



Special Broadcasting Service Act 1991

No. 180, 1991 as amended

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Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

The compiled Act

This is a compilation of the *Special Broadcasting Service Act 1991* as amended and in force on 31 March 2013. It includes any amendment affecting the compiled Act to that date.

This compilation was prepared on 22 May 2013.

The notes at the end of this compilation (the *endnotes*) include information about amending Acts and instruments and the amendment history of each amended provision.

Uncommenced provisions and amendments

If a provision of the compiled Act is affected by an uncommenced amendment, the text of the uncommenced amendment is set out in the endnotes.

Application, saving and transitional provisions for amendments

If the operation of an amendment is affected by an application, saving or transitional provision, the provision is identified in the endnotes.

Modifications

If a provision of the compiled Act is affected by a textual modification that is in force, the text of the modifying provision is set out in the endnotes.

Provisions ceasing to have effect

If a provision of the compiled Act has expired or otherwise ceased to have effect in accordance with a provision of the Act, details of the provision are set out in the endnotes.

Contents

Part 1—Preliminary	1
1 Short title	1
2 Commencement	1
3 Interpretation	1
3A Digital media service	2
4 Extension to external Territories	3
Part 2—Establishment, functions and management of the SBS	4
5 Special Broadcasting Service Corporation	4
6 Charter of the SBS	4
6A Datacasting functions	5
7 Establishment of Special Broadcasting Service Board	6
8 Constitution of the Board	6
9 Role of the Board	6
10 Duties of the Board	6
11 Minister may give directions to the Board	7
12 Minister may give directions to the SBS in the national interest	8
13 Limits on Government directions to SBS	8
14 Managing Director	9
15 Duties of the Managing Director	9
Part 3—The Board of Directors and the Managing Director	10
Division 1—Provisions relating to non-executive Directors	10
16 This Division applies to non-executive Directors	10
17 Appointment of non-executive Directors	10
18 Term of appointment	11
19 Non-executive Directors hold office on part-time basis	12
20 Terms and conditions of appointment not provided for by Act	12
21 Appointment of Deputy Chairperson	12
22 Board's functions and powers not affected by vacancy etc.	12
23 Remuneration and allowances of non-executive Directors	13
24 Acting Chairperson and other acting non-executive Directors	13
25 Leave of absence of non-executive Directors	14
26 Resignation of non-executive Directors	14
27 Removal of non-executive Directors from office	14
Division 2—Provisions relating to the Managing Director	16
28 Appointment of Managing Director	16

29	Term of appointment of Managing Director	16
30	Managing Director holds office on a full-time basis	16
31	Terms and conditions of appointment not provided for by Act	16
32	Remuneration and allowances of Managing Director	16
33	Acting Managing Director	17
34	Leave of absence of Managing Director	17
35	Resignation of Managing Director	17
36	Duty of Managing Director to disclose certain interests	17
37	Removal of Managing Director from office	18
Division 3—Meetings of the Board		19
38	Meetings of the Board	19
39	Presiding at meetings	19
40	Quorum and voting at meetings	20
41	Conduct of meetings	20
42	Resolutions without formal meetings	21
Part 3A—Merit-based appointment of non-executive Directors		22
43	Functions of Nomination Panel	22
43A	Selection criteria	24
43B	Consultation, and selection of candidate not nominated by Nomination Panel	24
43C	Department’s annual report	24
Part 4—Powers and duties of the SBS		25
44	General powers of the SBS	25
45	Advertising and sponsorship—broadcasting services	26
45A	Advertising and sponsorship—digital media services	28
46	Community information	28
47	Corporate plans	28
48	Matters to be included in corporate plans	29
49	Corporate plans to be given to Minister	30
50	Community Advisory Committee	30
51	Board to notify Minister of certain matters	30
52	Power to form companies etc.	31
Part 5—Staff		32
53	Staff of the SBS until section 54 commences	32
54	Staff of the SBS	32
55	The SBS is to achieve and maintain high standards as an employer	32

Part 6—Finance	33
56 Money to be appropriated.....	33
57 Money of the SBS	33
58 Application of money	33
59 Borrowing from the Commonwealth	34
60 Borrowings otherwise than from the Commonwealth	34
61 Guarantee of borrowing.....	34
62 The SBS may give security	34
63 Borrowings not otherwise permitted.....	35
64 Delegation by Finance Minister.....	35
65 Hedging contracts etc.	35
68 Taxation.....	36
Part 7—Miscellaneous	37
70 Application of Broadcasting Act	37
70AA Report by ACMA on degradation of signal quality	37
70A Broadcasting of political or controversial matter	37
70B Records of matter broadcast	39
70C Broadcasting of election advertisements	40
73 Matters to be included in annual report	42
74 Delegation by the SBS.....	43
75 Delegation by Managing Director	43
76 Regulations.....	43
Part 8—Transitional	44
77 Interpretation	44
78 Person holding office as Executive Director of the old body corporate.....	44
79 Person holding office as member of the old body corporate.....	45
80 Persons employed or engaged by the old body corporate.....	46
81 Persons engaged under section 53	46
82 Delegations and authorisations	46
83 References to old body corporate in instruments etc.	47
84 Property, powers, liabilities etc.	47
85 Saving of proceedings	47
86 Judicial notice.....	48
87 Application of money	48
88 First estimates.....	48
89 Bank accounts to be treated as if opened under this Act.....	48
90 Audit.....	49
91 Annual report and financial statements.....	49
92 Transfer of appropriations	50

Endnotes	51
Endnote 1—Legislation history	51
Endnote 2—Amendment history	56
Endnote 3—Uncommenced amendments [none]	60
Endnote 4—Misdescribed amendments [none]	61

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

Part 1—Preliminary

1 Short title

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

2 Commencement

- (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.

