

# Broadcasting and Television

No. 8 of 1971

An Act to amend the *Broadcasting and Television Act*  
1942–1969.

[Assented to 29 March 1971]

**B**E it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title  
and citation.

1.—(1) This Act may be cited as the *Broadcasting and Television Act* 1971.

(2) The *Broadcasting and Television Act* 1942–1969\* is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the *Broadcasting and Television Act* 1942–1971.

Commence-  
ment.

2.—(1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

(2) The amendments of the Principal Act effected by sections 5 and 8, and by sub-section (2.) of section 10, of this Act shall take effect on the twenty-eighth day after this Act receives the Royal Assent.

(3) The amendments of the Principal Act effected by section 18 of this Act apply in relation to—

(a) a licence granted for a period commencing after the day on which this Act receives the Royal Assent; and

\* Act No. 33, 1942, as amended by No. 39, 1946; No. 64, 1948; No. 80, 1950; No. 41, 1951; No. 12, 1953; No. 82, 1954; Nos. 33, 65 and 92, 1956; No. 36, 1960 (as amended by No. 32, 1961); No. 96, 1962; No. 82, 1963; Nos. 67 and 121, 1964; Nos. 38 and 120, 1965; No. 57, 1966; No. 47, 1967; No. 69, 1968; and Nos. 21 and 31, 1969.

(b) the renewal of a licence where the licence or the last preceding renewal of the licence, as the case may be, expires on or after that day.

3. Section 3 of the Principal Act is amended by omitting the words— Parts.  
“Division 4.—Miscellaneous (Sections 26–29).”

and inserting in their stead the words—

“Division 4.—Finances of the Board (Sections 26–27D).

Division 5.—Miscellaneous (Sections 28–29).”.

4. Section 4 of the Principal Act is amended by inserting in sub-section Interpretation.  
(1.), before the definition of “Australia”, the following definition:—

“ ‘ approved bank ’ means the Reserve Bank of Australia or another bank approved by the Treasurer for the purposes of the provision in which the expression occurs;”.

5. Section 11 of the Principal Act is repealed and the following section inserted in its stead:—

“ 11.—(1.) A member of the Board shall be paid such remuneration, Remuneration and allowances of members of the Board. and such annual allowance (if any), as the Parliament provides, but until the first day of January, One thousand nine hundred and seventy-two, that remuneration and that allowance (if any) shall be as are prescribed.

“ (2.) A member of the Board shall be paid such other allowances as are prescribed.”.

6. Sections 26 and 27 of the Principal Act and the heading immediately preceding section 26 are repealed and the following Division and heading inserted in their stead:—

“ *Division 4.—Finances of the Board.*

“ 26.—(1.) There are payable to the Board such moneys as are Moneys payable to Board. appropriated by the Parliament for the purposes of the Board.

“ (2.) The Treasurer may give directions as to the amounts in which, and the times at which, moneys referred to in the last preceding sub-section are to be paid to the Board.

“ 27.—(1.) The Board may open and maintain an account or accounts Bank accounts. with an approved bank or approved banks and shall maintain at all times at least one such account.

“ (2.) The Board shall pay all moneys of the Board into an account referred to in this section.

“ 27A.—(1.) The moneys of the Board shall be applied only— Application of moneys.

(a) in payment or discharge of expenses, obligations and liabilities of the Board arising under this Act; and

(b) in payment of remuneration or allowances payable to members and persons acting as members.

“(2.) The Board shall not expend any moneys otherwise than in accordance with estimates of expenditure approved by the Treasurer.

Accounts and records to be kept.

“27B. The Board shall cause to be kept proper accounts and records of the transactions and affairs of the Board and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Board and over the incurring of liabilities by the Board.

Particulars of proposed expenditure.

“27C. The Board shall, not later than the thirtieth day of April in each year, submit to the Minister particulars of proposed expenditure of the Board for the financial year commencing on the following first day of July.

Audit.

“27D.—(1.) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Board and records relating to assets of, or in the custody of, the Board, and shall forthwith draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify his so doing.

“(2.) The Auditor-General may, at his discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in the last preceding sub-section.

“(3.) The Auditor-General shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under sub-section (1.) of this section.

“(4.) The Auditor-General or an officer authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Board relating directly or indirectly to the receipt or payment of moneys by the Board or to the acquisition, receipt, custody or disposal of assets by the Board.

“(5.) The Auditor-General or an officer authorized by him may make copies of, or take extracts from, any such accounts, records, documents or papers.

