



Special Broadcasting Service Act 1991

No. 180 of 1991

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SCHEDULE

CONSEQUENTIAL AMENDMENTS OF OTHER ACTS



Special Broadcasting Service Act 1991

No. 180 of 1991

An Act relating to the Special Broadcasting Service Corporation, and for related purposes

[Assented to 25 November 1991]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Special Broadcasting Service Act 1991*.

Commencement

2. (1) Subject to subsection (2), this Act commences 28 days after the day on which it receives the Royal Assent.

(2) Section 54 commences on a day to be fixed by Proclamation.

Interpretation

3. In this Act, unless the contrary intention appears:
“**Board**” means the Special Broadcasting Service Board referred to in section 7;

“borrowing”, includes raising money or obtaining credit, whether by dealing in securities or otherwise, but does not include obtaining credit in a transaction forming part of the day-to-day operations of the SBS;

“Chairperson” means the Chairperson of the Board;

“Charter” means the Charter of the SBS described in subsection 6 (3);

“Community Advisory Committee” means the Community Advisory Committee established under section 50;

“Director” means a member of the Board and includes the Chairperson, the Deputy Chairperson and the Managing Director;

“electric line” includes:

- (a) any substance used for the purpose of conveying, transmitting, transforming or distributing electricity; and
- (b) any material enclosing, surrounding or supporting the substance or any part of the substance; and
- (c) any apparatus connected with any such substance or material;

“interest”, in relation to money, includes compound interest;

“Managing Director” means the Managing Director of the SBS;

“non-executive Director” means a Director other than the Managing Director;

“program” means a radio program or a television program;

“SBS” means the body corporate preserved and continued in existence as the Special Broadcasting Service Corporation under section 5;

“transmission facilities” means:

- (a) a radiocommunications transmitter within the meaning of the *Radiocommunications Act 1983*; or
- (b) a mast or tower associated with such a transmitter; or
- (c) a site on which such a transmitter is, or is to be, located;

but does not include:

- (d) studio equipment; or
- (e) any link, whether by line or otherwise, connecting a studio to such a transmitter.

Extension to external Territories

4. This Act extends to all the external Territories.

PART 2—ESTABLISHMENT, FUNCTIONS AND MANAGEMENT OF THE SBS

Special Broadcasting Service Corporation

5. (1) The body corporate that was, immediately before the day this section commences, in existence because of section 79C of the *Broadcasting Act 1942* under the name Special Broadcasting Service continues in existence, by force of this subsection, as a body corporate,

under this Act, under the name Special Broadcasting Service Corporation.

(2) The SBS:

- (a) has a seal; and
- (b) may sue and be sued.

(3) All courts, judges and persons acting judicially must take judicial notice of the imprint of the seal of the SBS appearing on a document and must presume that the document was duly sealed.

Charter of the SBS

6. (1) The principal function of the SBS is to provide multilingual and multicultural radio and television services that inform, educate and entertain all Australians, and, in doing so, reflect Australia's multicultural society.

(2) The SBS, in performing its principal function, must:

- (a) contribute to meeting the communications needs of Australia's multicultural society, including ethnic, Aboriginal and Torres Strait Islander communities; and
- (b) increase awareness of the contribution of a diversity of cultures to the continuing development of Australian society; and
- (c) promote understanding and acceptance of the cultural, linguistic and ethnic diversity of the Australian people; and
- (d) contribute to the retention and continuing development of language and other cultural skills; and
- (e) as far as practicable, inform, educate and entertain Australians in their preferred languages; and
- (f) make use of Australia's diverse creative resources; and
- (g) contribute to the overall diversity of Australian television and radio services, particularly taking into account the contribution of the Australian Broadcasting Corporation and the public broadcasting sector; and
- (h) contribute to extending the range of Australian television and radio services, and reflect the changing nature of Australian society, by presenting many points of view and using innovative forms of expression.

(3) The principal function of the SBS under subsection (1) and the duties imposed on the SBS under subsection (2) constitute the Charter of the SBS.

(4) Nothing in this section imposes on the SBS a duty that is enforceable by proceedings in a court.

(5) A subsidiary function of the SBS is to carry on, within or outside Australia, any business or other activity incidental to the fulfilment of the Charter.

Establishment of Special Broadcasting Service Board

7. There is to be a Board of Directors of the SBS under the name Special Broadcasting Service Board.

Constitution of the Board

8. The Board consists of:

- (a) the Managing Director; and
- (b) not fewer than 4 nor more than 8 non-executive Directors.

Role of the Board

9. The role of the Board is:

- (a) to decide the objectives, strategies and policies to be followed by the SBS in performing its functions; and
- (b) to ensure that the SBS performs its functions in a proper, efficient and economical manner and with the maximum benefit to the people of Australia.

Duties of the Board

10. (1) It is the duty of the Board:

- (a) to maintain the independence and integrity of the SBS; and
- (b) to develop and publicise the SBS's programming policies; and
- (c) to ensure, by means of the SBS's programming policies, that the gathering and presentation by the SBS of news and information is accurate and is balanced over time and across the schedule of programs broadcast; and
- (d) to ensure that the SBS does not contravene:
 - (i) this Act or any other Act; or
 - (ii) any directions given to, or requirements made in relation to, the SBS under this Act or another Act; and
- (e) to ensure the efficient and cost effective functioning of the SBS; and
- (f) to ensure that the SBS seeks to co-operate closely with the Australian Broadcasting Corporation to maximise the efficiency of the publicly funded sectors of Australian broadcasting; and
- (g) to be aware of, and responsive to, community needs and opinions on matters relevant to the Charter; and
- (h) to develop and publicise the SBS's policies on the handling of complaints; and
- (i) to ensure that the pursuit by the SBS of its subsidiary functions does not detract from the SBS fulfilling its Charter responsibilities.

(2) Nothing in this section imposes on the Board a duty that is enforceable by proceedings in a court.

Minister may give directions to the Board

11. (1) Subject to subsections (2) and (3), the Minister may, after consultation with the Board, give to the Board such written directions in relation to the performance of the SBS's functions as appear to the Minister to be necessary in the public interest.

(2) Subject to subsection (3), the Minister may only give a direction in relation to a prescribed matter or in prescribed circumstances.

(3) The Minister must not give a direction in relation to the content or scheduling of programs to be broadcast.

(4) Where the Minister gives a direction to the Board, the Minister must cause a copy of the direction to be laid before each House of the Parliament within 15 sitting days of that House after giving the direction.

Minister may give directions to the SBS in the national interest

12. (1) Where the Minister is of the opinion that the broadcasting of a particular matter by the SBS would be in the national interest, the Minister may direct the SBS to broadcast that matter from all the broadcasting stations from which the SBS programs are broadcast or from such of them as are specified in the direction.

(2) Where the Minister gives a direction to the SBS, the SBS must broadcast the matter, free of charge, in accordance with the direction.

(3) The Minister may direct that a matter be broadcast in a language or languages specified in the direction.

(4) Subsection (1) has effect subject to section 116 of the *Broadcasting Act 1942*.

(5) A direction must be given in writing, or sent by telex or facsimile transmission, to the Managing Director.

(6) Where the Minister gives a direction to the SBS, the Minister must cause a statement setting out particulars of, and the reasons for, the direction to be laid before each House of the Parliament within 7 sitting days of that House after giving the direction.