3 Interpretation

In this Act, unless the contrary intention appears:

ACMA means the Australian Communications and Media Authority.

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.

datacasting licence has the same meaning as in the *Broadcasting Services Act 1992*.

Section 3A

datacasting service has the same meaning as in the *Broadcasting Services Act 1992*.

digital electronic communications means communications that:

- (a) are carried by means of guided and/or unguided electromagnetic energy; and
- (b) involve the use of digital technology.

digital media service has the meaning given by section 3A.

Director means a member of the Board and includes the Chairperson, the Deputy Chairperson and the Managing Director.

Finance Minister means the Minister who administers the *Financial Management and Accountability Act 1997*.

Indigenous person means a person who is:

- (a) a member of the Aboriginal race of Australia; or
- (b) a descendant of an Indigenous inhabitant of the Torres Strait Islands.

interest, in relation to money, includes compound interest.

Managing Director means the Managing Director of the SBS.

national broadcasting service has the same meaning as in the *Broadcasting Services Act 1992*.

Nomination Panel means the Nomination Panel established under section 24A of the *Australian Broadcasting Corporation Act 1983*.

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.

3A Digital media service

- (1) For the purposes of this Act, **digital media service** means:
 - (a) a service that delivers content to persons having equipment appropriate for receiving that content, where the delivery of
-

the service is by means of digital electronic communications;
or

(b) a service that allows end-users to access content using digital electronic communications;

but does not include:

(c) a radio or television service; or

(d) a datacasting service.

(2) For the purposes of this section, **content** means content:

(a) whether in the form of text; or

(b) whether in the form of data; or

(c) whether in the form of speech, music or other sounds; or

(d) whether in the form of visual images (animated or otherwise); or

(e) whether in any other form; or

(f) whether in any combination of forms.

4 Extension to external Territories

This Act extends to all the external Territories.

Part 2—Establishment, functions and management of the SBS

5 Special Broadcasting Service Corporation

- (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.

Note: The *Commonwealth Authorities and Companies Act 1997* applies to the SBS. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.

- (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.

6 Charter of the SBS

- (1) The principal function of the SBS is to provide multilingual and multicultural radio, television and digital media 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) to the extent to which the function relates to radio and television services—contribute to the overall diversity of Australian television and radio services, particularly taking into account the contribution of the Australian Broadcasting Corporation and the community broadcasting sector; and
 - (h) to the extent to which the function relates to radio and television services—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.

6A Datacasting functions

- (1) If:
- (a) the SBS applies for a datacasting licence; and
 - (b) the licence is allocated to the SBS;
- then, in addition to the functions conferred on the SBS under section 6, the SBS has the function of providing a datacasting service under, and in accordance with the conditions of, the licence.
- (2) However, subsection (1) is not intended to impose any obligation on the SBS, in relation to the provision of such a service, beyond that imposed on the SBS as holder of such a licence.

Section 7

7 Establishment of Special Broadcasting Service Board

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

8 Constitution of the Board

The Board consists of:

- (a) the Managing Director; and
- (aa) the Chairperson; and
- (b) not fewer than 3 nor more than 7 other non-executive Directors.

9 Role of the Board

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.

10 Duties of the Board

- (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; and
 - (j) to develop codes of practice relating to:
 - (i) programming matters; and
 - (ii) if the SBS has the function of providing a datacasting service under section 6A—that service;and to notify those codes to the ACMA.
- (2) Nothing in this section imposes on the Board a duty that is enforceable by proceedings in a court.

11 Minister may give directions to the Board

- (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 subsections (3) and (3A), 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.
- (3A) The Minister must not give a direction in relation to the content to be provided on a digital media service.
- (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.

Section 12

12 Minister may give directions to the SBS in the national interest

- (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*.
- (4A) If the Minister is of the opinion that the provision of particular content by the SBS would be in the national interest, the Minister may direct the SBS to provide that content on all of its digital media services or on such of them as are specified in the direction. If such a direction is given, the SBS must provide that content, free of charge, in accordance with the direction.
- (5) A direction under this section must be given in writing, or sent by telex or facsimile transmission, to the Managing Director.
- (6) Where the Minister gives a direction under this section 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.

13 Limits on Government directions to SBS

- (1) 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.
- (2) Sections 28 and 48A of the *Commonwealth Authorities and Companies Act 1997* apply in relation to the SBS and its Board to the extent that a General Policy Order referred to in those sections does not affect the content or scheduling of programs.

14 Managing Director

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.

15 Duties of the Managing Director

- (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

16 This Division applies to non-executive Directors

This Division applies to the non-executive Directors.

