**BROADCASTING AND TELEVISION AMENDMENT ACT (No. 2) 1976**

**No. 187 of 1976**

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

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:—

**Short title, &c.**

**1.** (1) This Act may be cited as the *Broadcasting and Television Amendment Act* (*No.* 2) 1976.

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

**Commencement.**

**2.** (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

(2) Sections 3 to 13 (inclusive) and 15 to 18 (inclusive) shall come into operation on 1 January 1977.

(3) Section 14 shall come into operation on a date to be fixed by Proclamation.

**Interpretation.**

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

(a) by inserting after the definition of “approved bank” in sub-section (1) the following definition:—

“‘associate member’ means an associate member of the Tribunal appointed under section 11;”;

(b) by adding at the end of the definition of “commercial broadcasting station” in sub-section (1) the words “or a public broadcasting station”;

(c) by adding at the end of the definition of “commercial television station” in sub-section (1) the words “or a public television station”;

(d) by inserting after the definition of “Commissioner” in sub-section (1) the following definition:—

“‘inquiry’ means an inquiry in accordance with Division 3 of Part II;”;

(e) by omitting from sub-section (1) the definition of “member” and substituting the following definition:—

“‘member’ means a member of the Tribunal appointed under section 8;”;

(f) by inserting after the definition of “national television station” in sub-section (1) the following definitions:—

“‘public broadcasting licence’ or ‘public television licence’ means a licence granted under Part IVa for the operation of a broadcasting station or television station, as the case may be;

‘public broadcasting station’ or ‘public television station’ means a broadcasting station or television station operating by virtue of a public broadcasting licence or public television licence, as the case may be;”;

(g) by omitting from sub-section (1) the definition of “the Board” and substituting the following definition:—

“‘the Broadcasting Council’ means the Broadcasting Council established by virtue of paragraph (ba) of sub-section (1) of section 134;”;

(h) by inserting after the definition of “the Commission” in sub-section (1) the following definition:—

“‘the Tribunal’ means the Australian Broadcasting Tribunal constituted under this Act;”; and

(i) by inserting in sub-section (2), after the words “commercial television station”, the words “or for a public television station”.

**Heading to Part II.**

**4.** The heading to Part II of the Principal Act is repealed and the following heading substituted:—

“PART II—THE AUSTRALIAN BROADCASTING TRIBUNAL”.

**5.** Division 1 of Part II of the Principal Act is repealed and the following Division substituted:—

“*Division 1—Establishment and Constitution of the Tribunal*

**Establishment of Tribunal.**

“7. (1) There is hereby established a Tribunal by the name of the Australian Broadcasting Tribunal.

“(2) The Tribunal—

(a) is a body corporate, with perpetual succession;

(b) shall have a common seal;

(c) may sue and be sued under its corporate name; and

(d) has power to acquire, hold and dispose of real and personal property.

“(3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Tribunal affixed to a document and presume that it was duly affixed.

**Membership of Tribunal.**

“8. (1) The Tribunal shall consist of a Chairman, a Vice-Chairman and at least one other member but not more than 3 other members.

“(2) The members shall be appointed by the Governor-General as full-time members.

“(3) A member shall be appointed for such period, not exceeding 5 years, as is specified in his instrument of appointment, but is eligible for re-appointment.

“(4) A member shall hold office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Governor-General.

“(5) A person who has attained the age of 65 years shall not be appointed or re-appointed as a member and a person shall not be appointed or re-appointed as a member for a period that extends beyond the date on which he will attain the age of 65 years.

“(6) The performance of the functions and the exercise of the powers of the Tribunal are not affected by reason of—

(a) there being a vacancy in the office of Chairman or of Vice-Chairman; or

(b) the number of members falling below 3 for a period of not more than 6 months.

**Financial interests, &c.**

“9. A person shall not be appointed as a member if he has a direct or indirect pecuniary interest in a business carried on in Australia, or in a body corporate carrying on such a business, being an interest that could be in conflict with his duties as a member.

**Acting members.**

“10. (1) Where there is or is about to be a vacancy in the office of Chairman of the Tribunal, the Governor-General may appoint a member to act as Chairman during the vacancy.