SBS and Board not otherwise subject to Government direction

13. Except as otherwise provided by or under this or any other Act, the SBS and its Board are not subject to direction by or on behalf of the Commonwealth Government.

Managing Director

14. There is to be a Managing Director of the SBS, who is to be appointed and hold office as provided by Division 2 of Part 3.

Duties of the Managing Director

15. (1) Subject to subsection (2), the affairs of the SBS are to be managed by the Managing Director.

(2) In managing any of the affairs of the SBS and in exercising any powers conferred on him or her by this Act, the Managing Director must act in accordance with any policies determined, and any directions given, by the Board.

(3) Anything done in the name of, or on behalf of, the SBS by the Managing Director is taken to have been done by the SBS.

**PART 3—THE BOARD OF DIRECTORS AND THE
MANAGING DIRECTOR**

Division 1—Provisions relating to non-executive Directors

This Division applies to non-executive Directors

16. This Division applies to the non-executive Directors.

Appointment of non-executive Directors

17. (1) The Governor-General must appoint the non-executive Directors.

(2) In appointing a person as a non-executive Director, the Governor-General must have regard to the need to ensure:

- (a) that the Directors collectively possess an appropriate balance of expertise in the areas required to govern the SBS effectively, including an understanding of Australia's multicultural society and the needs and interests of the SBS's culturally diverse audience; and
- (b) that the Directors collectively comprise persons with a diversity of cultural perspectives; and
- (c) that the Directors include a person who the Governor-General is satisfied, having regard to consultations between the Minister and representatives of industrial organisations representing employees, has an appropriate understanding of the interests of employees.

(3) The appointment of a person as a non-executive Director is not invalid merely because of a defect or irregularity in relation to the appointment.

Term of appointment

18. (1) A non-executive Director holds office, subject to this Act, for such period (not longer than 5 years) as is specified in the instrument of appointment, but is eligible for re-appointment.

(2) Where a person is re-appointed as a non-executive Director, the re-appointment must be for a period not exceeding 5 years.

Non-executive Directors hold office on part-time basis

19. Non-executive Directors hold office on a part-time basis.

Terms and conditions of appointment not provided for by Act

20. A non-executive Director holds office on such terms and conditions in relation to matters not provided for by this Act as are determined by the Governor-General.

Appointment of Chairperson and Deputy Chairperson

21. (1) The Governor-General must appoint one of the non-executive Directors to be the Chairperson of the Board and another of the non-executive Directors to be the Deputy Chairperson of the Board.

(2) A person must not continue to hold the position of Chairperson, Deputy Chairperson, acting Chairperson or acting Deputy Chairperson if the person ceases to be a non-executive Director.

Board's functions and powers not affected by vacancy etc.

22. The performance of the functions or the exercise of the powers of the Board is not affected merely because:

- (a) there is a vacancy in the office of the Chairperson or Deputy Chairperson; or
- (b) there is a vacancy in the office of Managing Director; or
- (c) the number of non-executive Directors falls below 4 for not longer than 6 months.

Remuneration and allowances of non-executive Directors

23. (1) A non-executive Director must be paid such remuneration as is determined by the Remuneration Tribunal.

(2) A non-executive Director must be paid such allowances as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

Acting Chairperson and other acting non-executive Directors

24. (1) Where:

- (a) there is a vacancy in the office of Chairperson, whether or not an appointment has previously been made to the office; or
- (b) the Chairperson is absent from duty or from Australia or is, for any other reason, unable to perform the duties of his or her office;

the Deputy Chairperson must act as Chairperson.

(2) The Minister may appoint a non-executive Director to act as Deputy Chairperson:

- (a) during a vacancy in the office of Deputy Chairperson, whether or not an appointment has previously been made to that office; or
- (b) during any period, or during all periods, when the Deputy Chairperson is absent from duty or from Australia, is acting as Chairperson or is, for any other reason, unable to perform the duties of his or her office.

(3) The Minister may appoint a person to act as a non-executive Director other than the Chairperson or the Deputy Chairperson:

- (a) during a vacancy in the office of such a non-executive Director, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when such a non-executive Director is acting as Chairperson or as Deputy Chairperson, is absent from duty or from Australia or is, for any other reason, unable to perform the duties of his or her office.

(4) The Minister may determine the terms and conditions, other than terms and conditions relating to remuneration and allowances, applying to a person acting as Chairperson, as Deputy Chairperson or as another non-executive Director.

(5) A person acting as Chairperson, as Deputy Chairperson or as another non-executive Director is to be paid the same remuneration and allowances as are payable to the Chairperson, the Deputy Chairperson or other non-executive Directors, as the case requires.

(6) Anything done by a person purporting to act under this section is not invalid merely because:

- (a) the occasion for the appointment had not arisen; or
- (b) there is a defect or irregularity in connection with the appointment; or
- (c) the appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

Leave of absence of non-executive Directors

25. (1) The Minister may grant leave to the Chairperson to be absent from a meeting of the Board upon such conditions as to remuneration or otherwise as the Minister thinks fit.

(2) Where the Chairperson is unable to attend a meeting of the Board because of ill health, the Board may grant leave to the Chairperson to be absent from that meeting.

(3) The Chairperson may grant leave to any other non-executive Director to be absent from a meeting of the Board upon such conditions as to remuneration or otherwise as the Chairperson thinks fit.

Resignation of non-executive Directors

26. A non-executive Director may resign his or her office by writing signed and delivered to the Governor-General.

Removal of non-executive Directors from office

27. (1) The Governor-General may remove a non-executive Director from office for misbehaviour or physical or mental incapacity.

(2) If:

- (a) the Chairperson, or a non-executive Director acting as Chairperson, is absent, except with the leave of the Minister or the Board, from 3 consecutive meetings of the Board; or
- (b) a non-executive Director (other than the Chairperson or a Director acting as Chairperson) is absent, except with the leave of the Chairperson, from 3 consecutive meetings of the Board; or

(c) a non-executive Director:

- (i) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (ii) fails, without reasonable excuse, to comply with section 43;

the Governor-General may remove the non-executive Director concerned from office.

(3) If:

- (a) the Minister is of the opinion that the performance of the Board or the SBS has been unsatisfactory for a significant period of time; and
- (b) the Minister proposes that the appointment of all non-executive Directors, or specified non-executive Directors, be terminated;

the Governor-General must terminate the appointment of all non-executive Directors or the specified non-executive Directors, as the case may be.

(4) If:

- (a) the Minister is of the opinion that the performance of a particular non-executive Director has been unsatisfactory for a significant period of time; and
- (b) the Minister proposes that the appointment of the non-executive Director be terminated;

the Governor-General must terminate the appointment of the non-executive Director.

Division 2—Provisions relating to the Managing Director

Appointment of Managing Director

28. (1) The Board must appoint the Managing Director.

(2) The appointment of a person as Managing Director is not invalid merely because of a defect or irregularity in relation to the appointment.

Term of appointment of Managing Director

29. (1) Subject to subsection (2), the Managing Director must be appointed for a period not longer than 5 years, but is eligible for re-appointment.

(2) Where the person holding office as Managing Director is re-appointed, the re-appointment must be for a period not longer than 5 years.

Managing Director holds office on a full-time basis

30. The Managing Director holds office on a full-time basis.

Terms and conditions of appointment not provided for by Act

31. The Managing Director holds office on such terms and conditions in relation to matters not provided for by this Act as are determined by the Board.

