

OVERSEAS TELECOMMUNICATIONS.

No. 26 of 1958.

An Act to amend the *Overseas Telecommunications Act 1946-1952*.

[Assented to 21st May, 1958.]

[Date of commencement, 18th June, 1958.]

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

1.—(1.) This Act may be cited as the *Overseas Telecommunications Act 1958*. Short title and citation.

(2.) The *Overseas Telecommunications Act 1946-1952** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Overseas Telecommunications Act 1946-1958*.

2. The Division and sections inserted in the Principal Act by this Act shall come into operation on the day on which this Act comes into operation. Commencement.

3. Section five of the Principal Act is amended by omitting from the definition of "Acting Commissioner" the words "illness or". Definitions.

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 Section eleven of the Principal Act is repealed and the following section inserted in its stead :—

" 11. A Commissioner shall be paid such remuneration and allowances as the Governor-General determines." Remuneration of Commissioners.

5. Section twelve of the Principal Act is amended by omitting sub-section (3.) and inserting in its stead the following sub-section :— Absence of Chairman.

" (3.) The remuneration and allowances of a person acting as Chairman shall not exceed the remuneration and allowances

*Act No. 23, 1946, as amended by No. 69, 1952.

determined under the last preceding section in respect of the Chairman.”.

Absence of
Commissioners.

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

“(2.) The remuneration and allowances of a person appointed under this section shall not exceed the remuneration and allowances determined under section eleven of this Act in respect of the absent Commissioner.”.

7. Sections fourteen and fifteen of the Principal Act are repealed and the following sections inserted in their stead:—

Leave of
absence.

“14. The Minister may grant leave of absence to a Commissioner upon such terms and conditions as to remuneration or otherwise as the Minister determines.

Dismissal of
Commissioners.

“15. The Governor-General may terminate the appointment of a Commissioner for inability, inefficiency or misbehaviour.

Resignation of
Commissioners.

“15A. A Commissioner may resign his office by writing under his hand addressed to the Governor-General, but the resignation is not effective unless and until it has been accepted by the Governor-General.

Vacation of
office.

“15B.—(1.) If a Commissioner—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) is absent, except on leave granted by the Minister, from three consecutive meetings of the Commission; or
- (c) fails to comply with his obligations under the next succeeding sub-section,

the Governor-General shall, by notice in the *Gazette*, declare that the office of the Commissioner is vacant, and thereupon the office shall be deemed to be vacant.

“(2.) A Commissioner who is directly or indirectly interested in a contract made or proposed to be made by the Commission, otherwise than as a member, and in common with the other members, of an incorporated company consisting of not less than twenty-five persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Commission.

“(3.) A disclosure under the last preceding sub-section shall be recorded in the minutes of the Commission, and the Commissioner—

- (a) shall not take part after the disclosure in any deliberation or decision of the Commission with respect to that contract; and

(b) shall be disregarded for the purpose of constituting a quorum of the Commission for any such deliberation or decision.

“(4.) Sub-section (2.) of this section does not apply in relation to a contract between a Commissioner and the Commission for the provision by the Commission of any communication service for himself or another person.”

8. Section eighteen of the Principal Act is amended by omitting from sub-section (7.) the words “Fifteen hundred pounds” and inserting in their stead the words “Two thousand five hundred pounds”.

Appointment
of officers.

9. Section nineteen of the Principal Act is amended by adding at the end thereof the following sub-sections:—

Creation,
abolition and
reclassification
of positions.

“(4.) Where the Commission makes the same alteration of the classification of all positions having the same designation and classification, the Commission may, by notice published in the prescribed manner, direct that the last preceding sub-section shall not apply and, in that case, that sub-section does not apply.

“(5.) Where—

(a) the Commission makes an alteration of the classification of a position in a case where there is no other position having the same designation and classification as that position; and

(b) the Commission declares, by notice published in the prescribed manner, that that alteration is related to an alteration in respect of which a notice is or has been published under the last preceding sub-section,

the Commission may, in the first-mentioned notice, direct that sub-section (3.) of this section shall not apply in relation to the first-mentioned alteration and, in that case, that sub-section does not apply.”

10. After section thirty-three of the Principal Act the following section is inserted in Division 2 of Part II.:—

“33A.—(1.) Subject to this section, a person who is or has been an officer or an employee of the Commission shall not divulge the contents or substance of a message or other communication received or transmitted by, or intended for transmission by, the Commission by means of a telecommunication, being a message or other communication that came to his knowledge or to which he has had access by reason of his position as an officer or an employee of the Commission.

Officers, &c.,
not to divulge
contents of
telecommuni-
cations.

Penalty: Two hundred and fifty pounds or imprisonment for one year.

“(2.) The last preceding sub-section does not prohibit the divulging of any matter by a person—

- (a) in the performance of his duty as an officer or an employee of the Commission;
- (b) as a witness summoned to give evidence or to produce documents in a court; or
- (c) in pursuance of the requirements of a law of the Commonwealth or of a State or Territory of the Commonwealth.

“(3.) An offence against this section may be prosecuted either summarily or on indictment.

“(4.) The punishment for an offence against this section is—

- (a) if the offence is prosecuted summarily—a fine not exceeding One hundred pounds; or
- (b) if the offence is prosecuted on indictment—a fine not exceeding Two hundred and fifty pounds or imprisonment for a term not exceeding one year.”.

