

AUSTRALIAN BROADCASTING.

No. 39 of 1946.

An Act to amend the *Australian Broadcasting Act 1942*, and for other purposes.

[Assented to 14th August, 1946.]

BE it enacted by the King'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 *Australian Broadcasting Act 1946*. Short title and citation.

(2.) The *Australian Broadcasting Act 1942** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Australian Broadcasting Act 1942–1946*.

2. The several sections of this Act shall commence on such respective dates as are fixed by Proclamation. Commencement.

3. Section three of the Principal Act is amended by inserting after the words "Division 1.—Establishment and Constitution of the Commission." the words "Division 1A.—The Service of the Commission." Parts.

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 Section seventeen of the Principal Act is repealed and the following Division inserted in its stead :—

" Division 1A.—The Service of the Commission.

" 16A. In this Division, ' officer ' means officer of the Commission, but does not include the general manager. Definition.

" 16B. Nothing in this Division shall affect the operation of any award made by the Commonwealth Court of Conciliation and Arbitration, or of any determination made by the Public Service Arbitrator, prior to the commencement of this section and applicable to the Commission and any of its officers or temporary employees. Preservation of certain awards, &c.

" 17.—(1.) The Commission shall appoint a general manager, who shall be the chief executive officer of the Commission and shall, subject to sub-section (8.) of this section, hold office on such terms and conditions as the Commission determines. Appointment of officers.

" (2.) The Commission shall appoint such other officers and temporary employees as it thinks necessary.

* Act No. 33, 1942.

“(3.) The officers of the Commission shall constitute the service of the Commission.

“(4.) A person shall not be admitted to the service of the Commission unless—

- (a) he is a natural-born or naturalized British subject ;
- (b) the Commission is satisfied, upon such medical examination as is prescribed, as to his health and physical fitness ;
- (c) except as provided in the next succeeding sub-section, he has in open competition successfully passed the prescribed entrance examination ; and
- (d) he makes and subscribes an oath or affirmation in accordance with the prescribed form.

“(5.) The Commission may appoint, to such positions or positions of such classes as are prescribed, persons who have not passed the prescribed entrance examination.

“(6.) Appointments to positions which are open only to persons who have passed the prescribed entrance examination shall be made in order of merit of their passing the prescribed examination.

“(7.) Adequate notice and particulars of the prescribed entrance examination shall be given by the Commission to the public, by advertisements in the *Gazette* and the daily newspapers and by announcements from the national broadcasting stations.

“(8.) The rate of salary payable to the general manager shall be subject to the approval of the Governor-General.

“(9.) The rate of salary payable to any other officer shall, if it exceeds the rate of One thousand five hundred pounds per annum, be subject to the approval of the Minister.

“(10.) Officers and temporary employees appointed by the Commission shall not be subject to the provisions of the *Commonwealth Public Service Act 1922-1946* but shall, subject to this Division, be subject to such terms and conditions of employment as are prescribed.

“(11.) Where an officer appointed in pursuance of this section was, immediately prior to his appointment, an officer of the Public Service of the Commonwealth, his service as an officer of the Commission shall, for the purpose of determining his existing and accruing rights, be taken into account as if it were service in the Public Service of the Commonwealth, and the *Officers' Rights Declaration Act 1928-1940* shall apply as if this Act and this section had been specified in the Schedule to that Act.

“(12.) The general manager of the Australian Broadcasting Commission constituted under the *Australian Broadcasting Commission Act 1932-1940* and all other officers and servants of that Commission holding office, or employed, in the service of that Commission immediately prior to the commencement of this Act, shall be deemed to have been appointed by the Commission under this section as general manager and officers, respectively.

" 17A. As soon as practicable after the commencement of this section, the Commission shall classify the positions in the service of the Commission and shall determine the salary, or the range of salary, applicable to each position. Classification.

" 17B.—(1.) The Commission may, from time to time, create any position in the service of the Commission and determine the salary, or the range of salary, applicable to that position. Creation and abolition of positions.