Remuneration and allowances of Managing Director

32. (1) The Managing Director must be paid such remuneration as is determined by the Remuneration Tribunal.

(2) The Managing Director must be paid such allowances as are determined by the Board.

(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

Acting Managing Director

33. (1) The Board may appoint a person to act as Managing Director:

- (a) during a vacancy in the office of Managing Director; or
- (b) during any period, or during all periods, when the Managing Director is absent from duty or from Australia or is, for any other reason, unable to perform the functions of his or her office;

but a person appointed to act during a vacancy must not continue so to act for more than 12 months.

(2) The Board may determine the terms and conditions of appointment, excluding remuneration and allowances, of a person acting as Managing Director.

(3) An employee of the SBS who is acting as Managing Director must be paid:

- (a) remuneration at the same level as would be payable to the Managing Director under subsection 32 (1); and
- (b) such allowances as are determined by the Board.

(4) Anything done by a person purporting to act under subsection (1) is not invalid merely because:

- (a) the occasion for the appointment had not arisen; or
- (b) there is a defect or irregularity in connection with the appointment; or
- (c) the appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

Leave of absence of Managing Director

34. (1) Subject to section 87E of the *Public Service Act 1922*, the Managing Director has such recreation leave entitlements as are determined by the Remuneration Tribunal.

(2) The Managing Director may take recreation leave only with the approval of the Board.

(3) The Board may grant leave of absence, other than recreation leave, to the Managing Director on such terms and conditions as the Board thinks fit.

Resignation of Managing Director

35. The Managing Director may resign his or her office by writing signed and delivered to the Board.

Duty of Managing Director to disclose certain interests

36. The Managing Director must give written notice to the Chairperson of all direct and indirect pecuniary interests that the Managing Director has or acquires in any business or in any body corporate carrying on any business.

Removal of Managing Director from office

37. (1) The Managing Director holds office during the Board's pleasure.

(2) If the Managing Director:

- (a) engages in paid employment outside the duties of his or her office without the approval of the Board; or
- (b) is absent from duty, except on leave granted by the Board, for 14 consecutive days, or for 28 days in any 12 months; or

- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (d) fails, without reasonable excuse, to comply with section 36 or 43;

the Board may remove the Managing Director from office.

Division 3—Meetings of the Board

Meetings of the Board

38. (1) The Board is to hold such meetings as are necessary for the efficient performance of its role and duties.

(2) The Chairperson:

- (a) may convene a meeting at any time; and
- (b) must convene a meeting on receipt of a written request signed by:
 - (i) if there are not more than 6 non-executive Directors holding office under section 17—not fewer than 4 Directors; or
 - (ii) if there are more than 6 non-executive Directors holding office under that section—not fewer than 5 Directors.

(3) Meetings of the Board are to be held at such places as the Chairperson determines.

Presiding at meetings

39. (1) The Chairperson is to preside at all meetings of the Board at which he or she is present.

(2) If the Chairperson is absent from a meeting of the Board, the Deputy Chairperson is to preside at the meeting.

(3) If the Chairperson and the Deputy Chairperson are absent from a meeting of the Board:

- (a) if a non-executive Director is acting as Chairperson—that non-executive Director is to preside at the meeting; or
- (b) in any other case—the Directors present must elect one of their number other than the Managing Director to preside at the meeting.

Quorum and voting at meetings

40. (1) At a meeting of the Board:

- (a) a quorum is constituted by:
 - (i) if there are not more than 6 non-executive Directors holding office under section 17—4 Directors; or

- (ii) if there are more than 6 non-executive Directors holding office under that section—5 Directors; and
- (b) all questions are to be decided by a majority of the votes of the Directors present; and
- (c) the Director presiding has a deliberative vote and, if necessary, also has a casting vote.

(2) If, because of subsection 43 (2), a non-executive Director is not present at a meeting of the Board during a deliberation of the Board in relation to a matter, but there would be a quorum if the non-executive Director were present, the remaining Directors present constitute a quorum for the purpose of any deliberation or decision of the Board at the meeting in relation to the matter.

(3) The Managing Director must not be present during any deliberation, or take part in any decision, of the Board with respect to the appointment, or any of the terms and conditions of employment, of the Managing Director.

Conduct of meetings

41. (1) The Director presiding at a meeting of the Board may give directions regarding the procedure to be followed at or in connection with the meeting.

(2) Without limiting subsection (1), the Board may permit Directors to participate in a particular meeting, or all meetings, by:

- (a) telephone; or
- (b) closed-circuit television; or
- (c) any other means of communication.

(3) A Director who is permitted to participate in a meeting under subsection (2) is to be regarded as being present at that meeting.

Resolutions without formal meetings

42. Where the Board so determines, a resolution is taken to have been passed at a meeting of the Board if:

- (a) without a meeting, a majority of the number of the Directors indicate agreement with the resolution in accordance with the method determined by the Board; and
- (b) that majority would, if present at a meeting of the Board, have constituted a quorum under subsection 40 (1).

Duty of Directors to disclose certain interests at meetings

43. (1) A Director who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Board must, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of that interest at a meeting of the Board.

(2) A disclosure must be recorded in the minutes of the meeting and, unless the Minister or the Board otherwise determines, the Director must not:

- (a) be present during any deliberation of the Board in relation to the matter; or
- (b) take part in any decision of the Board in relation to the matter.

(3) For the purpose of the making of a determination by the Board, a Director who has a direct or indirect pecuniary interest in the matter to which the disclosure relates must not:

- (a) be present during any deliberation of the Board for the purpose of making the determination; or
- (b) take part in the making of the determination.

PART 4—POWERS AND DUTIES OF THE SBS

General powers of the SBS

44. (1) The SBS may do all things that are necessary or convenient to be done for or in connection with, or as incidental to, the performance of its functions and, in particular, has the following powers:

- (a) to produce, promote or present programs or arrange, or provide facilities, for the production, promotion or presentation of programs;
- (b) to transmit programs or provide facilities for the transmission of programs;
- (c) to arrange for the transmission of programs;
- (d) to make facilities and staff available to persons for the production, presentation or transmission of programs;
- (e) to acquire, accept, take on hire, dispose of or lease, personal property (including programs or rights or interests in programs);
- (f) to prepare, promote and distribute printed material;
- (g) to make, promote and distribute films, sound recordings, video-tapes, computer programs and other similar material;
- (h) to make, promote and distribute any other thing associated with, or with the activities of, the SBS;
- (i) to acquire, hold, dispose of or lease, real property;
- (j) to erect buildings or structures or carry out works;
- (k) to enter into contracts;
- (l) to make arrangements for holding, organising or subsidising, any public concert or other public entertainment;
- (m) to accept gifts, devises or bequests made to the SBS, whether on trust or otherwise, or to act as trustee of money or other property vested in the SBS on trust;
- (n) to occupy, use and control any land or building owned or leased

by the Commonwealth and made available for the purposes of the SBS;

- (o) to appoint agents and attorneys, and to act as an agent for other persons;
- (p) to engage persons to perform services for the SBS otherwise than as employees of the SBS;
- (q) to do anything incidental to any of its powers.

(2) The SBS may, from time to time, determine charges payable in respect of any matter or activity referred to in subsection (1).

(3) Subject to subsection (4), the SBS does not have power:

- (a) to accept the performance of any service, or the provision of any facility, for the SBS; or
- (b) to accept any gift, devise or bequest to the SBS, whether offered or made unconditionally or subject to conditions;

where it is likely that the independence or integrity of the SBS would be affected.

