



Broadcasting and Television Amendment Act 1982

No. 154 of 1982

An Act to amend the *Broadcasting and Television Act 1942*, and for related purposes

[Assented to 31 December 1982]

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

Short title, &c.

1. (1) This Act may be cited as the *Broadcasting and Television Amendment Act 1982*.

(2) The *Broadcasting and Television Act 1942*¹ is in this Act referred to as the Principal Act.

Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Interpretation

3. Section 4 of the Principal Act is amended—

(a) by adding at the end of the definition of “commercial broadcasting translator station” in sub-section (1) “, but does not include a

broadcasting translator station operated by virtue of a supplementary broadcasting licence”;

- (b) by inserting in the definition of “commercial television station” in sub-section (1) “, a supplementary television station” after “public television station”;
- (c) by adding at the end of the definition of “commercial television translator station” in sub-section (1) “or supplementary television stations, but does not include a television translator station operated by virtue of a supplementary television licence”; and
- (d) by omitting from sub-section (1) the definitions of “supplementary licence” and “supplementary broadcasting station” and substituting the following definitions:

“‘supplementary broadcasting licence’ means a licence granted in pursuance of an application under sub-section 82A (1), including such a licence as renewed or further renewed;

‘supplementary broadcasting station’ means a broadcasting station operated by virtue of a supplementary broadcasting licence;

‘supplementary licence’ means a supplementary broadcasting licence or a supplementary television licence, as the case requires;

‘supplementary television licence’ means a licence granted in pursuance of an application under sub-section 82A (2), including such a licence as renewed or further renewed;

‘supplementary television station’ means a television station operated by virtue of a supplementary television licence;”.

Membership of Tribunal

- 4. Section 8 of the Principal Act is amended by omitting from sub-section (1) “3” and substituting “6”.

Interpretation

- 5. Section 80 of the Principal Act is amended—

- (a) by omitting “or (6), as the case requires, and includes, in the case of an application in accordance with sub-section 82A (1) or (6), a consortium;” from the definition of “applicant” in sub-section (1) and substituting “or (2), as the case requires;”;
- (b) by omitting “of the definition of ‘licence’ in this sub-section;” from the definition of “commercial translator licence” in sub-section (1) and substituting “or (d) of the definition of ‘licence’ in this sub-section, as the case requires;”;
- (c) by omitting paragraph (k) of the definition of “licence” in sub-section (1) and substituting the following paragraphs:
 - “(k) a supplementary broadcasting licence;
 - (ka) a supplementary television licence;”;

- (d) by omitting from sub-section (1) the definition of “metropolitan broadcasting area”;
- (e) by inserting in sub-section (2) “, service” after “station”; and
- (f) by omitting sub-sections (2A) and (2B) and substituting the following sub-sections:

“(2A) Where a licence is granted in pursuance of an application lodged under sub-section 82A (1) or (2), that licence and—

- (a) a commercial licence referred to in that sub-section in relation to the application; or
- (b) if the first-mentioned licence is transferred (otherwise than in pursuance of section 86C) to a person in accordance with section 89A, or, where that licence is held by 2 or more persons as co-owners as described in sub-section 81 (6), if the whole of the interest of any of those persons is transferred (otherwise than in pursuance of section 86C) to a person in accordance with section 89A—the commercial licence referred to in paragraph 89A (1F) (b) held by the person to whom the licence or interest, as the case may be, is transferred,

shall be deemed, for the purposes of this Act, to be related to each other and to continue to be so related, notwithstanding the renewal of either or both of those licences.

“(2B) For the purposes of this Act, a commercial translator licence shall be deemed to be associated with a commercial licence if the translator station operated by virtue of the commercial translator licence is required by a condition of the licence to receive and re-transmit, without alteration, the programs of the station operated by virtue of the commercial licence.”.