" (2.) The Commission may abolish any position in the service of the Commission.

" 17C.—(1.) The Commission may, from time to time, reclassify any position in the service of the Commission by raising or lowering the salary, or the range of salary, applicable to the position. Reclassification.

" (2.) Whenever any position is reclassified the position shall be deemed to be vacant.

" 17D. The Commission may transfer or promote an officer to fill a vacant position in the service of the Commission. Filling of vacant positions.

" 17E.—(1.) In the selection of an officer for promotion to a vacant position, consideration shall be given first to the relative efficiency of the officers available for promotion and, in the event of equality of efficiency of two or more officers, then to the relative seniority of those officers. Selection of officers for promotion. □

" (2.) For the purposes of this section—

(a) ' efficiency ' means special qualifications and aptitude for the discharge of the duties of the position to be filled, together with merit, diligence and good conduct, and, in the case of an officer who has at any time been engaged on war service, includes such efficiency as, in the opinion of the Commission, the officer would have attained but for his absence on war service ; and

(b) the seniority of officers shall be determined as prescribed.

" 17F.—(1.) The promotion of an officer to a vacant position shall be provisional and without increased salary pending confirmation of the promotion, and shall be notified in the prescribed manner, and shall be subject to appeal as provided by this section. Appeals against promotions. □

" (2.) Any officer who considers that he should have been promoted to a vacant position in preference to the officer provisionally promoted, may appeal to the Promotions Appeal Board on the ground of superior efficiency or equal efficiency and seniority.

" (3.) The regulations may prescribe the manner in which, and the time within which, appeals may be made under this section.

" (4.) Upon any such appeal being made, the Promotions Appeal Board shall make full inquiry into the claims of the appellant and those of the officer provisionally promoted and shall determine the appeal.

" (5.) Where the appeal is upheld the appellant shall be promoted to the vacant position and the provisional promotion shall be cancelled.

“(6.) Where the appeal is disallowed, or where no appeal is lodged within the prescribed time, the provisional promotion shall be confirmed.

“(7.) Notwithstanding anything contained in this section, the Commission may, at any time after notification has been made of a provisional promotion to a vacant position, and before the promotion has been confirmed, cancel the provisional promotion if the Commission is satisfied that the position is unnecessary or can be filled by the transfer of another officer, or that in the circumstances notification or further notification of the vacant position is desirable.

“(8.) The powers of the Commission under the last preceding sub-section may be exercised whether an appeal has been made or not.

Promotions
Appeal Board.

“17G.—(1.) For the purposes of this Division, there shall be an Australian Broadcasting Commission Promotions Appeal Board (in this Division referred to as ‘the Promotions Appeal Board’).

“(2.) The Promotions Appeal Board shall consist of—

(a) a Chairman, who shall be appointed by the Governor-General and shall hold office on such terms and conditions as the Governor-General determines; and

(b) in respect of each provisional promotion against which an appeal has been made to the Promotions Appeal Board—

(i) an officer appointed by the Commission; and

(ii) an officer nominated by the organization of which it is appropriate for a person occupying the vacant position concerned to be a member.

“(3.) An officer shall not be appointed or nominated as a member of the Promotions Appeal Board if that officer has himself been provisionally promoted to the vacant position concerned or has himself appealed against the provisional promotion to that vacant position.

“(4.) Where, at any meeting of the Promotions Appeal Board, the members are divided in opinion on any question, that question shall be decided according to the decision of the majority.

“(5.) In this section, ‘organization’ means an organization registered under the *Commonwealth Conciliation and Arbitration Act 1904-1946*.

Tenure of
office.

“17H.—(1.) Every officer who has attained the age of sixty years shall be entitled to retire from the service of the Commission if the officer desires to do so, but any such officer may, subject to this Division, continue in the service of the Commission until the officer attains the age of sixty-five years.

“(2.) If any officer continues in the service of the Commission after the officer has attained the age of sixty years the officer may, at any time before attaining the age of sixty-five years, be retired by the Commission from the service of the Commission.