(4) Nothing in subsection (3) precludes the SBS from accepting the performance of services, the provision of facilities or the payment of money by or on behalf of the Commonwealth, a State or a Territory or an authority of the Commonwealth, of a State or of a Territory.

(5) Before the publication of program schedules of the SBS broadcasting stations, the SBS must make those schedules available at an office of the SBS on equal terms to the publishers of any newspaper, magazine or journal published in Australia.

(6) The powers of the SBS may be exercised within or outside Australia.

Advertising and sponsorship

45. (1) Subject to subsection (2), the SBS may broadcast advertisements and sponsorship announcements.

(2) The SBS may only broadcast advertisements or sponsorship announcements:

- (a) that run during periods before programs commence, after programs end or during natural program breaks; and
- (b) that run in total for not more than 5 minutes in any hour of broadcasting.

(3) In computing the length of time devoted to the broadcasting of advertisements and sponsorship announcements, account is not to be taken to the broadcasting by the SBS of any of the following:

- (a) material that publicises programs to be broadcast by the SBS;
- (b) material that promotes the SBS's products, services or activities for the broadcast of which the SBS does not receive any consideration in cash or in kind;

- (c) community information or community promotional material for the broadcast of which the SBS does not receive any consideration in cash or in kind;
- (d) advertisements or sponsorship announcements consisting of moving text that is overlaid on the test pattern.

(4) The Board:

- (a) must develop and publicise guidelines on the kinds of advertisements and sponsorship announcements that it is prepared to broadcast; and
- (b) may develop guidelines on other matters relating to advertisements and sponsorship announcements including:
 - (i) the placement of such advertisements and announcements; and
 - (ii) the duration of such advertisements and announcements; and
 - (iii) the kinds of advertising and sponsorship (if any) that particular kinds of program may carry.

(5) The Board must, from time to time, revise any guidelines developed by it and must ensure that the guidelines as so developed, or as so developed and revised, are included in the corporate plan, within the statement of strategies and policies to be followed by the SBS to achieve its objectives.

(6) Without limiting the generality of subsection (4), the reference to kinds of advertisements and sponsorship announcements in that subsection includes a reference to such kinds of advertisements and sponsorship announcements identified by reference to products and services.

(7) Any action taken by the Board in refusing, or in refusing the placement of, an advertisement or sponsorship announcement of a particular kind in accordance with the guidelines is not to be taken to constitute discrimination for the purposes of subsection 100 (3) of the *Broadcasting Act 1942*.

Community information

46. The Board must develop and publicise guidelines on the kinds of community information or community promotional material that it is prepared to broadcast.

Corporate plans

47. (1) The Board must prepare corporate plans.

(2) The first corporate plan:

- (a) is to be for a period of not less than 3 years, and not more than 5 years; and

- (b) must be given to the Minister within a period of 6 months after the day on which this section commences.

(3) Each subsequent corporate plan is to be for a period of not less than 3 years, and not more than 5 years, beginning immediately after the period of the previous corporate plan.

- (4) The Board may review and revise a corporate plan at any time.

Matters to be included in corporate plans

48. (1) Each corporate plan must:

- (a) set out the objectives of the SBS and its subsidiaries; and
- (b) outline the overall strategies and policies that the SBS and its subsidiaries are to follow:
 - (i) to achieve the objectives of the SBS; and
 - (ii) to fulfil the SBS's principal and subsidiary functions; and
 - (iii) to ensure that the Board performs its role under paragraph 9 (b) and fulfils its duties under section 10; and
- (c) include a forecast of the revenue and expenditure of the SBS and its subsidiaries, including a forecast of capital expenditure and borrowings; and
- (d) include such performance indicators and targets (whether financial or operational) as the Board considers appropriate; and
- (e) set out the Board's additional community consultative measures, that is to say, any measures that the Board proposes to adopt in addition to receiving advice from the Community Advisory Committee to ensure that it is aware of, and responsive to, community needs and opinions (including the needs and opinions of small or newly arrived ethnic groups) on matters relevant to the Charter; and
- (f) include such other matters as are prescribed.

(2) The forecast of the revenue and expenditure of the SBS must include an assessment of all the taxes and charges that would be payable by the SBS under the laws of the Commonwealth and of each State and Territory if the SBS were subject to taxation liability under those laws.

(3) In this section, unless the contrary intention appears, "**subsidiary**" means a prescribed company within the meaning of section 52 that the SBS controls.

Corporate plans to be given to Minister

49. As soon as practicable after the Board prepares or revises a corporate plan, it must give a copy of the plan to the Minister.

Community Advisory Committee

50. (1) The Board must establish a committee to be known as the Community Advisory Committee.

(2) The function of the Committee is to assist the Board to fulfil its duty under paragraph 10 (1) (g) by advising the Board on community needs and opinions, including the needs and opinions of small or newly arrived ethnic groups, on matters relevant to the Charter.

(3) Each member of the Committee is to be appointed by the Board.

(4) The Board may only appoint a person to the Committee if the Board is satisfied that the person:

- (a)** has an understanding of Australia's multicultural society; and
- (b)** in particular, has interests relevant to, and an understanding of, ethnic, Aboriginal or Torres Strait Islander communities.

(5) The Board is to determine the terms and conditions of appointment of each member of the Committee.

Board to notify Minister of certain matters

51. If the Board forms the opinion that matters have arisen:

- (a)** that may prevent, or significantly affect, achievement of the objectives in the SBS corporate plan; or
- (b)** that may significantly affect the strategies and policies that are to be followed under that plan; or
- (c)** that may prevent, or significantly affect, the forecasts of revenue and expenditure under that plan;

the Board must immediately notify the Minister of its opinion and the reasons for the opinion.

Power to form companies etc.

52. (1) In this section:

“authorised business” means a business or other activity related to or incidental to the performance of any of the functions of the SBS;

“prescribed company” means a public company that carries on, or proposes to carry on, an authorised business.

(2) The SBS may:

- (a)** form, or participate with other persons in the formation of, a public company to carry on an authorised business; and
- (b)** acquire, hold and dispose of shares or stock in the capital of, or debentures or other securities of, a prescribed company; and
- (c)** enter into a partnership, or an arrangement for the sharing of profits or expenses, with a person or body for the purpose of carrying on an authorised business; and
- (d)** provide technical or other assistance and facilities (whether

within or outside Australia) for a prescribed company or for a partnership, or for the purposes of an arrangement, referred to in paragraph (c).

(3) The SBS may only exercise a power under subsection (2), or expend money in connection with the carrying on of an authorised business, with the approval of the Minister.

(4) Where:

(a) the SBS has an interest in a prescribed company; and

(b) the prescribed company ceases to be a prescribed company;

the Minister may give to the SBS such written directions as the Minister thinks appropriate with respect to the disposal of the interest of the SBS in the company and the SBS must comply with any such directions.

(5) This section does not authorise a prescribed company to carry on an authorised business otherwise than in accordance with any applicable law.

PART 5—STAFF

Staff of the SBS until section 54 commences

53. (1) The employees of the SBS are to be persons appointed or employed under the *Public Service Act 1922*.

(2) The Managing Director has all the powers of, or exercisable by, a Secretary under the *Public Service Act 1922* so far as those powers relate to the branch of the Australian Public Service comprising the employees of the SBS.