17 Appointment of non-executive Directors

- (1) The Governor-General must appoint the non-executive Directors.
- (2) Before the Governor-General appoints a person as a non-executive Director, the Minister 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 Minister 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; and
 - (d) that at least one of the Directors is an Indigenous person.
- (2A) The following persons are not eligible for appointment as a non-executive Director referred to in paragraph 8(aa) or (b):
 - (a) a member or former member of the Parliament of the Commonwealth;
 - (b) a member or former member of the Parliament of a State, of the Legislative Assembly for the Australian Capital Territory or of the Legislative Assembly of the Northern Territory;
 - (c) a person who is or was a senior political staff member (within the meaning of the *Australian Broadcasting Corporation Act 1983*).

- (2AA) However, so far as subsection (2A) relates to a person who:
- (a) is a former member of a Parliament or a Legislative Assembly referred to in that subsection; or
 - (b) was a senior political staff member (within the meaning of the *Australian Broadcasting Corporation Act 1983*);
- that subsection applies only for the period of 12 months beginning on the day the person ceased to be a member of that Parliament or that Legislative Assembly or a senior political staff member (within the meaning of that Act).
- (2AB) A person who:
- (a) is a former member of a Parliament or a Legislative Assembly referred to in subsection (2A); or
 - (b) was a senior political staff member (within the meaning of the *Australian Broadcasting Corporation Act 1983*);
- must not be appointed as a non-executive Director referred to in paragraph 8(aa) or (b) unless, in accordance with Part 3A, the Nomination Panel has nominated the person for the appointment.
- (2B) Subject to subsection (2C), a person must not be appointed as a non-executive Director referred to in paragraph 8(aa) or (b) unless Part 3A is complied with.
- (2C) The Minister may recommend to the Governor-General that a particular person be re-appointed as a non-executive Director referred to in paragraph 8(aa) or (b) without Part 3A being complied with.
- (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 (including a failure to comply with Part 3A).

18 Term of appointment

- (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.
- (3) The sum of the periods for which a person holds either or both of the following offices must not exceed 10 years:

Section 19

- (a) an office referred to in paragraph 8(aa);
- (b) an office referred to in paragraph 8(b).

Example 1: Assume a person holds office as Chairperson for an initial period of 5 years and then holds office as Chairperson for a further period of 5 years.

The person cannot hold office as Chairperson again and cannot hold office as a Director referred to in paragraph 8(b).

Example 2: Assume a person holds office as a Director referred to in paragraph 8(b) for a period of 5 years and then holds office as Chairperson for a period of 3 years.

The person may now hold office as Chairperson, or as a Director referred to in paragraph 8(b), for a maximum period of 2 years.

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

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

20 Terms and conditions of appointment not provided for by Act

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.

21 Appointment of Deputy Chairperson

- (1) The Governor-General must appoint one of the non-executive Directors to be the Deputy Chairperson of the Board.
- (2) A person must not continue to hold the position of Deputy Chairperson, acting Chairperson or acting Deputy Chairperson if the person ceases to be a non-executive Director.

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

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.

23 Remuneration and allowances of non-executive Directors

- (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*.

24 Acting Chairperson and other acting non-executive Directors

- (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.

Note: For rules that apply to persons acting as the Chairperson, see section 33A of the *Acts Interpretation Act 1901*.

- (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.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (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

Section 25

- (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.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (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.

25 Leave of absence of non-executive Directors

- (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.

26 Resignation of non-executive Directors

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

27 Removal of non-executive Directors from office

- (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 27F or 27J of the *Commonwealth Authorities and Companies Act 1997*;

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

28 Appointment of Managing Director

- (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.

29 Term of appointment of Managing Director

- (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.

30 Managing Director holds office on a full-time basis

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

31 Terms and conditions of appointment not provided for by Act

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.

32 Remuneration and allowances of Managing Director

- (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*.

33 Acting Managing Director

- (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.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (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.

34 Leave of absence of Managing Director

- (1) 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.

35 Resignation of Managing Director

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

36 Duty of Managing Director to disclose certain interests

The Managing Director must give written notice to the Chairperson of all direct and indirect pecuniary interests that the Managing

Section 37

Director has or acquires in any business or in any body corporate carrying on any business.

37 Removal of Managing Director from office

- (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 of this Act or section 27F or 27J of the *Commonwealth Authorities and Companies Act 1997*;the Board may remove the Managing Director from office.

Division 3—Meetings of the Board

38 Meetings of the Board

- (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.

39 Presiding at meetings

- (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.

Section 40

40 Quorum and voting at meetings

- (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 section 27J of the *Commonwealth Authorities and Companies Act 1997*, 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.

41 Conduct of meetings

- (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.

42 Resolutions without formal meetings

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).