“(6.) The Auditor-General or an officer authorized by him may require any person to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorized officer considers necessary for the purposes of the functions of the Auditor-General under this Part, and the person shall comply with the requirement.

“(7.) A person who contravenes the last preceding sub-section is guilty of an offence punishable, upon conviction, by a fine not exceeding Two hundred dollars.

“ *Division 5.—Miscellaneous.*”

7. Section 28 of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-section:— Annual Report of Board.

“(2.) Before furnishing financial statements to the Minister, the Board shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records;
- (c) whether the receipt and expenditure of moneys, and the acquisition and disposal of assets, by the Board during the year have been in accordance with this Act; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.”.

8. Section 33 of the Principal Act is repealed and the following section inserted in its stead:—

“33.—(1.) A Commissioner shall be paid such remuneration, and such annual allowance (if any), as the Parliament provides, but until the first day of January, One thousand nine hundred and seventy-two, that remuneration and that allowance (if any) shall be as are prescribed. Remuneration and allowances of Commissioners.

“(2.) A Commissioner shall be paid such other allowances as are prescribed.”.

9. Section 40 of the Principal Act is repealed and the following section inserted in its stead:—

“40.—(1.) The Commission may, by instrument in writing under its common seal, delegate to a Commissioner or to an officer of, or other person employed by, the Commission, either generally or otherwise as provided by the instrument of delegation, all or any of the powers of the Commission under this Act except— Delegation.

- (a) the power to appoint officers of the Commission; and
- (b) this power of delegation.

“(2.) The Commission may, by instrument in writing under its common seal, delegate to a Commissioner or to the general manager of the Commission, either generally or otherwise as provided by the instrument of delegation, the power to appoint officers of the Commission.

“(3.) A power delegated in accordance with either of the last two preceding sub-sections may be exercised by the delegate in accordance with the instrument of delegation, and, when so exercised, shall, for the purposes of this Act, be deemed to have been exercised by the Commission.

“(4.) A delegation under this section is revocable at will and does not prevent the exercise of a power by the Commission.”.

Officers and employees.

**10.**—(1.) Section 43 of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-section:—

“ (2.) The Commission shall appoint such other officers, and engage such temporary employees, as it thinks necessary.”.

(2.) Section 43 of the Principal Act is amended—

(a) by omitting from sub-section (1.) the words “ sub-section (8.) of this section ” and inserting in their stead the words “ sub-sections (7.) and (8.) of this section ”; and

(b) by omitting sub-section (8.) and inserting in its stead the following sub-sections:—

“ (7.) The general manager shall be paid such salary, and such annual allowance (if any), as the Parliament provides, but until the first day of January, One thousand nine hundred and seventy-two, that salary and that allowance (if any) shall be as are prescribed.

“ (8.) The general manager shall be paid such other allowances as are prescribed.”.

Promotion of officers who complete courses of training for special positions.

**11.** Section 48A of the Principal Act is amended by omitting from sub-sections (1.), (2.) and (4.) the word “ office ” (wherever occurring) and inserting in its stead the word “ position ”.

Power to purchase and dispose of assets.

**12.** Section 61 of the Principal Act is amended—

(a) by omitting from paragraph (a) of sub-section (2.) the words “ Forty thousand dollars ” (wherever occurring) and inserting in their stead the words “ One hundred thousand dollars ”; and

(b) by omitting from paragraph (b) of sub-section (2.) the word “ five ” and inserting in its stead the word “ ten ”.

Agreements to receive approval in certain cases.

**13.** Section 62 of the Principal Act is amended—

(a) by omitting the words “ Forty thousand dollars ” and inserting in their stead the words “ One hundred thousand dollars ”; and

(b) by omitting the word “ five ” and inserting in its stead the word “ ten ”.

**14.** Sections 68 to 71 (inclusive) of the Principal Act are repealed and the following sections inserted in their stead:—

Moneys payable to Commission.

“ 68.—(1.) There are payable to the Commission such moneys as are appropriated by the Parliament for the purposes of the Commission.

“ (2.) The Treasurer may give directions as to the amounts in which, and the times at which, moneys referred to in the last preceding sub-section are to be paid to the Commission.

“ 69.—(1.) The Commission may open and maintain an account or accounts, in Australia or elsewhere, with an approved bank or approved banks and shall maintain at all times at least one such account. Bank accounts.

“ (2.) The Commission shall pay all moneys of the Commission into an account referred to in this section.