(3) This section is taken to have been repealed by another Act on the day that is fixed by Proclamation for the commencement of section 54.

Staff of the SBS

54. (1) The SBS may engage such employees as are necessary for the performance of its functions and the exercise of its powers.

(2) The terms and conditions of employment are to be determined by the SBS.

The SBS is to achieve and maintain high standards as an employer

55. The SBS must endeavour to achieve and maintain high standards as an employer in relation to terms and conditions of employment, occupational health, industrial safety, industrial democracy, non-discriminatory employment practices and other related matters.

PART 6—FINANCE

Money to be appropriated

56. (1) There is payable to the SBS such money as is from time to time appropriated by the Parliament for the purposes of the SBS.

(2) The Minister for Finance may give directions as to the amounts in which, and the times at which, money referred to in subsection (1) is to be paid to the SBS.

Money of the SBS

57. The money of the SBS consists of:

- (a) money paid to the SBS under section 56; and
- (b) money borrowed by the SBS under sections 59 or 60; and
- (c) money received by the SBS in respect of the provision of services and facilities; and
- (d) the proceeds of the sale or other disposition of any property of the SBS (including programs and rights or interests in programs); and
- (e) money received by the SBS in respect of sponsorships and the sale and broadcasting of advertisements; and
- (f) any other money derived by the SBS in the performance of its functions; and
- (g) any money received by the SBS by way of, or as a result of, a gift, devise or bequest.

Application and investment of money

58. (1) The money of the SBS is to be applied only:

- (a) in payment or discharge of expenses, obligations and liabilities of the SBS arising under this Act; and
- (b) in payment of remuneration, allowances and fees payable to non-executive Directors, the Managing Director and persons referred to in section 53 or 54; and
- (c) in payment of any remuneration, allowances and fees payable to the members of the Community Advisory Committee or other consultative body established by the Board.

(2) Money of the SBS that is not immediately required for the purposes of the SBS may be invested:

- (a) on fixed deposit with an approved bank; or
- (b) in securities of the Commonwealth; or
- (c) in any other manner approved by the Treasurer.

(3) In subsection (2):

“approved bank” means the Reserve Bank of Australia or a bank approved by the Treasurer for the purposes of this section.

Borrowing from the Commonwealth

59. The Minister for Finance may, on behalf of the Commonwealth, out of money appropriated by the Parliament for the purpose, lend money to the SBS on such terms and conditions as he or she determines in writing.

Borrowings otherwise than from the Commonwealth

60. (1) The SBS may, with the written approval of the Treasurer, borrow money from persons other than the Commonwealth on terms and conditions specified in, or consistent with, the approval.

(2) Money may be borrowed wholly or partly in foreign currency.

Guarantee of borrowing

61. (1) The Treasurer may, on behalf of the Commonwealth, enter into a contract guaranteeing the performance by the SBS of obligations incurred by it under section 60.

(2) If the Treasurer determines in writing that obligations incurred by the SBS under that section are guaranteed by the Commonwealth, the obligations are so guaranteed by force of this subsection.

(3) A contract under subsection (1) may include:

- (a)** a provision agreeing that proceedings under the contract may be taken in a court of a foreign country; or
- (b)** a provision waiving the immunity of the Commonwealth from suit in a court of a foreign country.

The SBS may give security

62. The SBS may give security over the whole or part of its assets for:

- (a)** the performance by the SBS of any obligation incurred under section 59 or 60; or
- (b)** the payment to the Commonwealth of amounts equal to amounts paid or payable by the Commonwealth under a guarantee under section 61.

Borrowings not otherwise permitted

63. The SBS must not borrow money except under this Part.

Delegation by Treasurer

64. The Treasurer may, by signed instrument, delegate to a person performing the duties of an office in the Department of the Treasury all or any of the Treasurer's powers under sections 60 and 61.

Hedging contracts etc.

65. (1) Subject to subsection (3), the SBS may enter into or deal with contracts, and make other arrangements, in relation to financial futures or foreign currency (including foreign currency futures) for the

purpose of reducing or eliminating risks of adverse financial consequences to the SBS in relation to:

(a) any contract (including a contract that may be entered into under this section), or any proposed contract, involving the payment or receipt of money by the SBS; or

(b) a borrowing or a proposed borrowing of money by the SBS;

being risks that may arise from variations in the rate of currency exchange or rate of interest applicable to the contract or proposed contract, or to the borrowing or proposed borrowing of money, as the case may be, referred to in paragraph (a) or (b).

(2) The Minister may, by determination in writing:

(a) set guidelines for the purpose of the exercise by the SBS of its power under subsection (1); and

(b) revoke or vary guidelines set for that purpose or set new guidelines for that purpose;

and must give to the SBS a copy of each determination made under this subsection.

(3) The SBS may only enter into a contract, dealing or other arrangement under subsection (1) in accordance with the guidelines (if any) having effect from time to time under subsection (2).

(4) A contract, dealing or other arrangement under subsection (1) does not require the approval of the Minister under subsection 67 (1).

(5) In this section:

“proposed borrowing” means a proposed borrowing of money that is in accordance with an approval under section 60.

Estimates

66. The SBS must prepare estimates, in such form as the Minister directs, of its receipts and expenditure for each financial year and, if the Minister so directs, for any other period specified by the Minister, and the SBS must submit estimates so prepared to the Minister not later than such date as the Minister directs.

Limits on contracts

67. (1) The SBS must not, without the approval of the Minister, enter into a contract under which the SBS is to pay or receive an amount exceeding \$2,000,000 or, if a higher amount is prescribed by the regulations, that higher amount.

(2) Subsection (1) does not apply in relation to the receipt by the SBS of an amount for the sale or other disposition of programs and rights or interests in programs.

Taxation

68. The SBS is not subject to taxation under any law of the Commonwealth, of a State or of a Territory and, in particular, is not subject to sales tax.

Application to the SBS of Division 3 of Part XI of Audit Act

69. The SBS is a public authority to which Division 3 of Part XI of the *Audit Act 1901* applies.

PART 7—MISCELLANEOUS

Application of Broadcasting Act

70. Except where the *Broadcasting Act 1942* otherwise expressly provides, that Act does not apply in relation to the broadcasting services provided by the SBS.

Provision and operation of transmission facilities etc.

71. (1) The Minister may arrange for the provision and operation of transmission facilities for the purpose of broadcasting programs of the SBS.

(2) Where the Minister so arranges, he or she may stipulate what charges, if any, are to be paid by the SBS in respect of the provision and operation of those facilities.

Lines for conveyance of electric current to transmission facilities

72. (1) For the purposes of providing and operating the transmission facilities referred to in section 71, a person acting under the authority of the Minister may:

- (a) install and maintain any electric line that is necessary for conveying electric current to, or for the operation of, any such facilities; and
- (b) arrange for and obtain from any person the supply of any electric current that is necessary or advisable for the operation of any such facilities.

(2) Except in so far as the Minister otherwise determines, the installation and maintenance of an electric line, and the supply of any electric current, under subsection (1), is to be without charge to the SBS.

(3) In respect of the installation and maintenance of an electric line by a person under paragraph (1) (a), that person has the same powers, and is subject to the same obligations, as are conferred or imposed on a general carrier under Division 3 of Part 7 of the *Telecommunications Act 1991* to install or maintain a facility within the meaning of that Act.

