**BROADCASTING AND TELEVISION**

**AMENDMENT ACT 1976**

**No. 89 of 1976**

An Act to amend the Broadcasting and Television Act 1942-1975 and for related purposes.

BE IT ENACTED by the Queen, and the Senate and 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 Amendment Act 1976.

(2) The *Broadcasting and Television Act* 1942-1975 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 1942-1976.

**Commencement.**

**2.** (1) Subject to sub-sections (2) and (3), this Act shall come into operation on the day on which it receives the Royal Assent.

(2) Sections 5 and 6 shall come into operation on 1 September 1976.

(3) Sections 4, 15 and 18 shall be deemed to have come into operation on 1 July 1976.

**Interpretation**

**3.** Section 4 of the Principal Act is amended—

(a) by inserting in sub-section (1), after the definition of “broadcasting station”, the following definitions:—

“‘broadcasting translator station’ means a station of low operating power designed for the reception by wireless telegraphy or telegraph line of the broadcasting programs transmitted by a broadcasting station and the immediate re-transmission, by means of wireless telegraphy, of those programs;

‘broadcasting translator station licence’ means a licence for a broadcasting translator station;”;

(b) by inserting in sub-section (1), after the definition of “technical equipment”, the following definition:—

“‘telegraph line’ means a line within the meaning of the Telecommunications Act 1975;”; and

(c) by omitting from sub-section (1) the definition of “television translator station” and substituting the following definition: —

“ ‘television translator station’ means a station of low operating power designed for the reception by wireless telegraphy or telegraph line of the television programs transmitted by a television station and the immediate retransmission, by means of wireless telegraphy, of those programs;”.

**4.** Section 87a of the Principal Act is repealed and the following section substituted: —

**Review of decisions.**

“87a. Where the Minister has, under section 86, suspended or revoked a licence on or after 1 July 1976, the licensee may apply to the Administrative Appeals Tribunal for a review of the decision of the Minister to suspend or revoke the licence.”.

**Advertisements.**

**5.** Section 100 of the Principal Act is amended—

(a) by inserting after sub-section (5) the following sub-section:—

“(5a) A licensee shall not broadcast or televise an advertisement for, or for the smoking of, cigarettes or cigarette tobacco.”; and

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

“(10) A reference in sub-section (5), (5a) or (6) to the broadcasting or televising of advertisements or of an advertisement shall be read as not including a reference to the broadcasting or televising of matter of an advertising character as an accidental or incidental accompaniment of the broadcasting or televising of other matter in circumstances in which the licensee does not receive payment or other valuable consideration for broadcasting or televising the advertising matter.”.

**Advertisements for cigarettes, &c.**

**6.** Section 100a of the Principal Act is repealed.

**Heading to Division 5a of Part IV.**

**7.** The heading to Division 5a of Part IV of the Principal Act is repealed and the following heading substituted:—

“Division 5a—Broadcasting Translator Stations and Television Translator Stations”.

**8.** Before section 105b of the Principal Act the following sections are inserted in Division 5a of Part IV:—

**Definitions.**

“105aa. In this Division—

‘metropolitan broadcasting area’ means an area determined by the Board under sub-section (1) of section 105ab to be an area appropriate to be served by metropolitan broadcasting stations;

‘metropolitan broadcasting station’ means a commercial broadcasting station situated within a radius of 50 kilometres from the General Post Office in the capital city of a State;

‘metropolitan television area’ means an area determined by the Board under sub-section (2) of section 105ab to be an area appropriate to be served by metropolitan television stations;

‘metropolitan television station’ means a commercial television station the principal studio of which is situated within a radius of 32 kilometres from the General Post Office in the capital city of a State.

**Determination of metropolitan areas.**

“105ab. (1) For the purposes of this Division, the Board shall determine an area in each State as the area appropriate to be served by the metropolitan broadcasting stations in the State, being an area that includes the capital city of the State.

“(2) For the purposes of this Division, where there are 2 or more metropolitan television stations in a State, the Board shall determine an area in the State as the area appropriate to be served by those metropolitan television stations, being an area that includes the capital city of the State.

“(3) The Board may vary a determination under sub-section (1) or (2).

“(4) The Board shall keep copies of maps showing the boundaries of all areas determined by it under sub-sections (1) and (2) and any person may inspect, and may make a copy of, such a map.

**Review of determinations.**

“105ac. An application may be made to the Administrative Appeals Tribunal for a review of the making of a determination by the Board under section 105ab.

**Grant of broadcasting translator station licences.**

“105ad. (1) The Minister may, after receipt of a recommendation by the Board, grant to a person a licence for a broadcasting translator station upon such conditions, and in accordance with such form, as the Minister determines.

