

BROADCASTING AND TELEVISION.

No. 36 of 1960.

An Act to amend the *Broadcasting and Television Act*
1942-1956.

[Assented to 8th June, 1960.]

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

Short title
and citation.

1.—(1.) This Act may be cited as the *Broadcasting and Television Act* 1960.

• Act No. 20, 1946.

(2.) The *Broadcasting and Television Act 1942-1956** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Broadcasting and Television Act 1942-1960*.

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

(2.) Sections seventeen, nineteen, twenty, twenty-one, twenty-two, twenty-three, thirty-two, thirty-three and thirty-four, paragraphs (a) and (b) of section thirty-five, sections thirty-six and thirty-seven and paragraph (a) of section thirty-eight of this Act shall come into operation on such dates as are respectively fixed by Proclamation.

3. Section three of the Principal Act is amended—

Parts.

(a) by omitting the words—

“ Division 3.—Limitation on Ownership or Control
of Commercial Television Stations
(Sections 91-92).”

and inserting in their stead the words—

“ Division 3.—Limitation of Ownership or Control
of Commercial Television Stations
(Sections 91-92κ).”; and

(b) by omitting the words—

“ Division 5.—Programmes (Sections 99-105).”

and inserting in their stead the words—

“ Division 5.—Programmes (Sections 99-105A).”.

4. Section four of the Principal Act is amended—

Interpretation.

(a) by adding at the end of the definition of “ broadcast receiver ” in sub-section (1.) the words “, and includes a loud speaker or other receiving device that is connected to such an appliance”; and

(b) by adding at the end of the definition of “ Commissioner ” in sub-section (1.) the words—

“ , and includes—

(a) a person, not being a Commissioner, appointed by the Governor-General under section thirty-four of this Act to act as Chairman of the Commission; and

(b) a person appointed under section thirty-five of this Act to perform the functions of a Commissioner during the illness or absence of a Commissioner ”.

* Act No. 33, 1942, as amended by No. 39, 1946; No. 64, 1948; No. 80, 1950; No. 41, 1951; No. 12, 1953; No. 82, 1954; and Nos. 33, 65 and 92, 1956.

**Constitution
of Board.**

5. Section eight of the Principal Act is amended by omitting sub-section (4.).

**Term of office
of members.**

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

“(1.) Each member—

(a) shall be appointed for such term, not exceeding seven years, as the Governor-General determines, but is eligible for re-appointment; and

(b) holds office subject to good behaviour.”.

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

**Dismissal and
vacation of
office.**

“ 13.—(1.) If a member—

(a) becomes permanently incapable of performing his duties;

(b) 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;

(c) becomes a person who would not be qualified to be appointed as a member;

(d) not being a part-time member—

(i) engages in any paid employment outside the duties of his office without the approval of the Minister; or

(ii) is absent from duty, except on leave of absence granted by the Minister, for a period of fourteen consecutive days or for twenty-eight days in any period of twelve months; or

(e) being a part-time member, is absent, except on leave of absence granted by the Minister, from all meetings of the Board held during two consecutive months,

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

“(2.) A member 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.”.

8. Section sixteen of the Principal Act is amended—

**Powers and
functions of
Board.**

(a) by omitting from paragraph (b) of sub-section (1.) the word “and” (last occurring); and

(b) by inserting after paragraph (c) of sub-section (1.) the following word and paragraph:—

“; and (d) to detect sources of interference, and to furnish advice and assistance in connexion with the prevention of interference, with the transmission or reception of the programmes of broadcasting stations and television stations,”.

9. After section twenty-one of the Principal Act the following section is inserted:—

“21A.—(1.) Where, in relation to an inquiry under this Division, the Board considers that it is desirable so to do, the Board may arrange with the Crown Solicitor for the Commonwealth for a barrister or solicitor to assist the Board at the inquiry.

**Briefing of
counsel to
assist Board.**

“(2.) A barrister or solicitor assisting the Board at an inquiry has the same power to examine witnesses as a member of the Board.”.

10. Section twenty-two of the Principal Act is amended by inserting after the word “may” (last occurring) the words “, subject to any directions of the Board given under sub-section (1.) of section twenty-five of this Act,”.

**Representation
before Board.**

11. Section twenty-three of the Principal Act is amended by inserting in sub-section (2.), before the words “appearing before the Board”, the words “assisting or”.

**Protection of
members of
the Board.**

12. Section twenty-five of the Principal Act is amended by adding at the end of sub-section (1.) the words “, and may give all such directions and do all such things as the Board considers are necessary or expedient for the expeditious and just hearing of the inquiry”.

**Board not
bound by rules
of evidence,
&c.**

Finance.

13. Section twenty-six of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words “ Commonwealth Bank ” and inserting in their stead the words “ Reserve Bank ”; and
- (b) by adding at the end of paragraph (a) of sub-section (2.) the word “ and ”.

14. After section twenty-eight of the Principal Act the following section is inserted:—

Postmaster-General may provide facilities on behalf of the Board.

“ 28A. The Postmaster-General may, at the request and expense of the Board, provide facilities and services required by the Board for the performance of its functions under paragraph (d) of sub-section (1.) of section sixteen of this Act.”.

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

Term of office of Commissioners.

