

Broadcasting and Television

No. 38 of 1965

An Act to amend the *Broadcasting and Television Act*
1942–1964.

[Assented to 2 June, 1965]

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* 1965.

(2.) The *Broadcasting and Television Act 1942-1964** 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 1942-1965*.

2. This Act shall come into operation on the day on which it receives the Royal Assent. Commence-
ment.

3. Section 3 of the Principal Act is amended— Parts.

(a) by omitting the word and figures “Sections 91-92K” and inserting in their stead the word and figures “Sections 91-92KA”; and

(b) by omitting the word and figures “Sections 99-105A” and inserting in their stead the word and figures “Sections 99-105”.

4. Section 16 of the Principal Act is amended— Powers and
functions of
Board.

(a) by adding at the end of paragraph (d) of sub-section (3.) the word “and”; and

(b) by omitting paragraph (e) of that sub-section.

5. Section 17 of the Principal Act is amended by omitting from sub-section (3.) all the words before the word “shall” and inserting in their stead the words “Sections forty-eight, forty-nine and forty-nine A of the *Acts Interpretation Act 1901-1964*”. Orders, &c.
of the
Board.

6. Section 18 of the Principal Act is amended by adding at the end thereof the following sub-sections:— Board may
hold
inquiries.

“(2.) The Minister may direct the Board to hold an inquiry in accordance with this Division into any matter relating to the operation of this Act or the regulations, or to broadcasting or television or both, other than a matter relating to the Commission, its affairs or operations, and the Board shall hold an inquiry accordingly.

“(3.) A reference in this section to this Act shall be read as including a reference to the regulations.”

7. 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 of the Principal Act is repealed and the following Division inserted in its stead:—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, unless the contrary intention appears— Interpretation.

‘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;

* 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; Nos. 33, 65 and 92, 1956; No. 36, 1960 (as amended by No. 32, 1961); No. 96, 1962; No. 82, 1963; and Nos. 67 and 121, 1964.

‘ debentures ’, in relation to a company, includes mortgages, and instruments charging, or giving rise to a charge on, assets of the company, to secure the payment of moneys by the company, and debenture stock, bonds, notes and any other securities of the company, whether constituting a charge on the assets of the company or not;

‘ interest ’ means a shareholding interest or a loan interest;

‘ licence ’ means a licence for a commercial television station;

‘ transaction ’ includes—

(a) the allotment to a person of shares or the issue to a person of debentures, the payment of calls on shares, the repayment of capital in respect of shares or the redemption or repayment of debentures; and

(b) the disposition, by assignment, declaration of trust or by any other means, of, or of any part of, the beneficial ownership of shares or debentures.

“(2.) For the purposes of this Division, a person has a prescribed interest in a licence if he is—

(a) the holder of the licence;

(b) in a position to exercise control, either directly or indirectly, of the licence;

(c) in a position to exercise control of more than five per centum of the maximum number of votes that could be cast on a poll at, or arising out of, a general meeting of the company holding the licence, whether he is in such a position as regards all questions that could be submitted to such a poll or as regards one or more only of such questions;

(d) the holder of interests in the company holding the licence exceeding in amount five per centum of the total of the amounts of all the interests in that company that would exist if sections ninety-one A and ninety-one B of this Act had not been enacted; or

(e) the holder of shareholding interests in the company holding the licence exceeding in amount five per centum of the total of the amounts paid on all shares in that company.

“(3.) For the purposes of this Division—

(a) a person has a shareholding interest in a company if he is beneficially entitled to, or is beneficially entitled to an interest in, any shares in the company (whether or not the whole or any part of the legal ownership of the shares is vested in the person); and

- (b) the amount of the shareholding interest is an amount equal to the value of the shares, or of the person's interest in the shares, as the case requires, on the basis that the value of the shares is equal to the amount paid on the shares.