“(2) Subject to sub-section (3), the Board shall not recommend that a licence be granted for a broadcasting translator station if, in the opinion of the Board, satisfactory reception of broadcasting programs from a commercial broadcasting station is being obtained in the area in which the signals from that broadcasting translator station are designed to be satisfactorily received.

“(3) Where the Board is of the opinion that satisfactory reception of broadcasting programs from a commercial broadcasting station or commercial broadcasting stations is being obtained in an area, but the Board is also of the opinion that those programs do not adequately serve the interests of the community in that area by reason of the fact that they are designed to serve primarily the different interests of a community in another area, the Board may recommend that a licence be granted for a broadcasting translator station to serve that needs of the community in that first-mentioned area.

“(4) In making recommendations under this section the Board shall have regard to the principle that, subject to the necessity of ensuring that the needs of the community in the area concerned are adequately served, it is desirable that a broadcasting translator station licence for the purpose of the re-transmission of programs for reception in an area that is not within a metropolitan broadcasting area should be granted for the purpose of the re-transmission of the programs of a station that is not a metropolitan broadcasting station in preference to a broadcasting translator station licence for the purpose of the re-transmission of the programs of a metropolitan broadcasting station.

“(5) The Board shall not recommend the granting of a licence for a broadcasting translator station for the purpose of the re-transmission of programs for reception in a particular area unless the Board has published in the Gazette, and in a newspaper circulating in the area, a notice—

(a) stating that it is considering the need for the grant of such a licence; and

(b) notifying interested persons that they may, not later than a specified date (not being earlier than 21 days after the date of publication of the notice in the Gazette), apply to the Board for, or make to the Board written objection to, the grant of such a licence,

and the date so specified has passed.

“(6) If, on or before the date specified in the relevant notice under sub-section (5)—

(a) 2 or more applications are duly made for the grant of a broadcasting translator station licence as referred to in the notice; or

(b) the licensee of a commercial broadcasting station makes written objection to the grant of such a licence,

the Board shall not recommend the grant of such a licence unless it has conducted an inquiry in accordance with this Act into the applications or objection.

“(7) One of the conditions of the licence for a broadcasting translator station shall be that the station is operated only for the reception and transmission of the programs of a specified commercial broadcasting station or of specified commercial broadcasting stations and that those programs are re-transmitted without alteration.

“(8) The establishment, erection, maintenance and use of a broadcasting translator station in pursuance of a licence under this section shall be deemed not to be a contravention of the Wireless Telegraphy Act 1905 or of the regulations under that Act.

**Review of decisions.**

“105ae. (1) An application may be made to the Administrative Appeals Tribunal for a review of a decision of the Board to make a recommendation to the Minister that a licence under section 105ad be granted for a broadcasting translator station for the purpose of the retransmission of the programs of a metropolitan broadcasting station for reception in an area that is not within a metropolitan broadcasting area.

“(2) Where the Board makes a decision referred to in sub-section (1), the Board shall, before making the relevant recommendation to the Minister, notify, by such means as it considers appropriate, all persons who, on or before the date specified in the relevant notice under sub-section (5) of section 105ad, applied for, or made written objection to, the grant of a broadcasting translator station licence as referred to in the notice.”.

**Grant of television translator station licences.**

**9.** Section 105b of the Principal Act is amended—

(a) by omitting from sub-section (2) the word “The” (first occurring) and substituting the words “Subject to sub-section (2a), the”;

(b) by inserting after sub-section (2) the following sub-sections:—

“(2a) Where the Board is of the opinion that satisfactory reception of television programs from a commercial television station or commercial television stations is being obtained in an area, but the Board is also of the opinion that those programs do not adequately serve the interests of the community in that area by reason of the fact that they are designed to serve primarily the different interests of a community in another area, the Board may recommend that a licence be granted for a television translator station to serve the needs of the community in that first-mentioned area.

“(2b) In making recommendations under this section the Board shall have regard to the principle that, subject to the necessity of ensuring that the needs of the community in the area concerned are adequately served, it is desirable that a television translator station licence for the purpose of the re-transmission of programs for reception in an area that is not within a metropolitan television area should be granted for the purpose of the re-transmission of the programs of a station that is not a metropolitan television station in preference to a television translator station licence for the purpose of the re-transmission of the programs of a metropolitan television station.

“(2c) The Board shall not recommend the granting of a licence for a television translator station for the purpose of the re-transmission of programs for reception in a particular area unless the Board has published in the Gazette, and in a newspaper circulating in the area, a notice—

(a) stating that it is considering the need for the grant of such a licence; and

(b) notifying interested persons that they may, not later than a specified date (not being earlier than 21 days after the date of publication of the notice in the Gazette), apply to the Board for, or make to the Board written objection to, the grant of such a licence,

and the date so specified has passed.

