

2008

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Commonwealth Authorities and
Companies Amendment Bill 2008**

No. , 2008

(Finance and Deregulation)

**A Bill for an Act to amend the *Commonwealth
Authorities and Companies Act 1997*, and for related
purposes**

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1 **A Bill for an Act to amend the *Commonwealth***
2 ***Authorities and Companies Act 1997, and for related***
3 **purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Commonwealth Authorities and*
7 *Companies Amendment Act 2008*.

8 **2 Commencement**

9 (1) Each provision of this Act specified in column 1 of the table
10 commences, or is taken to have commenced, in accordance with
11 column 2 of the table. Any other statement in column 2 has effect
12 according to its terms.

13

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Schedule 1, items 1 to 41	The later of: (a) the day on which this Act receives the Royal Assent; and (b) 1 July 2008.	
3. Schedule 1, item 42	A single day to be fixed by Proclamation. However, if the commencement of the provision(s) is not fixed by a Proclamation published in the <i>Gazette</i> within the period of 12 months beginning on the day on which this Act receives the Royal Assent, the provision(s) are repealed on the first day after the end of that period.	
4. Schedule 1, items 43 to 50	The later of: (a) the day on which this Act receives the Royal Assent; and (b) 1 July 2008.	
5. Schedule 1, items 51 and 52	Immediately after the commencement of section 3 of the <i>Legislative Instruments Act 2003</i> .	1 January 2005
6. Schedule 1, items 53 to 74	The later of: (a) the day on which this Act receives the Royal Assent; and (b) 1 July 2008.	
7. Schedule 2	The later of: (a) the day on which this Act receives the Royal Assent; and (b) 1 July 2008.	

1 Note: This table relates only to the provisions of this Act as originally
2 passed by both Houses of the Parliament and assented to. It will not be
3 expanded to deal with provisions inserted in this Act after assent.

1 (2) Column 3 of the table contains additional information that is not
2 part of this Act. Information in this column may be added to or
3 edited in any published version of this Act.

4 **3 Schedule(s)**

5 Each Act that is specified in a Schedule to this Act is amended or
6 repealed as set out in the applicable items in the Schedule
7 concerned, and any other item in a Schedule to this Act has effect
8 according to its terms.

1
2 **Schedule 1—Commonwealth Authorities and**
3 **Companies Act 1997**
4

5 **1 Section 5**

6 Insert:

7 *Agency* has the same meaning as in the *Public Service Act 1999*.

8 **2 Section 5**

9 Insert:

10 *Agency Head* has the same meaning as in the *Public Service Act*
11 *1999*.

12 **3 Section 5**

13 Insert:

14 *APS employee* has the same meaning as in the *Public Service Act*
15 *1999*.

16 **4 Section 5 (definition of *enabling legislation*)**

17 After “Ordinance”, insert “by or”.

18 **5 Section 5 (subparagraph (a)(ii) of the definition of *financial***
19 ***year*)**

20 Omit “incorporating law”, substitute “enabling legislation”.

21 **6 Section 5**

22 Insert:

23 *General Policy Order* means an Order made under section 48A.

24 **7 Section 5 (definition of *incorporating law*)**

25 Repeal the definition.

26 **8 Section 5 (paragraph (b) of the definition of *officer*)**

27 Repeal the paragraph, substitute:

28 (b) a senior manager of the authority.

1 **9 Section 5**

2 Insert:

3 *senior manager* means:

- 4 (a) in relation to a Commonwealth authority—a person (other
5 than a director of the authority, a Minister, or an APS
6 employee engaged as an employee for the purposes of an
7 Agency other than the authority) who:
- 8 (i) makes, or participates in making, decisions that affect
9 the whole, or a substantial part, of the operations of the
10 authority; or
 - 11 (ii) has the capacity to affect significantly the authority's
12 financial standing; and
- 13 (b) in relation to a Commonwealth company—a person (other
14 than a director or secretary of the company, a Minister, or an
15 APS employee engaged as an employee for the purposes of
16 an Agency other than the company) who:
- 17 (i) makes, or participates in making, decisions that affect
18 the whole, or a substantial part, of the operations of the
19 company; or
 - 20 (ii) has the capacity to affect significantly the company's
21 financial standing.

22 **10 Section 5**

23 Insert:

24 *Statutory Agency* has the same meaning as in the *Public Service*
25 *Act 1999*.

