28:

If citizens of the country, political parties, social organizations, national and international non-governmental organizations, national and international private and personal

companies, and government institutions wanting to establish the organizations set forth in Article 27 of this Law shall obtain license from the Ministry of Information and Culture.

Chapter Seven

Proprietor, Qualifications and Obligations

Proprietor:

Article 29:

The mass media and organizations set forth in article (27) of this law shall have proprietors.

Qualifications of Proprietor:

Article 30:

The proprietors of mass media and organizations set forth in article (27) of this law shall meet the following qualifications:

a. Real persons shall:

1. Hold a national identity card
2. Having completed age 18
3. Not been deprived of civil rights by ruling of competent court.

b. Legal persons shall:

1. Be registered with the relevant government institutions
2. Have their Afghan identity verified by the relevant institutions. Persons and institutions mentioned in the paragraph 2 and 3 of article 10 are exempted from this provision.
3. Not been deprived of civil rights by ruling of competent court. Foreign persons and agencies shall have the national identity of their relevant countries.

Article of Association:

Article 31:

Proprietors of mass media and organizations set forth in article (27) of this law are obligated to organize the required information on the activities of their media or institution in their respective articles of association, including the objectives, structure, authorities, duties, amount of capital and financial source.

Registration of Private Media and Cultural Organizations:

Article 32:

The proprietors of mass media and organizations set forth in article (27) of this law shall register their media and organizations in accordance with the provisions of this law.

**Provision of information for Media
Registration and Cultural Organizations:**

Article 33:

The proprietors of mass media and organizations set forth in article (27) of this law shall submit a statement containing the following information for registration purpose to

Ministry of Information and Culture:

- 1- Full names of proprietor.
- 2- Type of activity.
- 3- Name of media
- 4- Location of activity
- 5- Objectives and aim of activity
- 6- Funding source and amount of capital
- 7- For printed specifying the quantity, language, type of contents, period of printing, and print layout.
- 8- For electronic media and organizations set forth in article 27 of this law specifying the quantity and quality of the machineries and equipments.

Address and Logo:

Article 34:

The mass media and organizations set forth in article (27) of this law shall have specific address, stamp and logo.

Right to Court Referral

Article 35:

In case a proprietor finds the decision of the ministry of information and culture regarding non-registration or issuance of license contrary to the provisions of law, he may refer to the relevant commission. If not satisfied, the proprietor may file a lawsuit before court.

Article 36:

1. Transfer of ownership and rights (sale, gift and inheritance) of the mass media and organizations set forth in article (27) of this law is permissible.
2. The ownership and rights may be transferred to a person who meets the criteria established by this law.
3. In case of sale or gift of assets or right of the mass media and above-mentioned organizations to another person, the procedure established by this law shall be reapplied.
4. In case a proprietor dies or ceases to have the required legal qualifications, the material and intellectual ownership shall be determined in accordance with the provisions of the

Civil Code and this law, and shall be transferred to the person agreed upon by the heirs and meeting the criteria established by this law.

Chapter Eight

Qualification and Obligation of Editor-in-Chief

Having an Editor-in-Chief

Article 37:

Mass media and the institutions mentioned in article (27) of this law shall have editors-in-chief.

Qualifications of Editor-in-Chief:

Article 38:

Person who is appointed, as editor-in-chief shall meet the following requirements:

1. Have a national identification card
2. Have completed age 21
3. Holds a professional degree or three years of professional experience
4. Not been deprived of civil rights by ruling of competent court

Responsibility for Published Material:

Article 39:

Editor-in-chief shall be responsible for published articles, contents of the programs, production of artistic, educational and advertising programs in mass media or the agencies mentioned in article 27 of this law.

Observe the Right of the Critic and the Recipient of Criticism:

Article 40:

Editor-in-Chief is obligated to observe the right of the critic and the criticized in the printing and electronic media.

Chapter Nine

High Media Council

Article 41:

(1) For purpose of developing media policy, a High Media Council comprising of Culture

Minister, Technical Deputy of Communication Ministry, one representative from the Supreme Court, one representative from the ministry of justice, two representatives from MJ, two representatives from WJ, one religious scholar from the Ulema Shura, two experienced professionals in the field of Journalism and two representatives of the civil society, proposed by them, shall be established for a period of (3) years.

(2) One person shall be chosen through free election from amongst the members of the HMC as chairperson.

(3) The mechanism for the election of four people, 2 journalists and 2 civil society reps, as members of the HMC and the functions of the council shall be regulated by separate rules of procedure [*or code of conduct*].

(4) High Media Council shall have the following duties and authorities:

1. Planning and approving of long-term media policy;
2. Propose appointment of chair and members of the Mass Media Commission and Commission of National Radio Television from amongst the professional, independent, and reputable personalities to the President.
3. Proposing National Radio TV's budget to the government and submitting annual activities report to National Council.

Mass Media Commission:

Article 42:

(1) For the purpose of appropriate regulating of activities of the mass media, a Mass Media Commission shall be established comprising of (7) members selected from amongst professional people, with higher education and experienced in the field of journalism taking into account the ethnic and gender balance.

(2) Four members of the commission shall be elected for a period of (3) year and 5 others for a period of (2) year.

(3) Members of the commission shall not be elected for more than two rounds.

(4) The salary of the commission members shall be paid in accordance with the law from the budget of Ministry of Information and Culture.

(5) Method of work and activities of the commission shall be regulated by separate bylaw.