“(2d) If, on or before the date specified in the relevant notice under sub-section (2c)—

(a) 2 or more applications are duly made for the grant of a television translator station licence as referred to in the notice; or

(b) the licensee of a commercial television station makes written objection to the grant of such a licence,

the Board shall not recommend the grant of such a licence unless it has conducted an inquiry in accordance with this Act into the applications or objection.”; and

(c) by adding at the end of sub-section (3) the words “or of specified commercial television stations and that those programs are re-transmitted without alteration”.

**10.** After section 105b of the Principal Act the following section is inserted:—

**Review of decisions.**

“105ba. (1) An application may be made to the Administrative Appeals Tribunal for a review of a decision of the Board to make a recommendation to the Minister that a licence under section 105b be granted for a television translator station for the purpose of the retransmission of the programs of a metropolitan television station for reception in an area that is not within a metropolitan television area.

“(2) Where the Board makes a decision referred to in sub-section (1), the Board shall, before making the relevant recommendation to the Minister, notify, by such means as it considers appropriate, all persons who, on or before the date specified in the relevant notice under subsection (2c) of section 105b, applied for, or made written objection to, the grant of a television translator station licence as referred to in the notice.”.

**Duration of licences.**

**11.** Section 105c of the Principal Act is amended by inserting after the word “Act,” the words “a broadcasting translator station licence or”.

**Revocation and suspension of licences.**

**12.** Section 105d of the Principal Act is amended by inserting in sub-section (1), after the word “holder” (first occurring), the words “of a broadcasting translator station licence or”.

**Transfer of licences.**

**13.** Section 105e of the Principal Act is amended by inserting, after the word “holder”, the words “of a broadcasting translator station licence or”.

**14.** Section 105f of the Principal Act is repealed and the following section substituted: —

**Application of this Act in relation to translator stations.**

“105f. The provisions of Division 4 and of sections 107 to 111 (inclusive)—

(a) apply in relation to a broadcasting translator station and the holder of a broadcasting translator station licence as they apply in relation to a commercial broadcasting station and the holder of a licence for a commercial broadcasting station; and

(b) apply in relation to a television translator station and the holder of a television translator station licence as they apply in relation to a commercial television station and the holder of a licence for a commercial television station.”

**15.** After section 119 of the Principal Act the following section is inserted:—

**Review of decisions.**

“119a. An application may be made to the Administrative Appeals Tribunal for a review of a decision of the Board under sub-section (2) of section 119 made on or after 1 July 1976.”

**Community television aerials.**

**16.** Section 130a of the Principal Act is amended—

(a) by omitting sub-section (1);

(b) by omitting from paragraph (a) of sub-section (3) the word “or”;

(c) by adding at the end of sub-section (3) the following paragraphs:—

“(c) in a case where the Board is of the opinion that satisfactory reception of television programs is being obtained in the area, the Board is also of the opinion that—

(i) those programs do not adequately serve the interests of the community in that area by reason of the fact that they are designed to serve primarily the different interests of a community in another area; and

(ii) satisfactory reception of television programs that would adequately serve the interests of the community in that area could be obtained in that area from a nearby television station or television stations by the means to be authorized by the permit; or

“(d) in the opinion of the Board, the use of the means to be authorized by the permit to provide a television service in that area from a television station the normal range of which includes that area is necessary or desirable for aesthetic or environmental reasons and

(d) by inserting after sub-section (5) the following sub-section:—

“(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.”

**Formal amendments.**

**17**. The Principal Act is amended as set out in the Schedule.

**Amendment of Administrative Appeals Tribunal Act 1975.**

**18.** The Schedule to the Administrative Appeals Tribunal Act 1975 is amended by omitting Part VI.

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**SCHEDULE** Section 17

FORMAL AMENDMENTS

1. The following provisions of the Principal Act are amended by omitting any number expressed in words that is used, whether with or without the addition of a letter, to identify a section of that Act or of another Act, and substituting that number expressed in figures:—

Sections 4(1) (definition of “Commissioner”), 17(3), 22, 28a, 45(1), 46a, 56(1)(g), 78(3)(a), 78a, 90b(1), 90c(3) and (4)(a), 90d(1), 90f(3)(b), 90h, 90j(4)(a), 90l(1)(a), 90m(a) and (c), 90q, 91(2)(d), 91a(1), 92(2), (3)(a)(i) and (3)(b), 92a(1), 92c(2)(b) and (4)(b), 92e, 92f(4)(a) and (9), 92g(1)(a) and (5)(b), 92h(a) and (c), 92k, 105a, 105l, 108(1), 132(1a).