26 **11 Subsection 6(1)**

27 Repeal the subsection.

28 Note: The heading to section 6 is replaced by the heading “**Civil penalties**”.

29 **12 Subsection 6(2)**

30 Omit “(2)”.

31 **13 Subsections 6(3) and (4)**

32 Repeal the subsections.

33 **14 At the end of paragraph 9(1)(b)**

1 Add “for presentation to the Parliament”.

2 **15 Subsection 9(1)**

3 Omit “The deadline is the 15th day of the 4th month after the end of the
4 financial year.”.

5 **16 Subsection 9(1) (note)**

6 Repeal the note, substitute:

7 Note: Section 34C (other than subsection 34C(2)) of the *Acts Interpretation*
8 *Act 1901* applies to annual reports prepared under this section.

9 **17 Subsections 9(2) and (3)**

10 Repeal the subsections, substitute:

11 (2) The deadline is:

12 (a) the 15th day of the 4th month after the end of the financial
13 year; or

14 (b) the end of such further period granted under subsection
15 34C(5) of the *Acts Interpretation Act 1901*.

16 **18 Subsection 11(1)**

17 Repeal the subsection, substitute:

18 (1) A director of a Commonwealth authority contravenes this
19 subsection if the director:

20 (a) causes a directors’ reporting rule to be contravened; or

21 (b) fails to take all reasonable steps to comply with, or secure
22 compliance with, a directors’ reporting rule.

23 Note: This subsection is a civil penalty provision (see Schedule 2).

24 (1A) A director of the authority commits an offence if the director
25 contravenes subsection (1) and the contravention is dishonest.

26 Penalty: 2,000 penalty units or imprisonment for 5 years, or both.

27 **19 Subsection 11(2)**

28 Omit “directors reporting”, substitute “directors’ reporting”.

29 **20 Subsection 11(3) (definition of *directors reporting rule*)**

30 Repeal the definition, substitute:

1 *directors' reporting rule* means section 9 or any of the
2 requirements of Schedule 1 that impose obligations on the
3 directors.

4 **21 Subsection 12(3)**

5 Omit "Auditor-General", substitute "directors of the authority".

6 **22 Subsection 18(4)**

7 Omit "incorporating law", substitute "enabling legislation".

8 **23 Subsection 19(4)**

9 Omit "incorporating law", substitute "enabling legislation".

10 **24 Subsection 20(4)**

11 Repeal the subsection (including the note), substitute:

12 (4) An officer of the authority contravenes this subsection if the
13 officer:

14 (a) causes subsection (1), (2) or (3) to be contravened; or

15 (b) fails to take all reasonable steps to comply with, or secure
16 compliance with, subsection (1), (2) or (3).

17 Note: This subsection is a civil penalty provision (see Schedule 2).

18 (5) An officer of the authority commits an offence if the officer
19 contravenes subsection (4) and the contravention is dishonest.

20 Penalty for a contravention of this subsection: 2,000 penalty units
21 or imprisonment for 5 years, or both.

22 **25 Subsection 21(2) (second sentence)**

23 Repeal the sentence.

24 **26 At the end of subsections 23(1) and (2)**

25 Add:

26 Note 3: Section 27A makes provision for persons who are also APS
27 employees or Agency Heads.

28 **27 Subsection 24(1) (note 1)**

29 Repeal the note, substitute:

1 Note 1: Section 27A makes provision for persons who are also APS
2 employees or Agency Heads.

3 **28 Subsection 25(1) (note 1)**

4 Repeal the note, substitute:

5 Note 1: Section 27A makes provision for persons who are also APS
6 employees or Agency Heads.

7 **29 Subsections 26(1), (2) and (3) (penalty)**

8 Repeal the penalty, substitute:

9 Penalty for a contravention of this subsection: 2,000 penalty units
10 or imprisonment for 5 years, or both.

11 Note: The following heading to subsection 26(2) is inserted “*Use of position—officers and*
12 *employees*”.

13 **30 Section 27A**

14 Repeal the section, substitute:

15 **27A Compliance with statutory and other duties**

16 (1) An officer of a Commonwealth authority does not contravene
17 section 23, 24 or 25, or their equivalent duties at common law and
18 in equity, by doing an act:

- 19 (a) that another provision of this Act requires the officer to do; or
20 (b) in the course of the performance of his or her duties as an
21 APS employee or Agency Head.