“(2) Where there is or is about to be a vacancy in the office of a member, other than the Chairman, the Governor-General may appoint a person to act as a member during the vacancy.

“(3) For the purposes of sub-section (2), there shall be deemed to be a vacancy in the office of a member at any time when that member is acting as Chairman in accordance with sub-section (1).

“(4) Subject to sub-section (11), a person appointed to act in accordance with sub-section (1) or (2) shall not continue so to act for more than 12 months.

“(5) During any period when there is neither a Chairman nor a person appointed under sub-section (1) or when the Chairman or the person appointed under sub-section (1) is absent from duty or from Australia or is, for any other reason, unable to perform the functions of the office of Chairman—

(a) the Vice-Chairman shall act as Chairman; or

(b) if there is no Vice-Chairman or the Vice-Chairman is not available to act as Chairman, the Governor-General may appoint a person (who may be a member) to act as Chairman, but any such appointment ceases to have effect when the circumstances giving rise to that appointment cease.

“(6) The Governor-General may appoint a person to act as a member during any period, or during all periods, when a member, other than the Chairman, is absent from duty or from Australia, is acting as Chairman in accordance with sub-section (5) or is, for any other reason, unable to perform the functions of his office.

“(7) The Governor-General may—

(a) determine the terms and conditions of appointment, including remuneration and allowances, of a person appointed under this section; and

(b) at any time terminate such an appointment.

“(8) The appointment of a person under this section ceases to have effect if he resigns his appointment by writing under his hand delivered to the Governor-General.

“(9) At any time when a person is acting as Chairman or as a member in accordance with this section, he has, and may exercise, all the powers and shall perform all the functions of the Chairman or a member, as the case may be, and, if he is not a member, shall be deemed to be a member for the purposes of sections 15b, 15c and 15d.

“(10) The validity of anything done by a person purporting to act in accordance with this section shall not be called in question by reason of any defect or irregularity in or in connexion with his appointment or on the ground that the occasion for his so acting had not arisen or had ceased.

“(11) Where a person is acting as a member in accordance with subsection (2), (5) or (6), the Governor-General may, by reason of a pending inquiry or other special circumstances, direct that he shall continue so to act after the circumstances giving rise to his appointment cease until the Governor-General directs otherwise, but a person shall not continue to act by virtue of a direction under this sub-section for more than 12 months.

**Associate members.**

“11. (1) Where the Chairman of the Tribunal notifies the Minister that he considers that the Tribunal should be assisted in relation to a particular inquiry by an associate member or by such number of associate members as he specifies, the Governor-General may, subject to sub-section (2), appoint a person or that number of persons to be an associate member or associate members of the Tribunal for the purposes of that inquiry, and the associate member or associate members shall, together with the member or members taking part in the inquiry, constitute the Tribunal for the purposes of the inquiry and, in the event of a person so appointed ceasing to be an associate member before the report is made in relation to the inquiry, the Governor-General may, if the Chairman so requests, appoint another person to be an associate member for the purposes of the inquiry.

“(2) Not more than 6 persons shall hold appointments as associate members at any one time.

“(3) The appointment of an associate member for the purposes of an inquiry shall be for a period commencing on the day specified in the instrument of his appointment and ending on the day on which the Tribunal makes its report in relation to that inquiry.

“(4) An appointment of an associate member shall be on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Governor-General.

“(5) A person may be appointed as an associate member for the purposes of an inquiry notwithstanding that he already holds an appointment or appointments as an associate member for the purposes of another inquiry or other inquiries.

**Acting associate members.**

“12. (1) If an associate member is or is about to be absent from duty or from Australia or is, for any other reason, unable to perform his functions as an associate member, the Governor-General may, if the Chairman of the Tribunal so requests, appoint a person to act as an associate member in place of the associate member, in relation to a particular inquiry, during the absence or the period of inability.

“(2) The Governor-General may—

(a) determine the terms and conditions of appointment, including remuneration and allowances, of a person appointed under this section; and

(b) at any time terminate such an appointment.

