

## AUSTRALIAN BROADCASTING.

No. 64 of 1948.

An Act to amend the *Australian Broadcasting Act 1942-1946*, and for other purposes.

[Assented to 6th December, 1948.]

**B**E it enacted by the King'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 *Australian Broadcasting Act 1948*.

(2.) The *Australian Broadcasting Act 1942-1946\** 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 1942-1948*.

2. This Act shall commence on a date to be fixed by Proclamation. Commencement.

3. The title of the Principal Act is amended by adding at the title end thereof the words “, and for other purposes”.

4. Section three of the Principal Act is amended by inserting after Part. the words “ Part I.—Preliminary.” the words—

“ Part IA.—The Australian Broadcasting Control Board—  
 Division 1.—Establishment and Constitution of the Board.  
 Division 2.—Powers and Functions of the Board.  
 Division 3.—Miscellaneous.”

5. Section four of the Principal Act is amended— Definitions.

(a) by inserting in the definition of “ broadcasting station ”, after the word “ for ” (second occurring), the word “ aural ”;

(b) by inserting after the definition of “ Commissioner ” the following definitions :—

“ ‘ Departmental Commissioner ’ means a Commissioner who is an officer of the Department of the Treasury or of the Postmaster-General’s Department ;

“ ‘ facsimile station ’ means a station for the transmission of fixed images intended for reception in a permanent form by the general public ;

“ ‘ member ’ means a member of the Board ; ” ; and

(c) by inserting after the definition of “ national broadcasting stations ” the following definitions :—

“ ‘ television station ’ means a station for the transmission of transient images and associated sound intended for reception by the general public ;

“ ‘ the Board ’ means the Australian Broadcasting Control Board constituted under this Act ; ”.

6.—(1.) After Part I. of the Principal Act the following Part is inserted :—

“ PART IA.—THE AUSTRALIAN BROADCASTING CONTROL BOARD.

“ Division 1.—*Establishment and Constitution of the Board.*

“ 6A.—(1.) For the purposes of this Act, there shall be a Board, Australian  
Broadcasting  
Control Board. to be known as the Australian Broadcasting Control Board, which, subject to this Act, shall have and may exercise the rights, powers, authorities and functions conferred upon it by this Act and shall be charged with and perform the duties and obligations imposed upon it by this Act.

\* Act No. 33, 1942, as amended by No. 39, 1946.

“(2.) The Board shall be a body corporate with perpetual succession and a common seal and may acquire, hold and dispose of real and personal property and shall be capable of suing and being sued in its corporate name.

“(3.) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Board affixed to any document and shall presume that it was duly affixed.

“(4.) The exercise of the rights, powers, authorities or functions, or the performance of the duties or obligations, of the Board shall not be affected by reason only of there being a vacancy in the office of a member.

**Constitution  
of Board.**

“6B.—(1.) The Board shall consist of three members, who shall be appointed by the Governor-General.

“(2.) The Governor-General shall appoint one of the members to be Chairman of the Board.

“(3.) A person who—

(a) has any financial interest, whether direct or indirect, in any company which is the licensee of a commercial broadcasting station or manufactures or deals in equipment for the transmission or reception of broadcasting, television or facsimile programmes;

(b) is a member of the governing body of any company or other association of persons which is the licensee of a commercial broadcasting station; or

(c) is the licensee of a commercial broadcasting station, shall not be appointed a member of the Board.

“(4.) A member shall not engage in any paid employment outside the duties of his office.

**Term of office  
of members.**

“6C.—(1.) Each member shall be appointed for such term, not exceeding seven years, as the Governor-General determines and shall, upon the expiration of the term for which he was appointed, be eligible for re-appointment.

“(2.) If an officer of the Public Service of the Commonwealth is appointed a member, his service as a member 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 section had been specified in the Schedule to that Act.

**Meetings of  
Board**

“6D.—(1.) Meetings of the Board shall be held at such times and places as the Chairman of the Board determines.

“(2.) At any meeting of the Board, the Chairman and one other member shall constitute a quorum.

“(3.) The Chairman shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

**Remuneration  
of Board.**

“6E. The members of the Board shall be paid remuneration and allowances at such rates as the Governor-General determines.