22 Note: Subsection (1) provides a defence for a defendant in proceedings for a
23 contravention of section 23, 24 or 25, or their equivalent duties at
24 common law or in equity.

25 (2) However, paragraph (1)(b) does not apply if the enabling
26 legislation for the Commonwealth authority establishes a Statutory
27 Agency in relation to the Commonwealth authority and the officer
28 is:

- 29 (a) an APS employee in the Statutory Agency; or
30 (b) the Agency Head of the Statutory Agency.

31 **31 Subsections 27C(4) and (6) (penalty)**

32 Omit “Maximum penalty”, substitute “Penalty”.

1 **32 Subsection 27C(8)**

2 Omit “(4)”, substitute “(4A)”.

3 **33 Subparagraph 27D(b)(ii)**

4 Repeal the subparagraph, substitute:

- 5 (ii) after making an independent assessment of the
6 information or advice, having regard to the director’s
7 knowledge of the authority and the complexity of the
8 structure and operations of the authority; and

9 **34 At the end of subsection 27F(1)**

10 Add:

11 Penalty: 10 penalty units.

12 **35 After subsection 27F(1)**

13 Insert:

- 14 (1A) For an offence based on subsection (1), strict liability applies to the
15 circumstance that the director of the authority has a material
16 personal interest in a matter that relates to the affairs of the
17 authority.

18 Note: For strict liability, see section 6.1 of the *Criminal Code*.

19 **36 At the end of subparagraphs 27F(2)(b)(i) and (ii)**

20 Add “;”.

21 **37 Subsection 27J(1)**

22 Repeal the subsection, substitute:

23 *Restrictions on voting and being present*

- 24 (1) A director of a Commonwealth authority who has a material
25 personal interest in a matter that is being considered at a directors’
26 meeting must not:

- 27 (a) be present while the matter is being considered at the
28 meeting; or
29 (b) vote on the matter.

30 Penalty: 5 penalty units.

- 1 (1A) Subsection (1) does not apply if:
2 (a) subsection (2) or (3) allows the director to be present; or
3 (b) the interest does not need to be disclosed under section 27F.

4 Note: A defendant bears an evidential burden in relation to the matter in
5 subsection (1A), see subsection 13.3(3) of the *Criminal Code*.

- 6 (1B) An offence based on subsection (1) is an offence of strict liability.

7 Note: For strict liability, see section 6.1 of the *Criminal Code*.

8 **38 At the end of subsection 27N(2)**

9 Add:

10 Penalty: 5 penalty units.

11 **39 At the end of section 27N**

12 Add:

- 13 (3) An offence based on subsection (2) is an offence of strict liability.

14 Note: For strict liability, see section 6.1 of the *Criminal Code*.

15 **40 Section 28**

16 Repeal the section, substitute:

17 **28 Compliance with General Policy Orders**

18 (1) The directors of a Commonwealth authority must ensure that the
19 authority complies with a General Policy Order to the extent that
20 the Order applies to the authority.

21 (2) The directors must also ensure, as far as practicable, that the
22 subsidiaries of the authority comply with the Order to that extent.

23 **41 After section 28**

24 Insert:

25 **28A Credit cards and credit vouchers**

- 26 (1) A Commonwealth authority may obtain:
27 (a) cash, goods or services on credit from any person by the use
28 of a credit card; and

- 1 (b) goods or services on credit from any person by the use of a
2 credit voucher.
- 3 (2) The regulations may prescribe requirements in relation to the
4 authority's credit card or voucher, including requirements relating
5 to:
6 (a) the agreement between the authority and the person issuing
7 the credit card or voucher; and
8 (b) who is authorised to use the credit card or voucher on the
9 authority's behalf; and
10 (c) the circumstances in which the credit card or voucher may be
11 used; and
12 (d) how the credit card or voucher is to be kept; and
13 (e) the maximum amount that may be borrowed by way of the
14 credit card or voucher; and
15 (f) the period in which amounts borrowed by way of the credit
16 card or voucher are to be repaid, being a period not longer
17 than 60 days after the authority is notified by the lender of
18 the amount borrowed.
- 19 (3) This section, and regulations made under this section, do not apply
20 to a Commonwealth authority if, under the authority's enabling
21 legislation, the authority has an express power to borrow money
22 (whether or not that power is subject to conditions).

