

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
THE SENATE

(Restored to Notice Paper pursuant to resolution, 5 May 1993)

(MINISTER FOR TRANSPORT AND COMMUNICATIONS, SENATOR COLLINS)

A BILL

FOR

An Act to amend the *Australian Broadcasting Corporation Act 1983*, and for related purposes

The Parliament of Australia enacts:

Short title etc.

1.(1) This Act may be cited as the *Australian Broadcasting Corporation Amendment Act 1992* [1993].

5 (2) In this Act, “**Principal Act**” means the *Australian Broadcasting Corporation Act 1983*¹.

Commencement

2.(1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.

10 (2) Paragraph 3(c) commences on 1 July 1993.

Interpretation

3. Section 3 of the Principal Act is amended:

- (a) by omitting from subsection (1) the definitions of “broadcast receiver”, “broadcasting program”, “broadcasting station”, “broadcasting translator station”, “national broadcasting station”, “national television station”, “technical equipment”, “telegraph line”, “television program”, “television receiver”, “television repeater station”, “television station”, “television translator station” and “wireless telegraphy”;
- (b) by inserting in subsection (1) the following definitions: 10
- “ **‘broadcasting service’** means a service that delivers television programs or radio programs to persons having equipment appropriate for receiving that service, whether the delivery uses the radio frequency spectrum, cable, optical fibre, satellite or any other means or a combination of those means, but does not include: 15
- (a) a service (including a teletext service) that provides no more than data or no more than text (with or without associated still images); or
- (b) a service that makes programs available on demand on a point-to-point basis, including a dial-up service; or 20
- (c) a service, or a class of service, determined by the Minister under paragraph (c) of the definition of ‘broadcasting service’ in subsection 6(1) of the *Broadcasting Services Act 1992*;
- ‘electric line’** includes:
- (a) any substance used for the purpose of conveying, transmitting, transforming or distributing electricity; and 25
- (b) any material enclosing, surrounding or supporting the substance or any part of the substance; and
- (c) any apparatus connected with any such substance or material;
- ‘program’** means a radio program or a television program; 30
- ‘transmission facilities’** means:
- (a) a radiocommunications transmitter within the meaning of the *Radiocommunications Act 1983*; or
- (b) a mast or tower associated with such a transmitter; or
- (c) a site on which such a transmitter is, or is to be, located; 35
- but does not include:
- (d) studio equipment; or
- (e) any link, whether by line or otherwise, connecting a studio to such a transmitter;”;

(c) by omitting from paragraph (a) of the definition of “transmission facilities” in subsection (1) “*Radiocommunications Act 1983*” and substituting “*Radiocommunications Act 1992*”.

5 4.(1) After section 14 of the Principal Act the following section is inserted:

Leave of absence of Managing Director

“14A.(1) Subject to section 87E of the *Public Service Act 1922*, the Managing Director has such recreation leave entitlements as are determined by the Remuneration Tribunal.

10 “(2) The Managing Director may take recreation leave only with the Board’s approval.

“(3) The Board may grant the Managing Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Board determines.”.

15 (2) Section 14A of the Principal Act as amended by this Act does not apply in relation to the period of appointment as Managing Director that was current immediately before the commencement of this section.

(3) During that period of appointment, the terms and conditions of the appointment relating to leave of absence continue to apply.

20 **General powers of Corporation**

5. Section 25 of the Principal Act is amended:

(a) by omitting from paragraph (g) “and” (last occurring);

(b) by omitting paragraph (h) from subsection (1) and substituting the following paragraphs:

25 “(h) to produce, promote or present programs or arrange, or provide facilities, for the production, promotion or presentation of programs;

(i) to transmit programs or provide facilities for the transmission of programs;

30 (j) to arrange for the transmission of programs;

(k) to arrange for the use by the Corporation of satellite transponders;

(l) to arrange for the provision of satellite earth stations; and

(m) to do anything incidental to any of its powers.”;

35 (c) by omitting from paragraph (5)(c) “under Part 7” and substituting “within the meaning”;

(d) by omitting from paragraph (5)(d) “under Part 8” and substituting “within the meaning”.