Part 3A—Merit-based appointment of non-executive Directors

43 Functions of Nomination Panel

- (1) The functions of the Nomination Panel include:
 - (a) to conduct a selection process for each appointment of a non-executive Director referred to in paragraph 8(aa) or (b); and
 - (b) to assess all applicants for the appointment against the selection criteria determined under subsection 43A(1) and any additional selection criteria notified under subsection 43A(2); and
 - (c) to assess all applicants for the appointment on the basis of merit; and
 - (d) to give a written report to the Minister on the outcome of the selection process that contains a list of at least 3 candidates who are nominated for the appointment and a comparative assessment of those candidates.
- (2) For the purposes of paragraph (1)(c), the assessment of applicants for appointment as a non-executive Director referred to in paragraph 8(aa) or (b) is based on merit if:
 - (a) an assessment is made of the comparative suitability of the applicants for the duties of that Director, using a competitive selection process; and
 - (b) the assessment is based on the relationship between the applicants' experience, skills and competencies and the experience, skills and competencies genuinely required for the duties of that Director; and
 - (c) the assessment focuses on the capability of the applicants to achieve outcomes related to the duties of that Director; and
 - (d) the assessment is the primary consideration in nominating the candidates for that appointment.

Advertising appointments

- (3) The Nomination Panel must invite written applications by persons seeking to be appointed as a non-executive Director referred to in paragraph 8(aa) or (b) by advertisements published:
- (a) in either or both of the following:
 - (i) a newspaper circulating generally throughout Australia;
 - (ii) for each State, the Australian Capital Territory and the Northern Territory—a newspaper circulating generally in that State or Territory; and
 - (b) on the Department's website.

Selection process creates another appointment

- (4) If:
- (a) under subsection (3), the Nomination Panel invites applications by persons seeking to be appointed as Chairperson (whether or not it also invites applications by persons seeking to be appointed as a non-executive Director referred to in paragraph 8(b)); and
 - (b) as a result of the selection process, a non-executive Director referred to in paragraph 8(b) is appointed as the Chairperson (allowing another appointment (the ***new appointment***) of a Director referred to in that paragraph to be made);
- then:
- (c) the Panel is not required to conduct another selection process for the new appointment; and
 - (d) if the Panel does not do so—paragraphs (1)(b), (c) and (d) of this section apply in relation to the new appointment as if:
 - (i) the unsuccessful applicants (other than a non-executive Director referred to in paragraph 8(b)) for the appointment as Chairperson were applicants for the new appointment; and
 - (ii) if the Panel also invited applications by persons seeking to be appointed as a non-executive Director referred to in paragraph 8(b)—the unsuccessful applicants for the appointment were applicants for the new appointment.

Section 43A

43A Selection criteria

- (1) The Minister must, by legislative instrument, determine selection criteria for the appointment of a non-executive Director referred to in paragraph 8(aa) or (b).
- (2) The Minister may, in relation to a particular such appointment, give a written notice to the Nomination Panel of additional selection criteria for that appointment.
- (3) A notice under subsection (2) is not a legislative instrument.

43B Consultation, and selection of candidate not nominated by Nomination Panel

- (1) If:
 - (a) the Nomination Panel gives the Minister a report under paragraph 43(1)(d) in relation to the appointment of a non-executive Director referred to in paragraph 8(aa) or (b); and
 - (b) the Minister considers that a person not nominated by the Nomination Panel should be appointed;the Minister must give the Prime Minister a written notice that:
 - (c) specifies the name of that person; and
 - (d) sets out the Minister's reasons for preferring that person.
- (2) If that person is so appointed, the Minister must table the reasons for that appointment in each House of the Parliament no later than 15 sitting days of that House after that appointment is made. Those reasons must include an assessment of that person against the selection criteria.

43C Department's annual report

The Department's annual report for a financial year must include a statement in relation to each selection process for the appointment of a non-executive Director that was completed in that financial year.

Part 4—Powers and duties of the SBS

44 General powers of the SBS

- (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 other matter by means of guided or unguided electromagnetic energy, or provide facilities for such transmissions;
 - (c) to arrange for the transmission of programs or other matter by means of guided or unguided electromagnetic energy;
 - (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;

Section 45

- (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.

45 Advertising and sponsorship—broadcasting services

- (1) Subject to subsection (2) and section 70C, the SBS may broadcast advertisements and sponsorship announcements on any of its broadcasting services.
- (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.

Section 45A

45A Advertising and sponsorship—digital media services

- (1) The SBS may have advertisements and sponsorship announcements on any of its digital media services.
- (2) The Board:
 - (a) must develop and publicise guidelines on the kinds of advertisements and sponsorship announcements that it is prepared to have on its digital media services; and
 - (b) may develop guidelines on other matters relating to advertisements and sponsorship announcements on its digital media services.
- (3) 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.
- (4) Without limiting the generality of subsection (2), 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.
- (5) For the purposes of this section, *announcement* includes an announcement in the form of text.

46 Community information

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

47 Corporate plans

- (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.

48 Matters to be included in corporate plans

- (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.

Section 49

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

49 Corporate plans to be given to Minister

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

50 Community Advisory Committee

- (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.

51 Board to notify Minister of certain matters

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.

52 Power to form companies etc.

(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).

Note: Section 15 of the *Commonwealth Authorities and Companies Act 1997* requires Directors to notify the Minister of significant business activities and arrangements.

(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

53 Staff of the SBS until section 54 commences

- (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.

54 Staff of the SBS

- (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.

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

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

56 Money to be appropriated

- (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 Finance Minister 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.

57 Money of the SBS

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.

58 Application of money

- (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.

Section 59

- (2) Subsection (1) does not prevent investment of surplus money of the SBS under section 18 of the *Commonwealth Authorities and Companies Act 1997*.