“(3) The appointment of a person under this section ceases to have effect if he resigns his appointment by writing under his hand delivered to the Governor-General.

“(4) At any time when a person is acting as an associate member for the purposes of a particular inquiry, he has, and may exercise, all the powers and shall perform all the functions of the associate member in whose place he is appointed for the purposes of that inquiry and shall be deemed to be an associate member for the purposes of section 13.

“(5) The validity of anything done by a person purporting to be acting in accordance with this section shall not be called in question by reason of any defect or irregularity in or in connexion with his appointment or on the ground that the occasion for his so acting had not arisen or had ceased.

“(6) Where a person is acting as an associate member for the purposes of a particular inquiry, the Governor-General may direct that he shall continue so to act after the circumstances giving rise to his appointment cease until the Governor-General directs otherwise, but a person shall not continue to act by virtue of a direction under this sub-section after the making of the report in relation to the inquiry for the purposes for which he was appointed.

**Disclosure of financial interests by associate members.**

“13. (1) An associate member shall, to the best of his knowledge, disclose to the Chairman of the Tribunal any direct or indirect pecuniary interest that he has or acquires in a business carried on in Australia, or in a body corporate carrying on such a business, being an interest that could be in conflict with his duties as an associate member.

“(2) Where an interest is so disclosed to the Chairman and—

(a) in the case of an interest in a business—the person carrying on the business; or

(b) in the case of an interest in a body corporate—that body corporate, is concerned in the inquiry for the purposes of which the associate member has been appointed, the Chairman shall cause the interest to be disclosed to the public.

“(3) Any interest disclosed under sub-section (1), whether or not it is an interest to which sub-section (2) applies, shall be set out in the report of the Tribunal in relation to the inquiry.

**Leave of absence.**

“14. The Minister may grant leave of absence to a member or associate member upon such terms and conditions as to remuneration or otherwise as the Minister determines.

**Resignation.**

“15. A member may resign his office or an associate member may resign his appointment by writing under his hand delivered to the Governor-General.

**Termination of office.**

“15a. (1) The Governor-General may terminate the appointment of a member or associate member for misbehaviour or physical or mental incapacity.

“(2) If—

(a) a member or associate member 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;

(b) a member—

(i) except with the approval of the Minister, engages in paid employment outside the duties of his office;

(ii) is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or for 28 days in any 12 months; or

(iii) becomes a person who by reason of section 9 would not be qualified to be appointed as a member; or

(c) an associate member fails to comply with section 13,

the Governor-General may terminate his appointment.

**Meetings.**

“15b. (1) The Tribunal shall hold such meetings as are necessary for the performance of its functions (other than its functions in relation to inquiries).

“(2) The Chairman or Vice-Chairman of the Tribunal may convene a meeting.

“(3) At a meeting a quorum is constituted by a majority of the members for the time being holding office.

“(4) The Chairman shall preside at all meetings at which he is present.

“(5) If the Chairman is not present at a meeting, the Vice-Chairman shall preside.

“(6) If both the Chairman and the Vice-Chairman are absent from a meeting, the members present shall elect one of their number to preside.

“(7) Questions arising at a meeting shall be determined by a majority of the votes of the members present and voting.

“(8) The person presiding at a meeting has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

“(9) In relation to a time when a person (other than the Vice-Chairman) is acting as Chairman, references in this section to the Chairman shall be read as references to that person.

**Divisions of Tribunal.**

“15c. (1) For the purposes of holding an inquiry and making a report and recommendations, the Tribunal may be constituted by a Division of the Tribunal consisting of a member or members (who may be or include the Chairman of the Tribunal) designated by the Chairman of the Tribunal and the associate member or associate members (if any) appointed for those purposes.

“(2) Where a Division of the Tribunal consists of, or includes, two or more members, the Chairman of the Tribunal shall designate one of the members to preside at the inquiry.

“(3) Where a Division of the Tribunal consists of one member and an associate member or associate members, the member shall preside at the inquiry.