Hedging contracts etc.

6. Section 25B of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

“(3) If the Corporation enters into a contract, dealing or other arrangement under subsection (1), it must do so in accordance with the guidelines (if any) in force under subsection (2).”

News services

7. Section 27 of the Principal Act is amended:

(a) by omitting subsection (2) and substituting the following subsection:

“(2) Subject to subsection (5), the Corporation must broadcast daily from each broadcasting service regular sessions of news and information relating to current events within and outside Australia.”

(b) by adding at the end the following subsections:

“(5) Subsection (2) does not apply to:

- (a) a subscription broadcasting service within the meaning of section 16 of the *Broadcasting Services Act 1992*; or
- (b) a subscription narrowcasting service within the meaning of section 17 of that Act; or
- (c) an open narrowcasting service within the meaning of section 18 of that Act;

unless the service is specified by the Minister by notice in the *Gazette*.

“(6) A specification under subsection (5) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.”

Publication of journals etc. and making etc. of sound recordings etc

8. Section 29 of the Principal Act is amended:

(a) by omitting from subsection (1) “, in such manner as the Board thinks fit”;

(b) by omitting paragraph (1)(a) and substituting the following paragraph:

“(a) compile, prepare, issue, circulate and distribute literary material (including the program schedules of broadcasting services provided by the Corporation and other persons); and”;

(c) by omitting from subsection (2) “, if the Board thinks fit.”

9. The Principal Act is amended by inserting after section 31 the following Part:

“PART IVA—CORPORATE PLANS

Corporate plans

“31A.(1) The Board must prepare corporate plans.

“(2) The first corporate plan:

- 5 (a) is to be for a period of not less than 3 years, and not more than 5 years;
and
(b) must be given to the Minister within a period of 6 months after the
day on which this section commences.

10 “(3) Each subsequent corporate plan is to be for a period of not less than
3 years, and not more than 5 years, beginning immediately after the period
of the previous corporate plan.

“(4) The Board may review and revise a corporate plan at any time.

Matters to be included in corporate plans

“31B.(1) Each corporate plan must:

- 15 (a) set out the objectives of the Corporation and its subsidiaries; and
(b) outline the overall strategies and policies that the Corporation and its
subsidiaries are to follow:
 (i) to achieve the Corporation’s objectives; and
 (ii) to fulfil the Corporation’s functions; and
20 (iii) to ensure that the Board fulfils its duties under section 8; and
(c) include a forecast of the revenue and expenditure of the Corporation
and its subsidiaries, including a forecast of capital expenditure and
borrowings; and
(d) include such performance indicators and targets (whether financial
25 or operational) as the Board considers appropriate; and
(e) include such other matters as are prescribed in the regulations.

“(2) In this section:

‘**subsidiary**’ means a prescribed company within the meaning of section
25A that the Corporation controls.

30 **Corporate plans to be given to Minister**

“31C. As soon as practicable after the Board prepares or revises a
corporate plan, it must give a copy of the plan to the Minister.

Board to notify Minister of certain matters

“31D. If the Board forms the opinion that matters have arisen:

- 35 (a) that may prevent, or significantly affect, achievement of the
objectives in the Corporation’s corporate plan; or

(b) that may significantly affect the strategies and policies that are to be followed under that plan; or

(c) that may prevent, or significantly affect, the forecasts of revenue and expenditure under that plan;

the Board must immediately notify the Minister of its opinion and the reasons for the opinion.” 5

Officers recommended for retirement on medical grounds may be declared unattached

10. Section 60 of the Principal Act is amended by omitting from subsection (1) “Department of Health” and substituting “Department of State of the Commonwealth that has responsibility for public health matters” 10

Estimates

11. Section 69 of the Principal Act is amended by omitting subsection (2).

12. Part VII of the Principal Act is repealed. 15

13. Before section 78 of the Principal Act the following sections are inserted in Part VIII:

Provision and operation of transmission facilities etc.

