**Overseas Telecommunications**

**No. 9 of 1971**

An Act to amend the *Overseas Telecommunications Act* 1946–1968.

[*Assented to 29 March 1971*]

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 *Overseas Telecommunications Act* 1971.

(2.) The *Overseas Telecommunications Act* 1946–1968 is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Overseas Telecommunications Act* 1946–1971.

**Commencement.**

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

**Parts.**

**3.** Section 3 of the Principal Act is amended by omitting the words—

“Division 4.—Finances of the Commission (Sections 43–50).” and inserting in their stead the words—

“Division 4.—Finances of the Commission (Sections 43–52a).”.

**Definitions.**

**4.** Section 5 of the Principal Act is amended by inserting after the definition of “Commissioner” the following definition:—

“ ‘financial year’, in relation to the Commission, means a year ending on the thirty-first day of March;”.

**5.** Section 24 of the Principal Act is repealed and the following section inserted in its stead:—

**Retirement of officers.**

“24.—(1.) At any time after an officer has attained the age of sixty years—

(*a*) he may retire from the Service of the Commission; or

(*b*)he may be retired by the Commission from the Service of the Commission.

“(2.) Subject to the next succeeding sub-section, an officer shall, on attaining the age of sixty-five years, retire from the Service of the Commission.

“(3.) Where—

(*a*) an officer attains the age of sixty-five years;

(*b*) in the opinion of the Commission it is desirable in the interests of the Commission that he should continue in the performance of the duties of his office; and

(*c*) he is able and willing to do so,

the Commission may direct that he may continue in the Service of the Commission for a fixed period expiring not later than the time at which he attains the age of sixty-six years, but sub-section (1.) of this section continues to apply in respect of an officer to whom such a direction is given.”.

**6.** After section 38 of the Principal Act the following section is inserted:—

**Policy of Commission.**

“38a.—(1.) The Commission shall pursue a policy directed towards securing revenue sufficient to meet all its expenditure properly chargeable to revenue, and to permit the payment to the Commonwealth of a reasonable return on the capital of the Commission.

“(2.) The Commission shall conduct its operations as efficiently as possible and shall, subject to the last preceding sub-section and to any agreement referred to in section thirty-six, or in paragraph (*f*) of sub-section (2.) of section seventy-five, of this Act, make its services available at the lowest possible rates of charges.”.

**7.** Division 4 of Part II. of the Principal Act is repealed and the following Division inserted in its stead:—

“*Division* 4.—*Finances of the Commission.*

**Capital of Commission.**

“43.—(1.) The capital of the Commission at any time is the sum of—

(*a*)an amount equal to the total of the advances made to the Commission by the Treasurer before the first day of April, One thousand nine hundred and seventy, under section forty-three of the *Overseas Telecommunications Act* 1946, or of that Act as amended, and not repaid before that date;

(*b*)the amount by which the amount referred to in the last preceding paragraph is less than Thirty-five million dollars;

(*c*) any amounts paid to the Commission by the Treasurer after the commencement of this section out of moneys appropriated by the Parliament for the purpose of providing further capital for the Commission; and

(*d*)any amounts transferred from the General Reserve of the Commission to the capital account of the Commission in pursuance of directions given under sub-section (3.) of this section,

less the sum of any amounts of capital repaid to the Commonwealth by the Commission after the commencement of this section.

“(2.) Upon the commencement of this section, the Commission shall transfer from the General Reserve of the Commission to the capital account of the Commission an amount equal to the amount that is to be included in the capital of the Commission in accordance with paragraph (*b*)of the last preceding sub-section.

“(3.) The Minister may, from time to time, with the concurrence of the Treasurer, direct the Commission to transfer a specified amount from the General Reserve of the Commission to the capital account of the Commission, and the Commission shall comply with such a direction.

**Payments to Commonwealth.**

“44.—(1.) Interest is not payable to the Commonwealth on the capital of the Commission but the Commission shall pay to the Commonwealth, out of the profits of the Commission for the financial year ending on the thirty-first day of March, One thousand nine hundred and seventy-one, and for each succeeding financial year, such amount as the Minister, with the concurrence of the Treasurer, determines.

“(2.) The capital of the Commission is repayable to the Commonwealth at such times and in such amounts as the Minister, with the concurrence of the Treasurer, determines.

“(3.) In the making of a determination under either of the last two preceding sub-sections, regard shall be had to any advice that the Commission has furnished to the Minister in relation to the financial affairs of the Commission.

**Borrowing by Commission.**

“45.—(1.) The Commission may, with the approval of the Treasurer, borrow moneys from time to time in such amounts as the Minister certifies are, in his opinion, necessary for the exercise of its powers or the performance of its duties or functions under this Act.

“(2.) The Treasurer may, on behalf of the Commonwealth, out of moneys appropriated by the Parliament for the purpose, lend to the Commission, at such rate of interest and on such other terms and conditions as he determines, moneys that the Commission is authorized to borrow under the last preceding sub-section.

“(3.) The Commission may give security over the whole or any part of its assets for the repayment of amounts borrowed under this section and the payment of interest on amounts so borrowed.

“(4.) The Treasurer may, on behalf of the Commonwealth, guarantee the repayment by the Commission of amounts borrowed under this section otherwise than from the Commonwealth and the payment of interest on amounts so borrowed.

“(5.) The Commission shall not borrow moneys except in accordance with this section.