“ 32.—(1.) Each Commissioner—

- (a) shall, subject to this section, be appointed for a period of three years, but is eligible for re-appointment; and
- (b) holds office subject to good behaviour.

“ (2.) In the event of a Commissioner ceasing to hold office before the termination of his period of office, the period of appointment of a person appointed in his place shall be the remainder of the period of office of the Commissioner so ceasing to hold office.”.

16. Sections thirty-seven and thirty-eight of the Principal Act are repealed and the following sections inserted in their stead:—

Dismissal and vacation of office.

“ 37.—(1.) If a Commissioner—

- (a) becomes permanently incapable of performing his duties;
- (b) 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;
- (c) is absent, except on leave of absence granted by the Minister, from all meetings of the Commission held during two consecutive months; or
- (d) fails to comply with his obligations under the next succeeding section,

the Governor-General shall, by notice published 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 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.

“38.—(1.) 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.

*Disclosure of
interest in
contracts.*

“(2.) 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.”.

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

*Appointment
of officers.*

- (a) by omitting sub-sections (4.) to (7.), inclusive, and inserting in their stead the following sub-sections:—

“(4.) Subject to the next succeeding sub-section, a person shall not be appointed to the service of the Commission unless—

- (a) he is a British subject;
- (b) he possesses such educational qualifications, and such other qualifications (if any), as are determined by the Commission with the approval of the Public Service Board;
- (c) the Commission is satisfied as to his health and physical fitness; and
- (d) he makes and subscribes, before a Justice of the Peace or a Commissioner for taking affidavits, an oath or affirmation of allegiance in accordance with the form in the Schedule to the Constitution.

“(5.) The Commission may, with the approval of the Minister, appoint to the service of the Commission a person who is not a British subject and has not made and subscribed the oath or affirmation of allegiance, but is otherwise eligible for appointment to that service.

“(6.) Subject to this Division, the terms and conditions of employment of officers and temporary employees appointed in pursuance of this section are such as are determined by the Commission with the approval of the Public Service Board.”; and

(b) by omitting sub-sections (9.), (10.) and (12.).

Classification.

18. Section forty-four of the Principal Act is repealed.

Creation and abolition of positions.

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

“(1.) Subject to section forty-six A of this Act, the Commission may, from time to time, create any position in the service of the Commission and, with the approval of the Public Service Board, determine the salary, or the range of salary, applicable to that position.”.

Reclassification.

20. Section forty-six of the Principal Act is amended—

(a) by omitting from sub-section (1.) the words “The Commission may” and inserting in their stead the words “Subject to the next succeeding section, the Commission may, with the approval of the Public Service Board”; and

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

“(3.) Where the Commission makes the same alteration of the classification of all positions having the same classification, the Commission may direct in writing that the last preceding sub-section shall not apply and, in that case, that sub-section does not apply.

“(4.) 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 classification as that position; and

- (b) the Commission declares in writing that that alteration is related to an alteration in respect of which a direction is or has been given under the last preceding sub-section,

the Commission may direct in writing that sub-section (2.) of this section shall not apply in relation to that first-mentioned alteration and, in that case, that sub-section does not apply.”.

21. After section forty-six of the Principal Act the following section is inserted:—

“ 46A. Any determination under section forty-five of this Act of the salary, or range of salary, applicable to a position in the service of the Commission, or any re-classification of such a position by raising the salary or range of salary applicable to the position, is, where the salary, or any salary in the range of salary, exceeds Two thousand five hundred pounds per annum, subject to the approval of the Minister.”.

Approval of
Minister to
certain
classifications

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

“ 56.—(1.) An officer who—

- (a) wilfully disobeys or disregards a lawful order made or given to him in his capacity as an officer by a person having authority to make or give the order;
- (b) is negligent or careless in the discharge of his duties;
- (c) is inefficient or incompetent by reason of causes which are within his own control;
- (d) uses intoxicating liquors or drugs to excess;
- (e) is guilty of disgraceful or improper conduct, either in his official capacity or otherwise;
- (f) commits any breach of the conditions of employment applicable to him;
- (g) having made and subscribed an oath or affirmation under section forty-three of this Act, does or says anything in violation of that oath or affirmation; or
- (h) has wilfully supplied to the Commission or to an officer of the Commission incorrect or misleading information in connexion with his appointment to the service of the Commission,

Dismissal,
reduction
in status,
fine, &c., for
misconduct.

is, for the purposes of this section, guilty of misconduct.

“(2.) Where a person is guilty of misconduct, the Commission may—

- (a) caution or reprimand the officer;
- (b) fine the officer a sum not exceeding Twenty pounds;
- (c) if the officer occupies a position to which a range of salary is applicable and he is in receipt of a salary other than the minimum salary of that range—reduce his salary to a lower salary within that range;
- (d) reduce the officer to a lower position and salary; or
- (e) dismiss the officer from the service of the Commission.

“(3.) The regulations may make provision for or in relation to the suspension of an officer from duty where the officer—

- (a) has been charged with misconduct under this section; or
- (b) has been charged with a criminal offence against a law of the Commonwealth or of a State or Territory of the Commonwealth, whether that offence is punishable on indictment or on summary conviction.”.

Appeals.