Grant and renewal

6. Section 81 of the Principal Act is amended—

- (a) by omitting from paragraph (5) (a) “or supplementary broadcasting stations” and substituting “, supplementary broadcasting stations or supplementary television stations”; and
- (b) by omitting from sub-section (6) “or an associated commercial translator licence”.

Applications

7. Section 82 of the Principal Act is amended by omitting from sub-section (6) “is lodged under sub-section 82A (6)” and substituting “(2)”.

8. Section 82A of the Principal Act is repealed and the following section is substituted:

Applications for supplementary licences

“82A. (1) Subject to sub-section (3), the holder of a licence for a commercial broadcasting station or a consortium each member of which is the holder of such a licence may lodge with the Minister, in accordance with a form approved by the Minister, an application for the grant of a licence for a broadcasting service, being a service for the transmission of programs solely by way of frequency modulation, for the purpose of serving, by means of one broadcasting station and, if necessary, one or more broadcasting translator stations, an area the specification of which is to be determined by the Minister in accordance with sub-section (7).

“(2) The holder of a licence for a commercial television station or a consortium each member of which is the holder of such a licence may lodge with the Minister, in accordance with a form approved by the Minister, an application for the grant of a licence for a television service for the purpose of serving, by means of one television station and, if necessary, one or more television translator stations, an area the specification of which is to be determined by the Minister in accordance with sub-sections (7) and (8).

“(3) An application shall not be lodged under sub-section (1) by—

- (a) the holder of a licence for a commercial broadcasting station whose programs are transmitted solely by way of frequency modulation; or
- (b) a consortium any member of which is a person referred to in paragraph (a).

“(4) Where an application (other than an application to which sub-section (5) applies) is lodged under sub-section (1) or (2), the Minister may—

- (a) refer the application to the Tribunal, together with a notice in writing setting out—
 - (i) the specification of the area determined by the Minister to be served in pursuance of the supplementary licence; and
 - (ii) an outline of the other specifications to which it is proposed the supplementary licence is to be subject; or
- (b) dismiss the application for a reason relating to technical matters or to the planning or development of broadcasting and television services.

“(5) The Minister shall dismiss an application lodged under sub-section (1) or (2) by a consortium if, in the opinion of the Minister, the whole or a substantial part of the area served in pursuance of the commercial licence referred to in that sub-section that is held by a member of the consortium is not coextensive with the whole or a substantial part of the area served in pursuance of the commercial licence so referred to that is held by the other member, or each of the other members, as the case requires.

“(6) The Minister shall, as soon as practicable but in any case within 21 days after the date of his decision under sub-section (4) or (5), inform the applicant, by notice in writing, of the decision and—

- (a) where paragraph (4) (a) applies—of the matters set out in the notice referred to in that paragraph; or
- (b) where paragraph (4) (b) applies—of the reason or reasons for his decision.

“(7) The Minister shall, in determining the specification of the area to be served in pursuance of a supplementary licence, endeavour to ensure that, so far as practicable, the whole of the area served in pursuance of a commercial licence to which the supplementary licence would be related and any one or more commercial translator licences associated with that commercial licence shall be served in pursuance of the supplementary licence.

“(8) The Minister shall not specify as the area to be served in pursuance of a supplementary television licence an area of which the whole or a substantial part is coextensive with, or is within, a metropolitan television area that is not in Tasmania.

“(9) Where the Minister refers an application for the grant of a supplementary licence to the Tribunal under sub-section (4), the Tribunal shall, as soon as practicable after it receives the application, publish in the *Gazette* and in a newspaper or newspapers, if any, circulating in the area concerned, a notice—

- (a) stating that an application has been lodged with the Minister under sub-section (1) or (2), as the case may be, and has been referred by him to the Tribunal;
- (b) specifying the kind of licence applied for;
- (c) specifying the name and address of the applicant or, in the case of an application by a consortium, the name and address of each member of the consortium;
- (d) setting out the matters set out in the notice referred to in paragraph (4) (a) in relation to the licence; and
- (e) stating that any interested person may, not later than a specified date (not being earlier than 21 days after the date of publication of the notice in the *Gazette*), lodge with the Tribunal a written submission relating to the grant of the licence.