“76.(1) The Minister may arrange for the provision and operation of transmission facilities for the purpose of broadcasting programs of the Corporation. 20

“(2) The Minister may arrange for the provision, by the Commonwealth on land owned or controlled by the Commonwealth or by an authority of the Commonwealth, on which a transmitter is operated by the Corporation, of a satellite earth station for use in connection with the operation of that transmitter. 25

“(3) If the Minister so arranges under this section, he or she may stipulate what charges, if any, are to be paid by the Corporation in respect of the provision and operation of those facilities.

Lines for conveyance of electric current to transmission facilities 30

“77.(1) For the purposes of providing and operating the transmission facilities referred to in section 76, a person acting under the authority of the Minister may:

(a) install and maintain any electric line that is necessary for conveying electric current to, or for the operation of, any such facilities; and 35

(b) arrange for and obtain from any person the supply of any electric current that is necessary or advisable for the operation of any such facilities.

“(2) Except in so far as the Minister otherwise determines, the installation and maintenance of an electric line, and the supply of any electric current, under subsection (1), is to be without charge to the Corporation.

5 “(3) In respect of the installation and maintenance of an electric line by a person under paragraph (1)(a), that person has the same powers, and is subject to the same obligations, as are conferred or imposed on a general carrier under Division 3 of Part 7 of the *Telecommunications Act 1991* to install or maintain a facility within the meaning of that Act.”.

10 **Power of Minister to give directions to Corporation in the national interest**

14. Section 78 of the Principal Act is amended:

(a) by omitting subsection (1) and substituting the following subsections:

15 “(1) If the Minister is of the opinion that the broadcasting of particular matter by the Corporation would be in the national interest, the Minister may direct the Corporation to broadcast that matter over all of its national broadcasting services or over such of them as are specified in the direction. If such a direction is given, the Corporation must broadcast that matter, free of charge, in accordance with the direction.

20 “(2) In subsection (1):
‘national broadcasting services’ has the meaning given by section 13 of the *Broadcasting Services Act 1992*.”;

(b) by omitting subsection (3) and substituting the following subsection:

25 “(3) Subsection (1) has effect subject to section 79A.”.

Matters to be included in annual report

15. Section 80 of the Principal Act is amended:

(a) by omitting “shall include” and substituting “must cause to be included”;

30 (b) by adding at the end the following paragraphs:

35 “(i) an assessment of the extent to which the operations of the Corporation and its subsidiaries during the year have achieved the objectives of the Corporation and its subsidiaries under the corporate plan and fulfilled the functions of the Corporation; and

(j) particulars of any activities carried out during the year by the Corporation under subsection 25A(2); and

40 (k) particulars of any activities during the year of any authorised business with which the Corporation is associated under that subsection.”.

Regulations and rules

16. Section 83 of the Principal Act is amended by omitting subsections (4), (5) and (6) and substituting the following subsection:

“(4) Rules made under this section are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.”

5

Other amendments

17 The Principal Act is amended as set out in Schedules 1 and 2.

Consequential amendments

18 The *Parliamentary Proceedings Broadcasting Act 1946* is amended as set out in Schedule 3.

10

Part V amendments

19. The amendments to Part V in this Act have no effect if section 8 of the *Broadcasting Legislation Amendment Act 1988* commences before this Act commences.

SCHEDULE 1

Section 17

MINOR AND TECHNICAL AMENDMENTS

Paragraph 6(1)(a):

Omit “and television” (first and second occurring).

Subparagraph 6(1)(a)(i):

Omit “and television programs”.

Subparagraph 6(1)(a)(ii):

Omit “and television programs”.

Paragraph 6(1)(b):

Omit “and television programs”.

Subsection 6(2):

Omit “and television” (first occurring).

Subparagraph 6(2)(a)(i):

Omit “and television” (twice occurring).

Subparagraph 6(2)(a)(ii):

Omit the subparagraph, substitute:

“(ii) the standards from time to time determined by the Australian Broadcasting Authority in respect of broadcasting services;”.

Subparagraph 6(2)(a)(iii):

Omit “and television” (first occurring).

Subparagraph 6(2)(a)(iii):

Omit “and television programs” (twice occurring).

Subparagraph 6(2)(a)(v):

Omit “and television programs”.

Paragraph 6(2)(b):

Omit “and television programs”.

