



# **Broadcasting Legislation Amendment (2021 Measures No. 1) Act 2021**

**No. 62, 2021**

**An Act to amend legislation relating to  
broadcasting, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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# Broadcasting Legislation Amendment (2021 Measures No. 1) Act 2021

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## An Act to amend legislation relating to broadcasting, and for related purposes

[Assented to 29 June 2021]

The Parliament of Australia enacts:

### 1 Short title

This Act is the *Broadcasting Legislation Amendment (2021 Measures No. 1) Act 2021*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	29 June 2021
3. Schedule 2	A single day to be fixed by Proclamation. However, if the commencement of the provisions is not fixed by a Proclamation registered on the Federal Register of Legislation established under the <i>Legislation Act 2003</i> , within the period of 12 months beginning on the day this Act receives the Royal Assent, the provisions are repealed on the day after the end of that period.	
4. Schedules 3 to 6	The day after this Act receives the Royal Assent.	30 June 2021

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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## Schedule 2—Captioning obligations

### *Broadcasting Services Act 1992*

#### 1 Section 130ZK

Repeal the following definitions:

- (a) definition of *Category A subscription television general entertainment service*;
- (b) definition of *Category A subscription television movie service*;
- (c) definition of *Category B subscription television general entertainment service*;
- (d) definition of *Category B subscription television movie service*;
- (e) definition of *Category C subscription television general entertainment service*;
- (f) definition of *Category C subscription television movie service*;
- (g) definition of *channel*;
- (h) definition of *channel provider*;
- (i) definition of *designated viewing hours*;
- (j) definition of *general entertainment program*;
- (k) definition of *incidental matter*;
- (l) definition of *movie program*;
- (m) definition of *music program*;
- (n) definition of *part-channel provider*;
- (o) definition of *sports program*.

#### 2 Section 130ZK

Insert:

*subscription television captioning scheme* means the scheme prescribed for the purposes of section 130ZV.

#### 3 Section 130ZK

Repeal the following definitions:

- (a) definition of *subscription television general entertainment service*;
- (b) definition of *subscription television movie service*;
- (c) definition of *subscription television music service*;
- (d) definition of *subscription television news service*;
- (e) definition of *subscription television sports service*.

#### **4 Section 130ZK**

Insert:

*targeted viewing hours* has the meaning given by section 130ZL.

#### **5 Sections 130ZKA, 130ZKB and 130ZKC**

Repeal the sections.

#### **6 Section 130ZL**

Repeal the section, substitute:

##### **130ZL Targeted viewing hours**

For the purposes of this Part, *targeted viewing hours* are the hours:

- (a) beginning at:
  - (i) 6 am each day (subject to subparagraph (ii)); or
  - (ii) if another time is prescribed for the purposes of this subparagraph—that time each day; and
- (b) ending at:
  - (i) midnight on the same day (subject to subparagraph (ii)); or
  - (ii) if another time is prescribed for the purposes of this subparagraph—that time on the same day.

#### **7 Paragraphs 130ZR(1)(a) and (b)**

Omit “designated viewing hours”, substitute “targeted viewing hours”.

#### **8 Subsection 130ZUAA(7)**

Repeal the subsection.



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**9 Division 3 of Part 9D**

Repeal the Division, substitute:

**Division 3—Captioning obligations of subscription television licensees****130ZV Subscription television captioning scheme**

- (1) The Minister must, by legislative instrument, prescribe a scheme (the *subscription television captioning scheme*) dealing with the provision of captioning services for subscription television services provided by subscription television licensees.
- (2) Without limiting subsection (1), the subscription television captioning scheme may provide for or in relation to the following:
  - (a) annual captioning targets for subscription television services, including methods for working out the targets;
  - (b) applications for partial or total exemptions from annual captioning targets, including who may make such applications, the information or documents that must accompany applications and the making of decisions in relation to applications;
  - (c) reporting and record-keeping obligations of subscription television licensees;
  - (d) the publication of information relating to the scheme, including decisions made under the scheme.

Note 1: The scheme may provide for applications to be made to the Administrative Appeals Tribunal for review of decisions made by the ACMA under the scheme (see subsection 204(4A)).

Note 2: See Division 6 for additional reporting and record-keeping obligations.

- (3) The subscription television captioning scheme may make provision for or in relation to a particular matter by empowering the ACMA to make decisions of an administrative character.
- (4) Without limiting subsection 33(3A) of the *Acts Interpretation Act 1901*, the subscription television captioning scheme may prescribe a matter or thing differently for different kinds of persons, things or circumstances.

Note: For example, the scheme may set out different captioning targets for different kinds of subscription television services based on the program content the services provide.

- (5) Despite subsection 14(2) of the *Legislation Act 2003*, the subscription television captioning scheme may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in any other instrument or other writing as in force or existing from time to time.

**10 Subsection 130ZZC(5)**

Repeal the subsection (not including the notes), substitute:

*Subscription television licensee*

- (5) If a subscription television licensee is a body corporate, the licensee must, within 90 days after the end of each financial year, prepare and give to the ACMA a report relating to compliance by the licensee with the following during the financial year:
- (a) the subscription television captioning scheme;
  - (b) Division 4;
  - (c) Division 5.

**11 Subsection 130ZZD(3)**

Omit “the responsible person’s report”, substitute “all reports”.

**12 Subsection 130ZZD(3)**

Omit “is given”, substitute “are given”.

**13 Division 7 of Part 9D**

Repeal the Division.

**14 Subsection 204(1) (table items dealing with section 130ZY)**

Repeal the items.