**Leave of  
absence.**

“6F. The Minister may grant leave of absence to a member upon such terms and conditions as to remuneration and otherwise as the Minister determines.

" 6g.—(1.) The Governor-General may terminate the appointment of a member for inability, inefficiency or misbehaviour. Dismissal and  
vacation of  
office.

- " (2.) A member shall be deemed to have vacated his office—
- (a) if he engages in any paid employment outside the duties of his office ;
  - (b) if he becomes a person who would not be qualified to be appointed as a member of the Board ;
  - (c) if his appointment is terminated by the Governor-General in pursuance of this Act ;
  - (d) if he 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 ;
  - (e) if he becomes of unsound mind ;
  - (f) if he resigns his office by writing under his hand addressed to the Governor-General and the resignation is accepted by the Governor-General ; or
  - (g) if he absents himself from duty, except on leave granted by the Minister, for a period of fourteen consecutive days, or for twenty-eight days in any period of twelve months.

" 6h.—(1.) The Board may, in relation to any particular matter or class of matters, or to any particular place, by writing under its seal, delegate to any person all or any of its powers and functions under this Act (except this power of delegation), so that the delegated powers and functions may be exercised by the delegate with respect to the matter or class of matters, or to the place, specified in the instrument of delegation. Delegation by  
Board.

" (2.) Every delegation under this section shall be revocable at will and no delegation shall prevent the exercise of any power or function by the Board.

" 6j.—(1.) Officers and other persons required for the purposes of this Part shall be employed under the *Commonwealth Public Service Act 1922-1948*. Officers.

" (2.) For the purposes of this section, the Chairman of the Board shall have all the powers of, or exercisable by, a Permanent Head under the *Commonwealth Public Service Act 1922-1948* so far as those powers relate to the branch of the Public Service under the control of the Board.

" (3.) The Chairman of the Board may delegate in writing to an officer under the control of the Board all or any of the powers and functions vested in or exercisable by the Chairman under this section (except this power of delegation) so that the delegated powers and functions may be exercised, in respect of any officers or class of officers under the control of the Board, by the delegate as fully and effectually as by the Chairman.

" (4.) Every delegation under this section shall be revocable at will and no delegation shall prevent the exercise of any power or function by the Chairman of the Board.

*" Division 2.—Powers and Functions of the Board.*

Powers and  
functions of  
Board.

" 6K.—(1.) The functions of the Board shall be—

- (a) to ensure the provision of services by broadcasting stations, television stations and facsimile stations, and services of a like kind, in accordance with plans from time to time prepared by the Board and approved by the Minister ;
- (b) to ensure that the technical equipment and operation of such stations are in accordance with such standards and practices as the Board considers to be appropriate ; and
- (c) to ensure that adequate and comprehensive programmes are provided by such stations to serve the best interests of the general public,

and shall include such other functions as are prescribed in relation to broadcasting stations, television stations and facsimile stations.

" (2.) In exercising its functions under paragraph (c) of the last preceding sub-section—

- (a) the Board shall, in relation to programmes of the Commission, consult the Commission and, in relation to programmes of commercial broadcasting stations, shall consult representatives of licensees of commercial broadcasting stations ; and

(b) the Board shall, in particular—

- (i) ensure reasonable variety of programmes ;
- (ii) ensure that divine worship or other matter of a religious nature is broadcast for adequate periods and at appropriate times and that no matter which is not of a religious nature is broadcast by a station during any period during which divine worship or other matter of a religious nature is broadcast by that station ;
- (iii) ensure that facilities are provided on an equitable basis for the broadcasting of political or controversial matter ;
- (iv) determine the extent to which advertisements may be broadcast in the programme of any commercial broadcasting station ; and
- (v) fix the hours of service of broadcasting stations, television stations and facsimile stations.

" (3.) The Board may make recommendations to the Minister as to the exercise by the Minister of any power under Division 1 of Part III. of this Act.

" (4.) The Board shall have power, subject to any directions of the Minister—

- (a) to determine the situation and operating power of any broadcasting station, television station or facsimile station ;

- (b) to determine the frequency of each broadcasting station, television station or facsimile station, within bands of frequencies notified to the Board by the Postmaster-General as being available for such stations ;
- (c) after consultation with the Commission, to determine the conditions upon which a commercial broadcasting station may broadcast a programme of the National Broadcasting Service ; and
- (d) to regulate the establishment of networks of broadcasting stations and the making of agreements or arrangements by licensees of commercial broadcasting stations for the provision of programmes or the broadcasting of advertisements.