“(4.) For the purposes of this Division but subject to the next succeeding sub-section—

- (a) a person has a loan interest in a company holding a licence if he is, or would be, beneficially entitled to, or to a part of, moneys of any of the following descriptions payable or becoming payable by the company (whether the moneys are presently payable or not, whether the liability of the company is unconditional or not and whether or not there is security for the payment of the moneys), namely:—
 - (i) moneys, other than interest, payable under, or secured by, debentures of the company;
 - (ii) other moneys payable by the company, being moneys payable by way of repayment of moneys lent to, or deposited with, the company by any person; or
 - (iii) moneys payable under a negotiable instrument to the extent that the instrument is in respect of, or the liability to pay those moneys is in substitution for, a liability to pay moneys to which sub-paragraph (i) or (ii) of this paragraph relates; and
- (b) the amount of the loan interest is the amount of those moneys or of that part of those moneys, as the case requires.

“(5.) The moneys to which the last preceding sub-section relates do not include—

- (a) moneys payable to a bank in respect of an overdraft; or
- (b) moneys payable to a person as consideration in respect of the supply by that person of equipment for use as part of, or in the operation of, a television station.

“(6.) For the purposes of this Division, a person who is beneficially entitled to, or is one of the persons beneficially entitled to, any shares shall be deemed (but not to the exclusion of any other person) to be in a position to exercise control of the voting rights in respect of those shares.

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

“(8.) 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.

“(9.) A reference in this Division to shares in a company, or in a particular company, shall be read as a reference to shares in, or stock forming part of, the capital of a company, or of the particular company.

“(10.) A reference in this Division to an amount paid on shares in a company shall be read as including a reference to an amount treated by the company as having been so paid.

Tracing of
shareholding
interests
through a
series of
companies.

“91A.—(1.) For the purposes of this Division, other than section ninety-two B of this Act, where a person has shareholding interests in a company that has shareholding interests in another company, that person shall be deemed to have shareholding interests in that other company (in addition to any other shareholding interests) of an amount that bears to the amount of the shareholding interests of the first-mentioned company in that other company the same proportion as the amount of the shareholding interests of that person in the first-mentioned company bears to the total of the amounts paid on all shares in the first-mentioned company.

“(2.) In ascertaining for the purposes of the application of the last preceding sub-section the extent and amount of the shareholding interests of a company in another company, there shall be taken into account any shareholding interest which that first-mentioned company is to be deemed to have in that other company by any other application or applications of this section.

Indirect loan
interests in
licensed
companies.

“91B. For the purposes of this Division, a person who is in a position to exercise control of a company that has a loan interest in a company holding a licence shall be deemed (but not to the exclusion of any other person) to have that loan interest.

Limitation of
interests in
commercial
television
stations.

“92.—(1.) Subject to this section, a person contravenes this section if, and so long as, he has a prescribed interest in—

(a) each of three or more licences;

(b) each of two or more licences for stations in a Territory;
or

- (c) each of two or more licences for stations in a State and within a radius of thirty miles of the General Post Office in the capital city of the State.

“(2.) Subject to this section and to section ninety-two K of this Act, a person who contravenes this section is guilty of an offence against this section punishable, upon conviction, by a fine not exceeding One thousand pounds and One hundred pounds for every day on which the contravention continues.

“(3.) A person shall not be taken to be in contravention of this section in relation to any licences by reason only of one or more of the following:—

- (a) the holding by him of interests in any of the companies holding the licences, being interests of which he became the holder before the prescribed date, or other circumstances that came into existence before the prescribed date, where—
- (i) the holding of those interests or the existence of those circumstances did not, immediately before the prescribed date, result in a contravention by that person of section ninety-two of the *Broadcasting and Television Act 1942–1964*; or
 - (ii) on or after the prescribed date action has been taken which, if it had been taken before the prescribed date, would have caused the holding of those interests or the existence of those other circumstances not to result in such a contravention;
- (b) the holding by him of interests in any of the companies holding the licences, being interests of which he became the holder on or after the prescribed date, if the Minister has certified in writing that the acquisition of the interests has been approved by him for the purposes of this sub-section as part of the carrying out of a scheme for the re-arrangement, consistently with the prohibitions that were contained in section ninety-two of the *Broadcasting and Television Act 1942–1964*, of matters resulting from a transaction entered into before the prescribed date; and
- (c) the holding by him of interests in any of the companies holding the licences, being interests resulting from the allotment or issue, on or after the prescribed date, of shares in, or debentures of, a company to a person who, immediately before that date, held shares in, or debentures of, that company, where that person received or receives the shares or debentures so allotted

or issued in accordance with rights of a kind enjoyed by him in common with other holders of shares or debentures of the same class as the shares or debentures that were so held.