Matters to be included in annual report

73. The Board must include in each report prepared under section 63M of the *Audit Act 1901*, as that section applies to the SBS because of section 69 of this Act:

- (a) particulars of any broadcast by the SBS during the year because of a direction by the Minister under subsection 12 (1); and
- (b) particulars of any broadcast by the SBS during the year because of a direction by the Minister otherwise than under this Act; and
- (c) particulars of any written statement of Commonwealth Government policy given to the Board by the Minister during the year and the action (if any) taken by the Board in respect of the statement; and
- (d) particulars of any gift, devise or bequest accepted by the SBS during the year; and
- (e) particulars of how the programming activities during the year have related to the SBS's Charter obligations; and
- (f) particulars of the total revenue earned during the year from advertising and sponsorship, of the identity of each advertiser or sponsor and of the programs (if any) with which each advertiser or sponsor is associated; and
- (g) particulars of any direction by the Minister during the year under section 11 or 12; and
- (h) particulars of any advice received by the Board during the year from the Community Advisory Committee and the action taken by the Board in response to that advice; and
- (i) particulars of any other measures taken by the Board during the year to ensure that the Board is aware of, and responsive to, community needs and opinions on matters relevant to the SBS's Charter; and
- (j) an assessment of the extent to which the operations of the SBS and its subsidiaries during the year have achieved the objectives of the SBS and its subsidiaries under the corporate plan and fulfilled the functions of the SBS; and
- (k) particulars of any activities carried out during the year by the SBS under subsection 52 (2); and
- (l) particulars of the activities during the year of any authorised business with which the SBS is associated under section 52.

Delegation by the SBS

74. The SBS may, by signed instrument, delegate to a Director or to an employee of the SBS all or any of its powers under this Act or the regulations.

Delegation by Managing Director

75. The Managing Director may, by signed instrument, delegate to an employee of the SBS all or any of his or her powers under this Act or the regulations.

Regulations

76. The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed by regulations; or
- (b) necessary or convenient to be prescribed by regulations for carrying out or giving effect to this Act.

PART 8—TRANSITIONAL

Interpretation

77. In this Part:

“assets” means property of any kind including:

- (a) choses in action; and
- (b) rights, interests or claims in or to property, whether liquidated or unliquidated, certain or contingent or accrued or accruing;

“liabilities” means liabilities or obligations of any kind, whether liquidated or unliquidated, certain or contingent or accrued or accruing;

“old body corporate” means the Special Broadcasting Service established by Part IIIA of the *Broadcasting Act 1942*;

“restructured body corporate” means the body corporate preserved and continued in existence under section 5 as the Special Broadcasting Service Corporation;

“restructuring day” means the day section 5 commences.

Person holding office as Executive Director of the old body corporate

78. (1) The person who, immediately before the restructuring day, held office as Executive Director of the old body corporate under section 79Q of the *Broadcasting Act 1942* is, on that day, taken to have been duly appointed:

- (a) under section 28 of this Act by the Board as Managing Director for the balance of the term of the person’s appointment; and
- (b) on the terms and conditions in respect of matters other than remuneration and allowances that, immediately before the restructuring day, were applicable to the person’s appointment as Executive Director of the old body corporate.

(2) Any determination of remuneration payable to the Executive Director of the old body corporate, being a determination made in accordance with section 125F of the *Broadcasting Act 1942* that is in

force immediately before the restructuring day, continues in force, according to its terms, on and after that day, as if it were a determination made in accordance with section 32 of this Act in respect of the Managing Director.

(3) Regulations prescribing the allowances to be paid to the Executive Director of the old body corporate, being regulations made in accordance with section 125F of the *Broadcasting Act 1942* that were in force immediately before the restructuring day, continue in force, on and after that day, as if they had been made in accordance with section 32 of this Act and applied in respect of the Managing Director.

Person holding office as member of the old body corporate

79. (1) A person who, immediately before the restructuring day, held office as a member of the old body corporate is, on that day, taken to have been duly appointed:

- (a) under section 17 as a non-executive Director of the Board for the balance of the term of the person's appointment; and
- (b) on the terms and conditions in respect of matters other than remuneration and allowances that, immediately before the restructuring day, were applicable to the person's appointment as a member of the old body corporate.

(2) Any determination of remuneration payable to a member of the old body corporate, being a determination made in accordance with section 125F of the *Broadcasting Act 1942* that is in force immediately before the restructuring day, continues in force, according to its terms, on and after that day, as if it were a determination made in accordance with section 23 of this Act and applied in respect of each non-executive Director.

(3) Regulations prescribing the allowances to be paid to members of the old body corporate, being regulations made in accordance with section 125F of the *Broadcasting Act 1942* that were in force immediately before the restructuring day, continue in force, on and after that day, as if they had been made in accordance with section 23 of this Act and applied in respect of each non-executive Director.

Persons employed or engaged by the old body corporate

80. (1) A person who, immediately before the restructuring day, was an officer or employee of the old body corporate is, on that day, taken to have become an employee of the restructured body corporate under section 53 of this Act as if the person had been employed under that section on the terms and conditions that were applicable to the person immediately before that day.

(2) A person who, immediately before the restructuring day, had been engaged to perform services for the old body corporate otherwise than as a member of the staff is, on that day, taken to have been

engaged under paragraph 44 (1) (p) of this Act by the restructured body corporate to perform those services for the restructured body corporate on the terms and conditions that were applicable to the person immediately before that day.

Persons engaged under section 53

81. (1) A person who, immediately before the day on which section 53 is taken to have been repealed, was engaged, or was taken to have been engaged, by the restructured body corporate under that section is, on that day, taken to have become an employee of the restructured body corporate engaged under section 54 of this Act.

(2) Where the restructured body corporate determines, on or before the day on which section 53 is taken to have been repealed, certain terms and conditions to be the terms and conditions of employment applicable to a person to whom subsection (1) applies, those terms and conditions are to take effect on that day and are to be taken to have been determined under subsection 54 (2).

(3) Before the SBS makes a determination mentioned in subsection (2), it must consult with the representatives of industrial organisations representing the interests of the employees who will be affected by the determination.

(4) An officer (within the meaning of subsection 7 (1) of the *Public Service Act 1922*) to whom subsection (1) of this section applies is taken, for the purposes of Part IV of that Act, to be an officer (within the meaning of Division 9A of Part III of that Act) specified, or included in a class of such officers specified, in a declaration under subsection 81C (1) of that Act.

Delegations and authorisations

82. (1) Any delegation of a power of the old body corporate that was made under section 79X of the *Broadcasting Act 1942* and was in force immediately before the restructuring day continues in force on and after that day for one month as a delegation made under section 74 of this Act of the corresponding power of the restructured body corporate under this Act, being a power that the restructured body corporate is authorised by that section to delegate.

(2) An authorisation in relation to the old body corporate that was in force immediately before the restructuring day continues in force on and after that day for one month as if it were an authorisation in relation to the restructured body corporate.

References to old body corporate in instruments etc.

83. A reference to the old body corporate in any law of the Commonwealth, a State or Territory, or in any contract, award or other instrument to which the old body corporate was a party, is, except in

relation to matters that occurred before the restructuring day, to be taken to be a reference to the restructured body corporate.

Property, powers, liabilities etc.

84. (1) The assets, powers, rights, liabilities and obligations of the old body corporate are to be treated, on and after the restructuring day, as assets, powers, rights, liabilities and obligations of the restructured body corporate.