“(10) The Tribunal shall, within the period of 21 days after the date specified in a notice in pursuance of paragraph (9) (e), serve on the person who lodged the application to which the notice relates copies of all submissions lodged by virtue of that paragraph.

“(11) A person on whom a copy of a submission is served under sub-section (10) may, within the period of 21 days after the expiration of the period referred to in that sub-section, lodge with the Tribunal his reply to the submission.

“(12) Notwithstanding the preceding provisions of this section, where the Tribunal is satisfied that the circumstances justify its so doing, it may, of its own motion or at the request of any interested person—

- (a) grant an extension of the time for the lodgment of a particular application, submission, or reply by virtue of those provisions, whether or not that time has expired; and
- (b) give such directions, and do such things, in consequence of the grant of the extension as it considers necessary or expedient for the just and proper consideration of an application for the grant of the licence concerned.

“(13) In this section, ‘metropolitan television area’ has the same meaning as in section 105AA.”.

Consideration of applications by Tribunal

9. Section 83 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “referred to in sub-section 82 (4) or 82A (13)” and substituting “first referred to in sub-section 82 (4) or 82A (11)”;
- (b) by omitting sub-sections (2) and (2A) and substituting the following sub-section:

“(2) Where—

(a) in respect of the grant of any of the following licences for which there is only one applicant:

- (i) a broadcasting translator station licence or a television translator station licence;
- (ii) a television repeater station licence;
- (iii) a licence to which section 130A applies,

no submissions (other than submissions that, in the opinion of the Tribunal, are frivolous, vexatious or not made in good faith) have been lodged by virtue of sub-paragraph 82 (1) (b) (ii) objecting to the grant of the licence or to the grant of the licence to the applicant; or

(b) in respect of the grant of a supplementary licence, no submissions (other than submissions that, in the opinion of the Tribunal, are frivolous, vexatious or not made in good faith) have been lodged by virtue of paragraph 82A (9) (e) objecting to the grant of the licence,

the Tribunal shall, as soon as practicable after the expiration of the period first referred to in sub-section 82 (4) or 82A (11), as the case requires, hold an inquiry into the grant of the licence or, if it thinks fit, consider the application without holding an inquiry.”;

- (c) by inserting in paragraph (5) (b) “(ka),” after “(k),”;
- (d) by omitting from sub-sub-paragraph (6) (c) (ii) (A) “or a supplementary licence”;

- (e) by omitting paragraphs (d) and (e) of sub-section (6) and substituting the following paragraphs:
- “(d) it appears to the Tribunal that a licence of the kind contemplated by the matters set out in a notice under paragraph 82 (1) (a) or 82A (4) (a) should not be granted;
 - (e) where the licence is a supplementary licence, the Tribunal, having due regard to the need for the commercial viability of the broadcasting stations and television stations in the area to be served in pursuance of the licence determines—
 - (i) that an additional commercial broadcasting station or commercial television station, as the case requires, to serve that area is reasonably likely to be commercially viable during the period in which the licence, if granted, would be in force; and
 - (ii) that, having considered the need for an adequate and comprehensive service to be provided in pursuance of a licence for such an additional station, it is in the public interest that applications for such a licence be invited; or”;
- (f) by omitting sub-section (8) and substituting the following sub-sections:
- “(8) In considering the need referred to in sub-paragraph (6) (e) (ii), the Tribunal shall have regard only to—
 - (a) the nature of the community to be served in pursuance of the licence;
 - (b) the diversity of the interests of that community; and
 - (c) the nature of the broadcasting and television services of which satisfactory reception is being obtained by that community.
 - “(8A) The Tribunal shall, as soon as practicable after making a determination under paragraph (6) (e)—
 - (a) inform the applicant and the Minister, by notice in writing, of the determination and the reasons for the determination; and
 - (b) make a recommendation in writing to the Minister that he invite applications for a licence for a commercial broadcasting station or a commercial television station, as the case requires, to serve the area that would have been served in pursuance of the supplementary licence.”.