“ 70.—(1.) The moneys of the Commission shall be applied only— Application of moneys.

(a) in payment or discharge of expenses, obligations and liabilities of the Commission arising under this Act; and

(b) in payment of remuneration or allowances payable to Commissioners.

“ (2.) The Commission shall not expend any moneys otherwise than in accordance with estimates of expenditure approved by the Treasurer.

“ 71. The Commission shall cause to be kept proper accounts and records of the transactions and affairs of the Commission and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Commission and over the incurring of liabilities by the Commission. Accounts and records to be kept.

“ 71A. The Commission shall, not later than the thirtieth day of April in each year, submit to the Minister particulars of proposed expenditure of the Commission for the financial year commencing on the following first day of July. Particulars of proposed expenditure.

“ 71B.—(1.) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Commission and records relating to assets of, or in the custody of, the Commission, and shall forthwith draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify his so doing. Audit.

“ (2.) The Auditor-General may, at his discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in the last preceding sub-section.

“ (3.) The Auditor-General shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under sub-section (1.) of this section.

“ (4.) The Auditor-General or an officer authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Commission relating directly or indirectly to the receipt or payment of moneys by the Commission or to the acquisition, receipt, custody or disposal of assets by the Commission.

“ (5.) The Auditor-General or an officer authorized by him may make copies of, or take extracts from, any such accounts, records, documents or papers.

“(6.) The Auditor-General or an officer authorized by him may require any person to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorized officer considers necessary for the purposes of the functions of the Auditor-General under this Part, and the person shall comply with the requirement.

“(7.) A person who contravenes the last preceding sub-section is guilty of an offence punishable, upon conviction, by a fine not exceeding Two hundred dollars.”.

Report and  
financial  
statement.

**15.** Section 78 of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-section:—

“(2.) Before forwarding the financial statement to the Minister, the Commission shall submit it to the Auditor-General, who shall report to the Minister—

- (a) whether the statement is based on proper accounts and records;
- (b) whether the statement is in agreement with the accounts and records;
- (c) whether the receipt and expenditure of moneys, and the acquisition and disposal of assets, by the Commission during the year have been in accordance with this Act; and
- (d) as to such other matters arising out of the statement as the Auditor-General considers should be reported to the Minister.”.

**16.** After section 90A of the Principal Act the following section is inserted:—

Shares held  
by trustees  
of super-  
annuation  
funds.

“90AA.—(1.) For the purposes of this Division, a company shall be deemed (but not to the exclusion of any other person) to be beneficially entitled to, or to an interest in, shares in another company where the shares are, or the interest is, owned by the trustees of, or otherwise held directly or indirectly for the benefit of, a fund maintained wholly or partly for the purpose of providing pensions, retiring allowances or other personal benefits to or in respect of all or any employees or directors of the first-mentioned company.

“(2.) The last preceding sub-section does not apply in relation to shares, or an interest in shares, that became owned or held as referred to in that sub-section before the twelfth day of December, One thousand nine hundred and sixty-nine, so as to deem a company to have a share-holding interest in a company holding a licence, being an interest which the first-mentioned company would have been deemed to have had immediately before that date if that sub-section had been in force immediately before that date.”.

**17.** After section 91AA of the Principal Act the following section is inserted:—

Shares held  
by trustees  
of super-  
annuation  
funds.

“91AB.—(1.) For the purposes of this Division a company shall be deemed (but not to the exclusion of any other person) to be beneficially entitled to, or to an interest in, shares in another company where the

shares are, or the interest is, owned by the trustees of, or otherwise held directly or indirectly for the benefit of, a fund maintained wholly or partly for the purpose of providing pensions, retiring allowances or other personal benefits to or in respect of all or any employees or directors of the first-mentioned company.

“(2.) The last preceding sub-section does not apply in relation to shares, or an interest in shares, that became owned or held as referred to in that sub-section before the twelfth day of December, One thousand nine hundred and sixty-nine, so as to deem a company to have an interest in a company holding a licence, being an interest which the first-mentioned company would have been deemed to have had immediately before that date if that sub-section had been in force immediately before that date.”

**18. Section 128 of the Principal Act is amended—**

Licence fees.