2. The following provisions of the Principal Act are amended by omitting the words “of this Act”, “of this Part”, “of this section”, “of this sub-section” and “of this paragraph” (wherever occurring):—

Sections 4(1) (definition of “Commissioner”), 16(2), 22, 27d(3), 28a, 43(1), 45(1), 46(4), 46a, 48a(4) and (5), 56(1)(g), 58(6), 71b(3), 74(3), 78(3)(a), 78a, 90a(1) and (5), 90a(1), 90c(3), 90d(1), 90f(3)(b), 90h, 90j(4)(a) and (6), 90k(4), 90l(1)(a), (1)(b), (1)(d), (3) and (4), 90m(a) and (c), 90q, 91(2)(d) and (4)(a)(iii), 91aa(1) and (5), 91a(1), 92(2), 92a(1), 92c(2)(b), 92e, 92f(3), (4)(a), (6) and (9), 92fa(4), 92g(1)(a), (1)(b), (1)(d), (3) and (4), 92h(a) and (c), 92k, 105a, 105l, 108(1), 117a(3), (5) and (8), 132(1a).

3. The following provisions of the Principal Act are amended by omitting the word “programme” (wherever occurring) and substituting the word “program”, and by omitting the word “programmes” (wherever occurring) and substituting the word “programs”:—

Sections 4(1) (definitions of “broadcast receiver”, “broadcasting station”, “national broadcasting station”, “national television station”, “television receiver”, “television repeater station”, and “television station”), 8(3)(a), 16(1) (c), (1)(d), (3)(c) and (5), 59(1), 60, 65(2)(b) and (c), 73, 74(1), 90d, 92a(1)(c) and (2), 97, 99(c) and (2), 105, 105b(2) and (3), 105g(2), 105j(1)(a), 113, 113a, 114(1) and (2), 116(4a), 121(1), 124a(1), 130a(2),(3) and (8), 134(1).

4. The Principal Act is further amended as set out in the following table:—

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| Provision | Amendment |
| Section 9(2)  | Omit “Public Service of the Commonwealth” (wherever occur­ring), substitute “Australian Public Service”. |
| Section 27c  | (a) Omit “the thirtieth day of April”, substitute “30 April”. |
|  | (b) Omit “first day of July”, substitute “1 July”. |
| Section 28(l)  | Omit “the thirtieth day of June”, substitute “30 June”. |
| Section 43(11)  | Omit “Public Service of the Commonwealth” (wherever occurring), substitute “Australian Public Service”. |
| Section 71a  | (a) Omit “the thirtieth day of April”, substitute “30 April”. |
|  | (b) Omit “first day of July”, substitute “1 July”. |
| Section 90(1) (definition of “metropolitan commercial broadcasting station”) | Omit “thirty miles”, substitute “50 kilometres”.  |
|
| Section 90aa(2)  | Omit “the twelfth day of December, One thousand nine hundred and sixty-nine”, substitute" 12 December 1969”. |
| Section 90c(7)  | Omit “the twenty-fourth day of September, One thousand nine hundred and sixty-eight”, substitute “24 September 1968”. |
| Section 90f(5)  | Omit “the thirty-first day of December, One thousand nine hundred and sixty-nine”, substitute “31 December 1969”. |
|
| Section 90l(5)  | Omit “the thirty-first day of December, One thousand nine hundred and sixty-nine”, substitute “31 December 1969”. |
|
| Section 90n(2)(a)  | Omit “the thirty-first day of December, One thousand nine hundred and sixty-nine". substitute “31 December 1969”. |
| Section 90r(3), (4), (5) and (6) | Omit “Commonwealth Industrial Court”, substitute “Australian Industrial Court”. |
| Section 91ab(2)  | Omit “the twelfth day of December, One thousand nine hundred and sixty-nine”, substitute" 12 December 1969”. |
| Section 92(1)(c)  | Omit “thirty miles”, substitute “50 kilometres”. |
| Section 92(6)  | Omit “the seventeenth day of December, One thousand nine hundred and sixty-four”, substitute “17 December 1964”. |
|
| Section 92c (4)  | Omit “the thirty-first day of December, One thousand nine hundred and sixty-five, substitute“31 December 1965”. |
|
| Section 92g (5)  | Omit “the first day of January, One thousand nine hundred and sixty-six”, substitute" 1 January 1966”. |
|
| Section 92ka(3), (4), (5) and (6) | Omit “Commonwealth Industrial Court”, substitute “Australian Industrial Court”. |
| Heading to Division 5 of Part IV | Omit “Programmes”, substitute “Programs”. |
| Section 106(1)(c) and (2) | Omit “the thirtieth day of June” (wherever occurring), substitute “30 June”. |
| Section 106(1)(c)(i)  | Omit “thirtieth day of June”, substitute “30 June”. |
| Section 134(2)(a) and (3) | Omit “Commonwealth Industrial Court”, substitute “Australian Industrial Court”. |