“(3.) Every officer shall, on attaining the age of sixty-five years, be retired by the Commission from the service of the Commission.

“ 17J.—(1.) If at any time the Commission finds that a greater number of officers of any particular classification is employed than is necessary for efficient working, any officer whom the Commission finds is in excess may be transferred to such other position of equal classification as the officer is competent to fill, and, if no such position is available, the officer may be transferred to a position of lower classification.

Excess officers

“(2.) If no position is available for the officer, the Commission may retire him from the service of the Commission.

“(3.) An officer shall not be retired from the service of the Commission under this section unless he has been given one month's notice or is paid salary in lieu of notice.

“ 17K.—(1.) A married woman shall not be appointed to the service of the Commission except in special cases.

Employment of married women.

“(2.) Every female officer shall cease to be an officer on her marriage unless the Commission is satisfied that there are special circumstances which make it desirable that she should continue in the service of the Commission.

“ 17L. Unless the Commission, in any particular case, otherwise directs, the appointment of every officer shall be on probation for a period not exceeding twelve months and the appointment may be terminated by the Commission at any time during that period.

Appointments to be on probation.

“ 17M.—(1.) If an officer appears to the Commission to be inefficient or incompetent, or unfit to discharge or incapable of discharging the duties of his position, the Commission may retire him from the service of the Commission, or may transfer him to some other position in the service of the Commission with salary appropriate to that other position.

Retirement of inefficient, &c. officers.

“(2.) An officer shall not be retired from the service of the Commission under this section unless he has been given at least one month's notice or is paid salary in lieu of notice.

“ 17N. The Commission may dismiss an officer, or reduce his status or rate of pay, for incapacity or misconduct.

Dismissal for misconduct.

“ 17P.—(1.) Where an officer is dismissed, retired, transferred or reduced in status or rate of pay under either of the last two preceding sections; the officer may appeal to the Disciplinary Appeal Board.

Appeals.

“(2.) The regulations may prescribe the manner in which, and the time within which, appeals may be made under this section.

“(3.) The Disciplinary Appeal Board shall hear each appeal submitted to it under this section and may confirm, vary or set aside the decision of the Commission.

“(4.) The decision of the Disciplinary Appeal Board shall be final and the Commission shall take such action as is necessary to give effect to the decision.

“(5.) On the hearing of an appeal under this section, the Disciplinary Appeal Board may take evidence on oath.

Disciplinary
Appeal Board.

“17g.—(1.) For the purposes of this Division, there shall be an Australian Broadcasting Commission Disciplinary Appeal Board (in this Division referred to as ‘the Disciplinary Appeal Board’).

“(2.) The Disciplinary Appeal Board shall consist of—

- (a) a Chairman, who shall be appointed by the Governor-General and shall hold office on such terms and conditions as the Governor-General determines;
- (b) an officer appointed by the Commission; and
- (c) an officer elected by the officers of the Commission in the prescribed manner (in this section referred to as ‘the officers’ representative’).

“(3.) The Chairman of the Disciplinary Appeal Board shall be a person who is or has been a Police, Stipendiary or Special Magistrate of a State or Territory of the Commonwealth.

“(4.) The officers’ representative shall hold office for such period as is prescribed but shall be eligible for re-election.

“(5.) The officers of the Commission may, in the prescribed manner, elect a deputy of the officers’ representative and the deputy so elected shall hold office for such period as is prescribed but shall be eligible for re-election.

“(6.) A deputy so elected may, in the event of there being a vacancy in the office of the officers’ representative, or in the event of the absence of the officers’ representative (whether in pursuance of a direction under the next succeeding sub-section, or through illness or otherwise), attend and vote at meetings of the Disciplinary Appeal Board, and, when so attending and voting at a meeting, shall, for the purposes of sub-section (8.) of this section, be deemed to be a member of the Disciplinary Appeal Board in lieu of the officers’ representative.

“(7.) Where the Chairman of the Disciplinary Appeal Board is of opinion that the officers’ representative is personally interested in, or affected by, any question to be considered at a meeting of the Disciplinary Appeal Board, the Chairman may direct that the officers’ representative shall absent himself from that meeting while that question is considered and decided.