Subsection 8(2):

Omit “or television”.

Paragraph 11(3)(a):

Omit “and television programs”.

SCHEDULE 1—continued**Paragraph 11(4)(a):**

Omit “and television programs”.

Subsection 12(5):

Omit “or television”.

Subsection 12(5):

Omit “and television”.

Subsection 25(3):

Omit “or televising”.

Sub-subparagraph 25(5)(b)(i)(A):

Omit “or television programs”.

Subsection 25A(6):

Omit “a prescribed” (second occurring), substitute “an authorised”.

Subsection 27(1):

Omit “and televising”.

Subsection 27(3):

Omit “or televised”.

Sub-subparagraph 29(1)(b)(i)(A):

Omit “or televised”.

Subsection 31(1):

Omit “or televise”.

Subsection 31(2):

Omit “or televising” (wherever occurring).

Paragraph 31(2)(c):

Omit “Board”, substitute “Corporation”.

Subsection 31(3):

Omit “televising or” (twice occurring).

Subsection 70(2):

Omit “or television programs”.

SCHEDULE 1—continued

Section 79:

Omit “or television”.

Paragraph 80(a):

Omit “or telecast”.

Paragraph 80(c):

Omit “or telecast”.

Paragraph 80(d):

Omit “or televise”.

Paragraph 82(1)(a):

Omit “or televised”.

Paragraph 82(1)(b):

Omit “or televised”.

Subsection 82(5):

Omit “or televises, as the case requires,”.

SCHEDULE 2

Section 17

**AMENDMENTS TO REMOVE GENDER-SPECIFIC LANGUAGE
FROM THE PRINCIPAL ACT**

1 In Table 1, the provision of the Principal Act specified in Column 1 is amended by:

- (a) omitting the word or words constituting the entry in Column 2 of the Table; and
- (b) substituting the word occurring in Column 3 opposite to such entry.

TABLE 1

| Column 1 | Column 2—Omit | Column 3—Substitute |
|--|-------------------------------|---------------------|
| 3(1) (definition of "Chairman") | Chairman (twice occurring) | Chairperson |
| 3(1) (definition of "Deputy Chairman") | Chairman (twice occurring) | Chairperson |
| 3(1) (definition of "Director") | Chairman (twice occurring) | Chairperson |
| 11(7) | Chairman (twice occurring) | Chairperson |
| 11(9)(b)(iii) | Chairman (twice occurring) | Chairperson |
| 12(3) | Chairman (twice occurring) | Chairperson |
| 12(4) | Chairman (twice occurring) | Chairperson |
| 12(6) | Chairman (wherever occurring) | Chairperson |
| 15(1) | Chairman | Chairperson |
| 15(2) | Chairman (twice occurring) | Chairperson |
| 15(3) | Chairman (twice occurring) | Chairperson |
| 18(2)(b) | Chairman (twice occurring) | Chairperson |
| 18(2)(c) | Chairman (wherever occurring) | Chairperson |
| 19 (section heading) | Chairman | Chairperson |
| 19(1) | Chairman (wherever occurring) | Chairperson |
| 19(1)(a) | Chairman (twice occurring) | Chairperson |
| 19(1)(b) | Chairman (wherever occurring) | Chairperson |
| 19(3) | Chairman (twice occurring) | Chairperson |
| 20(6) | Chairman (twice occurring) | Chairperson |
| 22(1) | Chairman | Chairperson |
| 22(2) | Chairman | Chairperson |

