

THIS bill originated in the Senate; and, having this day passed, is now ready for presentation to the House of Representatives for its concurrence.

ARTHUR ROBINSON & HEDDERLEY
LIBRARY

HARRY EVANS
Clerk of the Senate

The Senate,
Canberra, 18 May 1993

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 1993*.

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

Commencement

2. This Act commences on the day on which it receives the Royal Assent.

Interpretation

3. Section 3 of the Principal Act is amended by inserting in subsection (1) the following definition:

“ ‘**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:

- (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
- (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*.”.

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.

“(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.”.

(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.

General powers of Corporation

5. Section 25 of the Principal Act is amended:

- (a) by omitting from paragraph (5)(c) “under Part 7” and substituting “within the meaning”;
- (b) 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:

5 “(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:

10 “(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:

15 (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

20 (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*.”.

25 **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”;

30 (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”;

35 (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:

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

“(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 10
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:

- (a) set out the objectives of the Corporation and its subsidiaries; and 15
- (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
 - (iii) to ensure that the Board fulfils its duties under section 8; and 20
- (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
or operational) as the Board considers appropriate; and 25
- (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.

Corporate plans to be given to Minister

30

“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:

- (a) that may prevent, or significantly affect, achievement of the 35
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;

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

Officers recommended for retirement on medical grounds may be declared unattached

10 **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”.

Estimates

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

15 Power of Minister to give directions to Corporation in the national interest

12. Section 78 of the Principal Act is amended:

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

20 “(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
25 must broadcast that matter, free of charge, in accordance with the direction.

“(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:

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

Matters to be included in annual report

13. Section 80 of the Principal Act is amended:

- (a) by omitting “shall include” and substituting “must cause to be
35 included”;
- (b) by adding at the end the following paragraphs:

- “(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 5
- (j) particulars of any activities carried out during the year by the Corporation under subsection 25A(2); and
- (k) particulars of any activities during the year of any authorised business with which the Corporation is associated under that subsection.”. 10

Repeal of section

14. Section 82 of the Principal Act is repealed.

Regulations and rules

15. Section 83 of the Principal Act is amended by omitting subsections (4), (5) and (6) and substituting the following subsection: 15

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

Other amendments

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

Consequential amendments 20

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

Part V amendments

18. 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. 25

SCHEDULE 1

Section 16

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”.

SCHEDULE 1—continued

Subsections 11(3) and 11(4):

Omit the subsections, substitute the following subsections:

“(3) The function of the Australian Broadcasting Corporation Advisory Council is, either on its own initiative or at the request of the Board, to advise the Board on matters relating to the Corporation’s broadcasting programs.

“(4) The function of an Advisory Council established under subsection (2) in relation to a State, Territory or region is, either on its own initiative or at the request of the Australian Broadcasting Corporation Advisory Council, to advise the Australian Broadcasting Corporation Advisory Council on matters relating to the Corporation’s broadcasting programs in that State, Territory or region.”.

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).

SCHEDULE 1—continued

Paragraph 31(2)(c):

Omit “Board”, substitute “Corporation”.

Subsection 31(3):

Omit “televising or” (twice occurring).

Subsection 70(2):

Omit “or television programs”.

Section 79:

Omit “or television”.

Paragraph 80(a):

Omit “or telecast”.

Paragraph 80(c):

Omit “or telecast”.

Paragraph 80(d):

Omit “or televise”.

Paragraph 80(f):

Add at the end “and”.

Paragraph 80(g):

Omit “and” (last occurring).

Paragraph 80(h):

Omit the paragraph.

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 16

**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 17

**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.



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