Duties of Mass Media Commission:

Article 43:

The Commission under Article (42) of this law shall have the following duties and authorities:

1. Review application for print media and agencies set forth in article 27 of this law, and proposing their registration and issuance of license to Ministry of Information and Culture.
2. Review application for electronic media and propose to the Ministry of Information and Culture for approval after assigning of frequency in agreement with Ministry of Communications.
3. Monitor the activities of the mass media.
4. Review the complaints by the mass media and solve their legal disputes.
5. Refer mass media violations with criminal nature to justice institutions.
6. Provide technical consultations to the officials of mass media.
7. Supervise the financial, administrative and broadcasting affairs of the National Radio TV.
8. Scrutinize annual budget of the National Radio TV and submit it to the HMC.
9. Submit annual report to the High Media Council.

National Radio Television Afghanistan Commission:

Article 44:

(1) For better regulating of administrative affairs of the National Radio Television, a National Radio Television Commission shall be established composing of seven members for a period of 3 years.

(2) The commission set forth in paragraph 1 of this Article shall include one religious personality, one lawyer, one engineer, one journalist, one professional artist, one representative of the civil society and one representative of NRTV taking into account the ethnic and gender balance.

(3) The Commission set forth in paragraph (2) of this Article shall have the following duties and authorities:

1. Protect the independence, impartiality, and professional reputation of NRTA.
 2. Monitor implementation of NRTA budget.
 3. Submit annual activities report of the RTA to the Mass Media Commission.
 4. Attract internal and external assistance for the strengthening of the RTA.
 5. Monitor implementation of the rules of the RTA's bylaw and other relevant laws.
 6. Monitor implementation of the broadcasting policy set forth by the HMC in a manner to reflect the ethnic, language and cultural diversities of all people of Afghanistan.
- (4) Members of the NRTA Commission in accordance with the law shall be entitled to appropriate wage which will be paid from the budget of NRTA.

Chapter 10

Works and Materials Prohibited to be Produced, Printed and Published/Broadcast

Materials prohibited to be broadcast:

Article 45:

Production, reproduction, print and publishing of the following reports and material in mass media, and agencies mentioned in article (27) of this law are not permissible:

1. Works and materials those are contrary to the principles and provisions of the holy religion of Islam.
2. Works and materials which are offensive to other religions and sects.
3. Works and materials which are defamatory, insulting and offensive to the real or legal persons.
4. Works and materials which are considered libelous/defamatory to real and legal persons, and cause damage to their personality and credibility.
5. Works and materials which are contrary to the Constitution and are considered crime by the Penal Code.
6. Publicizing and dissemination (promoting) of religions other than the holy religion of Islam.
7. Disclosure identity and broadcasting of pictures of the victims of violence and rape in a way to damage their social dignity.
8. Works and material that harm psychological security and moral wellbeing of people, especially children and adolescent.

Bakhtar News Agency:

Article 46:

It is a mass media agency, working within the Ministry of Information and Culture to communicate, collect and deliver information, being funded by the same ministry.

Revocation of License:

Article 47:

1- The license of real or legal person who register a media or institution with Ministry of Information and Culture, shall be revoked if the print media does not start its activity within one year from registration date, and the electronic media and institutions set forth in article (27) of this law does not start its activity within two years from registration date.

(2) A proprietor of media or institution, who stops its activity after a period of operation, shall resume the activity of print media within one year and the electronic media and institutions set forth in article 27 of this within two years otherwise their license shall be revoked. In case of resuming activities, the person shall obliged to go through the procedures set forth in the articles (31) and (34) of this Law.

(3) In case of violation of the provisions set forth in this law by the proprietor the relevant Court can order the revocation of the license.

Chapter 11

Miscellaneous Provisions

Right of Film Production of Foreign Citizens:

Article 48:

Foreign citizens may produce documentaries and feature films in Afghanistan provided they have obtained an introductory letter from the Ministry of Foreign Affairs and a prior permission from Ministry of Information and Culture.

Article of association amendment:

Article 49:

1- Managers and directors of mass media and institutions mentioned in Article (27) of this Law are obliged to notify the Ministry of Information and Culture of any changes in

their activity or cessation of activity, address and charter and other requirements set forth in this law.

2- Managers and director of mass media and institutions mentioned in Article (27) of this Law shall notify, for statistical information purposes, Ministry of Information and Culture of the continuation or cessation of activities at the beginning of each year.

Obligation of Foreign Media and News

Agencies:

Article 50:

1- Representatives of foreign media and news agencies intending to operate inside Afghanistan shall obtain introductory letter from Ministry of Foreign Affairs of Islamic Republic of Afghanistan and inform, in writing, the Ministry of Information and Culture of their country of origin, and the type, duration and place of activities, and obtain special press card.

2- Representatives of foreign media and news agencies set forth in paragraph (1) of this Article shall abide by the provision of Article (45) of this law.

Registration of Books and Booklets:

Article 51:

Book or booklet shall be registered with Ministry of Information and Culture after publication and the proprietor shall provide two copies each of the book, booklet or publication to the Ministry of Information and Culture and the Public Library.

Laws Enactment:

Article 52:

Laws regarding the copyright, establishment of unions, punitive rules for media violations, advertisements, and seeking [access to] information shall be enacted in separate laws.

Payment of Tax:

Article 53:

Tax shall be levied on the profits of mass media and other institutions mentioned in Article (27) of this Law, in accordance with the provisions of Law.

Periodical and non-periodical Print publications are exempted from this provision.

Date of Entry into Force:

Article 54:

This law shall enter into force after publishing in the Official Gazette, following which the Mass Media Law published in the Official Gazette No. 871 on 15 Jady 1384 shall be nullified.