23. Section fifty-seven of the Principal Act is amended by omitting from sub-section (1.) the words “transferred or reduced in status or rate of pay” and inserting in their stead the words “transferred, reduced in position or salary, or fined an amount exceeding Two pounds,”.

Bank accounts.

24. Section sixty-nine of the Principal Act is amended by omitting from sub-section (1.) the words “Commonwealth Bank” and inserting in their stead the words “Reserve Bank”.

Grant of licences.

25. Section eighty-one of the Principal Act is amended by inserting after sub-section (1.) the following sub-section:—

“(1A.) A licence for a commercial television station shall not be granted except to a company formed within the limits of the Commonwealth or a Territory of the Commonwealth and having a share capital.”.

Applications for licences.

26. Section eighty-two of the Principal Act is amended by adding at the end thereof the following sub-section:—

“(3.) This section does not apply in relation to the renewal of a licence.”.

Revocation and suspension of licences.

27. Section eighty-six of the Principal Act is amended by omitting sub-sections (3.) and (4.) and inserting in their stead the following sub-sections:—

“(3.) The suspension of a licence shall be for a specified period not exceeding seven days.

“(4.) If, within the period for which a licence is suspended on a particular ground, the Minister notifies the Board that it appears to him that he should consider revoking the licence upon that ground, the suspension shall, by force of this sub-section, continue until—

- (a) the Board (if it sees fit to do so before the completion of the inquiry) orders that the suspension shall cease;
- (b) the Board has made a report recommending that the licence be not revoked on that ground; or
- (c) the Board has made a report recommending that the licence be revoked on that ground and the Minister has either revoked the licence or, having decided not to revoke the licence, removes the suspension.”.

28. Section eighty-seven of the Principal Act is amended by omitting from sub-section (1.) the words “, upon an inquiry by the Board under this section, in relation to that ground ” and inserting in their stead the words “ under the next succeeding sub-section with a recommendation that the licence should be revoked on that ground ”.

*Procedure for
revocation.*

29. After section eighty-seven of the Principal Act the following section is inserted:—

“ 87A.—(1.) A person whose licence is revoked under section eighty-six of this Act may appeal to the Commonwealth Industrial Court against the revocation.

Appeals.

“(2.) The Commonwealth Industrial Court has jurisdiction to hear and determine an appeal under this section, and shall—

- (a) if it is satisfied that the ground for the revocation has been established—confirm the revocation; or
- (b) if it is not so satisfied—order that the licence be restored by the Minister.

“(3.) An appeal under this section shall be by way of rehearing, but the Court may have regard to any evidence given before the Board at the inquiry that preceded the revocation.

“(4.) The jurisdiction of the Commonwealth Industrial Court under this section may be exercised by a single Judge.”.

30.—(1.) Division 3 of Part IV. of the Principal Act is repealed and the following Division inserted in its stead:—

“ *Division 3.—Limitation of Ownership or Control of Commercial Television Stations.*

“ 91.—(1.) In this Division, ‘ licence ’ means a licence for a commercial television station.

Interpretation.

“(2.) In this Division, ‘control’ includes control as a result of, or by means of, trusts, agreements, arrangements, understandings and practices, whether or not having legal or equitable force and whether or not based on legal or equitable rights.

“(3.) The express references in this Division to companies shall not be taken to indicate that references to persons do not include references to companies.

“(4.) For the purposes of this Division, a licence granted by way of renewal of a licence shall be deemed to be a continuation of the first-mentioned licence.

Limitation of
control of
commercial
television
stations.

“92.—(1.) A person shall not be in a position to exercise control, either directly or indirectly, of—

(a) licences in respect of more than one commercial television station within a Territory or more than one commercial television station within a radius of thirty miles from the General Post Office in the capital city of a State; or

(b) more than two licences in respect of commercial television stations in Australia.

Penalty: One thousand pounds, and One hundred pounds for every day on which the offence continues.

“(2.) Where, upon the commencement of this section, a person is contravening the last preceding sub-section by reason of facts or circumstances that would not have constituted a contravention of section ninety-one of the *Broadcasting and Television Act 1942–1956*, the contravention is not an offence unless it continues after the thirtieth day of June, One thousand nine hundred and sixty-one.

Meaning of
control of
licence.

“92A.—(1.) For the purposes of sections ninety-two and ninety-two C of this Act, a person shall be deemed to be in a position to exercise control of a licence if—

(a) that person is in a position to exercise control of the company that holds the licence; or

(b) that person is in a position to exercise control of the operations conducted under or by virtue of the licence, the management of the station in respect of which the licence is in force or the selection or provision of the programmes to be televised by that station.

“(2.) Paragraph (b) of the last preceding sub-section does not apply to a person in relation to a licence—

(a) in the case of an advertiser or other person sponsoring a programme or programmes under an agreement made in the ordinary course of business—by reason

only of his rights in respect of that programme or those programmes or of the fact that he has, under a contract relating to his sponsorship of that programme or those programmes, rights that are reasonably necessary to ensure to him the full commercial benefit of that sponsorship; or

- (b) in the case of a person carrying on the business of supplying television programmes—by reason only of his rights under a contract for the supply by him of programmes to be televised by the station in respect of which the licence is in force, being rights created *bona fide* in the ordinary course of that business for the purpose only of protecting his commercial interests as a supplier of programmes.