SCHEDULE 2—continued

| Column 1 | Column 2—Omit | Column 3— Substitute |
|---|-------------------------------|-------------------------|
| 22(3) | Chairman | Chairperson |
| 22(4) | Chairman (twice occurring) | Chairperson |
| 22(5) | Chairman (wherever occurring) | Chairperson |
| 22(9)(a) | Chairman (twice occurring) | Chairperson |
| 32(1) (definition of “Chairman of Promotions Appeal Boards”) | Chairman (twice occurring) | Chairperson |
| 41(1)(b) | Chairmen | Chairpersons |
| 41(2)(a) | Chairman | Chairperson |
| 41(3) | Chairman | Chairperson |
| 41(4) | Chairman | Chairperson |
| 41(5) | Chairman | Chairperson |
| 41(6) | Chairman | Chairperson |
| 41(7) | Chairman | Chairperson |
| 41(10)(b) | Chairman | Chairperson |
| 57(2)(a) | Chairman | Chairperson |
| 57(3) | Chairman | Chairperson |
| 57(4) | Chairman | Chairperson |
| 57(5) | Chairman | Chairperson |
| 57(6) | Chairman | Chairperson |
| 57(11)(b) | Chairman | Chairperson |
| 66(2)(a) | Chairman | Chairperson |
| 66(3) | Chairman | Chairperson |
| 66(4) | Chairman | Chairperson |
| 66(5) | Chairman | Chairperson |
| 66(6) | Chairman | Chairperson |
| 66(7) | Chairman | Chairperson |
| 66(12)(b) | Chairman | Chairperson |

2. In Table 2, the provision of the Principal Act specified in Column 1 is amended by:

- (a) omitting the word or words constituting the entry or each entry in Column 2 of the Table; and
- (b) substituting the word or words occurring in Column 3 opposite to such entry.

SCHEDULE 2—continued

TABLE 2

| Column 1 | Column 2—Omit | Column 3—Substitute |
|----------|---|-------------------------------------|
| 10(2) | him (twice occurring) | him or her |
| 12(2) | his | his or her |
| 12(5) | he (wherever occurring) by reason of his (wherever occurring) | he or she because of |
| 12(6) | he | he or she |
| 13(2) | his | the |
| 16 | resign his office him | resign him or her |
| 17(1) | his (first occurring) his (second occurring) | his or her the |
| 17(3) | his (first occurring) his (second occurring) | his or her the |
| 18(2)(a) | his (wherever occurring) | his or her |
| 19(2) | he his him | he or she the him or her |
| 19(3) | he | he or she |
| 19(4) | his (first occurring) his (second occurring) him | his or her the him or her |
| 20(1)(b) | his | the |
| 20(4) | him | him or her |
| 20(6) | he his him | he or she the him or her |
| 20(7) | he | he or she |
| 20(9) | his (first occurring) his (second and third occurring) him | his or her the him or her |
| 21(1) | his | his or her |
| 21(4) | he his him | he or she the him or her |
| 21(5) | he | he or she |

SCHEDULE 2—continued

| Column 1 | Column 2—Omit | Column 3— Substitute |
|---|--|---|
| 21(6) | his (first occurring) his (second occurring) | his or her the |
| 22(1)(a) | he | he or she |
| 22(3) | he | he or she |
| 24(1) | him his | him or her his or her |
| 32(1) (definition of “promotion”) | his occupying him (twice occurring) | occupying him or her |
| 32(4) | him | him or her |
| 33(1) | he | he or she |
| 33(3) | his (twice occurring) | his or her |
| 33(6) | he | he or she |
| 38(1)(a) | him | him or her |
| 38(2)(b) | him | the officer |
| 38(3)(a) | he (twice occurring) to his being | he or she being |
| 38(3)(b) | him | the officer |
| 38(7) | he (first and second occurring) | he or she |
| 38(7)(a) | he | the officer |
| 38(7)(b) | he (first occurring) him he (last occurring) | the officer the officer he or she |
| 38(10) | him | the officer |
| 39(1) | he | he or she |
| 40(a) | him (twice occurring) | the officer |
| 41(3)(a) | his | his or her |
| 41(5) | resign his office him | resign the Chairperson |
| 41(8) | has himself (twice occurring) | has |
| 42(1) | him (twice occurring) | the officer |
| 44 | his | the officer’s |
| 46(1) (definition of “appropriate duties”) | him (twice occurring) | the officer |
| 46(2) | his he | the employee’s he or she |