23 **42 Before section 29**

24 Insert:

25 **28B Misuse of credit cards or credit vouchers—criminal offence**

- 26 (1) A person must not use a Commonwealth authority credit card,
27 Commonwealth authority credit card number or Commonwealth
28 authority credit voucher to obtain cash, goods or services otherwise
29 than for the authority.
- 30 Penalty: Imprisonment for 7 years.
- 31 Note: Chapter 2 of the *Criminal Code* sets out the general principles of
32 criminal responsibility.
- 33 (2) Subsection (1) does not apply to a particular use of a
34 Commonwealth authority credit card, Commonwealth authority
35 credit card number or Commonwealth authority credit voucher if:

- 1 (a) the use is authorised by the regulations; and
2 (b) the authority is reimbursed in accordance with the
3 regulations.

4 Note: A defendant bears an evidential burden in relation to the matter in
5 subsection (2), see subsection 13.3(3) of the *Criminal Code*.

6 (3) For the purposes of paragraph (2)(b), an amount that is to be
7 reimbursed to the authority is a debt due to the authority and is
8 recoverable by the authority in a court of competent jurisdiction.

9 (4) In this section:

10 ***Commonwealth authority credit card*** means a credit card issued to
11 the Commonwealth authority to enable the authority to obtain cash,
12 goods or services on credit.

13 ***Commonwealth authority credit voucher*** means a credit voucher
14 issued to the Commonwealth authority to enable the authority to
15 obtain goods or services on credit.

16 **43 Subsection 30(3)**

17 Repeal the subsection (including the notes), substitute:

- 18 (3) A director of a Commonwealth authority contravenes this
19 subsection if the director:
20 (a) causes this section to be contravened; or
21 (b) fails to take all reasonable steps to comply with, or secure
22 compliance with, this section.

23 Note: This is a civil penalty provision (see Schedule 2).

24 (4) A director of the authority commits an offence if the director
25 contravenes subsection (3) and the contravention is dishonest.

26 Penalty for a contravention of this subsection: 2,000 penalty units
27 or imprisonment for 5 years, or both.

28 **44 Subsection 34(1)**

29 Repeal the subsection, substitute:

30 ***Meaning of Commonwealth company***

- 31 (1) In this Act, ***Commonwealth company*** means a Corporations Act
32 company that the Commonwealth controls. However, it does not

1 include a company that is a subsidiary of a Commonwealth
2 authority or Commonwealth company.

3 *Meaning of controls*

4 (1A) For the purposes of this Act, the Commonwealth *controls* a
5 company if, and only if, it:

- 6 (a) controls the composition of the company's board; or
7 (b) is in a position to cast, or control the casting of, more than
8 one-half of the maximum number of votes that might be cast
9 at a general meeting of the company; or
10 (c) holds more than one-half of the issued share capital of the
11 company (excluding any part of that issued share capital that
12 carries no right to participate beyond a specified amount in a
13 distribution of either profits or capital).

14 (1B) Without limiting paragraph (1A)(a), the Commonwealth is taken to
15 control the composition of a company's board if the
16 Commonwealth can appoint or remove all, or the majority, of the
17 directors of the company.

18 (1C) For the purposes of subsection (1B), the Commonwealth is taken to
19 have power to appoint a person as a director of a company if:

- 20 (a) the person cannot be appointed as a director of the company
21 without the exercise by the Commonwealth of such a power
22 in the person's favour; or
23 (b) the person's appointment as a director of the company
24 follows necessarily from the person being:
25 (i) an Agency Head; or
26 (ii) a statutory office holder.

27 Note 1: The heading to section 34 is altered by omitting "**and wholly-owned Commonwealth**
28 **company**" and substituting "**, wholly-owned Commonwealth company and related**
29 **terms**".

30 Note 2: The following heading to subsection 34(2) is inserted "*Meaning of wholly-owned*
31 *Commonwealth company*".

32 **45 At the end of subsection 34(2)**

33 Add:

34 Note: Because of this definition, a Commonwealth company which is
35 limited by guarantee is a wholly-owned Commonwealth company.

36 **46 Subsection 36(1)**

1 Repeal the subsection, substitute:

- 2 (1) A Commonwealth company must give the responsible Minister:
3 (a) a copy of the company's financial report, directors' report
4 and auditor's report that the company is required by the
5 *Corporations Act 2001* to have for the financial year (or
6 would be required by that Act to have if the company were a
7 public company); and
8 (b) any additional report under subsection (2); and
9 (c) in the case of a wholly-owned Commonwealth company—
10 any additional information or report required by the Finance
11 Minister's Orders.