59 Borrowing from the Commonwealth

The Finance Minister 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.

60 Borrowings otherwise than from the Commonwealth

- (1) The SBS may, with the written approval of the Finance Minister, 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.

61 Guarantee of borrowing

- (1) The Finance Minister 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 Finance Minister 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.

62 The SBS may give security

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.

63 Borrowings not otherwise permitted

The SBS must not borrow money except under this Part.

64 Delegation by Finance Minister

- (1) The Finance Minister may, by written instrument, delegate any of the Finance Minister's powers or functions under section 60 or 61 to an official (within the meaning of the *Financial Management and Accountability Act 1997*).
- (2) In exercising powers or functions under a delegation, the official must comply with any directions of the Finance Minister.

65 Hedging contracts etc.

- (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.

Section 68

- (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.

68 Taxation

The SBS is not subject to taxation under any law of the Commonwealth, of a State or of a Territory.

Part 7—Miscellaneous

70 Application of Broadcasting Act

Except where the *Broadcasting Services Act 1992* otherwise expressly provides, that Act does not apply in relation to the broadcasting services provided by the SBS.

70AA Report by ACMA on degradation of signal quality

If:

- (a) a person has made a complaint to the SBS about degradation of the quality of signal reception of a national broadcasting service; and
- (b) within 60 days after making the complaint, the person did not receive a response that the person regarded as adequate; and
- (c) the signal concerned is received from an analog terrestrial radiocommunications transmitter;

the Minister may direct the ACMA to conduct an investigation into the matter.

70A Broadcasting of political or controversial matter

- (1) Subject to this Act, the SBS may determine to what extent and in what manner political matter or controversial matter will be broadcast by the SBS.
- (2) If the SBS broadcasts political matter at the request of another person, the SBS must, immediately afterwards:
 - (a) if the matter was broadcast by radio—cause the required particulars in relation to the matter to be announced; or
 - (b) if the matter was televised:
 - (i) cause the required particulars in relation to the matter (other than the particulars referred to in paragraph (c) of the definition of *required particulars* in subsection (5)) to be announced; and
 - (ii) cause all the required particulars in relation to the matter to be transmitted in the form of images of words.

Section 70A

- (3) The SBS must, in relation to political matter broadcast at the request of another person, keep a record of the name, address and occupation of the person or, if the person is a company, the name and the address of the principal office of the person, for the required period and must give to the ACMA any particulars of the record that the ACMA, by written notice, requires.
- (4) For the purposes of this section, a person authorises the broadcasting of political matter only if the person is responsible for approval of the content of the political matter and the decision to present it for broadcasting.
- (5) In this section:

election means an election to a Parliament or a local government authority of a State or Territory.

election period means:

- (a) in relation to an election to the Legislative Council of Tasmania, or an ordinary election to the Legislative Assembly for the Australian Capital Territory—the period that starts 33 days before the polling day for the election and ends at the close of the poll on that day; and
- (b) in relation to any other election to a Parliament—the period that starts on:
 - (i) the day on which the proposed polling day for the election is publicly announced; or
 - (ii) the day on which the writs for the election are issued; whichever happens first, and ends at the close of the poll on the polling day for the election; and
- (c) in relation to an election to a local government authority—the period that starts 33 days before the polling day for the election and ends at the close of the poll on that day; and
- (d) in relation to a referendum whose voting day is the same as the polling day for an election to the Parliament of the Commonwealth—the election period in relation to that election; and
- (e) in relation to any other referendum—the period that starts 33 days before the voting day for the referendum and ends at the close of voting on that day.

Parliament means:

- (a) the Parliament of the Commonwealth; or
- (b) a State Parliament; or
- (c) the legislature of a Territory.

person includes a political party, a corporation and any other association (whether incorporated or unincorporated);

political matter means any political matter, including the policy launch of a political party.

referendum means the submission to the electors of a proposed law for the alteration of the Constitution, whether or not the proposal to make the submission has been announced.

required particulars, in relation to a political matter that is broadcast, means:

- (a) if the broadcasting was authorised by a political party:
 - (i) the name of the political party; and
 - (ii) the town, city or suburb in which the principal office of the political party is situated; and
 - (iii) the name of the natural person responsible for giving effect to the authorisation; and
- (b) if the broadcasting of the political matter was authorised by a person other than a political party:
 - (i) the name of the person who authorised the broadcasting of the political matter; and
 - (ii) the town, city or suburb in which the person lives or, if the person is a corporation or association, in which the principal office of the person is situated; and
- (c) the name of every speaker who, either in person or by means of a sound recording device, delivers an address or makes a statement that forms part of that matter.

required period, in relation to the keeping of a record in relation to political matter, means the period of 2 years commencing on the day on which the matter was broadcast.

