

Australian Broadcasting Tribunal (Inquiries) Regulations
(Amendment)

Statutory Rule No. 391 1990

Issued by the Authority of the Minister for
Transport and Communications


Subsection 134(2A) of the Broadcasting Act 1942 (the Act) provides that the Governor-General may make regulations which make provision for and in relation to inquiries, or any matter relating to inquiries by the Australian Broadcasting Tribunal (the Tribunal). The Tribunal must hold an inquiry when it proposes to exercise one of its substantive powers (subsection 17C(1) of the Act), which are listed in subsection 17A(2) of the Act and include the powers to grant and renew licences. An inquiry into the exercise of a substantive power must be conducted in accordance with the Regulations (subsection 17C(5) of the Act).

The Australian Broadcasting Tribunal (Inquiries) Regulations (the Inquiry Regulations - Statutory Rules No.100 of 1986) were amended by Statutory Rules No.259 of 1990 (the amending regulations). The amending regulations extended the situations in which the Tribunal may terminate inquiries and made amendments consequential on provisions of the Broadcasting Legislation Amendment Act 1988.

It was discovered that there was a drafting error in the amending regulations. Paragraph 2(1)(c) of the amending regulations amended subparagraph 8(1)(a)(ii) of the Inquiry Regulations by inserting "a limited licence" after "than". Subregulation 2(2) of the amending regulations amended subparagraph 8(1)(a)(ii) of the Inquiry Regulations by omitting ", other than a re-broadcasting licence or a re-transmission licence". The Attorney-General's Department advised that the drafting error did not affect the Tribunal's power to terminate inquiries relating to limited licences. However, Attorney-General's also advised that in order to avoid the possibility of the drafting error being relied on as the basis for challenging Tribunal decisions relating to limited licences, the drafting error be rectified.

The amendment omits paragraph 8(1)(a) of the Inquiry Regulations and substitutes a new paragraph 8(1)(a) thereby correcting the drafting error. The new paragraph 8(1)(a) provides that the Tribunal may terminate an inquiry into the grant or renewal of a limited licence where the Tribunal is satisfied that no further investigation is necessary. The power to terminate such inquiries allows the Tribunal to better tailor an inquiry into the grant or renewal of a limited licence to the nature of the proposed service.

SR 338/90

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