**Delegations by Tribunal.**

“15d. (1) The Tribunal may, either generally or as otherwise provided by the instrument of delegation, by writing under its common seal, delegate to a member any of its powers under this Act, other than this power of delegation and its power to hold inquiries.

“(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Tribunal.

“(3) A delegation under this section does not prevent the exercise of a power by the Tribunal.

**Staff.**

“15e. (1) The staff of the Tribunal shall be persons appointed or employed under the *Public Service Act* 1922.

“(2) For the purposes of this section, the Chairman of the Tribunal has all the powers of, or exercisable by, a Permanent Head under the *Public Service Act* 1922 so far as those powers relate to the branch of the Australian Public Service comprising the staff of the Tribunal as if that branch were a separate Department of the Australian Public Service.

“(3) For the purposes of sub-sections (5) and (6) of section 25 of that Act, the Chairman shall be deemed to be a Permanent Head.

“(4) The Chairman may exercise his powers of delegation under sub-section (5) of section 25 of that Act in favour of a member as if the members were officers for the purposes of that sub-section.

**Officers’ Rights Declaration Act.**

“15f. Where a person appointed as a member was, immediately before his appointment, an officer of the Australian Public Service or a person to whom the *Officers’ Rights Declaration Act* 1928 applied—

(a) he retains his existing and accruing rights;

(b) for the purposes of determining those rights, his service, under this Act shall be taken into account as if it were service in the Australian Public Service; and

(c) that Act applies as if this Act and this section had been specified in the Schedule to that Act.”.

**6.** Section 16 of the Principal Act is repealed and the following section substituted:—

**Functions of Tribunal.**

“16. (1) The functions of the Tribunal are to perform the duties and to exercise the powers imposed or conferred upon it by other provisions of this Act and, in addition—

(a) to determine the standards to be observed by licensees in respect of the broadcasting or televising of programs;

(b) to determine the conditions subject to which advertisements may be broadcast or televised by licensees; and

(c) to determine the hours during which programs may be broadcast or televised by licensees,

and include such other functions in relation to broadcasting stations and television stations as are prescribed.

“(2) In performing its functions under paragraph (a), (b) or (c) of sub-section (1) in relation to broadcasting stations or television stations, the Tribunal shall consult the Broadcasting Council or, if there is no Broadcasting Council, it shall consult representatives of those stations.

“(3) A reference in this section to a licensee includes a reference to the holder of a licence granted under Part IVa.”.

**7.** After section 22 of the Principal Act the following section is inserted:—

**Voting in relation to inquiries.**

“22a. (1) Where an inquiry is held by 2 or more members and those members are divided in opinion as to the recommendation to be made on any matter—

(a) if there is a majority of the one opinion—the recommendation shall be in accordance with the opinion of the majority; or

(b) in any other case—the recommendation shall be in accordance with the opinion of the member presiding at the inquiry,

but the opinion or opinions of the member or members disagreeing with the recommendation shall be set out in the report relating to the inquiry.

“(2) In sub-section (1), ‘member’ includes an associate member.’’.

**8.** After section 25 of the Principal Act the following section is inserted in Division 3 of Part II:—

**Member or associate member ceasing to be available.**

“25a. (1) Where an inquiry has been commenced or completed by the Tribunal constituted by 2 or more persons but, before the report in relation to the inquiry has been made, one of the persons constituting the Tribunal for the purposes of the inquiry has ceased to be a member or has become unable to perform his functions as a member, the Tribunal as constituted by the remaining member or members and, if the Chairman of the Tribunal so directs, another member may complete the inquiry and report, or the report, as the case may be, and for that purpose may have regard to any record of the inquiry held by the Tribunal as previously constituted.

“(2) For the purposes of sub-section (1), ‘member’ includes an associate member or a person acting as a member or associate member.

“(3) Sub-section (1) does not authorize the Tribunal to complete an inquiry and report, or a report, as the case may be, unless it consists of, or includes, a person appointed under section 8 or 10.”.

**9.** Sections 31, 32 and 33 of the Principal Act are repealed and the following sections substituted:—

**Membership of Commission.**

“31. (1) The Commission shall consist of—

(a) 6 Commissioners, comprising, in respect of each State, a person ordinarily resident in that State; and

(b) not fewer than 3 nor more than 5 other Commissioners.