“(4.) The last preceding sub-section shall not be construed as applying in relation to a person at any time at which that person is the holder of any interest in the company holding any of the licences concerned of which he became the holder on or after the prescribed date, other than an interest referred to in paragraph (b) or (c) of that sub-section, and the operation of this sub-section is not affected by the fact that, on or after the prescribed date and before that person became the holder of that interest, there had been a reduction in the amount of the interests held by that person in that company.

“(5.) For the purposes of this section, a shareholding interest that came into existence before the prescribed date shall be deemed to have continued as the same interest notwithstanding a variation of the amount of the interest resulting from the payment of calls on shares on or after the prescribed date.

“(6.) In this section, ‘the prescribed date’ means the seventeenth day of December, One thousand nine hundred and sixty-four.

Meaning of
control of
licence.

“92A.—(1.) For the purposes of sections ninety-one 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 the holder of the licence;
- (b) that person is in a position to exercise control of the company that holds the licence; or
- (c) 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 (c) 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.—(1.) For the purposes of this Division, a person who—

Meaning of
control of
a company.

- (a) is in a position to exercise control of more than fifteen per centum of the maximum number of votes that could be cast on a poll at, or arising out of, a general meeting of the company holding the licence, whether he is in such a position as regards all questions that could be submitted to such a poll or as regards one or more only of such questions; or
- (b) has shareholding interests in a company, being shareholding interests in respect of shares of a kind carrying voting rights on all questions at general meetings of the company, exceeding in amount fifteen per centum of the total of the amounts paid on all shares in the company of a kind carrying such voting rights; or
- (c) has shareholding interests in a company exceeding in amount fifteen per centum of the total of the amounts paid on all shares in the company,

shall be deemed (but not to the exclusion of any other person) to be in a position to exercise control of that company, of any votes, in respect of another company, of which that company is in a position to exercise control and of all acts and operations of that company.

“(2.) For the purposes of this section, where a person is in a position to exercise control of a company that has a shareholding interest in another company, that person shall be deemed (but not to the exclusion of any other person) to have that shareholding interest.

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

- (a) in ascertaining the votes, in respect of shares in a company, of which a person is in a position to exercise control, there shall be included any votes in respect of shares in that company of which that person is to be deemed, by any application or applications of this section, to be in a position to exercise control; and
- (b) in ascertaining the shareholding interests of a company in another company, there shall be included any shareholding interest that the first-mentioned company is to be deemed, by any application or applications of this section, to have in that other company.

Directors.

“ 92C.—(1.) A person shall not be a director of two or more companies that are, between them, in a position to exercise control of three or more licences.

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

“ (2.) Where—

(a) a person has a prescribed interest in each of three or more licences; and

(b) by virtue of sub-section (3.) of section ninety-two of this Act, that person is not to be taken to be in contravention of that section in relation to those licences,

this section does not operate to prohibit that person, or a nominee of that person, from being a director of two or more companies by reason only of the fact that those companies are, between them, in a position to exercise control of all or any of those licences.

“ (3.) For the purposes of this section, a director shall be deemed to be a nominee of a person if that person has certified in writing that that director is a nominee of that person.

“ (4.) Where—

(a) a person is contravening this section immediately after the commencement of the *Broadcasting and Television Act 1965* by reason of directorships that were held by him immediately before that commencement; and

(b) the holding of those directorships did not, immediately before that commencement, constitute an offence against section ninety-two C of the *Broadcasting and Television Act 1942–1964*,

the contravention is not an offence unless it continues after the thirty-first day of December, One thousand nine hundred and sixty-five.