“(5.) The Board shall have power, subject to the approval of the Minister and of the Treasurer, to provide financial assistance and other assistance to commercial broadcasting stations, for the purpose of ensuring that programmes of adequate extent, standard and variety are provided in the areas served by those stations.

“6L.—(1.) For the purpose of exercising its powers and functions under this Act, the Board shall have power to make such orders, give such directions and do all such other things as it thinks fit. Orders, &c., of the Board.

“(2.) Orders made by the Board—

- (a) shall be in writing ;
- (b) shall not be deemed to be Statutory Rules within the meaning of the *Rules Publication Act 1903-1939* ; and
- (c) shall have the force of law.

“(3.) The provisions of sections forty-eight and forty-nine of the *Acts Interpretation Act 1901-1947* shall apply to orders made by the Board in like manner as they apply to regulations.

“(4.) A person shall not contravene or fail to comply with any provision of an order made by the Board which is applicable to him.

“(5.) A direction given by the Board may be given orally or in writing.

“(6.) A direction given orally shall be given to the person required to comply with the direction and thereupon that person shall comply with the direction.

“(7.) Where a direction is given orally, the Board shall, within twenty-four hours thereafter, record the direction in writing.

“(8.) A copy of a direction given in writing shall be served personally or by post on the person required to comply with the direction and thereupon that person shall comply with the direction.

*" Division 3.—Miscellaneous.***Finance.**

" 6M.—(1.) The Board shall open and maintain with the Commonwealth Bank of Australia an account or accounts, into which there shall be paid all moneys appropriated by the Parliament for the purposes of the Board and all other moneys received by the Board.

" (2.) The Board shall, out of the moneys standing to the credit of any such account—

- (a) defray all costs, charges and expenses incurred by the Board in the exercise of its powers and functions under this Act ;
- (b) pay the remuneration and allowances of members and the salaries, wages and allowances of officers and other persons employed for the purposes of this Part.

**Audit.**

" 6N.—(1.) The accounts of the Board shall be subject to inspection and audit, at least once yearly, by the Auditor-General for the Commonwealth.

" (2.) The Auditor-General shall report to the Minister the result of each inspection and audit.

**Annual Report by Board.**

" 6P.—(1.) The Board shall, as soon as practicable after the thirtieth day of June in each year, prepare and furnish to the Minister a report on the operations of the Board during the year ended on that date, together with financial accounts in respect of that year in such form as the Treasurer approves.

" (2.) Before furnishing the financial accounts to the Minister, the Board shall submit them to the Auditor-General for the Commonwealth for report as to their correctness or otherwise.

" (3.) The report and financial accounts of the Board, together with the report of the Auditor-General as to those accounts, shall be laid before each House of the Parliament within fifteen sitting days of that House after their receipt by the Minister.

**Advisory Committees.**

" 6Q.—(1.) The Minister shall appoint in each State a Broadcasting Advisory Committee.

" (2.) The functions of each such Committee shall be to advise the Board with respect to any matter relating to the programmes of broadcasting stations, television stations or facsimile stations."

(2.) Each Broadcasting Advisory Committee appointed under section eighty-seven of the Principal Act and in existence immediately prior to the commencement of this Act shall continue in existence as if it had been appointed under the Principal Act as amended by this Act.

**Composition of Commission.**

7. Section eight of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the word " five " and inserting in its stead the word " seven " ; and
- (b) by inserting after sub-section (2.) the following sub-section :—

" (2A.) One of the Commissioners shall be an officer of the Department of the Treasury and one shall be an officer of the Postmaster-General's Department and neither of those Commissioners shall be the Chairman or Vice-Chairman of the Commission."

8. Section nine of the Principal Act is amended by omitting sub-sections (1.) and (2.) and inserting in their stead the following sub-sections :—

“(1.) Subject to this Act, the period of appointment of the Commissioners (other than the Departmental Commissioners) shall be three years.