- 12 (1A) The Commonwealth company must give the reports and
13 information by:
14 (a) if the company is required by the *Corporations Act 2001* to
15 hold an annual general meeting—the earlier of the following:
16 (i) 21 days before the next annual general meeting after the
17 end of the financial year;
18 (ii) 4 months after the end of the financial year; and
19 (b) in any other case—4 months after the end of the financial
20 year;
21 or the end of such further period granted under subsection 34C(5)
22 of the *Acts Interpretation Act 1901*.

- 23 (1B) A director of the company contravenes this subsection if the
24 director:
25 (a) causes subsection (1) or (1A) to be contravened; or
26 (b) fails to take all reasonable steps to comply with, or secure
27 compliance with, subsection (1) or (1A).

28 Note: This is a civil penalty provision (see Schedule 2).

- 29 (1C) A director of the company commits an offence if the director
30 contravenes subsection (1B) and the contravention is dishonest.

31 Penalty: 2,000 penalty units or imprisonment for 5 years, or both.

32 **47 Subsection 36(4)**

33 After "wholly-owned Commonwealth company," insert "or is not
34 required to hold an annual general meeting,".

1 **48 Subsections 36(5) and (6)**

2 Repeal the subsections.

3 **49 Subsection 37(3)**

4 Omit “Auditor-General”, substitute “directors of the Commonwealth
5 company”.

6 **50 Section 43**

7 Repeal the section, substitute:

8 **43 Compliance with General Policy Orders**

9 (1) The directors of a wholly-owned Commonwealth company must
10 ensure that the company complies with a General Policy Order to
11 the extent that the Order applies to the company.

12 (2) The directors must also ensure, as far as practicable, that the
13 subsidiaries of the company comply with the Order to that extent.

14 **51 Subsection 48(1)**

15 After “Minister may”, insert “, by legislative instrument,”.

16 **52 Subsection 48(3)**

17 Repeal the subsection.

18 **53 After section 48**

19 Insert:

20 **48A General Policy Orders**

21 *Finance Minister to make General Policy Orders*

22 (1) The Finance Minister may make an Order (a **General Policy**
23 **Order**) that specifies a general policy of the Australian
24 Government.

25 *Consultation before making General Policy Orders*

26 (2) Before making a General Policy Order, the Finance Minister must
27 be satisfied that the responsible Ministers for the Commonwealth
28 authorities and wholly-owned Commonwealth companies to which

1 the Order will apply have consulted those authorities and
2 companies on the application of the policy.

3 Note: The responsible Ministers may consult with the Commonwealth
4 authorities and wholly-owned Commonwealth companies by
5 consulting:

- 6 (a) if the authority or company has a Chair—the Chair; and
7 (b) otherwise—the directors.

8 *Authorities and companies that General Policy Orders apply to*

- 9 (3) A General Policy Order applies to:
10 (a) if the Order is expressed to apply only to specified
11 Commonwealth authorities or wholly-owned Commonwealth
12 companies—those specified authorities or companies; and
13 (b) if the Order is expressed to apply to all Commonwealth
14 authorities or wholly-owned Commonwealth companies,
15 other than:
16 (i) specified authorities or companies; or
17 (ii) a class of authorities or companies;
18 all Commonwealth authorities or wholly-owned
19 Commonwealth companies except those specified authorities
20 or companies or those authorities or companies that are
21 members of that class; and
22 (c) otherwise—all Commonwealth authorities or wholly-owned
23 Commonwealth companies.

24 *Partial application of General Policy Orders*

- 25 (4) If a General Policy Order specifies that a part of the Order does not
26 apply to:
27 (a) specified authorities or companies; or
28 (b) a class of authorities or companies;
29 then that part of the Order does not apply to those specified
30 authorities or companies or those authorities or companies that are
31 members of that class.

32 *General Policy Orders not subject to disallowance or sunseting*

- 33 (5) A General Policy Order is a legislative instrument, but neither
34 section 42 nor Part 6 of the *Legislative Instruments Act 2003*
35 applies to it.

1 *General Policy Orders not to create offences or penalties*

2 (6) A General Policy Order cannot create offences or impose penalties.

3 **54 Subsection 49(2)**

4 Omit “in which the Commonwealth has a controlling interest”,
5 substitute “which the Commonwealth controls (within the meaning of
6 section 34)”.