“(2) At least 2 of the Commissioners shall be women.

“(3) The Commissioners shall be appointed by the Governor-General as part-time Commissioners.

“(4) The Governor-General shall appoint one Commissioner to be Chairman of the Commission and another Commissioner to be Vice-Chairman of the Commission.

**Term of office.**

“32. A Commissioner—

(a) holds office for such period, not exceeding 5 years, as is specified in his instrument of appointment, but is eligible for re-appointment; and

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

**Dismissal and vacation of office.**

**10.** Section 37 of the Principal Act is amended by inserting after paragraph (b) of sub-section (1) the following paragraph:—

“(ba) being a Commissioner appointed by virtue of paragraph (a) of sub-section ( 1) of section 31, ceases to be ordinarily resident in the State in which he was ordinarily resident at the time of his appointment;”.

**Meetings of Commission.**

**11.** Section 39 of the Principal Act is amended by omitting from sub-section (2) the words “four Commissioners shall form a quorum” and substituting the words “a quorum is constituted by a majority of the Commissioners for the time being holding office”.

**12.** Section 46a of the Principal Act is repealed and the following section substituted:—

**Public Service Board to approve certain salaries.**

“46a. A determination under section 45 of the salary, or range of salary, applicable to a position in the service of the Commission, or a reclassification under section 46 of such a position by raising the salary, or range of salary, applicable to the position, shall be made with the approval of the Public Service Board where the salary, or any salary in the range of salary, as so determined or raised, as the case may be, is equal to or higher than the lowest salary for the time being applicable to an office in the Second Division of the Australian Public Service.”.

**13.** After section 79 of the Principal Act the following section is inserted in Part III:—

**Joint Consultative Committee**

“79a. (1) There is hereby established a Joint Consultative Committee comprising representatives of the Commission and of officers and full-time employees of the Commission.

“(2) The regulations shall make provision for and in relation to the manner in which the Committee is to be constituted, the functions of the Committee and the manner in which the Committee is to carry out its functions.”.

**14.** After Part IV of the Principal Act the following Part is inserted:—

“PART IVa—THE PUBLIC BROADCASTING SERVICE AND THE PUBLIC TELEVISION SERVICE

**Grant of licences.**

“111a. (1) Subject to this Act, the Minister may, on payment of the prescribed fee, grant to a person a licence to operate a broadcasting station or television station for one or more of the following purposes, as specified in the licence:—

(a) to provide services for people within a specified area;

(b) to provide programs of a specified nature;

(c) to provide programs for a specified purpose.

“(2) A public broadcasting licence or public television licence shall not be granted except to a corporation formed within the limits of the Commonwealth or a Territory, not being a corporation the objects of which include the acquisition of profit or gain for the benefit of its individual members.

“(3) A public broadcasting licence or public television licence may be granted on such conditions, and in accordance with such form, as the Minister determines.

“(4) It is a condition of a licence granted under this Part that the broadcasting station or television station, as the case may be, is to be operated only for the purpose or purposes specified in the licence in accordance with sub-section (1).

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

**Application or Act**

“111b. (1) Subject to section 111a, the other provisions of this Act apply, with such exceptions and subject to such modifications and adaptations as are prescribed, in relation to public broadcasting stations, public television stations, public broadcasting station licences, public television station licences, the holders of such licences and the grant, renewal, suspension and revocation of such licences as they apply in relation to commercial broadcasting stations, commercial television stations, licences for such stations, the holders of such licences and the grant, renewal, suspension and revocation of such licences.

“(2) Nothing in sub-section (1) enables regulations to be made that would affect the application of any provision of this Act to the extent that it requires the holding of an inquiry.”.