“ 92B. For the purposes of this Division, a person who is, or who, by any application or applications of this section, is deemed to be, in a position to exercise control of more than fifteen per centum of the total votes that could be cast at a general meeting of a company is deemed to be in a position to exercise control of that company and of any voting rights of that company as a shareholder and of all acts and operations of that company.

Meaning of
control of
a company.

“ 92C.—(1.) A person shall not be a director of more than two companies each of which is in a position to exercise control of a different licence.

Directors.

Penalty: One hundred pounds, and ten pounds for every day on which the offence continues.

“ (2.) Where, upon the commencement of this section, a person is contravening the last preceding sub-section, the contravention is not an offence unless it continues after the thirty-first day of December, One thousand nine hundred and sixty.

“ 92D.—(1.) A licence is subject to a condition that, at all times during the currency of the licence—

Condition as
to non-resident
shareholding.

- (a) shares representing not less than eighty per centum of the issued capital of the licensee will be beneficially owned by persons each of whom is either a resident of Australia (other than a company) or a company controlled by persons (other than companies) who are residents of Australia; and
- (b) shares representing more than fifteen per centum of the issued capital of the licensee will not be beneficially owned by a person (other than a company) who is not a resident of Australia or by a company controlled, directly or indirectly, by persons who are not residents of Australia.

“(2.) Where, upon the commencement of this section, there arises a contravention of the condition specified in the last preceding sub-section by reason of facts or circumstances that would not have constituted a contravention of the condition specified in paragraph (a) of section ninety-two of the *Broadcasting and Television Act 1942–1956*, those facts and circumstances shall be deemed not to constitute a contravention of the condition specified in the last preceding sub-section unless they continue after the thirtieth day of June, One thousand nine hundred and sixty-one.

Licence not to be granted in certain circumstances.

“ 92E. A licence shall not be granted to a company where the circumstances are such that, upon the grant of that licence to that company, a person would be contravening section ninety-two or ninety-two C of this Act or the condition specified in the last preceding section would be contravened.

Condition as to changes in memorandum or articles.

“ 92F.—(1.) A licence is subject to a condition that substantial changes in the beneficial ownership of the shares in the company holding the licence, or in the memorandum or articles of association of that company, will not take place without the approval of the Minister.

“(2.) The last preceding sub-section does not apply in relation to a change in the articles of association of a company for the purpose of complying with the condition specified in the next succeeding section.

“(3.) The Minister shall not refuse his approval under this section except for the purpose of ensuring observance of, or compliance with, this Division or with a condition of the licence (including a condition applicable under a provision of this Division other than this section).

Articles to contain certain provisions.

“ 92G.—(1.) A licence is subject to a condition that the articles of association of the company holding the licence will at all times contain—

(a) provisions under which a person is not eligible to become, or to continue to be, the holder of shares in the company where, by reason of his holding those shares and of any other relevant circumstances—

(i) he or some other person would contravene section ninety-two of this Act; or

(ii) there would be a contravention of the condition specified in section ninety-two D of this Act;

(b) provisions under which the company may secure the disposal of shares held by a person to the extent necessary to prevent the continuance of a contravention of the provisions referred to in the last preceding paragraph or of shares held by a person who refuses

or fails to furnish a statutory declaration as required under the provisions referred to in paragraph (d) of this sub-section;

- (c) provisions under which a person seeking to become the holder of shares in the company is required to present to the company a statutory declaration made by him—
 - (i) stating whether the shares will be held by him beneficially and, if not, who will be the beneficial owner; and
 - (ii) in the case of shares carrying voting rights at general meetings, stating whether he, or the person who will be the beneficial owner of the shares, is, within the meaning of section ninety-two of this Act, in a position to exercise control of a licence or licences held by any other company or companies, and giving particulars of any such other licence; and
- (d) provisions under which a person holding shares in the company may be required by the company, from time to time, to furnish to the company statutory declarations concerning matters relevant to his eligibility to continue to be the holder of those shares, having regard to the provisions referred to in paragraph (a) of this sub-section.

“(2.) Where the Minister, by writing under his hand, approves any provisions of the articles of association of a company holding or applying for a licence as complying substantially with the requirements of this section, those provisions shall be deemed to comply with those requirements.

“(3.) A licence shall not be granted unless the articles of association of the company concerned will, upon the grant of the licence, comply with the condition specified in sub-section (1.) of this section.

“(4.) A licence is subject to a condition that the company, and the directors and officers of the company, will take reasonable measures to enforce the provisions of the articles containing the provisions referred to in sub-section (1.) of this section.

“(5.) In the case of a company that holds a licence at the commencement of this section, the condition specified in sub-section (1.) of this section does not apply before the first day of July, One thousand nine hundred and sixty-one.