Condition as to non-resident shareholding.

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

(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.

“ 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.

Licence not to be granted in certain circumstances.

“ 92F.—(1.) Subject to this section, this section applies to a person in relation to a transaction (whether or not the person is a party to the transaction) where—

Changes in ownership of shares, &c.

(a) the transaction is in respect of shares in a company holding a licence, or shares in a company having a shareholding interest in such a company, and, as a result of the transaction—

(i) that person becomes the holder of shareholding interests in the company holding a licence (including any interests previously held) amounting to a prescribed interest in the licence; or

(ii) that person, being already the holder of shareholding interests in the company holding a licence amounting to a prescribed interest in the licence, becomes the holder of a further shareholding interest, or an increase in the amount or proportion of his shareholding interests, in that company; or

(b) the transaction is in respect of shares in, or debentures of, a company holding a licence and, as a result of the transaction—

(i) that person becomes the holder of interests in the company holding a licence (including any interests previously held) amounting to a prescribed interest in the licence; or

(ii) that person, being already the holder of interests in the company holding a licence amounting to a prescribed interest in the licence, becomes the holder of a further interest, or an increase in the amount or proportion of his interests, in that company.

“ (2.) Where, on or after the date of commencement of the *Broadcasting and Television Act 1965*, a transaction in relation to which this section applies to a person is proposed or has taken place, that person may apply to the Minister for approval of the transaction in so far as it affects that person, and the Minister may, subject to this section, grant or refuse approval.

“ (3.) Where, on or after the date of commencement of the *Broadcasting and Television Act 1965*, a transaction in relation to which this section applies to a person has taken place and the

approval of the Minister to the transaction, in so far as it affects that person, has not been given either before or after the transaction, the Minister may, within three months after the date of the transaction or after the date on which the Minister becomes aware of the facts by reason of which this sub-section is applicable, whichever is the later, by notice in writing served on that person by post or as prescribed, direct that, by a date specified in the notice, that person is to cease to have—

(a) where the transaction was one referred to in paragraph (a) of sub-section (1.) of this section—

- (i) shareholding interests in the company holding the licence amounting to a prescribed interest in the licence; or
- (ii) shareholding interests in that company exceeding in amount or proportion the shareholding interests that that person had in that company immediately before the transaction,

as the case requires; or

(b) where the transaction was one referred to in paragraph (b) of sub-section (1.) of this section—

- (i) interests in the company holding the licence amounting to a prescribed interest in the licence; or
- (ii) interests in that company exceeding in amount or proportion the interests that that person had in that company immediately before the transaction,

as the case requires.

“(4.) The Minister shall not refuse to grant approval under this section, and shall not give a notice under the last preceding sub-section, unless there has been a report by the Board upon such matters as are determined by the Board to be relevant to the application of this sub-section in relation to the transaction and the Minister, after considering the report of the Board and any recommendation made in that report—

(a) is of the opinion that the transaction has resulted or would result in a contravention by the person concerned of section ninety-two of this Act; or

(b) considers it necessary to do so in order to maintain such ownership and control, whether direct or indirect, of the company holding the licence as, in his opinion, best accord with the public interest.

“(5.) A person who becomes a party to, or accepts benefits under, a transaction, being a transaction in relation to which this section applies to him, without the approval of the Minister having been given to the transaction in so far as it affects that person is guilty of an offence against this section.

“(6.) Where a person to whom a notice has been given under sub-section (3.) of this section continues for any period after the date specified in the notice to have shareholding interests, or interests, as the case may be, in the company referred to in the notice that do not accord with the direction in the notice, that person is guilty of an offence against this section, and the offence shall be deemed to continue on every day of that period.

“(7.) An offence against this section is punishable by a fine not exceeding One thousand pounds, and One hundred pounds for every day on which the offence continues.