(2) Subsection (1) extends, so far as the powers of the Parliament permit, to:

- (a) assets situated outside Australia and powers conferred by, or rights existing under, the law of a foreign country; and
- (b) liabilities or obligations arising under the law of a foreign country.

Saving of proceedings

85. (1) The alteration, under this Act, of the name and constitution of the old body corporate does not render defective any legal or other proceedings instituted by or against the old body corporate, and any legal or other proceedings that might have been commenced by or against the old body corporate may be commenced by or against the restructured body corporate.

(2) The alteration, under this Act, of the name and constitution of the old body corporate does not render defective any investigation being undertaken by the Commonwealth Ombudsman under the *Ombudsman Act 1976* into any action taken by the old body corporate, and any investigation that might have been commenced into any action taken by the old body corporate may be commenced as if the action had been taken by the restructured body corporate.

Judicial notice

86. All courts, judges and persons acting judicially must take judicial notice of the imprint of the seal of the old body corporate appearing on a document that was executed before the restructuring day and must presume that the document was duly sealed.

Application of money

87. Despite section 58 of this Act, the money of the restructured body corporate may be applied:

- (a) in payment or discharge of any expenses, charges, obligations or liabilities that were incurred or undertaken before the restructuring day by the old body corporate in connection with the performance of its functions or the exercise of its powers and were not paid or discharged before that day; and
- (b) in payment of any remuneration or allowances the liability for

which arose under Part IIIA of the *Broadcasting Act 1942* but which had not been paid before the restructuring day.

First estimates

88. Unless the Minister otherwise directs, the first period for which estimates are to be prepared under section 66 of this Act is to be the period commencing on 1 July 1992 and ending on 30 June 1993.

Bank accounts to be treated as if opened under this Act

89. Any bank account maintained by the old body corporate immediately before the restructuring day under section 79ZC of the *Broadcasting Act 1942* is to be treated, on and after that day, as if it had been opened by the restructured body corporate under section 63J of the *Audit Act 1901* as that section applies to the restructured body corporate because of section 69.

Audit

90. Section 63L of the *Audit Act 1901* as that section applies to the restructured body corporate because of section 69 of this Act extends to accounts and records of financial transactions of the old body corporate that took place before the restructuring day as if they were accounts and records of financial transactions of the restructured body corporate.

Annual report and financial statements

91. (1) If the old body corporate had not, before the restructuring day, furnished a report and financial statement in relation to its operations during the year that ended on 30 June last preceding that day, the Board of the restructured body corporate must prepare a report and financial statement in relation to those operations in accordance with section 79ZH of the *Broadcasting Act 1942* and, despite the repeal of that section effected by this Act, that section continues in force for the purpose of the preparation of that report and financial statement as if the body required to prepare and furnish the report and financial statement under that section were the restructured body corporate.

(2) If the restructuring day is a day other than 1 July, the report and financial statement in relation to the operations of the restructured body corporate during the year ending on 30 June next following the restructuring day that is required to be prepared by section 63M of the *Audit Act 1901* as that section applies to the restructured body corporate because of section 69 of this Act must include details in relation to the operations of the old body corporate during the part of that year that preceded the restructuring day.

(3) A report of the restructured body corporate that relates to operations of the old body corporate must include any matters that would have been required to have been included in a report relating to

those operations prepared in accordance with section 79ZH of the *Broadcasting Act 1942* if this Act had not been enacted.

Transfer of appropriations

92. (1) Where an Appropriation Act has appropriated, or appropriates, money to the old body corporate, the Appropriation Act is taken to have appropriated, or to appropriate, the money to the restructured body corporate.

(2) Subsection (1) does not apply to money that has been spent by the old body corporate before the restructuring day.

(3) In this section:

“**Appropriation Act**” means an Act appropriating money for the financial year ending on 30 June 1992, and includes an Act making interim provision for such an appropriation.

**PART 9—CONSEQUENTIAL AMENDMENTS OF THE
BROADCASTING ACT 1942**

Principal Act

93. In this Part, “**Principal Act**” means the *Broadcasting Act 1942*¹.

Interpretation

94. Section 4 of the Principal Act is amended:

- (a) by omitting “Service” (wherever occurring) from paragraph (c) of the definition of “service area” in subsection (1) and substituting “SBS”;
- (b) by omitting from subsection (1) the definitions of “Service” and “the Commission”;
- (c) by inserting in subsection (1) the following definition:
“ ‘SBS’ means the body corporate preserved and continued in existence as the Special Broadcasting Service Corporation under section 5 of the *Special Broadcasting Service Act 1991*;”;
- (d) by omitting from paragraph (6) (e) “Service” and substituting “SBS”;
- (e) by omitting from paragraph (7) (e) “Service” and substituting “SBS”.

Use of lines for transmission of programs

95. Subsection 6B (1) of the Principal Act is amended by omitting “Service” and substituting “SBS”.

Insertion of new section

96. (1) After section 15E of the Principal Act the following section is inserted in Division 1 of Part II:

Remuneration

“15F. (1) A member or associate member of the Tribunal must be paid such remuneration as is determined by the Remuneration Tribunal.

“(2) A member or an associate member of the Tribunal must be paid such allowances as are prescribed.

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

(2) Any determination made for the purposes of section 125F of the Principal Act in respect of a member or an associate member of the Tribunal, being a determination in force immediately before the commencement of this section, has effect after the commencement of this section as if it had been made for the purposes of subsection 15F (1) of the Principal Act as amended by this Act.

(3) Any regulation made for the purposes of subsection 125F (3) in respect of a member or associate member of the Tribunal, being a regulation in force immediately before the commencement of this section, has effect after the commencement of this section as if it had been made for the purposes of subsection 15F (2) of the Principal Act as amended by this Act.

Ordinary inquiries

97. Section 17C of the Principal Act is amended by omitting from paragraph (4) (a) “Service” (wherever occurring) and substituting “SBS”.

Directed inquiries

98. Section 18 of the Principal Act is amended by omitting from paragraph (2A) (a) “Service” (wherever occurring) and substituting “SBS”.

Area inquiries

99. Section 18A of the Principal Act is amended by omitting from paragraph (1) (a) “Service” and substituting “SBS”.

Repeal of Parts III and IIIA

100. Parts III and IIIA of the Principal Act are repealed.

Purpose of limited licence

101. Section 81B of the Principal Act is amended by omitting from subsection (8) “or the Service” and substituting “or the SBS”.

Retransmission permits

102. Section 89DA of the Principal Act is amended by omitting from subsection (5) “Service” (wherever occurring) and substituting “SBS”.

Special provisions relating to advertisements

103. Section 100 of the Principal Act is amended by adding at the end the following subsection:

“(11) In this section, ‘licensee’ includes the SBS.”.

Particulars of programs to be made available

104. Section 105 of the Principal Act is amended by inserting “or the SBS” after “the Corporation”.

Certain programs to be made available to licensees

105. Section 113 of the Principal Act is amended:

- (a) by inserting in subsection (1) “or the SBS” after “the Corporation” (first and third occurring);
- (b) by inserting in subsection (1) “or by the SBS, as the case requires,” after “the Corporation” (second occurring);
- (c) by omitting from subsection (2) “of the Corporation”;
- (d) by inserting in subsection (3) “or to the SBS” after “the Corporation” (first occurring);
- (e) by omitting from subsection (3) “of the Corporation” (wherever occurring).