“92H.—(1.) A licence is subject to a condition that the Chairman of Directors of the licensee or another director approved by the Minister, and the person holding or acting in the office of manager of the licensee or the office of secretary of the licensee, will make and lodge with the Board, within fourteen

Condition as to
statutory
declarations.

days after the end of the first period of one year of the currency of the licence, and within fourteen days after the end of each succeeding period of one year of the currency of the licence, a statutory declaration stating—

- (a) whether, to the best of his knowledge and belief, there has been, at any time during that period, in relation to that licence, any contravention of section ninety-two of this Act (not including a contravention that, by reason of sub-section (2.) of that section, is not an offence);
- (b) the name and address of each person who, to the best of his knowledge and belief, has been, at any time during that period, in a position to exercise control of the licence, within the meaning of section ninety-two A of this Act;
- (c) whether, to the best of his knowledge and belief, the condition specified in section ninety-two D of this Act has been complied with at all times during that period; and
- (d) what steps he has taken to ascertain the matters referred to in the declaration.

“(2.) In relation to a licence that was granted more than one year before the commencement of this section, the reference in the last preceding sub-section to the first period of one year of the currency of the licence shall be read as a reference to the period of one year ending on the day before the anniversary of the date of commencement of the licence that first occurs after the commencement of this section.

Trusts not
valid unless
notified.

“92J.—(1.) For the purpose of facilitating the enforcement of this Division, where a trust is or has been created, by writing (other than a will) or orally, of a share carrying voting power in a company, by virtue of which the beneficiary is able to control that voting power, and that company is the holder of a licence—

- (a) if the trust was created before the date of commencement of this section—the trust shall not continue to be valid for any purpose after the expiration of a period of three months from that date or from the date of the grant of the licence (whichever is the later) unless, before the expiration of that period, notice of the existence and nature of the trust and of the name of the beneficiary has been given in writing to the company; or
- (b) if the trust is created on or after the date of commencement of this section—the trust is not valid for any purpose unless and until, within three months from the date of creation of the trust or from the date of

the grant of the licence (whichever is the later), notice of the existence and nature of the trust and of the name of the beneficiary has been given in writing to the company.

“(2.) This section extends to a trust created by a person before that person became or becomes the owner of the share, and in such a case the trust shall, for the purposes of this section, be deemed to be or to have been created at the time at which that person became or becomes the owner of the share.

“(3.) Nothing in this section shall be taken to render valid as against a company a trust of shares in the company that would not have been valid as against the company if this section had not been enacted.

“(4.) A company to which a notice is given for the purposes of this section shall forthwith acknowledge in writing the receipt of the notice.

“92K. It is a defence to a prosecution for a contravention of section ninety-two or ninety-two C of this Act if the defendant satisfies the court that— Defences.

- (a) the contravention arose by reason of circumstances beyond his control or through inadvertence; and
- (b) as soon as practicable after becoming aware of the contravention, he took all reasonable steps with a view to causing the contravention to cease.”.

(2.) Where—

- (a) before the date of commencement of this section, the Minister referred applications for a licence to the Board but the Board had not, before that date, made its recommendation as to the granting of the licence;
- (b) the circumstances in relation to a company that has applied for the licence, or the articles of association of such a company, are such that section ninety-two E or sub-section (3.) of section ninety-two G of the Principal Act, as amended by this Act, would prevent the granting of the licence to that company; and
- (c) it appears to the Board that the company is able, within a reasonable time, to cause those circumstances to cease to exist or its articles of association to be altered to the necessary extent, and is willing, in order to obtain the licence, to do so,

then, notwithstanding the provisions referred to in paragraph (b) of this sub-section, the Board may recommend the grant of the licence to that company, and the Minister may grant the licence to that company.

(3.) Where the Minister grants a licence in accordance with the last preceding sub-section—

- (a) he shall do so upon such conditions as are, in his opinion, necessary to ensure observance of, and compliance with, Division 3 of Part IV. of the Principal Act, as amended by this Act, and the conditions applicable under that Division, at the commencement of a television service in pursuance of the licence or at the expiration of six months from the commencement of the licence, whichever is the earlier; and
- (b) the circumstances referred to in paragraph (b) of the last preceding sub-section, or the failure of the articles of association of the company to contain provisions referred to in section ninety-two G of the Principal Act, as amended by this Act, shall be deemed not to give rise, by reason of the grant of the licence, to a contravention of, or failure to comply with, the Division referred to in the last preceding paragraph, or the conditions applicable under that Division, before the commencement of a television service in pursuance of the licence or the expiration of six months from the commencement of the licence, whichever is the earlier.

31. After section one hundred and five of the Principal Act the following section is inserted in Division 5 of Part IV.:—

Monopolizing
of television
programmes.

“ 105A.—(1.) The Board may, upon the application of the licensee of a television station, by order addressed to a person who—

- (a) has the right, by virtue of ownership or otherwise, to make a television film available, or to procure another person to make a television film available, to that licensee for use by that station; and
- (b) has not complied with a request by that licensee that he make the film so available, or procure the film to be made so available, or has, in response to such a request, required the licensee to accept terms or conditions that are not acceptable to the licensee,

direct that person to make the film so available, or to procure it to be made so available, in accordance with the order and on terms and conditions specified in the order, being terms and conditions that appear to the Board to be just and reasonable in all the circumstances.

“(2.) Before making an order under this section, the Board shall hold an inquiry under Division 3 of Part II. of this Act into the matter the subject of the application.

“(3.) The Board shall not make an order under this section if the Board is satisfied that the person against whom the order is sought has a reasonable ground of objection to the making of the order.