Imposition of conditions

- 10.** Section 84 of the Principal Act is amended—
- (a) by omitting from sub-section (1) “82A (3) (a) or in a statement referred to in sub-section 82A (6)” and substituting “82A (4) (a)”;
 - (b) by omitting from sub-section (3) “105AD (7)” and substituting “105AD (6)”.

Renewal

11. Section 86 of the Principal Act is amended—

- (a) by omitting from sub-section (4) “matter” and substituting “matters or circumstances”;
- (b) by omitting from sub-section (4) “86A (2)” and substituting “86A (4)”;
- (c) by adding at the end of sub-section (11) “or the renewal of the licence is prohibited by paragraph 86A (7) (b) or sub-section 86B (2)”;
- (d) by omitting from sub-section (11A) “section 86A” and substituting “sections 86A and 86B”; and
- (e) by omitting from paragraph (14) (b) “either” and substituting “the commercial”.

12. Section 86A of the Principal Act is repealed and the following sections are substituted:

Renewal of certain supplementary licences

“86A. (1) In this section and sections 86B to 86D (inclusive), ‘prescribed period’, in relation to a renewal of a supplementary licence, being a renewal to which this section applies, means the period of 3 years commencing on that renewal.

“(2) Subject to sub-section (3), this section and sections 86B to 86D (inclusive) apply only in relation to a renewal of a supplementary licence.

“(3) This section and sections 86B to 86D (inclusive) do not apply in relation to—

- (a) a renewal of a supplementary licence occurring less than 8 years after the grant of the licence in pursuance of section 83; or
- (b) a renewal of a supplementary licence occurring in the prescribed period in relation to a renewal of that licence that commences 8 or more years after the grant of the licence in pursuance of section 83,

unless, in the case of a renewal referred to in paragraph (a), the licensee, in his application under sub-section 86 (1) for the renewal, elects to have this section and those sections apply.

“(4) At the inquiry into the renewal of a supplementary licence or in the consideration of the application for such a renewal, as the case may be, under section 86, the Tribunal, having due regard to the need for the commercial viability of the broadcasting stations and television stations in the area served in pursuance of the licence, shall determine whether or not, in its opinion, both of the following matters or circumstances apply in relation to the renewal:

- (a) an additional commercial broadcasting station or commercial television station, as the case requires, to serve that area is reasonably likely to be commercially viable after the expiration of the prescribed period;

- (b) having considered the need for an adequate and comprehensive service to be provided in pursuance of a licence for such an additional station, it is in the public interest that applications for such a licence be invited.

“(5) In considering the need referred to in paragraph (4) (b), the Tribunal shall have regard only to—

- (a) the nature of the community to be served in pursuance of the licence;
- (b) the diversity of the interests of that community; and
- (c) the nature of the broadcasting and television services of which satisfactory reception is being obtained by that community.

“(6) The Tribunal shall, as soon as practicable after making a determination under sub-section (4)—

- (a) inform the licensee and the Minister, by notice in writing, of the determination and the reasons for the determination; and
- (b) where it is of the opinion referred to in that sub-section and it grants a renewal of the supplementary licence, make a recommendation in writing to the Minister that he invite applications for a licence for a commercial broadcasting station or a commercial television station, as the case requires, to serve, after the expiration of the prescribed period, an area that is substantially coextensive with the area served in pursuance of the supplementary licence.