Corporation and the SBS may make programs available to certain licensees

106. Section 113A of the Principal Act is amended:

- (a) by inserting “or of the SBS” after “of the Corporation” (first occurring);
- (b) by omitting “of the Corporation” (second and fourth occurring);
- (c) by inserting “or of the SBS, as the case requires,” after “of the Corporation” (third occurring).

Televising of sporting events and entertainment

107. Section 115 of the Principal Act is amended by inserting “, the SBS” after “The Corporation”.

Broadcasting of political or controversial matter

108. Section 116 of the Principal Act is amended:

- (a) by inserting in subsection (1) “or the Special Broadcasting Service Board” after “Corporation Board”;
- (b) by inserting in subsection (1) “or by the SBS, as the case requires” after “the Corporation”.

Identification etc. in relation to political matter

109. Section 117 of the Principal Act is amended:

- (a) by inserting in subsection (1) “, the SBS” after “Corporation” (wherever occurring);

- (b) by inserting in subsection (2) “, the SBS” after “The Corporation”.

Records of matter broadcast

110. Section 117A of the Principal Act is amended:

- (a) by inserting in subsection (1) “, the SBS” after “the Corporation” (wherever occurring);
- (b) by inserting in subsection (2) “, the SBS” after “the Corporation”;
- (c) by inserting in subsection (3) “, the SBS” after “of the Corporation” (first occurring);
- (d) by inserting in subsection (3) “or of the SBS” after “of the Corporation” (second occurring);
- (e) by omitting from subsection (3) “of the Corporation” (third occurring);
- (f) by inserting in subsection (4) “or of the SBS” after “the Corporation” (first occurring);
- (g) by inserting in subsection (4) “, the SBS” after “the Corporation” (second occurring);
- (h) by inserting in subsection (6) “, the SBS” after “the Corporation”.

Broadcasting of objectionable items

111. Section 118 of the Principal Act is amended by inserting in subsection (1) “, the SBS” after “The Corporation”.

Interference with broadcasting of programs etc.

112. Section 121 of the Principal Act is amended by inserting in paragraph (1) (a) “, the SBS” after “the Corporation”.

Additional functions of Minister

113. Section 125D of the Principal Act is amended by omitting from subsection (2) “Service” and substituting “SBS”.

Repeal of section 125F

114. Section 125F of the Principal Act is repealed.

Control of broadcasting in case of emergency

115. Section 131 of the Principal Act is amended by inserting in subsection (1) “, the SBS” after “the Corporation” (wherever occurring).

PART 10—CONSEQUENTIAL AMENDMENTS OF OTHER ACTS

Consequential amendments of other Acts

116. (1) The Acts specified in the Schedule are amended as set out in the Schedule.

(2) The amendments made to section 91 of the *Copyright Act 1968* by subsection (1) do not affect the continued subsistence of any copyright that, immediately before the commencement of this section, subsisted in a television broadcast or sound broadcast that had been made from a place in Australia by the Special Broadcasting Service before the commencement of this section.

SCHEDULE

Section 116

CONSEQUENTIAL AMENDMENTS OF OTHER ACTS

Archives Act 1983

Subsection 36 (5):

After “Service”, insert “Corporation”.

Australian Broadcasting Corporation Act 1983

Section 3:

Insert:

“ ‘**Special Broadcasting Service Corporation**’ means the body corporate preserved and continued in existence as the Special Broadcasting Service Corporation under section 5 of the *Special Broadcasting Service Act 1991*;”.

Section 26:

Omit the section, substitute the following section:

Corporation to have regard to services of the Special Broadcasting Service Corporation

“26. In performing its functions, the Corporation must have regard to the services provided by the Special Broadcasting Service Corporation.”.

Commonwealth Electoral Act 1918

Subsection 287 (1) (paragraph (b) of the definition of “broadcaster”):

Omit the paragraph, substitute the following paragraph:

“(b) the Special Broadcasting Service Corporation preserved and continued in existence under section 5 of the *Special Broadcasting Service Act 1991*;”.

Copyright Act 1968

Subsection 10 (1) (definition of “the Special Broadcasting Service”):

Before “established”, insert “that was”.

Subsection 10 (1):

Insert:

“ ‘**the Special Broadcasting Service Corporation**’ means the body corporate preserved and continued in existence as the Special Broadcasting Service Corporation under section 5 of the *Special Broadcasting Service Act 1991*;”.

SCHEDULE—continued

Subparagraph 91 (a) (ii):

After “Service”, insert “Corporation”.

Subparagraph 91 (c) (ii):

After “Service”, insert “Corporation”.

Paragraph 99 (aa):

After “Service”, insert “Corporation”.

Subsection 152 (1) (paragraph (aa) of the definition of “broadcaster”):

After “Service”, insert “Corporation”.

After subsection 152 (1A):

Insert:

“(1B) In its application in relation to a period before the commencement of this subsection, this section has effect as if any act or thing done during that period by the Special Broadcasting Service had been done by the Special Broadcasting Service Corporation and any earnings of the Special Broadcasting Service during that period were earnings of the Special Broadcasting Service Corporation.”.

Paragraph 184 (1) (f):

After “Service”, insert “Corporation”.

Paragraph 199 (7) (a):

- (a) After “Service” (first occurring), insert “Corporation”.
- (b) Omit “that Service”, substitute “the Special Broadcasting Service Corporation”.

Paragraph 199 (7) (b):

- (a) After “Service” (first occurring), insert “Corporation”.
- (b) Omit “that Service”, substitute “the Special Broadcasting Service Corporation”.

Freedom of Information Act 1982

Part 2 of Schedule 2:

After “Service”, insert “Corporation”.

Referendum (Machinery Provisions) Act 1984

Section 110 (paragraph (b) of the definition of “broadcaster”):

Omit the paragraph, substitute the following paragraph:

“(b) the Special Broadcasting Service Corporation preserved and continued in existence under section 5 of the *Special Broadcasting Service Act 1991*.”.

SCHEDULE—continued
Telecommunications Act 1991

Subsection 99 (2) (definition of “broadcaster”):

After “Service”, insert “Corporation”.

Trade Practices Act 1974

Subsection 65A (3) (paragraph (c) of the definition of “prescribed information provider”):

After “Service”, insert “Corporation”.

NOTE

1. No. 33, 1942, as amended. For previous amendments, see 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; Nos. 67 and 121, 1964; Nos. 38 and 120, 1965; No. 57, 1966; No. 47, 1967; No. 69, 1968; Nos. 21 and 31, 1969; Nos. 8, 72 and 136, 1971; No. 49, 1972; No. 50, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 55, 1974; No. 56, 1975; Nos. 89, 157 and 187, 1976; No. 160, 1977; Nos. 36, 52 and 210, 1978; Nos. 143 and 177, 1980; Nos. 61, 113 and 153, 1981; No. 154, 1982; Nos. 7, 37, 39, 91 and 136, 1983; Nos. 10, 63, 72, 163 and 165, 1984; Nos. 66 and 191, 1985; Nos. 2 and 76, 1986; Nos. 68, 79, 80, 134 and 184, 1987; Nos. 56, 99, 109, 146 and 147, 1988; and Nos. 29, 31 and 63, 1989.

*[Minister's second reading speech made in—
House of Representatives on 12 September 1991
Senate on 15 October 1991]*