SCHEDULE 2—continued

| Column 1 | Column 2—Omit | Column 3—Substitute |
|-------------|---|--|
| 46(3) | his | his or her |
| 46(4) | his | his or her |
| 46(5) | his | the employee's |
| 48(b) | he (wherever occurring) his (wherever occurring) | he or she his or her |
| 49(2) | him (twice occurring) | the Managing Director |
| 50(1)(b)(i) | him | the Managing Director |
| 50(2) | he his | the employee his or her |
| 51(1) | he | the employee |
| 51(2)(a) | he | the Managing Director |
| 51(2)(b) | his | the Managing Director's |
| 53(1) | he him | he or she the Managing Director |
| 53(2) | he (wherever occurring) his him (twice occurring) | he or she his or her the Managing Director |
| 53(4)(b) | his he | the employee he or she |
| 53(5)(a) | his | his or her |
| 53(6)(a) | he | he or she |
| 54(1) | him | the Managing Director |
| 54(1)(a) | he | the employee |
| 54(1)(b) | he (wherever occurring) | the employee |
| 54(1)(c) | he (twice occurring) | the employee |
| 54(1)(d) | he | the employee |
| 55 | he (twice occurring) his (wherever occurring) | he or she the employee's |

SCHEDULE 2—continued

| Column 1 | Column 2—Omit | Column 3— Substitute |
|---------------|---|--|
| 56(5) | he him | he or she the employee |
| 56(11) | his | the employee's |
| 57(3)(a) | his | his or her |
| 57(5) | resign his office him | resign the Chairperson and |
| 58(1) | his (first occurring) his employment he | his or her employment he or she |
| 59(1) | his employment | employment |
| 59(2) | his employment | employment |
| 59(2)(a) | his | his or her |
| 59(3) | he him | he or she the employee |
| 60(1) | he his | he or she his or her |
| 61(1) | his employment his (second occurring) | employment his or her |
| 61(2) | his (twice occurring) he | his or her he or she |
| 61(3) | he (twice occurring) his | he or she his or her |
| 62(3)(a)(ii) | he (twice occurring) his | the person his or her |
| 62(3)(b) | he (twice occurring) his | the person his or her |
| 62(4)(b) | his employment | employment |
| 64(1)(a) | him | the officer |
| 64(1)(b)(i) | him | the officer |
| 64(1)(b)(ii) | his | his or her |
| 64(1)(b)(iii) | he his him (twice occurring) | he or she his or her the officer |
| 64(4) | his | his or her |
| 64(5) | his (wherever occurring) | his or her |

SCHEDULE 2—continued

| Column 1 | Column 2—Omit | Column 3—Substitute |
|-----------|------------------------------|--|
| 64(7) | he (twice occurring) | he or she |
| 64(8)(b) | him | the officer |
| 64(9) | his him (twice occurring) | his or her the officer |
| 64(10)(a) | he his | he or she his or her |
| 64(10)(b) | he his | he or she his or her |
| 64(10)(c) | he his | he or she his or her |
| 64(10)(d) | he | he or she |
| 64(10)(e) | he his | he or she his or her |
| 64(10)(f) | he (twice occurring) him | he or she the officer |
| 64(10)(g) | he his | he or she the officer's |
| 65(1)(b) | his | his or her |
| 65(1) | him | him or her |
| 66(4)(a) | his | the |
| 66(6) | resign his office him | resign the Chairperson and |
| 78(5) | he | the Minister |
| 82(2) | his | his or her |
| 82(4) | he him his | he or she the Officer his or her |
| 82(5) | he | he or she |

SCHEDULE 3

Section 18

**AMENDMENTS OF THE PARLIAMENTARY PROCEEDINGS
BROADCASTING ACT 1946**

Section 3 (definition of “national broadcasting station”):

Omit the definition, substitute:

“ ‘**national broadcasting station**’ means a radio station used to provide national broadcasting services within the meaning of section 13 of the *Broadcasting Services Act 1992*;”.

Subsections 4(1) and (2):

Omit “*Broadcasting Act 1942*”, substitute “*Australian Broadcasting Corporation Act 1983*”.

NOTE

1. Nos. 6 and 91, 1983; Nos. 65 and 67, 1985; Nos. 2 and 76, 1986; Nos. 87, 99, 121 and 146, 1988; No. 63, 1989; Nos. 99 and 180, 1991; and Nos. 94 and 105, 1992.