**15.** Before section 112 of the Principal Act the following sections are inserted in Part V:—

**Functions of Department.**

“111c. (1) It shall be the responsibility of the Secretary to the Postal and Telecommunications Department—

(a) to ensure the provision of services by broadcasting stations and television stations in accordance with plans for the development of the system of broadcasting and television in Australia, being plans from time to time approved by the Minister;

(b) to ensure that the technical equipment and operation of broadcasting stations and television stations are in accordance with standards and practices from time to time approved by the Minister;

(c) to detect sources of interference, and to prevent and correct interference, with the transmission or reception of the programs of broadcasting stations and television stations; and

(d) to conduct examinations as to the competency of persons to operate the technical equipment of broadcasting stations and television stations and to charge fees in respect of those examinations.

“(2) In discharging his responsibilities under paragraph (a) of sub-section (1) in relation to broadcasting stations or television stations, the Secretary shall consult the Broadcasting Council or, if there is no Broadcasting Council, he shall consult representatives of those stations.

**Orders, &c.**

“111d. (1) For the purpose of discharging his responsibilities under section 111c, the Secretary to the Postal and Telecommunications Department may, subject to any directions of the Minister, make such orders, give such directions and do all such other things as he thinks fit.

“(2) Orders made under sub-section (1)—

(a) shall be in writing;

(b) shall not be deemed to be Statutory Rules within the meaning of the *Rules Publication Act* 1903; and

(c) have the force of law.

“(3) Sections 48, 49 and 49a of the *Acts Interpretation Act* 1901 apply to orders made under this section in like manner as they apply to regulations.

“(4) A person shall not contravene or fail to comply with a provision of an order made under this section that is applicable to him.

“(5) A direction given under this section may be given orally or in writing.

“(6) A direction given orally shall be given to the person required to comply with the direction and thereupon that person shall comply with the direction.

“(7) Where a direction is given orally, the Secretary shall, within 24 hours thereafter, record the direction in writing.

“(8) A copy of a direction given in writing shall be served personally (or, in the case of a corporation, by leaving it at the registered office of the corporation) or by post on the person required to comply with the direction and thereupon that person shall comply with the direction.

“(9) Nothing in this section empowers the Secretary to make orders or give directions relating to matters of program content.

**Remuneration.**

“111e. (1) This section applies to a member, an associate member, a Commissioner and the general manager of the Commission.

“(2) A person to whom this section applies shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed.

“(3) A person to whom this section applies shall be paid such allowances as are prescribed.

“(4) This section has effect subject to the *Remuneration Tribunals Act* 1973.”.

**Regulations.**

**16.** Section 134 of the Principal Act is amended by inserting after paragraph (b) of sub-section (1) the following paragraph:—

“(ba) the establishment and constitution of a Broadcasting Council for the purposes of sub-section (2) of section 16 and subsection (2) of section 111c;”.

**Consequential amendments.**

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

**Transitional provisions.**

**18.** (1) In this section—

“agreement or instrument” means an agreement or instrument to which the Board was a party before the commencing day, but does not include an order or direction made or given under section 17 of the Principal Act;

“Board” means the Australian Broadcasting Control Board that was in existence before the commencing day;

“commencing day” means 1 January 1977;

“property “includes moneys.

(2) All property that was vested in the Board immediately before the commencing day is, by force of this section, vested in the Commonwealth upon that day.

(3) An agreement or instrument (other than an agreement or instrument relating to property of the Board) subsisting immediately before the commencing day and wholly relating to matters in respect of which the responsibility is vested in the Tribunal by the Principal Act as amended by this Act has effect on and after that day as if—

(a) the Tribunal were substituted for the Board as a party to the agreement or instrument; and

(b) any reference in the agreement or instrument to the Board were (except in relation to matters that occurred before that day) a reference to the Tribunal.

(4) An agreement or instrument subsisting immediately before the commencing day, other than an agreement or instrument referred to in sub-section (3), has effect on and after that day as if—

(a) the Commonwealth were substituted for the Board as a party to the agreement or instrument; and

(b) any reference in the agreement or instrument to the Board were (except in relation to matters that occurred before that day) a reference to the Commonwealth.

(5) All rights and liabilities of the Board (other than rights and liabilities relating to property of the Board) subsisting immediately before the commencing day and wholly relating to matters in respect of which responsibility is vested in the Tribunal by the Principal Act as amended by this Act are, by force of this section, vested in the Tribunal upon that day.