“(7) Where the Tribunal is of the opinion referred to in sub-section (4) and it grants a renewal of the supplementary licence, the Tribunal shall not—

- (a) if the period of renewal is less than 3 years—grant, within the prescribed period, a further renewal of the licence that expires after the expiration of the prescribed period; or
- (b) grant a renewal of the licence at the expiration of the prescribed period unless—
 - (i) on or before the expiration of that period, the related commercial licence ceases to be in force and is not renewed; and
 - (ii) the supplementary licence is not held by the members of a consortium.

“(8) Where the Tribunal grants a renewal of a supplementary licence and makes a recommendation under paragraph (6) (b), the Minister may, within 3 months after the commencement of the prescribed period, by notice in writing served on the licensee, inform the licensee that he accepts the recommendation of the Tribunal and that the licensee may, within 3 months after service of the notice, or such further period as the Tribunal on application within that period allows, make the election provided for in sub-section (10).

“(9) Where, at the expiration of the period of 3 months first referred to in sub-section (8), the Minister has not served a notice on the licensee under that sub-section, sub-section (7) does not apply in relation to the supplementary licence.

“(10) Where the Minister serves a notice on the licensee under sub-section (8), the licensee may, within 3 months after service of the notice, or such further period as the Tribunal on application within that period allows, elect, by notice in writing lodged with the Tribunal—

(a) except in the case of the members of a consortium—to apply for a renewal at the expiration of the prescribed period in accordance with sub-section 86B (1) and—

(i) to transfer the related commercial licence and all commercial translator licences (if any) associated with the related commercial licence in accordance with section 86C; or

(ii) to allow the related commercial licence and all such commercial translator licences to expire in accordance with sub-section 86B (2);

(b) not to apply for a renewal at the expiration of the prescribed period; or

(c) to transfer the supplementary licence in accordance with section 86C,

and the Tribunal shall forward to the Minister a copy of any notice so lodged by the licensee.

“(11) An election under sub-section (10) is binding on any person to whom the supplementary licence is transferred (otherwise than in pursuance of section 86C), and this section and sections 86B to 86D (inclusive) apply in respect of that person as if he were the licensee who made the election.

“(12) For the purposes of the application of this section in relation to a supplementary licence held by the members of a consortium—

(a) a notice served on, or given to, one member shall be deemed to be served on, or given to, all the members; and

(b) a reference to an election by a licensee shall be read as a reference to a joint election by all the members.

Election to renew

“86B. (1) Where a licensee has elected under sub-section 86A (10) to apply for a renewal at the expiration of the prescribed period—

(a) if the supplementary licence is deemed by virtue of paragraph 86C (1) (b) to have ceased to be a supplementary licence—an application for renewal of a licence constituted by the conditions of the supplementary licence as provided in sub-paragraph 86C (1) (b) (iii) or (v) shall be lodged and dealt with in accordance with section 86, but sub-section 86 (8) and the provisions of section 86 relating to the consideration of an application without holding an inquiry do not apply in respect of any such application;

(b) if sub-section 86D (2) applies in relation to the related commercial licence and all commercial translator licences (if any) associated with the related commercial licence—an application for renewal shall be lodged and dealt with in accordance with section 86 as an application for renewal of the supplementary licence; or

- (c) in any other case—an application for renewal shall be lodged and dealt with in accordance with section 86 as an application for renewal of a commercial licence in respect of the broadcasting or television station operated by virtue of the supplementary licence and, if any broadcasting translator station or television translator station is so operated, for renewal of a commercial translator licence for each such station, but sub-section 86 (8) and the provisions of section 86 relating to the consideration of an application without holding an inquiry do not apply in respect of any such application.

“(2) Where a licensee has elected under sub-section 86A (10) to apply for a renewal at the expiration of the prescribed period, the related commercial licence and all commercial translator licences (if any) associated with the related commercial licence, unless transferred in accordance with section 86C, cease to be in force upon the expiration of that period and shall not be renewed.