(a) by adding at the end of paragraph (b) of sub-section (4.) the word “ or ”; and

(b) by omitting paragraphs (c) and (d) of sub-section (4.) and inserting in their stead the following paragraph:—

“(c) is in receipt of—

(i) a service pension, or a pension in respect of total and permanent incapacity, under the *Repatriation Act 1920–1970*, the *Interim Forces Benefits Act 1947–1966*, the *Repatriation (Far East Strategic Reserve) Act 1956–1966*, the *Repatriation (Special Overseas Service) Act 1962–1968* or regulations in force under the *Native Members of the Forces Benefits Act 1957–1968*; or

(ii) a pension under the *Seamen’s War Pensions and Allowances Act 1940–1970* corresponding with a pension in respect of total and permanent incapacity under the *Repatriation Act 1920–1970*.”

**19. After section 132 of the Principal Act the following section is inserted:—**

“132A.—(1.) A person who lays an information or makes a complaint alleging that another person has committed a prescribed offence shall state in the information or complaint the address of the place of residence or business last known to him of that other person.

Service by registered post of certain summonses.

“(2.) A summons for the appearance before a court of summary jurisdiction of a defendant charged with having committed a prescribed offence may be served upon the defendant by posting a copy of the summons as a registered letter addressed to the defendant at the address shown in any information or complaint relating to the summons as his address.



“(3.) An affidavit by a person stating that—

- (a) he is an officer of the Postmaster-General’s Department;
- (b) he posted, or caused to be posted, a copy of a summons referred to in the affidavit (being a summons that, under the last preceding sub-section, may be served in accordance with that sub-section) as a registered letter addressed to the defendant at the address shown in an information or complaint relating to the summons as the address of the defendant;
- (c) to the best of his knowledge, information and belief, the copy of the summons so posted would, in the ordinary course of post, have been delivered before a date specified in the affidavit; and
- (d) he has no reason to believe that the copy of the summons so posted was not delivered before that date,

is evidence that the summons was served on the defendant in accordance with sub-section (2.) of this section before that date.

“(4.) Where—

- (a) a summons has been issued for the appearance before a court of summary jurisdiction of a defendant charged with having committed a prescribed offence;
- (b) the defendant does not appear before the court as required by the summons;
- (c) the evidence before the court of the service on the defendant of the summons is an affidavit that, under the last preceding sub-section, is evidence that the summons was served on the defendant in accordance with sub-section (2.) of this section; and
- (d) the court has reason to believe that the defendant did not receive, or may not have received, a copy of the summons, or did not receive, or may not have received, a copy of the summons by such a date as would have given to him a reasonable time to comply with the summons,

the court may, before proceeding to hear and determine the charge, require such things to be done, as, in the opinion of the court, are necessary to ensure that the person has been informed of the charge and of the time when and the place where the charge will be heard.

“(5.) Where—

- (a) a person has been charged with, and convicted by a court of summary jurisdiction of, a prescribed offence;
- (b) the person did not appear before the court on the hearing of the charge;
- (c) the evidence before the court of the service on the person of the summons requiring him to appear before the court in relation to the charge was an affidavit that, under sub-section (3.) of this section, was evidence that the summons was served on the person in accordance with sub-section (2.) of this section;

- (d) application is made to the court, within two years after the date of the conviction or within such further period as the court allows, by the person, or by an officer of the Postmaster-General's Department, for the conviction to be set aside on the ground that the person did not receive a copy of the summons, or did not receive a copy of the summons by such a date as would have given to him a reasonable time to comply with the summons; and
- (e) the ground on which the application is made is established to the satisfaction of the court,

the court shall set aside the conviction.

“(6.) Where the court sets aside the conviction, it may, unless it considers that it would be unjust so to do, hear and determine the charge as if the person had not been convicted of the offence, but, before proceeding to hear the charge, the court shall require such things to be done as, in the opinion of the court, are necessary to ensure that the person has been informed of the charge and of the time when and the place where the charge will be heard.

“(7.) A court may, on the hearing of an application referred to in sub-section (5.) of this section, make such order as to costs as it thinks proper.

“(8.) The provisions of this section have effect in addition to, and not in derogation of, any other law, whether a law of the Commonwealth or of a State or Territory of the Commonwealth, that makes provision for or in relation to the service of summonses.

“(9.) In this section, ‘prescribed offence’ means—

- (a) an offence against this Act by reason of a contravention of sub-section (6.) of section one hundred and twenty-five, or of sub-section (6.) of section one hundred and twenty-six, of this Act; or
- (b) an offence referred to in sub-section (8.) of section one hundred and twenty-five, or in sub-section (8.) of section one hundred and twenty-six, of this Act.”.