“(4.) Without limiting the generality of the last preceding sub-section, where an application under this section relates to a television film made or procured for the use of, or previously made available or contracted in the ordinary course of business to be made available for the use of, a particular television station or of particular television stations, the person against whom the order is sought shall be taken to have a reasonable ground of objection to the making of the order if he satisfies the Board, or the Commonwealth Industrial Court upon an appeal, that the making of the order would—

- (a) enable the television film to be used by a television station serving an area coinciding to a substantial extent with the area served by that particular station or one of those particular stations;
- (b) enable the film to be used in Australia before there had been a reasonable opportunity for it to be used by that particular station or all those particular stations;
- (c) prevent the film from being available at a time when it was *bona fide* required for use by that particular station or one of those particular stations; or
- (d) cause a breach of a reasonable condition imposed by agreement by an advertiser or other person who had sponsored the television of that film by that particular station or one of those particular stations.

“(5.) Without limiting the generality of sub-section (3.) of this section or the operation of the last preceding sub-section, the person against whom the order is sought shall be taken to have a reasonable ground of objection to the making of the order if he satisfies the Board, or the Commonwealth Industrial Court upon an appeal, that his failure to comply with the request of the licensee was not, or the terms or conditions that he required the licensee to accept were not, in any wise related to an intention or attempt to obtain, for himself, either alone or in association with any other person or persons, or for some other person or persons, control, either in whole or in part, of, or of the management of, or of the selection of the programmes of, any television station or stations (whether already established or not).

“(6.) A person who, either in or outside Australia, acquires (whether by purchase of the film or otherwise) power to grant rights to the use of a television film for television purposes in Australia shall not, at the time of acquisition or at any other

time, make an agreement that could prevent him from granting such rights to the licensee of a television station on reasonable terms and conditions.

“(7.) Subject to the next succeeding sub-section, a person who, either in or outside Australia, acquires rights to the use of a television film for television purposes in Australia but does not acquire power to grant, without limitation, rights to the use of the film for television purposes in Australia, shall not, either at the time of the acquisition or at any other time, make an agreement that could prevent the grant by another person, on reasonable terms and conditions, of any rights to the use of that or any other film for television purposes in Australia that it is not within the power of that person himself to grant.

“(8.) Where a person acquires rights to the use of a television film for television purposes in Australia for the purposes of a particular television station or particular television stations, the last preceding sub-section does not prevent the making by that person of an agreement that may reasonably be regarded as necessary for the purpose of—

- (a) preventing a television station serving an area coinciding to a substantial extent with the area served by that particular station or one of those particular stations from obtaining the use of the film; or
- (b) preventing the use of the film in Australia before there has been a reasonable opportunity for it to be used by that particular station or all those particular stations.

“(9.) The Board may, in its discretion, order a party to proceedings before the Board under this section to pay to another party such amount in respect of costs as is fixed by the Board, and the party to whom the costs are payable may recover the amount of the costs as a debt by action in a court of competent jurisdiction.

“(10.) Where the Board makes an order under sub-section (1.) of this section, the person against whom the order is made may appeal against the order to the Commonwealth Industrial Court on the ground—

- (a) that he had a reasonable ground of objection to the making of the order; or
- (b) that the terms and conditions specified in the order are not just and reasonable in all the circumstances.

“(11.) The Commonwealth Industrial Court has jurisdiction to hear and determine an appeal under this section, and shall—

- (a) if it is satisfied that the ground of appeal specified in paragraph (a) of the last preceding sub-section has been established—quash the order;

(b) if it is satisfied that the ground of appeal specified in paragraph (b) of the last preceding sub-section has been established—either quash the order or direct that the order be varied in such manner as will, in the judgment of the Court, make the terms and conditions just and reasonable in all the circumstances; or

(c) if it is not satisfied that a ground of appeal has been established—dismiss the appeal.

“(12.) An appeal under this section shall be by way of rehearing, but the Court may have regard to any evidence given before the Board.

“(13.) The jurisdiction of the Commonwealth Industrial Court under this section may be exercised by a single Judge.

“(14.) Sub-sections (6.) and (7.) of this section apply both in and outside Australia, and, for the purpose of giving jurisdiction to courts with respect to any offence arising under either of those sub-sections outside Australia, the offence shall be deemed to have been committed at any place in Australia where the offender is found, resides or carries on business.

“(15.) In this section—

‘licensee’, in relation to a national television station, means the Commission;

‘person’ includes the Commission;

‘television film’ or ‘film’ means any photographic film, magnetic tape or other thing from which images can be reproduced and which is intended for use for televising images (not being commercial advertisements), and includes a sound recording for use in conjunction with any such film, tape or other thing.

“(16.) In this section, unless the contrary intention appears, a reference to a particular television film includes a reference to any print, copy or facsimile of that television film.

“(17.) For the purposes of this section, the area served by a television station is the area or areas within which consistently reliable reception of the programmes televised by that station can be obtained.”.

32. After section one hundred and seventeen of the Principal Act the following section is inserted:—

“117A.—(1.) Where the Commission or a licensee broadcasts or televises matter relating to a political subject or current affairs, being matter that is in the form of news, an address, a statement, a commentary or a discussion, the Commission or the licensee, as the case may be, shall cause a record to be made, in writing

Records of
political
matter, &c.

or by means of a device for recording sound, of the matter or, if the matter is televised, of the matter in so far as it consists of sound.