7 **55 At the end of paragraph 1(1)(a) of Schedule 2**

8 Add “;”.

9 **56 Paragraph 1(1)(b) of Schedule 2**

10 Omit “rules)”, substitute “rules for Commonwealth authorities);”.

11 **57 After paragraph 1(1)(b) of Schedule 2**

12 Insert:

13 (c) subsection 20(4) (accounting records for Commonwealth
14 authorities);

15 (d) subsection 30(3) (aligning accounting periods for subsidiaries
16 of Commonwealth authorities);

17 (e) subsection 36(1B) (annual reports for Commonwealth
18 companies).

19 **58 Paragraph 1(2)(e) of Schedule 2**

20 After “authority”, insert “or Commonwealth company”.

21 **59 Subparagraph 3(1)(b)(i) of Schedule 2**

22 After “authority”, insert “or Commonwealth company”.

23 **60 Subparagraph 3(1)(b)(ii) of Schedule 2**

24 Omit “Commonwealth authority’s ability”, substitute “ability of the
25 Commonwealth authority or Commonwealth company”.

26 **61 Subclause 4(1) of Schedule 2**

27 Omit “for damage suffered by the authority”, substitute “or
28 Commonwealth company for damage suffered by the authority or
29 company”.

1 **62 Paragraph 4(1)(a) of Schedule 2**

2 After “authority”, insert “or company”.

3 **63 Subclause 4(2) of Schedule 2**

4 After “authority”, insert “or Commonwealth company”.

5 **64 Paragraph 5(a) of Schedule 2**

6 After “authority”, insert “or Commonwealth company”.

7 **65 Subclause 6(2) of Schedule 2**

8 After “authority”, insert “or Commonwealth company”.

9 Note: The heading to subclause 6(2) of Schedule 2 is altered by adding at the end “*or*
10 *Commonwealth company*”.

11 **66 Subclause 6(3) of Schedule 2**

12 After “authority” (wherever occurring), insert “or Commonwealth
13 company”.

14 **67 Subclause 13(1) of Schedule 2 (penalty)**

15 Omit “Maximum penalty”, substitute “Penalty”.

16 **68 Subparagraph 13(3)(b)(ii) of Schedule 2**

17 After “authority”, insert “or Commonwealth company”.

18 **69 Clause 3 of Schedule 3 (table item 6)**

19 Omit “27C(4)”, substitute “27C(4A)”.

20 **70 Application of amendments**

21 (1) The amendments made by items 14 to 18, 46 to 48, 57 (in so far as the
22 amendment made by that item relates to Commonwealth companies), 58
23 to 66 and 68 of this Schedule apply in relation to annual reports of a
24 Commonwealth authority or Commonwealth company for financial
25 years of the Commonwealth authority or Commonwealth company that
26 commence on or after the commencement of this item.

27 (2) The amendments made by items 21 and 49 of this Schedule apply in
28 relation to Auditor-General’s reports on financial statements of a
29 subsidiary of a Commonwealth authority or Commonwealth company

1 for the subsidiary's annual accounting periods that commence on or
2 after the commencement of this item.

- 3 (3) The amendments made by items 24 and 57 (in so far as the amendment
4 made by that item relates to Commonwealth authorities) of this
5 Schedule apply in relation to accounting records of a Commonwealth
6 authority for financial years of the Commonwealth authority that
7 commence on or after the commencement of this item.

8 **71 Transitional provision—general policy notifications for**
9 **Commonwealth authorities**

10 *Application of this item*

- 11 (1) This item applies to a notification (a *section 28 notification*) that:
12 (a) was given to a Commonwealth authority under section 28 of
13 the *Commonwealth Authorities and Companies Act 1997*
14 before the commencement of this item; and
15 (b) is in force immediately before the commencement of this
16 item.

17 *Section 28 notification to continue in force*

- 18 (2) Despite the repeal of that section made by this Schedule, a section 28
19 notification continues in force, and may be dealt with, after the
20 commencement of this item as if that section had not been repealed.

21 *When section 28 notification ceases to be in force*

- 22 (3) If a determination is made under item 73 that all notifications about a
23 particular general policy cease to be in force, then a section 28
24 notification about that general policy ceases to be in force when the
25 determination takes effect.

26 *When part of section 28 notification ceases to be in force*

- 27 (4) If a determination is made under item 73 that a part of all notifications
28 about a particular general policy ceases to be in force, then that part of a
29 section 28 notification about that policy ceases to be in force when the
30 determination takes effect.