“(8.) Where, at any meeting of the Disciplinary Appeal Board, the members are divided in opinion on any question, that question shall be decided according to the decision of the majority.”.

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

News
services.

“25.—(1.) The Commission shall broadcast daily from all national broadcasting stations regular sessions of news and information relating to current events within the Commonwealth and in other parts of the world.

“(2.) The Commission shall employ an adequate staff, both in the Commonwealth and in overseas countries, for the purpose of collecting the news and information to be broadcast in pursuance of this section.

“(3.) The Commission may also procure news and information relating to current events in other parts of the world from such overseas news agencies and other overseas sources as it thinks fit.”

6. Section twenty-eight of the Principal Act is amended by omitting from paragraph (b) the word “servants” and inserting in its stead the words “temporary employees”.

Application of moneys paid into Fund.

7. Section thirty-three of the Principal Act is amended by omitting the word “servants” and inserting in its stead the words “temporary employees”.

Compensation.

8. Section fifty-three of the Principal Act is amended by adding at the end thereof the following sub-section :—

Limitation of ownership of commercial broadcasting stations.

“(4.) For the purposes of sub-section (1.) of this section, the Australian Capital Territory shall be deemed to form part of the State of New South Wales.”

9. Section sixty-three of the Principal Act is repealed.

Repeal of s. 63.

10. Sections eighty-one and eighty-two of the Principal Act are repealed.

Reports and minutes.

11. Section ninety of the Principal Act is amended—

Names of speakers to be announced

(a) by inserting in sub-section (1.), before the word “If”, the words “If the speaker is not the author of the address or statement, the name of the author shall be included in the announcement.”;

(b) by omitting sub-section (2.) and inserting in its stead the following sub-section :—

“(2.) The announcement shall be made in such a manner as to disclose to any person listening to the broadcast of the address or statement the identity of the speaker, and, where required, the identity of the author, and shall be made after the address or statement if it contains one hundred words or less or before and after the address or statement if it contains more than one hundred words.”; and

(c) by omitting from sub-section (3.) the words “each such speaker” and inserting in their stead the words “the author of each such address or statement”.

12. Section ninety-three of the Principal Act is amended by adding at the end thereof the words “, unless knowledge of the matter proposed to be published was acquired by the person publishing it otherwise than by reception of the transmission of that broadcasting station”.

Publication of text of item transmitted by broadcasting station.

13. After section ninety-three of the Principal Act, the following section is inserted :—

Broadcasting
programmes
of other
stations
prohibited.

“ 93A.—(1.) Except with the consent of the owner or licensee of the broadcasting station whose programme it is desired to broadcast and, in the case of a broadcast which is a re-broadcast, with the approval of the Minister—

- (a) the Commission shall not broadcast the whole or any part of the programme of a broadcasting station (whether situated in Australia or elsewhere) other than a national broadcasting station ; and
- (b) the licensee of a commercial broadcasting station shall not broadcast the whole or any part of the programme of any other broadcasting station (whether situated in Australia or elsewhere).

“(2.) In this section, ‘re-broadcast’ means the reception and re-transmission of a broadcast.”.

Broadcast
listeners’
licences.

14. Section ninety-six of the Principal Act is amended—

- (a) by inserting after sub-section (3.) the following sub-section :—
“(3A.) A broadcast listener’s licence shall be granted for a period of twelve months but may be renewed for successive periods of twelve months.” ;
- (b) by omitting from sub-section (4.) the words “The grant of broadcast” and inserting in their stead the word “Broadcast” ;
- (c) by inserting in sub-section (8.), before the word “broadcast” (second occurring) the word “current” ; and
- (d) by omitting from that sub-section the words “which was in force at the time the appliance was established, erected, maintained or used by, in the possession of, or in the premises or place, or part of the premises or place, occupied by, the person,”.

15. Section ninety-eight of the Principal Act is repealed and the following section inserted in its stead :—

Licence fees.