Election to transfer supplementary or other licence

“86C. (1) Where a licensee has elected under sub-section 86A (10) to transfer a supplementary licence, or to transfer a related commercial licence and all commercial translator licences (if any) associated with the related commercial licence, the following provisions apply:

- (a) any such transfer may be made only within 8 months after the date of the election, or such further period as the Tribunal on application within that period allows, and only to a person other than a consortium, and shall be made in accordance with sections 89A (other than sub-section (1F)) and 89B and, for the purposes of a transfer of a supplementary licence—
 - (i) sub-paragraph 89A (1D) (c) (ii) shall be read as extending to a supplementary licence; and
 - (ii) section 89B has effect as if the reference to a licence for a commercial broadcasting station or for a commercial television station were a reference to a supplementary licence;
- (b) where the licence is, or all the licences are, transferred as provided in paragraph (a)—
 - (i) the supplementary licence shall be deemed to have ceased, immediately before the day of the transfer, to be a supplementary licence;
 - (ii) the supplementary broadcasting station or supplementary television station, as the case requires, shall be deemed for all purposes, on and after the day of the transfer, to be a commercial broadcasting station or a commercial television station, as the case requires, and to have ceased, immediately before that day, to be a supplementary broadcasting station or a supplementary television station;
 - (iii) the conditions of the supplementary licence applicable in respect of the supplementary broadcasting station or supplementary television station, as the case requires, shall be

deemed for all purposes, on and after the day of the transfer, to constitute a commercial licence;

- (iv) each broadcasting translator station or television translator station (if any) operated by virtue of the supplementary licence shall be deemed for all purposes, on and after the day of the transfer, to be a commercial broadcasting translator station or a commercial television translator station, as the case requires; and
- (v) the conditions of the supplementary licence applicable in respect of a broadcasting translator station or television translator station (if any) operated by virtue of the licence shall be deemed for all purposes, on and after the day of the transfer, to constitute a commercial broadcasting translator station licence or a commercial television translator station licence, as the case requires.

“(2) In considering an application under paragraph (1) (a) for an extension of the period of 8 months referred to in that paragraph, the Tribunal shall have regard to the need to ensure the continuity of broadcasting services or television services, as the case requires, in the area served in pursuance of the supplementary licence.

Invitation of applications

“86D. (1) Where a licensee—

- (a) has failed to make an election under sub-section 86A (10) within the time limited by that sub-section;
- (b) has elected under sub-section 86A (10) to allow a related commercial licence and all commercial translator licences (if any) associated with the related commercial licence to expire;
- (c) has elected under sub-section 86A (10) not to apply for a renewal at the expiration of the prescribed period; or
- (d) has elected under sub-section 86A (10) to transfer a supplementary licence, or to transfer a related commercial licence and all commercial translator licences (if any) associated with the related commercial licence, but has failed to do so within the time limited by paragraph 86C (1) (a),

the Minister may, within 3 months after the failure referred to in paragraph (a) or (d), or the election referred to in paragraph (b) or (c), as the case may be, publish a notice in accordance with sub-section 82 (1) notifying interested persons that they may lodge applications for one commercial licence and, if necessary, one or more commercial translator licences, to serve, after the expiration of the prescribed period, an area that is substantially coextensive with the area served in pursuance of the supplementary licence.

“(2) Where—

- (a) the Minister does not publish a notice referred to in sub-section (1) within the time limited by that sub-section;

- (b) the Minister so publishes a notice, but no applications are lodged on or before the date specified in the notice; or
- (c) the Minister so publishes a notice and applications are so lodged, but the Tribunal refuses, during the prescribed period, to grant the commercial licence applied for,

sub-sections 86A (7) and 86B (2) do not apply in relation to the supplementary licence, the related commercial licence and all commercial translator licences (if any) associated with the related commercial licence.