“(2.) Subject to this section, the Commission or a licensee, as the case may be, shall retain in its or his custody a record of matter made in pursuance of the last preceding sub-section for a period of six weeks from the date on which the matter was broadcast or televised or for such longer period as the Minister, in special circumstances, directs.

“(3.) Where a person considers that a record of matter made in pursuance of sub-section (1.) of this section is admissible in evidence in proceedings instituted, or proposed to be instituted, in any court, being a record that is in the custody of the Commission or a licensee by virtue of the last preceding sub-section, he may serve on the Commission or the licensee, as the case requires, a notice in writing informing the Commission or the licensee that the record may be required for the purposes of the proceedings.

“(4.) Where a notice is served on the Commission or a licensee in pursuance of the last preceding sub-section in respect of any record, the Commission or the licensee, as the case may be, shall, subject to this section, retain the record in its or his custody until the proceedings or the proposed proceedings to which the notice relates have been finally determined.

“(5.) Where a notice is served in pursuance of sub-section (3.) of this section in relation to proposed proceedings and the proceedings are not instituted within a period of three months after the service of the notice, the last preceding sub-section ceases to apply in relation to the notice at the expiration of that period.

“(6.) The obligation imposed by this section on the Commission or a licensee to retain in its or his custody a record made in pursuance of this section does not apply at any time when the record is in the custody of a court in connexion with proceedings instituted in the court.

“(7.) Where the Minister is of the opinion that a matter of which a record has been made in pursuance of this section is of sufficient historic interest to justify its being permanently preserved, the Minister may direct any person who has the custody of the record to deliver it for safe keeping to such person or authority as the Minister directs, and the person to whom the direction is given shall comply with the direction but is entitled to fair compensation.

“(8.) Sub-section (1.) of this section does not apply to or in relation to proceedings of the Senate or the House of Representatives broadcast or re-broadcast by the Commission in pursuance of the *Parliamentary Proceedings Broadcasting Act 1946-1960*.”.

33. After section one hundred and twenty-six of the Principal Act the following sections are inserted:—

“ 126A.—(1.) A hirer’s licence in respect of a broadcast receiver or a hirer’s licence in respect of a television receiver, in accordance with a form determined by the Postmaster-General, may be granted, on behalf of the Postmaster-General, at such Post Offices or other places as the Postmaster-General determines, on payment of the prescribed fee. Hirer’s licences.

“(2.) Except as prescribed, a person who carries on a business that consists wholly or partly of letting out receivers on hire shall not, after the expiration of fourteen days from the date of commencement of this section, let out a receiver on hire (otherwise than under a hire-purchase agreement) unless there is attached to that receiver, in a prescribed manner, an appropriate current hirer’s licence.

“(3.) Where the licence attached to a receiver let out on hire expires before the termination of the hiring, the holder of the licence shall, if he has not already done so, forthwith—

(a) renew the licence; and

(b) unless prevented from doing so by causes outside his control—cause the new licence to be attached to the receiver in a prescribed manner.

“(4.) A receiver to which an appropriate current hirer’s licence is attached in a prescribed manner shall, notwithstanding that a broadcast listener’s licence or a television viewer’s licence does not apply to the receiver, be deemed to be a receiver to which a broadcast listener’s licence in force under this Act or a television viewer’s licence in force under this Act, whichever is appropriate, applies.

“(5.) A hirer’s licence shall be granted for a period of twelve months (which may, in such cases as are prescribed, be a period commencing before the date on which the licence is granted), but may be renewed for successive periods of twelve months.

“(6.) A hirer’s licence—

(a) shall specify the address at which the holder of the licence carries on the business in connexion with which the licence is to be used; and

(b) is subject to such conditions as are prescribed.

“(7.) The holder of a hirer’s licence may, with the approval of an authorized officer, transfer the licence to another person.

“(8.) In this section, ‘ receiver ’ means a broadcast receiver or a television receiver.

**Lodging house
licences.**

“ 126B.—(1.) A lodging house licence in respect of a broadcast receiver or a lodging house licence in respect of a television receiver, in accordance with a form determined by the Postmaster-General, may be granted, on behalf of the Postmaster-General, at such Post Offices or other places as the Postmaster-General determines, on payment of the prescribed fee.

“(2.) Except as prescribed, the keeper of a lodging house shall not, after the expiration of fourteen days from the date of commencement of this section, cause, suffer or permit a receiver (other than a receiver provided by a lodger or tenant for his own use) to be in any room or part of the lodging house occupied, or available for occupation, by lodgers or tenants unless there is attached to that receiver, in a prescribed manner, an appropriate current lodging house licence.

“(3.) A receiver to which an appropriate current lodging house licence is attached in a prescribed manner shall, notwithstanding that a broadcast listener's licence or a television viewer's licence does not apply to the receiver, be deemed to be a receiver to which a broadcast listener's licence in force under this Act or a television viewer's licence in force under this Act, whichever is appropriate, applies.