“ 98.—(1.) Subject to this section, the fees payable for broadcast listeners’ licences or renewals thereof shall be—

- (a) in respect of a licence for Zone 1—Twenty shillings ; and
- (b) in respect of a licence for Zone 2—Fourteen shillings.

“(2.) Subject to this section, the fees payable for broadcast listeners’ licences or renewals thereof in respect of each appliance in excess of one which is in the possession of a person in any one building and is used or capable of being used for the reception of broadcast programmes by that person, by a member of his household, or by any other person for the purposes of the business of the first-mentioned person, shall be—

- (a) in respect of a licence for Zone 1—Ten shillings ; and
- (b) in respect of a licence for Zone 2—Seven shillings.

“(3.) A broadcast listener’s licence or a renewal thereof may be granted free of charge to any blind person over the age of sixteen years or, with the approval of the Minister, to any school which has an enrolment of less than fifty pupils.

“(4.) A broadcast listener’s licence or a renewal thereof may be granted, on payment of half the fee otherwise payable, to a pensioner who lives alone or with another pensioner, or with another person or persons if the income of each such other person does not exceed the maximum amount of income and pension allowed under the *Invalid and Old-age Pensions Act 1908–1946*, the *Widows’ Pensions Act 1942–1946* or section eighty-seven of the *Australian Soldiers’ Repatriation Act 1920–1946*, as the case may be.

“(5.) The Minister may exempt any school, public hospital or charitable institution from the payment of fees for appliances in excess of one used in any portion of the school, hospital or institution for the benefit of pupils or inmates.

“(6.) For the purposes of this section—

- (a) ‘pensioner’ means a person who is in receipt of a pension under the *Invalid and Old-age Pensions Act 1908–1946* or the *Widows’ Pensions Act 1942–1946* or a service pension under the *Australian Soldiers’ Repatriation Act 1920–1946*; and
- (b) a person shall not be deemed to be a member of the household of a licensee, or to use any appliance for the purposes of the business of the licensee, if that person occupies, for valuable consideration, any portion of the building in which the appliance is used.”.

16. Section ninety-nine of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

Receiving
equipment in
hotels.

“(1.) A keeper of a hotel, inn, boarding house or lodging house who has on his premises a master receiving equipment which is capable of being used for the reception of broadcast programmes or other wireless signals and is connected, or capable of being connected, by wires to a receiving appliance in any room occupied, or available for occupation, by any lodger or tenant, shall be in possession of a current broadcast listener’s licence in respect of every such master receiving equipment and in respect of every such receiving appliance in any such room.”

17. Section one hundred of the Principal Act is repealed and the following section inserted in its stead:—

“100.—(1.) Any vendor of appliances capable of being used for the reception of broadcast programmes shall, within seven days after the end of each month, supply to the Superintendent, Wireless Branch, Postmaster-General’s Department, or to such officer as is prescribed, in the State in which the vendor carries on business, the name and address of each person to whom, during the month, he sold, hired, lent, leased or otherwise disposed of any such appliance.

Particulars of
sales of
receiving
equipment.

“(2.) For the purposes of this section, the Australian Capital Territory shall be deemed to form part of the State of New South Wales and the Northern Territory shall be deemed to form part of the State of South Australia.”.

Regulations.

18. Section one hundred and seven of the Principal Act is amended by omitting all the words after the words “and in particular” and inserting in their stead the following paragraphs :—

- “— (a) for varying or adding to the conditions governing the erection or operation of commercial broadcasting stations or an appliance for which a broadcast listener’s licence is required to be held ; and
- (b) for prescribing matters relating to the making of agreements or arrangements by licensees of commercial broadcasting stations for the provision of programmes or the broadcasting of advertisements, or relating to such agreements or arrangements so made.”.

**Appointments
to service of the
Commission.**

19. Where, prior to the commencement of this section, the Australian Broadcasting Commission has purported to admit a person to the service of the Commission, that person shall be deemed to have been admitted to the service of the Commission.