(6) All rights and liabilities of the Board subsisting immediately before the commencing day, other than rights and liabilities referred to in sub-section (5), are, by force of this section, vested in the Commonwealth upon that day.

(7) Where proceedings to which the Board was a party (other than proceedings relating to property of the Board) were pending in any court immediately before the commencing day, the Tribunal is, by force of this section, substituted for the Board on and after that day as a party to the proceedings.

(8) Where proceedings to which the Board was a party, being proceedings relating to property of the Board, were pending in any court immediately before the commencing day, the Commonwealth is, by force of this section, substituted for the Board on and after that day as a party to the proceedings.

(9) Where an application to the Administrative Appeals Tribunal for a review of a decision of the Board under section 105ab of the Principal Act was pending immediately before the commencing day, the application may be continued on and after that day as if it were an application for a review of a decision of the Minister.

(10) Where an application to the Administrative Appeals Tribunal for a review of a decision of the Board under section 105ad, 105b or 119 of the Principal Act was pending immediately before the commencing day, the application may be continued on and after that day as if it were an application for a review of a decision of the Australian Broadcasting Tribunal.

(11) Any act or thing done by the Board under a provision of the Principal Act before the commencing day has effect on and after that day as if it has been done by the Minister or the Tribunal, as the case requires, under the corresponding provision of the Principal Act as amended by this Act.

(12) An order or direction in force under section 17 of the Principal Act immediately before the commencing day continues in force on and after that day, but may be rescinded or varied by an order or direction made or given under section 17 or 111d of the Principal Act as amended by this Act.

(13) Notwithstanding the amendments of section 27d of the Principal Act by this Act, that section continues to apply in relation to the accounts and records of the Board, to the extent that those accounts and records had not been audited by the Auditor-General before the commencing day, as if those amendments had not been made.

(14) Section 28 of the Principal Act as amended by this Act applies in relation to the year ending on 30 June 1977 as if—

(a) the reference in sub-section (1) of that section to the operations of the Tribunal during that year included a reference to the operations of the Board during that year; and

(b) the reference in paragraph (2)(c) of that section to the Tribunal included a reference to the Board.

(15) A person authorized by the Minister in writing for the purposes of this section may, by writing under his hand, certify that an agreement, instrument, right or liability specified or described in the certificate is an agreement, instrument, right or liability referred to in sub-section (3), (4), (5) or (6), as the case may be, and such a certificate is, upon mere production, in all courts and for all purposes, *prima facie* evidence of the matters stated in the certificate.

(16) A person who, immediately before the commencing day, held office as a Commissioner, as the Chairman of the Commission or as the Vice-Chairman of the Commission for a term expiring after that day continues, subject to section 37 of the Principal Act as amended by this Act, to hold office for the remainder of that term.

(17) On or as soon as practicable after the commencing day, the Governor-General may, in respect of a State, by writing under his hand, declare that a specified person referred to in sub-section (16) who is ordinarily resident in that State is to be deemed to be a Commissioner appointed in respect of that State by virtue of paragraph (a) of sub-section (1) of section 31 of the Principal Act as amended by this Act and to have been ordinarily resident in that State at the time of his appointment and, for the purposes of the Principal Act as amended by this Act, the person specified in the declaration shall be deemed to be a Commissioner so appointed and to have been so resident.

(18) The amendments of the Principal Act made by this Act do not affect the continued existence or the identity of the Commission established by the Principal Act.

(19) An appointment to the service of the Commission made before the commencing day under section 43 of the Principal Act is as valid and effectual on and after that day as if that section had not been amended by this Act.

(20) A position in the service of the Commission created or reclassified, and the salary or range of salary determined in relation to any such position, under the Principal Act before the commencing day continues to have effect on and after that day, but may be abolished, reclassified or altered, as the case may be, under the Principal Act as amended by this Act.

**Appointments to Tribunal and Commission.**

**19.** At any time after the commencement of this section and before 1 January 1977, appointments may be made under sections 8, 11 and 31 of the Principal Act as amended by this Act, but an appointment so made shall not have effect before that date.