“(3) Where the Minister publishes a notice referred to in sub-section (1) within the time limited by that sub-section and the Tribunal in pursuance of that notice grants to an applicant a commercial licence that commences on the second day, or any later day, after the expiration of the prescribed period—

- (a) sub-section 86B (2) applies in relation to the related commercial licence and all commercial translator licences (if any) associated with the related commercial licence as if the prescribed period expired immediately before the commencement of the commercial licence; and
- (b) the supplementary licence shall be deemed to continue in force until immediately before the commencement of the commercial licence.”.

Transfers

13. Section 89A of the Principal Act is amended—

- (a) by inserting in sub-section (1F) “or a commercial television station, as the case requires,” after “commercial broadcasting station”; and
- (b) by omitting from sub-section (1F) all the words after “in pursuance of” (second occurring) and substituting “the supplementary licence.”.

Interpretation

14. Section 105AA of the Principal Act is amended by omitting the definitions of “metropolitan broadcasting area” and “metropolitan broadcasting station”.

Determination of metropolitan areas

15. Section 105AB of the Principal Act is amended—

- (a) by omitting sub-section (1);
- (b) by omitting from sub-section (3) “(1) or”; and
- (c) by omitting from sub-section (4) “sub-sections (1) and” and substituting “sub-section”.

Commercial broadcasting translator station licences

16. Section 105AD of the Principal Act is amended—

- (a) by omitting sub-section (4); and
- (b) by omitting from sub-section (5) “Sub-sections (2) and (4) do” and substituting “Sub-section (2) does”.

Commercial television translator station licences

17. Section 105B of the Principal Act is amended—

- (a) by omitting from sub-section (2) “sub-sections (2AA) and (2A)” and substituting “this section”;
- (b) by inserting after sub-section (2B) the following sub-section:

“(2C) Sub-sections (2) and (2B) do not apply in relation to the grant or renewal of a licence for a commercial television translator station for the sole purpose of the re-transmission of the programs of a specified supplementary television station or specified supplementary television stations.”; and
- (c) by omitting sub-section (3) and substituting the following sub-section:

“(3) One of the conditions of the licence for a commercial television translator station shall be that the station is operated only for the reception and re-transmission, without alteration, of the programs of any one or more of the following:

 - (a) a specified commercial television station;
 - (b) a specified supplementary television station;
 - (c) specified commercial television stations;
 - (d) specified supplementary television stations.”.

Application of Act

18. Section 105P of the Principal Act is amended—

- (a) by inserting in sub-section (1) “broadcasting” after “supplementary” (second occurring);
- (b) by inserting after sub-section (1) the following sub-sections:

“(1A) The provisions of this Act apply, except in so far as the contrary intention appears and with such exceptions and subject to such modifications and adaptations as are prescribed, in relation to supplementary television stations, supplementary television licences and the holders of such licences as they apply in relation to commercial television stations, licences for commercial television stations and the holders of such licences.

“(1B) The provisions of Division 4 and of sections 107 to 111 (inclusive)—

 - (a) apply in relation to any broadcasting translator station operated by virtue of a supplementary licence and the holder of that licence as they apply, by virtue of section 105F, in relation to a commercial broadcasting translator station and the holder of a licence for such a station; and
 - (b) apply in relation to any television translator station operated by virtue of a supplementary licence and the holder of that licence as they apply, by virtue of section 105F, in relation to a commercial television translator station and the holder of a licence for such a station.

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“(1C) Paragraph 121 (1) (b) does not apply by virtue of sub-section (1) in relation to the holder of a supplementary broadcasting licence.”; and

(c) by inserting in sub-section (2) “or (1A)” after “sub-section (1)”.

19. Section 105Q of the Principal Act is repealed and the following section is substituted:

Use of facilities of commercial stations by supplementary licensees

“105Q. (1) For the purposes of this Act, the holder of a supplementary broadcasting licence shall not be taken not to operate a broadcasting station by virtue of the licence by reason only that any or all of the facilities (other than the transmitter) of a commercial broadcasting station are used in the provision of a broadcasting service in pursuance of the licence.