70B Records of matter broadcast

- (1) If the SBS broadcasts matter relating to a political subject or current affairs, being matter that is in the form of news, an address,
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Section 70C

a statement, a commentary or a discussion, the SBS must cause a record of the matter to be made:

- (a) in the case of a radio broadcast—by using a device for recording sound; or
 - (b) in the case of a television broadcast—by using a device for recording images and associated sound.
- (2) Subject to this section, the SBS must retain in its custody a record so made for a period of:
- (a) 6 weeks from the date on which the matter was broadcast; or
 - (b) if a complaint has been made about the matter—for 70 days from the date on which the complaint was made.
- (3) If a person considers that a record so made is admissible in evidence in proceedings instituted, or proposed to be instituted, in a court, being a record that is held under subsection (2), the person may give to the SBS a notice in writing informing the SBS that the record may be required for the purposes of the proceedings.
- (4) If such a notice is given to the SBS in respect of a record, the SBS must, subject to this section, retain the record until the proceedings or the proposed proceedings to which the notice relates have been finally determined.
- (5) If the proceedings are not instituted within a period of 3 months after the notice is given to the SBS, subsection (4) ceases to apply to the record at the end of that period.
- (6) The obligation imposed by this section on the SBS to retain a record does not apply at any time when the record is in the custody of a court in connection with proceedings instituted in the court.

70C Broadcasting of election advertisements

- (1) If:
- (a) an election to a Parliament is to be held; and
 - (b) a radio or television service provided by the SBS would normally be received in the area of Australia to which the election relates;
- the SBS must not broadcast an election advertisement in relation to the election during the relevant period as part of that service.

(2) In this section:

election means an election to a Parliament.

election advertisement, in relation to an election, means:

- (a) an advertisement:
 - (i) that contains election matter that relates to that election; and
 - (ii) in respect of the broadcasting of which the SBS has received or is to receive, directly or indirectly, any money or other consideration; or
- (b) an announcement containing a statement to the effect that a program that is to be or has been broadcast is or was sponsored by a person or persons and indicating that the person is a candidate, or one or more of the persons is or are candidates, at the election; or
- (c) an announcement containing a statement to the effect that a program that is to be or has been broadcast is or was sponsored by a particular political party where a candidate at the election belongs to that party.

election matter, in relation to an election, means matter of any of the following kinds:

- (a) matter commenting on, or soliciting votes for, a candidate at the election;
- (b) matter commenting on, or advocating support of, a political party to which a candidate at the election belongs;
- (c) matter commenting on, stating or indicating any of the matters being submitted to the electors at the election or any part of the policy of a candidate at the election or of the political party to which a candidate at the election belongs;
- (d) matter referring to a meeting held or to be held in connection with the election.

Parliament means:

- (a) the Parliament of the Commonwealth; or
- (b) a State Parliament; or
- (c) a legislature of a Territory.

relevant period, in relation to an election, means the period that commences at the end of the Wednesday before the polling day for the election and ends at the close of the poll on that polling day.

Section 73

73 Matters to be included in annual report

The Directors must include in each report on the SBS under section 9 of the *Commonwealth Authorities and Companies Act 1997*:

- (a) particulars of any broadcast by the SBS during the year because of a direction by the Minister under subsection 12(1); and
- (aa) particulars of any content provided by the SBS on a digital media service during the year because of a direction by the Minister under subsection 12(4A); 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
- (ba) particulars of any content provided by the SBS on a digital media service 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; and
- (m) particulars of any significant changes during the year in the transmission coverage, or transmission quality, of national broadcasting services provided by the SBS.

74 Delegation by the SBS

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.

75 Delegation by Managing Director

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.

76 Regulations

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

77 Interpretation

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.

78 Person holding office as Executive Director of the old body corporate

- (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.

79 Person holding office as member of the old body corporate

- (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.
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Section 80

80 Persons employed or engaged by the old body corporate

- (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.

81 Persons engaged under section 53

- (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.

82 Delegations and authorisations

- (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.

83 References to old body corporate in instruments etc.

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.

84 Property, powers, liabilities etc.

- (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.

85 Saving of proceedings

- (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

Section 86

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.

86 Judicial notice

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.

87 Application of money

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.

88 First estimates

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.

89 Bank accounts to be treated as if opened under this Act

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.

90 Audit

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.

91 Annual report and financial statements

- (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.

Section 92

92 Transfer of appropriations

- (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.

Endnote 1—Legislation history

Endnotes

Endnote 1—Legislation history

This endnote sets out details of the legislation history of the *Special Broadcasting Service Act 1991*.

Act	Number and year	Assent date	Commencement date	Application, saving and transitional provisions
Special Broadcasting Service Act 1991	180, 1991	25 Nov 1991	s. 54: 24 Mar 1994 (<i>see Gazette</i> 1994, No. GN10) Remainder: 23 Dec 1991	
Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992	105, 1992	9 July 1992	5 Oct 1992 (<i>see s. 2 and Gazette</i> 1992, No. GN38)	—
Sales Tax Amendment (Transitional) Act 1992	118, 1992	30 Sept 1992	28 Oct 1992	—
Radiocommunications (Transitional Provisions and Consequential Amendments) Act 1992	167, 1992	11 Dec 1992	1 July 1993	—
Transport and Communications Legislation Amendment Act (No. 3) 1992	216, 1992	24 Dec 1992	Part 9 (ss. 33–35): Royal Assent (<i>a</i>)	—
Communications and the Arts Legislation Amendment Act (No. 1) 1995	32, 1995	12 Apr 1995	s. 3 (item 122): Royal Assent (<i>b</i>)	—
Telecommunications (Transitional Provisions and Consequential Amendments) Act 1997	59, 1997	3 May 1997	Schedule 1 (items 49, 50): 1 July 1997 (<i>c</i>)	—