“(8.) A reference in this section to the proportion of a person's shareholding interests in a company shall be read as a reference to the proportion that the amount of that person's shareholding interests in that company bears to the total of the amounts paid on all shares in that company.

“(9.) A reference in this section to the proportion of a person's interests in a company shall be read as a reference to the proportion that the amount of that person's interests in that company bears to the total of the amounts of all the interests in that company that would exist if sections ninety-one A and ninety-one B of this Act had not been enacted.

“92FA.—(1.) A licence is subject to a condition that a change in the memorandum or articles of association of the company holding the licence will not take place without the approval of the Minister.

Changes in memorandum or articles of association of licensee.

“(2.) A purported change in the memorandum or articles of association of a company holding a licence that is made without the approval of the Minister is void.

“(3.) The Minister shall grant his approval under this section unless he is satisfied that it is desirable in the public interest not to do so for reasons related to the holding of a licence by the company.

“(4.) Sub-sections (1.) and (2.) of this section do 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.

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 or, where the person is a company, made by a competent officer thereof—
 - (i) stating whether the shares will be held by the person beneficially and, if not, who will have beneficial interests in the shares; and
 - (ii) stating whether the person, or any person who will have a beneficial interest in the shares, has a prescribed interest, within the meaning of this Division, in a licence held by any other company, and giving particulars of any such prescribed interest; 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 held a licence at the commencement of the *Broadcasting and Television Act 1965*—

(a) the preceding provisions of this section do not apply; and

(b) the provisions of section ninety-two G of the *Broadcasting and Television Act 1942–1964* continue to apply,

until the first day of January, One thousand nine hundred and sixty-six, or such later date as the Minister approves in relation to that company.

“92H. 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 person holding or acting in the office of secretary of the licensee, will make and lodge with the Board, not less than four weeks, and not more than six weeks, before the end of each year of the currency of the licence, statutory declarations, made on the same day, in respect of the period that commenced on the day next following the end of the period in respect of which the last declarations under this section, or the section for which this section was substituted, were made (or, in the case of the first declarations under this section in relation to a licence, that commenced on the day on which the licence was granted) and ended on the day next preceding the day on which the declarations are made, stating, in the case of each declarant—

Condition as to statutory declarations.

(a) whether, to the best of his knowledge and belief, there has been, at any time during that period, any contravention of section ninety-two of this Act in relation to licences that include that licence, and the particulars of any such contravention;

(b) the name and address of each person who, to the best of his knowledge and belief, has had, at any time during that period, a prescribed interest in the licence and particulars of every such prescribed interest;

- (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 the particulars of any contravention of that condition; and
- (d) what steps he has taken to ascertain the matters referred to in the declaration.

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 in, or debenture of, a company, and that company is the holder of a licence, the trust is not, and shall be deemed not to have been, valid for any purpose after the expiration of a period of three months after the prescribed date unless, before the expiration of that period, notice of the existence and nature of the trust and of the name of the beneficiary was or is given in writing to the company.

“(2.) The prescribed date for the purposes of the last preceding sub-section is—

- (a) the eighth day of June, One thousand nine hundred and sixty, or, in relation to a trust of shares not carrying voting rights or a trust of debentures, the date of commencement of the *Broadcasting and Television Act 1965*;
 - (b) the date of creation of the trust; or
 - (c) the date of the grant of the licence,
- whichever is the latest.

“(3.) This section extends to a trust created by a person before that person became or becomes the owner of the share or debenture, 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 or debenture.

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

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

Board may
require
declarations
as to beneficial
ownership.

“ 92JA.—(1.) Where a person is the holder of shares in a company holding a licence in any other company, or is or would be entitled to moneys payable or becoming payable by a company

holding a licence, and it appears to the Board that, by virtue of that shareholding or entitlement, that person or some other person has a shareholding interest or a loan interest in a company holding a licence, the Board may, by notice in writing served on that person by post or as prescribed, require that person to furnish to the Board, in the manner and within the time specified in the notice, a statutory declaration of that person or, if that person is a company, of the secretary or a director of that company, stating whether that person is the beneficial owner of the shares, or is or would be beneficially entitled to the moneys, and, if not, who is the beneficial owner of the shares or who is beneficially entitled to the moneys.