“(2) For the purposes of this Act, the holder of a supplementary television licence shall not be taken not to operate a television station by virtue of the licence by reason only that any or all of the facilities (other than the transmitter) of a commercial television station are used in the provision of a television service in pursuance of the licence.”.

20. Section 105R of the Principal Act is repealed and the following section is substituted:

Programs of supplementary stations

“105R. (1) In this section—

‘broadcast’ or ‘televise’, in relation to a program, includes the reception and re-transmission of the program;

‘station program time’, in relation to a television station, means the time during which programs produced or presented by the station are televised from the station.

“(2) The holder of a supplementary broadcasting licence may, with the approval of the Tribunal, but not otherwise, regularly broadcast from the supplementary broadcasting station programs of a broadcasting station operated by virtue of a related commercial licence.

“(3) The holder of a supplementary television licence may, with the approval of the Tribunal, but not otherwise—

(a) regularly televise from the supplementary television station programs of a television station operated by virtue of a related commercial licence; or

(b) make arrangements for the regular televising from the supplementary television station of programs of a television station used by the Commission or the Service or operated by virtue of a commercial licence or a public television licence.

“(4) The holder of a supplementary television licence shall have regard to the need to include, so far as practicable, a reasonable amount of station

program time in the time during which programs are televised from the supplementary television station.

“(5) The holder of a supplementary television licence shall, in the televising of advertisements, encourage as far as practicable advertisements that are produced, or relate to businesses, undertakings, activities or other matters, in the area served in pursuance of the licence and, to the extent of the holder’s compliance with this sub-section, he shall not be taken to contravene sub-section 100 (3).

“(6) For the purposes of determining whether the holder of a supplementary television licence has complied with sub-section (5), the advertisements televised by a television station operated by virtue of a related commercial licence shall be taken into consideration as if they were advertisements televised by the supplementary television station.”

Review of decisions

21. Section 119A of the Principal Act is amended—

- (a) by omitting paragraph (i) of sub-section (1); and
- (b) by omitting from sub-section (4) “ ‘metropolitan broadcasting area’, ‘metropolitan broadcasting station’, ”.

Amendment of *Broadcasting and Television Amendment Act 1981*

22. Section 52 of the *Broadcasting and Television Amendment Act 1981*² is repealed.

Amendment of *Copyright Act 1968*

23. Section 10 of the *Copyright Act 1968*³ is amended by inserting in the definition of “holder of a licence for a television station” in sub-section (1) “, a supplementary television station” after “commercial television station”.

Transitional provision—supplementary licences

24. Notwithstanding the amendments of the Principal Act made by this Act, an application for a supplementary licence shall not be made under section 82A of that Act as so amended until such date as is fixed by Proclamation.

NOTES

1. No. 33, 1942, as amended. For previous amendments, see No. 39, 1946; No. 64, 1948; No. 80, 1950; No. 41, 1951; No. 12, 1953; No. 82, 1954; Nos. 33, 65 and 92, 1956; No. 36, 1960 (as amended by No. 32, 1961); No. 96, 1962; No. 82, 1963; Nos. 67 and 121, 1964; Nos. 38 and 120, 1965; No. 57, 1966; No. 47, 1967; No. 69, 1968; Nos. 21 and 31, 1969; Nos. 8, 72 and 136, 1971; No. 49, 1972; No. 50, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 55, 1974; No. 56, 1975; Nos. 89 and 187, 1976; No. 160, 1977; Nos. 52 and 210, 1978; Nos. 143 and 177, 1980; and Nos. 61, 113 and 153, 1981.
2. No. 113, 1981.
3. No. 63, 1968, as amended. For previous amendments, see No. 216, 1973; No. 91, 1976; No. 160, 1977; No. 154, 1980; Nos. 42, 61 and 113, 1981; and No. 26, 1982.