Endnotes

Endnote 1—Legislation history

Act	Number and year	Assent date	Commencement date	Application, saving and transitional provisions
Audit (Transitional and Miscellaneous) Amendment Act 1997	152, 1997	24 Oct 1997	Schedule 2 (items 1207–1218): 1 Jan 1998 (<i>see Gazette</i> 1997, No. GN49) (<i>d</i>)	—
National Transmission Network Sale (Consequential Amendments) Act 1998	131, 1998	21 Dec 1998	21 Dec 1998	s. 4
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Schedule 1 (items 826, 827): 5 Dec 1999 (<i>see Gazette</i> 1999, No. S584) (<i>e</i>)	—
Corporate Law Economic Reform Program Act 1999	156, 1999	24 Nov 1999	Schedule 10 (items 119–121): 13 Mar 2000 (<i>see Gazette</i> 2000, No. S114) (<i>f</i>)	—
Broadcasting Legislation Amendment Act 2001	23, 2001	6 Apr 2001	6 Apr 2001	—
Statute Law Revision Act 2002	63, 2002	3 July 2002	Schedule 1 (item 29): (<i>g</i>)	—
Financial Framework Legislation Amendment Act 2005	8, 2005	22 Feb 2005	Schedule 2 (items 162–168, 174): Royal Assent	Sch. 2 (item 174)
Australian Communications and Media Authority (Consequential and Transitional Provisions) Act 2005	45, 2005	1 Apr 2005	Schedule 1 (items 124–126) and Schedule 4: 1 July 2005 (<i>h</i>) Schedule 2: (<i>h</i>)	Sch. 4
Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006	101, 2006	14 Sept 2006	Schedule 5 (item 138) and Schedule 6 (items 5–11): Royal Assent	Sch. 6 (items 5–11)

Endnote 1—Legislation history

Act	Number and year	Assent date	Commencement date	Application, saving and transitional provisions
Commonwealth Authorities and Companies Amendment Act 2008	20, 2008	26 May 2008	Schedule 2 (item 8): 1 July 2008	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Schedule 2 (items 1060–1066) and Schedule 3 (items 10, 11): 27 Dec 2011	Sch. 3 (items 10, 11)
National Broadcasting Legislation Amendment Act 2012	112, 2012	24 July 2012	Schedule 1 (items 18–30): 24 Nov 2012 (<i>see</i> F2012L02226)	Sch. 1 (item 30)
Statute Law Revision Act 2012	136, 2012	22 Sept 2012	Schedule 1 (item 119) and Schedule 6 (items 70–72): Royal Assent	Sch. 6 (item 72)
Broadcasting Legislation Amendment (Convergence Review and Other Measures) Act 2013	29, 2013	30 Mar 2013	Schedule 1 (items 15–17, 36–49): 31 Mar 2013	Sch. 1 (item 17)

- (a) The *Special Broadcasting Service Act 1991* was amended by Part 9 (sections 33–35) only of the *Transport and Communications Legislation Amendment Act (No. 3) 1992*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (b) The *Special Broadcasting Service Act 1991* was amended by section 3 (item 122) only of the *Communications and the Arts Legislation Amendment (No. 1) Act 1995*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (c) The *Special Broadcasting Service Act 1991* was amended by Schedule 1 (items 49 and 50) only of the *Telecommunications (Transitional Provisions and Consequential Amendments) Act 1997*, subsection 2(2)(d) of which provides as follows:

Endnotes

Endnote 1—Legislation history

- (2) The following provisions commence on 1 July 1997:
- (d) Schedule 1;
- (d) The *Special Broadcasting Service Act 1991* was amended by Schedule 2 (items 1207–1218) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:
- (2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.
- (e) The *Special Broadcasting Service Act 1991* was amended by Schedule 1 (items 826 and 827) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
- (2) Subject to this section, this Act commences at the commencing time.
- (f) The *Special Broadcasting Service Act 1991* was amended by Schedule 10 (items 119–121) only of the *Corporate Law Economic Reform Program Act 1999*, subsection 2(2)(c) of which provides as follows:
- (2) The following provisions commence on a day or days to be fixed by Proclamation:
- (c) the items in Schedules 10, 11 and 12.
- (g) The *Special Broadcasting Service Act 1991* was amended by Schedule 1 (item 29) only of the *Statute Law Revision Act 2002*, subsection 2(1) (item 23) of which provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
23. Schedule 1, item 29	Immediately after subsection 53(2) of the <i>Special Broadcasting Service Act 1991</i> commenced	23 December 1991
(h)	Subsection 2(1) (items 2, 3 and 10) of the <i>Australian Communications and Media Authority (Consequential and Transitional Provisions) Act 2005</i> provide as follows:	
	(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.	

Endnote 1—Legislation history

Provision(s)	Commencement	Date/Details
2. Schedule 1	At the same time as section 6 of the <i>Australian Communications and Media Authority Act 2005</i> commences.	1 July 2005
3. Schedule 2	Immediately after the commencement of the provision(s) covered by table item 2.	1 July 2005
10. Schedule 4	At the same time as section 6 of the <i>Australian Communications and Media Authority Act 2005</i> commences.	1 July 2005

Endnotes

Endnote 2—Amendment history

Endnote 2—Amendment history

This endnote sets out the amendment history of the *Special Broadcasting Service Act 1991*.