“(2.) The Departmental Commissioners shall hold office during the pleasure of the Governor-General.”.

9. Section ten of the Principal Act is amended by inserting in sub-section (1.), after the word “Commissioners”, the words “(other than the Departmental Commissioners)”.

10. After section fifteen of the Principal Act the following section is inserted :—

“15A. The provisions of the last four preceding sections shall not apply in relation to the Departmental Commissioners.”.

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

“(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—

(i) 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

(ii) in relation to promotions to such senior positions as are prescribed—includes not only special qualifications and aptitude for the discharge of the duties of the position to be filled but also for the discharge of the duties of positions of higher status; and”.

12. Sections twenty-seven to thirty-one (inclusive) of the Principal Act are repealed and the following sections inserted in their stead :—

“27. The Commission shall prepare estimates, in such form as the Minister directs, of its receipts and expenditure for each financial year and shall submit those estimates to the Minister.

“28.—(1.) The Commission shall open and maintain with the Commonwealth Bank of Australia an account or accounts, into which there shall be paid all moneys appropriated by the Parliament for the purposes of the Commission and all other moneys received by the Commission.

“(2.) Subject to the next succeeding sub-section, the Commission shall, out of the moneys standing to the credit of any such account—

(a) defray the costs, charges and expenses incurred by the Commission in the exercise of its powers and functions under this Act; and



(b) pay the remuneration and allowances of the Commissioners and the salaries, wages and allowances of the general manager and the officers and employees of the Commission.

“(3.) No moneys shall be expended by the Commission otherwise than in accordance with estimates of expenditure approved by the Treasurer.”

Operations of Commission to be financially self-supporting.

13.—(1.) Section thirty-five of the Principal Act is repealed.

(2.) Any amount standing, at the commencement of this Act, to the credit of any sinking fund or reserve fund established under section thirty-five of the Principal Act may be applied by the Australian Broadcasting Commission upon expenditure of a capital nature and not otherwise and, until so applied, shall be invested in securities of, or guaranteed by, the Government of the Commonwealth or of a State.

Technical services to be provided free to the Commission.

14. Section thirty-eight of the Principal Act is amended—

(a) by omitting from paragraph (a) the word “and”; and

(b) by adding at the end thereof the following word and paragraph:—

“; and (c) such services associated with the production of programmes as are approved by the Minister.”

Report and balance-sheet.

15. Section forty-two of the Principal Act is amended by inserting after sub-section (1.) the following sub-section:—

“(1A.) Before forwarding the statement of income and expenditure and balance-sheet to the Minister, the Commission shall submit them to the Auditor-General for the Commonwealth for report as to their correctness or otherwise.”

16. After section fifty-two of the Principal Act the following section is inserted in Division 1 of Part III. :—

Minister to consider recommendations of Board.

“52A. Before exercising any power under this Division, the Minister shall take into consideration any recommendations which have been made by the Board as to the exercise of that power.”

Limitation of ownership of commercial broadcasting stations.

17. Section fifty-three of the Principal Act is amended—

(a) by omitting from sub-section (1.) all the words before paragraph (a) and inserting in their stead the words “A person shall not own, or be in a position to exercise control, either directly or indirectly, of, more than—”; and

(b) by omitting sub-section (2.).

18. Sections fifty-four to fifty-eight (inclusive) of the Principal Act are repealed and the following sections inserted in their stead:—

Technical equipment and operation.

“54.—(1.) Subject to the next succeeding sub-section, the technical equipment of a commercial broadcasting station shall be designed, installed and maintained to the satisfaction of the Board and shall not be altered without its consent.

“(2.) The technical equipment of a commercial broadcasting station shall not be so designed as to permit the station to use any form of modulation other than amplitude modulation.

“(3.) The technical equipment of a commercial broadcasting station shall be operated in such manner as the Board approves and only by such persons as, in the opinion of the Board, are competent to operate the equipment.

“55. A commercial broadcasting station shall be situated at such place as the Board, subject to any direction of the Minister, determines. Situation.

“56. The operating power of a commercial broadcasting station shall be such as the Board, subject to any direction of the Minister, determines. Operating power.

“57. The frequency on which the transmitting equipment of a commercial broadcasting station operates shall be such as the Board, subject to any direction of the Minister, determines, and shall, during the operation of that transmitting equipment, be maintained to a constancy to the satisfaction of the Board. Operating frequency.