**Application and investment of moneys.**

“46.—(1.) Subject to the next succeeding sub-section, the moneys of the Commission shall be applied only—

(*a*)in payment or discharge of the expenses, charges and obligations incurred or undertaken by the Commission in accordance with this Act;

(*b*) in payment of the remuneration and allowances of the Commissioners and any Acting Commissioners; and

(*c*) in making payments to the Commonwealth as provided by this Act.

“(2.) Moneys of the Commission not immediately required for the purposes of the Commission may be invested—

(*a*) on fixed deposit with an approved bank;

(*b*)in securities of the Commonwealth; or

(*c*) in any other manner approved by the Treasurer.

**Profits of Commission.**

“47.—(1.) For the purposes of this Act, the profits of the Commission for a financial year are the amount, if any, remaining after deducting from the revenue received or receivable in respect of that financial year the expenditure, and provision for expenditure, properly chargeable against that revenue.

“(2.) The profits of the Commission for a financial year shall be applied in the first place in payment of the amount determined under sub-section (1.) of section forty-four of this Act and the balance, if any, shall be applied in such manner as the Minister, with the concurrence of the Treasurer, determines.

“(3.) In the making of a determination under the last preceding sub-section, regard shall be had to any advice which the Commission has furnished to the Minister in relation to the financial affairs of the Commission.

**Bank accounts.**

“48.—(1.) The Commission may open and maintain an account or accounts with an approved bank or approved banks and shall maintain at all times at least one such account.

“(2.) The Commission shall pay all moneys received by it into an account referred to in this section.

**Proper accounts to be kept.**

“49. The Commission shall cause to be kept proper accounts and records of the transactions and affairs of the Commission in accordance with the accounting principles generally applied in commercial practice and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Commission and over the incurring of liabilities by the Commission.

**Annual estimates.**

“50. The Commission shall prepare estimates, in such form as the Minister directs, of its receipts and expenditure for each financial year and shall submit those estimates to the Minister not later than such date as the Minister directs.

**Audit.**

“51.—(1.) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Commission and records

relating to assets of, or in the custody of, the Commission, and shall forthwith draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify his so doing.

“(2.) The Auditor-General may, at his discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in the last preceding sub-section.

“(3.) The Auditor-General shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under sub-section (1.) of this section.

“(4.) The Auditor-General or an officer authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Commission relating directly or indirectly to the receipt or payment of moneys by the Commission or to the acquisition, receipt, custody or disposal of assets by the Commission.

“(5.) The Auditor-General or an officer authorized by him may make copies of, or take extracts from, any such accounts, records, documents or papers.

“(6.) The Auditor-General or an officer authorized by him may require any person to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorized officer considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

“(7.) A person who contravenes the last preceding sub-section is guilty of an offence punishable, upon conviction, by a fine not exceeding Two hundred dollars.

**Liability to taxation.**

“52.—(1.) The Commission is subject to taxation under the laws of the Commonwealth.

“(2.) Subject to the next succeeding sub-section, the Commission is not subject to taxation under a law of a State or of a Territory of the Commonwealth.

“(3.) The regulations may provide that the last preceding sub-section does not apply in relation to taxation under a specified law of a State or of a Territory of the Commonwealth.

**Taxes on income under Commonwealth laws.**

“52a.(1.) For the purposes of paragraph (*d*)of section twenty-three of the *Income Tax Assessment Act* 1936–1970, the Commission is not a public authority.

“(2.) The Commission is liable to pay taxes on income under the laws of the Commonwealth only in respect of income derived by the Commission on or after the first day of April, One thousand nine hundred and seventy, and the Commission shall be deemed not to have been a public authority on and after that date.

“(3.) The provisions of the *Income Tax Assessment Act* 1936–1970 that relate to depreciation apply in relation to the Commission as if—

(*a*)the Commission had, at all times, been liable to pay taxes on income under the laws of the Commonwealth and depreciation had been allowed in assessments accordingly;

(*b*)the Commission had, in relation to the first year of income in respect of which it was so liable, exercised the option referred to in paragraph (*b*)of sub-section (1.) of section fifty-six of that Act and did not exercise the further option referred to in sub-section (3.) of section fifty-six a of that Act; and

(*c*) in the case of a unit of property owned by the Commission that became so owned before the first day of April, One thousand nine hundred and seventy, the Commissioner had, for the purposes of the calculation of the first depreciation that would have been allowed in respect of that unit if the Commission had been so liable to pay taxes on income, made such estimate of the effective life of the unit as, in the opinion of the Commissioner, would have been the appropriate estimate,

except that, for the purpose of calculating, in respect of any property of the Commission, the sum referred to in sub-section (2.) of section fifty-nine of that Act, the Commission shall not be treated as having been allowed any amount as depreciation that has not in fact been allowed.”.

**Alterations in rates, services, &c**

**8.** Section 75 of the Principal Act is amended by adding at the end thereof the following sub-section:—

“(3.) In considering an application for his approval under the last preceding sub-section, the Minister shall have regard to the provisions of sub-section (1.) of section thirty-eight a of this Act and to the provisions of any agreement referred to in section thirty-six of this Act.”.

**Terms applicable to advances made before 1 April 1970.**

**9.** The terms that were, immediately before the first day of April, One thousand nine hundred and seventy, applicable to advances referred to in paragraph (*a*)of sub-section (1.) of section 43 of the Principal Act as amended by this Act shall be deemed to have ceased on that date to have effect.