31 **72 Transitional provision—general policy notifications for**
32 **wholly-owned Commonwealth company**

1 *Application of this item*

- 2 (1) This item applies to a notification (a *section 43 notification*) that:
3 (a) was given to a wholly-owned Commonwealth company
4 under section 43 of the *Commonwealth Authorities and*
5 *Companies Act 1997* before the commencement of this item;
6 and
7 (b) is in force immediately before the commencement of this
8 item.

9 *Section 43 notification to continue in force*

- 10 (2) Despite the repeal of that section made by this Schedule, a section 43
11 notification continues in force, and may be dealt with, after the
12 commencement of this item as if that section had not been repealed.

13 *When section 43 notification ceases to be in force*

- 14 (3) If a determination is made under item 73 that all notifications about a
15 particular general policy cease to be in force, then a section 43
16 notification about that general policy ceases to be in force when the
17 determination takes effect.

18 *When part of section 43 notification ceases to be in force*

- 19 (4) If a determination is made under item 73 that a part of all notifications
20 about a particular general policy ceases to be in force, then that part of a
21 section 43 notification about that policy ceases to be in force when the
22 determination takes effect.

23 **73 Determinations cancelling the whole or part of section 28**
24 **notifications and section 43 notifications**

- 25 (1) This item applies to notifications that are continued in force by subitem
26 71(2) or 72(2).
27 (2) The Finance Minister may, by legislative instrument, make a
28 determination that all notifications about a particular general policy of
29 the Australian Government cease to be in force.
30 (3) The Finance Minister may make a determination that a part of all
31 notifications about a particular general policy of the Australian
32 Government ceases to be in force.

- 1 (4) A determination made under subitem (2) or (3) is a legislative
2 instrument, but neither section 42 nor Part 6 of the *Legislative*
3 *Instruments Act 2003* applies to the determination.

4 **74 Transitional provision—general policy notifications**

5 Section 48A of the *Commonwealth Authorities and Companies Act*
6 *1997* applies to consultation on the application of a general policy of the
7 Australian Government occurring before or after the commencement of
8 this item.

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3
Schedule 2—Consequential amendments

4 ***Australian Broadcasting Corporation Act 1983***

5 **1 Subsection 78(7)**

6 Omit “section 28 of the *Commonwealth Authorities and Companies Act*
7 *1997* does”, substitute “sections 28 and 48A of the *Commonwealth*
8 *Authorities and Companies Act 1997* do”.

9 ***Australian Industry Development Corporation Act 1970***

10 **2 Subsection 5A(1)**

11 Omit “Sections 15, 16, 17, 28 and 29 of the *Commonwealth Authorities*
12 *and Companies Act 1997* have effect, as they apply to the Corporation,
13 as if a reference in any of those sections”, substitute “Sections 15, 16
14 and 17, subsection 28(2) and section 29 of the *Commonwealth*
15 *Authorities and Companies Act 1997* have effect, as they apply to the
16 Corporation, as if a reference in any of those provisions”.

17 ***Australian National University Act 1991***

18 **3 Subsection 4A(1)**

19 Omit “and 29”, substitute “, 29 and 48A”.

20 ***Legislative Instruments Act 2003***

21 **4 Subsection 7(1) (paragraph (c) in column 2 of table item 5)**

22 Repeal the paragraph.

23 **5 Subsection 44(2) (table item 9)**

24 Repeal the table item.

25 **6 Subsection 54(2) (table item 11)**

26 Repeal the table item.

27 **7 Saving**

1 Despite the amendments made to sections 44 and 54 of the *Legislative*
2 *Instruments Act 2003* by items 5 and 6 of this Schedule, those sections
3 continue in force, after the commencement of this item, in relation to a
4 section 28 notification (within the meaning of item 71 of Schedule 1)
5 and a section 43 notification (within the meaning of item 72 of
6 Schedule 1) as if those amendments had not been made.

7 ***Special Broadcasting Service Act 1991***

8 **8 Subsection 13(2)**

9 Repeal the subsection, substitute:

10 (2) Sections 28 and 48A of the *Commonwealth Authorities and*
11 *Companies Act 1997* apply in relation to the SBS and its Board to
12 the extent that a General Policy Order referred to in those sections
13 does not affect the content or scheduling of programs.