Power to
purchase and
dispose of
assets.

11. Section thirty-eight of the Principal Act is amended by omitting from sub-sections (2.) and (3.) the words “Five thousand pounds” (wherever occurring) and inserting in their stead the words “Twenty thousand pounds”.

12. Division 4 of Part II. of the Principal Act is repealed and the following Division inserted in its stead:—

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

Borrowing.

“43.—(1.) The Commission may, with the consent of the Treasurer, borrow moneys for temporary purposes on overdraft from the Commonwealth Bank of Australia, or from such other bank as the Treasurer approves.

“(2.) The Treasurer may, out of moneys appropriated by the Parliament for the purposes of this Act (including moneys appropriated under sub-section (5.) of this section), make advances to the Commission of such amounts, and on such terms, as he thinks fit.

“(3.) The Treasurer may, in special circumstances, permit the borrowing of moneys by the Commission, whether for a temporary purpose or not, otherwise than in accordance with the preceding provisions of this section.

“(4.) The Commission shall not borrow moneys otherwise than in accordance with this section.

“(5.) The amount by which the sum of Three million pounds exceeds the total amount of the advances made before the commencement of this section to the Commission under section forty-three of the *Overseas Telecommunications Act 1946*, or of that Act as amended, is appropriated out of the Consolidated Revenue Fund for the purposes of the Commission.

“ 44.—(1.) The Commission shall open and maintain an account or accounts with the Commonwealth Bank of Australia, and may open and maintain an account or accounts with such other bank or banks as the Treasurer approves. Bank accounts.

“ (2.) The Commission shall pay all moneys received by it into an account referred to in this section.

“ 45.—(1.) Subject to this Act, the moneys of the Commission shall be applied only— Application of moneys.

(a) in payment or discharge of expenses, charges and obligations incurred or undertaken by the Commission under this Act ; and

(b) in payment of the remuneration and allowances of the Commissioners.

“ (2.) Moneys of the Commission not immediately required for the purposes of the Commission may be invested on fixed deposit with the Commonwealth Bank of Australia or with any other bank approved by the Treasurer, or in securities of the Commonwealth.

“ 46. The Commission shall prepare estimates, in such form as the Minister directs, of its receipts and expenditure for each year ending on the thirty-first day of March and shall submit those estimates to the Minister not later than such date as the Minister directs. Commission to prepare annual estimates.

“ 47.—(1.) The Commission shall keep proper accounts and records in accordance with the accounting principles generally applied in commercial practice 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 the Commission and the incurring of liabilities of the Commission. Proper accounts to be kept.

“ (2.) The Commission shall, subject to and in accordance with the directions (if any) of the Treasurer, make provision in its accounts for depreciation, and for pensions, retiring allowances and other future or contingent liabilities.

“ 48. So much of any net profit derived from the operations of the Commission as enures to the Commission after the application of the provisions of the agreement entered into in pursuance of clause six of the Agreement and after the making of any payments required by a determination of the Treasurer to be made in respect of repayment of advances made to the Commission by the Treasurer shall be applied in such manner as the Minister, after considering any recommendation of the Commission and with the concurrence of the Treasurer, directs. Application of net profits.

“ 49.—(1.) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Commission, and shall forthwith draw the Minister’s attention to Audit.

any irregularity disclosed by the inspection and audit which, in the opinion of the Auditor-General, is of sufficient importance to justify his so doing.

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

“(3.) The Auditor-General or a person 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 of the Commission.

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

“(5.) The Auditor-General or a person authorized by him may require a Commissioner or an officer or employee of the Commission to furnish him with such information in the possession of the Commissioner, officer or employee or to which the Commissioner, officer or employee has access as the Auditor-General or authorized person considers necessary for the purposes of an inspection or audit under this section, and the Commissioner or officer or employee of the Commission shall comply with the requirement.

Liability to
taxation.

“50. The Commission is subject to taxation (other than taxes on income) under the laws of the Commonwealth, but is not subject to taxation under a law of a State or Territory of the Commonwealth to which the Commonwealth is not subject.”.

13. Section fifty-three of the Principal Act is repealed and the following section inserted in its stead:—

Annual report
of Commission.

“53.—(1.) The Commission shall, as soon as practicable after each thirty-first day of March, prepare and furnish to the Minister a report of its operations during the year ended on that date, together with financial statements in respect of that year in such form as the Treasurer approves.

“(2.) Before furnishing the financial statements to the Minister, the Commission 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 and show fairly the financial operations and the state of the affairs of the Commission;

- (c) whether the receipt, expenditure and investment 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 statements as the Auditor-General considers should be reported to the Minister.

“(3.) The Minister shall lay the report and financial statements of the Commission, together with the report of the Auditor-General, before each House of the Parliament within fifteen sitting days of that House after their receipt by the Minister.”.

14. After section seventy-seven of the Principal Act the following section is inserted:—

“78. No action or other proceeding lies against the Commission or an officer or employee of the Commission by reason of any default, delay, error, omission or loss, whether negligent or otherwise, in the transmission, reception or delivery of a telecommunication.”.

Protection
from actions.