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted
exp. = expired or ceased to have effect

Provision affected	How affected
Part 1	
s. 3	am. No. 167, 1992; No. 131, 1998; No. 23, 2001; Nos. 8 and 45, 2005; No. 112, 2012; No. 29, 2013
s. 3A	ad. No. 29, 2013
Part 2	
Note to s. 5(1)	ad. No. 152, 1997
s. 6	am. No. 105, 1992; No. 29, 2013
s. 6A	ad. No. 23, 2001
s. 8	am. No. 112, 2012
s. 10	am. No. 105, 1992; No. 23, 2001; No. 45, 2005
s. 11	am. No. 29, 2013
s. 12	am. No. 29, 2013
Heading to s. 13	rs. No. 152, 1997
s. 13	am. No. 152, 1997; No. 20, 2008
Part 3	
Division 1	
s. 17	am. No. 112, 2012; No. 29, 2013
s. 18	am. No. 112, 2012
Heading to s. 21	am. No. 112, 2012
s. 21	am. No. 112, 2012
s. 24	am. No. 46, 2011
Notes to s. 24(1)–(3)	ad. No. 46, 2011
s. 27	am. No. 152, 1997; No. 156, 1999
Division 2	
s. 33	am. No. 46, 2011
Note to s. 33(1)	ad. No. 46, 2011

Endnote 2—Amendment history

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted
exp. = expired or ceased to have effect

Provision affected	How affected
s. 34	am. No. 146, 1999
s. 37	am. No. 152, 1997; No. 156, 1999
Division 3	
s. 40	am. No. 152, 1997; No. 156, 1999
Part 3A	
Part 3A	ad. No. 112, 2012
s. 43	rep. No. 152, 1997 ad. No. 112, 2012
s. 43A	ad. No. 112, 2012
s. 43B	ad. No. 112, 2012
s. 43C	ad. No. 112, 2012
Part 4	
s. 44	am. No. 131, 1998
Heading to s. 45	rs. No. 29, 2013
s. 45	am. Nos. 105 and 216, 1992; No. 29, 2013
s. 45A	ad. No. 29, 2013
s. 52	am. No. 152, 1997
Note to s. 52(2)	ad. No. 152, 1997
Part 5	
s. 53	am. No. 63, 2002
Part 6	
s. 56	am. No. 8, 2005
Heading to s. 58	am. No. 152, 1997
s. 58	am. No. 152, 1997
ss. 59–61	am. No. 8, 2005
s. 64	rs. No. 8, 2005
s. 66	rep. No. 152, 1997
s. 67	rep. No. 32, 1995
s. 68	am. No. 118, 1992; No. 101, 2006
s. 69	rep. No. 152, 1997

Endnotes

Endnote 2—Amendment history

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted
exp. = expired or ceased to have effect

Provision affected	How affected
Part 7	
s. 70	am. No. 105, 1992
Heading to s. 70AA	am. No. 45, 2005
s. 70AA	ad. No. 131, 1998 am. No. 45, 2005
s. 70A	ad. No. 105, 1992 am. No. 45, 2005; No. 136, 2012
s. 70B	ad. No. 105, 1992
s. 70C	ad. No. 216, 1992
s. 71	rep. No. 131, 1998
s. 72	am. No. 59, 1997 rep. No. 131, 1998
s. 73	am. No. 152, 1997; No. 131, 1998; No. 29, 2013
Part 8	
s. 81	am. No. 146, 1999
Part 9	rep. No. 136, 2012
s. 93	rep. No. 136, 2012
s. 94	rep. No. 136, 2012
s. 95	rep. No. 136, 2012
s. 96	rep. No. 136, 2012
s. 97	rep. No. 136, 2012
s. 98	rep. No. 136, 2012
s. 99	rep. No. 136, 2012
s. 100	rep. No. 136, 2012
s. 101	rep. No. 136, 2012
s. 102	rep. No. 136, 2012
s. 103	rep. No. 136, 2012
s. 104	rep. No. 136, 2012
s. 105	rep. No. 136, 2012
s. 106	rep. No. 136, 2012

Endnote 2—Amendment history

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted
exp. = expired or ceased to have effect

Provision affected	How affected
s. 107	rep. No. 136, 2012
s. 108	rep. No. 136, 2012
s. 109	rep. No. 136, 2012
s. 110	rep. No. 136, 2012
s. 111	rep. No. 136, 2012
s. 112	rep. No. 136, 2012
s. 113	rep. No. 136, 2012
s. 114	rep. No. 136, 2012
s. 115	rep. No. 136, 2012
Part 10	rep. No. 136, 2012
s. 116	rep. No. 136, 2012
Schedule	rep. No. 136, 2012

Endnotes

Endnote 3—Uncommenced amendments [none]

Endnote 3—Uncommenced amendments [none]

There are no uncommenced amendments.

Endnote 4—Misdescribed amendments [none]

Endnote 4—Misdescribed amendments [none]

There are no misdescribed amendments.