“(4.) Notwithstanding that, in contravention of sub-section (2.) of this section, a licence is not attached to a receiver in a lodging house, a lodger or tenant is not guilty of an offence against sub-section (6.) or (8.) of section one hundred and twenty-five, or sub-section (6.) or (8.) of section one hundred and twenty-six, of this Act, or the *Wireless Telegraphy Act* 1905–1950 or the regulations under that Act, by reason only that he uses or maintains the receiver, has the receiver in his possession or occupies any room or part of the lodging house in which the receiver is kept.

“(5.) A lodging house licence shall be granted for a period of twelve months (which may, in such cases as are prescribed, be a period commencing before the date on which the licence is granted), but may be renewed for successive periods of twelve months.

“(6.) A lodging house licence—

(a) shall specify the address of the lodging house to which it relates; and

(b) is subject to such conditions as are prescribed.

“(7.) The holder of a lodging house licence may, with the approval of an authorized officer, transfer the licence to another person.

“(8.) In this section—

‘keeper’ in relation to a lodging house, includes any person who, for reward, receives a person to lodge in the lodging house, either on his own behalf or as manager or otherwise on behalf of another person;

‘lodging house’ includes a hotel, a boarding house or any other premises, whether furnished or unfurnished, where lodging or sleeping accommodation is provided for reward;

‘receiver’ means a broadcast receiver or a television receiver.”.

34. Section one hundred and twenty-seven of the Principal Act is amended by inserting in sub-section (1.), after the word “licences” (first occurring), the words “and hirers’ licences and lodging house licences in respect of broadcast receivers,”. Zones.

35. Section one hundred and twenty-eight of the Principal Act is amended— Licence fees.

(a) by omitting from sub-section (1.) the words “or a renewal thereof” and inserting in their stead the words “, a hirer’s licence, a lodging house licence or a renewal of any such licence”;

(b) by omitting from sub-section (1A.) the words “or a renewal thereof” and inserting in their stead the words “, a hirer’s licence, a lodging house licence or a renewal of any such licence”; and

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

“(c) lives with another person or persons, if the income of each such other person does not exceed the maximum amount of income and pension allowed to a person (other than a permanently blind person or a person who has the custody, care and control of two or more children under the age of sixteen years) under Part III. or Part IV. of the *Social Services Act* 1947–1959.”.

36. Section one hundred and twenty-nine of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-section:— Licences subject to Act.

“(2.) In this section, ‘licence’ includes a broadcast listener’s licence, a television viewer’s licence, a hirer’s licence and a lodging house licence.”.

37. After section one hundred and thirty of the Principal Act the following section is inserted:—

“130A.—(1.) In this section, ‘telegraph line’ means a telegraph line to which section eighty-one A of the *Post and Telegraph Act* 1901–1950 applies. Community television aeriels.

“(2.) The Minister may, on the recommendation of the Board, grant a permit to a person to use a telegraph line for the purpose of transmitting television programmes from a receiving aerial maintained and used by that person solely for the reception of television programmes to television receivers situated in an area specified in the permit.

“(3.) The Board shall not recommend that a permit be granted in respect of an area unless—

(a) in the opinion of the Board—

(i) the area is within the normal range of a television station from which satisfactory reception of television programmes is not being obtained in that area; and

(ii) satisfactory reception of television programmes could be obtained from that station in that area by the means to be authorized by the permit; or

(b) in the opinion of the Board, the area is not within the normal range of any television station, but—

(i) satisfactory reception of television programmes from a television station could be obtained in that area by the means to be authorized by the permit; and

(ii) the provision of a television service in that area by those means is desirable.

“(4.) A permit under this section—

(a) may be granted for such period, not exceeding five years, as the Minister, on the recommendation of the Board, determines in the particular case; and

(b) is subject to such conditions as are specified in the permit.

“(5.) Where the holder of a permit and another person as proposed transferee applies to the Minister for the transfer of the permit, the Minister may, on the recommendation of the Board, transfer the permit to that other person.

“(6.) Such fees as are prescribed are payable in respect of the grant of a permit, or the transfer of a permit, under this section.

“(7.) Where the Minister is satisfied that there has been a contravention of, or failure to comply with, a condition of a permit granted under this section, he may, if the Board has so recommended, cancel the permit.

“(8.) The provisions of section eighty-one A of the *Post and Telegraph Act* 1901–1950 do not apply in relation to any use of a telegraph line that is authorized by a permit under this section, and a person is not guilty of an offence against section one hundred and twenty-eight of that Act by reason of the use of

that line for the purpose of transmitting television programmes in accordance with the permit or for the purpose of receiving television programmes so transmitted.”.

38. Section one hundred and thirty-two of the Principal Act **Offences.**
is amended—

(a) by inserting after sub-section (1.) the following sub-section:—

“ (1A.) In the last preceding sub-section, ‘ licence ’ includes a broadcast listener’s licence, a television viewer’s licence, a hirer’s licence, a lodging house licence and a permit granted under section one hundred and thirty A of this Act.”;

(b) by omitting from paragraph (a) of sub-section (3.) the words “ Fifty pounds ” and inserting in their stead the words “ One hundred pounds ”; and

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

“ (4.) The last preceding sub-section does not apply in relation to a contravention of, or failure to comply with, a provision of this Act in respect of which a penalty is provided by a section of this Act other than this section.”.