“58. The periods of operation of a commercial broadcasting station shall be such as the Board determines.”. Periods of operation.

**19. Section sixty-seven of the Principal Act is amended—**

(a) by inserting in paragraph (a) of sub-section (1.), after the word “form,”, the words “to the satisfaction of the Board,”; and

(b) by adding at the end thereof the following sub-section:—

“(4.) The licensee of a commercial broadcasting station shall, upon request by the Board—

(a) make available for inspection by the Board or an authorized officer such books and documents concerning the broadcasting activities of the licensee as the Board specifies; and

(b) furnish to the Board such particulars with respect to the broadcasting activities of the licensee as the Board specifies.”.

**20. Section eighty-five of the Principal Act is amended by omitting sub-section (2.).** Functions of Committee.

**21. Section eighty-seven of the Principal Act is repealed.**

State  
Broadcasting  
Advisory  
Committees.

Political  
broadcasts.

22. Section eighty-nine of the Principal Act is amended—

(a) by omitting sub-section (1.) and inserting in its stead the following sub-section :—

“(1.) Subject only to this section, the Commission may determine to what extent and in what manner political speeches or any matter relating to a political or controversial subject may be broadcast from national broadcasting stations, and, subject only to this section and to Part IA. of this Act, the licensee of a commercial broadcasting station may arrange for the broadcasting of such speeches or matter from that station.”; and

(b) by omitting sub-section (3.) and inserting in its stead the following sub-section :—

“(3.) Neither the Commission nor the licensee of a commercial broadcasting station shall broadcast any dramatization of any political matter which is then current or was current at any time during the last five preceding years.”

Broadcasting of  
objectionable  
items.

23. Section ninety-one of the Principal Act is amended by omitting from sub-section (3.) the words “The Minister shall obtain a report from the State Broadcasting Advisory Committee, appointed in pursuance of section eighty-seven” and inserting in their stead the words “The Board may, at its discretion, obtain a report from the State Broadcasting Advisory Committee, appointed in pursuance of section six q”.

Licence fees.

24. Section ninety-eight of the Principal Act is amended—

(a) by omitting from sub-section (3.) the words “which has an enrolment of less than fifty pupils”; and

(b) by omitting sub-section (5.) and inserting in its stead the following sub-section :—

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

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

Certain licences  
not to be issued  
under Wireless  
Telegraphy Act.

“103. Notwithstanding anything contained in the *Wireless Telegraphy Act 1905-1936*, the Minister administering that Act shall not grant a licence under that Act for any purpose for which a licence may be granted under this Act or for a television station or a facsimile station.”

Regulations.

26. Section one hundred and seven of the Principal Act is amended by omitting all the words after the word “Act” (last occurring).

Minor  
amendments.

27. The Principal Act is amended as set out in the Schedule to this Act.

## THE SCHEDULE.

Section 27.

Sections amended.	Amendments.
4	Insert in definition of "authorized officer", after "Minister", "or by the Board"
	Omit definition of "the Minister"
16	Omit "three" (wherever occurring), insert "four"
18	Omit from sub-section (1.) "The" (first occurring), insert "Subject to this Act, the"
22	Omit "Minister" (wherever occurring), insert "Postmaster-General"
60	Omit from sub-sections (1.) and (2.) "Minister" (wherever occurring), insert "Board"
61	Omit from sub-section (1.) "The", insert "Subject to this Act, the"
	Omit from sub-section (3.) "Minister", insert "Board"
62	Omit "Minister", insert "Board"
67	Omit from sub-section (1.) "Minister" (wherever occurring), insert "Board"
70	Omit "Minister", insert "Board"
71	After "Minister", insert "or the Board"
90	Omit from sub-section (3.) "Minister" (wherever occurring), insert "Board"
92	Omit "Minister" (wherever occurring), insert "Board"
93	Omit "Minister", insert "Board"
93A	Omit from sub-section (1.) "Minister", insert "Board"
95	Omit "Minister", insert "Board"
96	Omit "Minister" (wherever occurring), insert "Postmaster-General"
97	Omit "Minister" (wherever occurring), insert "Board"