“(2.) A person on whom a notice is served under this section shall comply with the requirement 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.

“92KA.—(1.) An offence against a provision of this Division may be prosecuted at any time. Prosecutions.

“(2.) The fact that a person has been convicted of an offence against a provision of this Division does not prevent a further prosecution and conviction in respect of a continuation of the offence after the date on which he was so convicted.

“(3.) A prosecution for an offence against a provision of this Division shall be brought only in the Commonwealth Industrial Court.

“(4.) Jurisdiction is conferred on the Commonwealth Industrial Court to hear and determine prosecutions so brought.

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

“(6.) Proceedings in the Commonwealth Industrial Court in accordance with this section—

- (a) may be instituted by summons upon information; and

- (b) shall not be instituted except with the consent in writing of the Attorney-General or of a person authorized by the Attorney-General, by writing under his hand, to give such consents.”.

Monopolizing
of television
programmes.

8. Section 105A of the Principal Act is repealed.

Licensee to
keep certain
records and
furnish certain
information.

9. Section 106 of the Principal Act is amended by adding at the end of paragraph (b) of sub-section (4.) the words “ and any other information specified by the Board, being information with respect to the activities or affairs of the licensee and relevant to the operation of this Act ”.

Offences.

10. Section 132 of the Principal Act is amended—

- (a) by inserting in sub-section (1.), before the word “ shall ”, the words “ or fails to comply with a direction under the regulations ”; and
- (b) by inserting in sub-section (2.), after the word “ but ”, the words “, except as provided by this Act,”.

11.—(1.) Section 134 of the Principal Act is repealed and the following section inserted in its stead:—

Regulations.

“ 134.—(1.) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for—

- (a) prescribing matters relating to the making of, and the terms and conditions that may be included in, agreements or arrangements for or in connexion with rights to the use of any material or matter in broadcast or televised programmes or for or in connexion with the broadcasting or televising of advertisements, being agreements or arrangements between persons each of whom is either a licensee of a commercial broadcasting station or commercial television station or a person having a prescribed relationship with such a licensee;
- (b) regulating or restricting the relaying by commercial broadcasting stations or commercial television stations of the programmes of other such stations;

- (c) imposing on licensees of commercial broadcasting stations or commercial television stations and persons having a prescribed relationship with such licensees obligations and restrictions in relation to matters affecting other such licensees and, in particular, in relation to matters affecting the availability of programme rights or material to other such licensees;
- (d) empowering the Minister, upon the recommendation of the Board, to direct a person (including the licensee of a commercial television station) to grant rights to the use of any material or matter in televised programmes to the licensee of a commercial television station in accordance with the direction and upon terms specified in the direction, and dealing with matters incidental to such directions; and
- (e) preventing interference to the transmission or reception of the programmes of broadcasting stations, television stations or television translator stations.

“(2.) The regulations empowering the giving of a direction referred to in paragraph (d) of the last preceding sub-section shall make provision for—

- (a) conferring on every person affected by such a direction a right to have the direction reviewed by the Commonwealth Industrial Court upon the ground that—
 - (i) he has a reasonable ground of objection to the granting of the rights referred to in the direction; or
 - (ii) the terms specified in the direction are not just and reasonable,or on both those grounds; and
- (b) empowering the Court, upon such a review, to quash or vary the direction.

“(3.) Jurisdiction is, by this Act, conferred on the Commonwealth Industrial Court to hear and determine proceedings on a review under the regulations, and that jurisdiction may be exercised by such number of judges as the regulations provide.”.

(2.) All regulations that were in force under the Principal Act immediately before the date of commencement of this Act continue in force as if made under section 134 of the Principal Act as amended by this Act, but any such regulation may be amended or repealed by regulations under the Principal Act as amended by this Act.