**15 After subsection 204(4)**

Insert:

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*Decisions under the subscription television captioning scheme*

- (4A) Applications may be made to the Administrative Appeals Tribunal for review of decisions made by the ACMA under the subscription television captioning scheme (within the meaning of section 130ZV), so long as the scheme provides that the decision is a reviewable decision for the purposes of this section.

**16 Paragraph 10(1)(eb) of Schedule 2**

After “impaired)”, insert “including a provision of the subscription television captioning scheme prescribed for the purposes of section 130ZV”.

**17 Paragraph 11(1)(bc) of Schedule 2**

After “impaired)”, insert “including a provision of the subscription television captioning scheme prescribed for the purposes of section 130ZV”.

**18 Application provision**

The amendment of subsection 130ZZC(5) of the *Broadcasting Services Act 1992* made by item 10 of this Schedule applies in relation to reports required to be given in the financial year in which this item commences and later financial years.

## **Schedule 3—Digital radio services**

### ***Radiocommunications Act 1992***

#### **1 Subsection 44A(10)**

Repeal the subsection.

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## Schedule 4—Population determinations

### *Broadcasting Services Act 1992*

#### **1 Subsection 43C(4)**

Omit “previous determination”, substitute “most recent determination under which the person was not in breach of the condition”.

#### **2 After subsection 43C(4)**

Insert:

*Sunset*

(4A) Subsection (4) ceases to have effect at the end of 5 years after the commencement of Schedule 4 of the *Broadcasting Legislation Amendment (2021 Measures No. 1) Act 2021*.

#### **3 Section 52**

Before “If”, insert “(1)”.

#### **4 Section 52**

Omit all the words after “those”, substitute “provisions continue to apply to the person as if the most recent determination under which the person was not in breach of the provision remained in force”.

#### **5 At the end of section 52**

Add:

(2) This section ceases to have effect at the end of 5 years after the commencement of Schedule 4 of the *Broadcasting Legislation Amendment (2021 Measures No. 1) Act 2021*.

#### **6 Application provision**

The amendments made by items 2 and 4 of this Schedule apply in relation to the most recent determination under which a person was not in breach, whether made before, on or after the commencement of this item.

## **Schedule 5—Regional and Small Publishers Innovation Fund**

### ***Broadcasting Services Act 1992***

#### **1 At the end of subsection 205ZH(1)**

Add:

; or (f) the financial year commencing on 1 July 2021.

## **Schedule 6—Community television**

### **Part 1—Amendments**

#### ***Broadcasting Services Act 1992***

##### **1 At the end of subsection 81(1)**

Add:

Note: See also section 96B of the *Radiocommunications Act 1992*, which provides that CTV licences must not be granted to new holders after 30 June 2021.

##### **2 At the end of subsection 92C(1)**

Add:

Note: See also section 96B of the *Radiocommunications Act 1992*, which provides that licences for television services under this Part must not be granted to new holders after 30 June 2021.

#### ***Radiocommunications Act 1992***

##### **3 After section 96**

Insert:

##### **96A Policy in relation to certain community broadcasting services and open narrowcasting television services**

(1) It is the intention of the Parliament that:

- (a) until 30 June 2024, access to the broadcasting services bands be available to provide the following services in a prescribed area:
  - (i) community broadcasting services provided under a CTV licence;
  - (ii) community broadcasting services that provide television programs under a licence under Part 6A of the *Broadcasting Services Act 1992*;
  - (iii) open narrowcasting television services provided for community or educational non-profit purposes that are transmitted from one or more radiocommunications

- transmitters, the operation of which is authorised under an apparatus licence issued under section 100; but
- (b) on and after 30 June 2024, all such services should be delivered using online platforms.
- (2) The Minister may, by legislative instrument, prescribe an area for the purposes of paragraph (h) of the definition of *prescribed area* in subsection (3).
- (3) In this section:
- broadcasting services bands* has the same meaning as in the *Broadcasting Services Act 1992*.
- CTV licence* has the same meaning as in the *Broadcasting Services Act 1992*.
- prescribed area* means:
- (a) Adelaide; or
- (b) Melbourne; or
- (c) an area prescribed in an instrument under subsection (2).

**96B Licences of certain kinds must not be granted to new holders after 30 June 2021**

- (1) This section applies to a person if, on 30 June 2021, the person did not hold one or more of the following licences:
- (a) a CTV licence;
- (b) a licence under Part 6A of the *Broadcasting Services Act 1992* to provide a community broadcasting service that provides television programs;
- (c) an apparatus licence issued under section 100 that:
- (i) authorises the operation of one or more radiocommunications transmitters; and
- (ii) includes a condition that the licence may only be used to provide a transmission in standard definition digital mode of an open narrowcasting television service for community and educational non-profit purposes.



- (2) Despite anything else in this Act or the *Broadcasting Services Act 1992*, the person is not eligible to hold a licence of that kind after that day.

**4 Subsection 103(2)**

After “Subject to”, insert “subsection (2A) and”.

**5 After subsection 103(2)**

Insert:

- (2A) An apparatus licence issued under section 100 with the licence number 1171866 does not have effect after 30 June 2024.

**6 Paragraph 103(4A)(c)**

Repeal the paragraph, substitute:

- (c) if the related licence is a CTV licence within the meaning of the *Broadcasting Services Act 1992*—does not have effect after 30 June 2024.

**7 Application of amendments**

The amendments made by items 4 to 6 of this Schedule apply in relation to apparatus licences regardless of when the licences were issued.

## Part 2—Repeals

### *Australian Communications and Media Authority (Community Television) Direction 2020*

#### 8 The whole of the instrument

Repeal the instrument.

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*[Minister's second reading speech made in—  
House of Representatives on 25 March 2021  
Senate on 15 June 2021]*

(44/21)