**Making of regulations.**

**20.** (1) At any time after the commencement of this section and before the commencement of a provision of this Act amending the Principal Act, regulations may be made as if that provision had come into operation, but, subject to sub-section (2), regulations so made shall not come into operation before the commencement of that provision.

(2) Where, by virtue of sub-section (1), regulations are made before 1 January 1977 for the purposes of paragraph 134 (1) (ba), to be inserted in the Principal Act by this Act, appointments may be made before that date in pursuance of those regulations as if those regulations had come into operation, but appointments so made shall not have effect before that date.

(3) The power to make regulations under the Principal Act as amended by this Act extends to the making of regulations that are necessary or convenient for giving effect to section 18, including regulations making provision for or in relation to matters arising out of or connected with the amendments of the Principal Act made by this Act.

SCHEDULE Section 17

CONSEQUENTIAL AMENDMENTS

1. The following provisions of the Principal Act are amended by omitting the word “Board” (wherever occurring) and substituting the word “Tribunal”:—

Sections 4(1) (definition of “authorized officer”), 17, 18, 19, 20, 21, 21a, 22, 23, 24, 25, 26, 27, 27a, 27b, 27c, 27d, 28, 29, 83, 85, 86(4), 87, 90j(4), 90m, 90p, 92f(4), 92h, 92ja, 97, 99, 100(4) and (5), 101, 103, 105ad, 105ae, 105b, 105ba, 105g, 106, 109, 111, 113, 116(4a), 117(5), 119, 119a, 120, 121, 123, 130a and 134(1)(d).

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

|  |  |
| --- | --- |
| Provision | Amendment |
| Heading to Division 2 of Part II  | Omit “*Board*”, substitute “*Tribunal*”. |
| Sub-section 17(8)  | After “personally”, insert “(or, in the case of a corporation, by leaving it at the registered office of the corporation)”. |
| Heading to Division 3 of Part II  | Omit “*Board*”, substitute “*Tribunal*”. |
| Heading to Division 4 of Part II  | Omit “*Board*”, substitute “*Tribunal*”. |
| Paragraph 27a(1)(b)  | Omit “members and persons acting as members”, substitute “members and associate members and persons acting as members or associate members”. |
| Section 28a  | Repeal the section. |
| Sub-section 43(1)  | Omit “, subject to sub-sections (7) and (8),”. |
| Sub-section 43(4)  | Omit “Subject to the next succeeding sub-section, a person” , substitute “A person”. |
| Paragraph 43(4)(a)  | Omit the paragraph. |
| Paragraph 43(4)(b)  | Omit “with the approval of the Public Service Board”. |
| Sub-section 43(5)  | Omit the sub-section. |
| Sub-sections 43(7) and (8)  | Omit the sub-sections. |
| Sub-section 45(1)  | Omit “, with the approval of the Public Service Board,”. |
| Sub-section 46(1)  | Omit “with the approval of the Public Service Board,”. |
| Sub-section 61(2)  | Omit “One hundred thousand dollars” (wherever occurring), substitute “$250,000”. |
| Section 62  | Omit “One hundred thousand dollars”, substitute “$250,000”. |
| Section 93  | Omit “Board” (wherever occurring), substitute “Minister”. |
| Section 94  | Omit “Board, subject to any direction of the Minister,”, substitute “Minister”. |
| Section 95  | Omit “Board, subject to any direction of the Minister,”, substitute “Minister”. |
| Sub-sections 96(1) and (2)  | (a) Omit “Board, subject to any direction of the Minister, “, substitute “Minister”. |
|  | (b) Omit “Board” (last occurring), substitute “Minister”. |
| Section 105aa  | Omit “Board” (wherever occurring), substitute “Minister”. |
| Section 105ab  | Omit “Board” (wherever occurring), substitute “Minister”. |
| Sub-section 105ab(4)  | Omit “it”, substitute “him”. |
| Section 105ac  | Omit “Board”, substitute “Minister”. |
| Section 110  | Omit “Board”, substitute “Minister”. |