

ARTHUR ROBINSON & CO.

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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

AUSTRALIAN BROADCASTING CORPORATION
(TRANSITIONAL PROVISIONS AND
CONSEQUENTIAL AMENDMENTS) BILL 1983

EXPLANATORY MEMORANDUM

(Circulated by the Minister for Communications,
the Honourable Michael Duffy, M.P.)

AUSTRALIAN BROADCASTING CORPORATION (TRANSITIONAL PROVISIONS

AND CONSEQUENTIAL AMENDMENTS) BILL 1983

Outline

The Bill is intended to complement the Australian Broadcasting Corporation Bill 1983, which establishes the Australian Broadcasting Corporation ("Corporation") in place of the Australian Broadcasting Commission ("Commission").

The Bill makes transitional and consequential changes necessary for the smooth commencement of the Corporation. The transitional part of the Bill provides for all rights, liabilities, property, staff, etc of the Commission to be transferred to the Corporation

Consequential changes are made to the Broadcasting and Television Act 1942, which established the Commission. An important aspect of these changes is the saving of various provisions which, although primarily applying to the Commission, also have an application to the Special Broadcasting Service. Consequential changes to the Copyright Act 1968 vest certain copyright in the Corporation rather than the Commission. Minor changes are also made to the Freedom of Information Act 1982, the Parliamentary Proceedings Broadcasting Act 1946 and the Telecommunications Act 1975.

NOTES ON THE CLAUSES OF THE BILL

PART I - PRELIMINARY

Clause 1 provides for a short title for the Bill.

Clause 2 provides that the Bill shall come into operation on the same day fixed under sub-section 2(2) of the Australian Broadcasting Corporation Act 1983 ("commencing day"), although some provisions come into effect upon Royal Assent.

PART II - TRANSITIONAL PROVISIONS

Clause 3 provides that expressions in this Part have the same meaning as those in the Australian Broadcasting Corporation Act 1983.

Clause 4 extends this Part to all the external Territories.

Clause 5 provides that this Part has effect despite anything in the Australian Broadcasting Corporation Act 1983.

Clause 6 provides that on the commencing day the present Commissioners of the Australian Broadcasting Commission shall cease to hold office, but the corporate identity of the Commission is preserved.

Clause 7 provides that a reference to the Commission in any law of a Territory, or any contract or award shall be deemed a reference to the Corporation.

Clause 8 provides that the change of name from Commission to Corporation does not affect any rights or obligations of the body corporate which is continued in existence by section 5 of the Australian Broadcasting Corporation Act 1983.

Clause 9 provides that the change of name from Commission to Corporation does not render defective any legal proceedings commenced or able to be commenced, or any relevant investigation of the Ombudsman.

Clause 10 provides that judicial notice shall be taken of the seal of the Commission on a document executed before commencing day.

Clause 11 provides that officers and temporary employees of the Commission shall continue as if they had been appointed or engaged by the Corporation under the same terms and conditions, although special provision is made for the General Manager.

Clause 12 continues positions in the Commission as if they were created positions in the Corporation.

Clause 13 provides that any pending promotions or appeals against promotions in the Commission shall be deemed to be applicable to such positions continued in the Corporation.

Clause 14 provides for transitional matters with respect to disciplinary action for misconduct.

Clause 15 provides that the Commission is liable to pay remuneration and allowances payable before the commencing day, with the Corporation paying any charges on the Commission which had not been satisfied by the commencing day.

Clause 16 provides that unless the Minister otherwise directs, the first period for estimates for the Corporation shall be from commencing day to the next 30 June.

Clause 17 provides that bank accounts of the Commission shall continue as accounts of the Corporation.

Clause 18 provides that the Audit Act 1901 as it applies to the Corporation also applies to financial transactions of the Commission that took place before the commencing day.

Clause 19 provides that the Board shall prepare any annual report or financial statement on the operations of the previous financial year that had not been prepared by the Commission by commencing day.

PART III - AMENDMENTS OF THE BROADCASTING AND TELEVISION ACT 1942

Clause 20 provides that the Broadcasting and Television Act 1942 is in this Part referred to as the Principal Act.

Clause 21 provides that certain definitions in the Principal Act are amended by substituting "Corporation" for "Commission"

Clause 22 substitutes "Corporation" for "Commission" in paragraph 18(2A)(a), relating to certain inquiries by the Australian Broadcasting Tribunal.

Clause 23 provides that the Australian Broadcasting Tribunal shall include in its Annual Report particulars of any children's television programs submitted to it by the Corporation.

Clause 24 provides that the functions or powers of the present Commission shall not be affected by its numbers falling below those required.

Clause 25 repeals Divisions 1 and 2 of Part III of the Principal Act, dealing with the establishment, constitution and service of the Commission.

Clause 26 repeals section 59 of the Principal Act, dealing with the functions of the Commission.

Clause 27 provides that section 60 of the Principal Act (relating to publications, sound recordings, etc.) continues to have effect for the purposes of the Special Broadcasting Service even though there is no longer a Commission.

Clause 28 repeals section 61 of the Principal Act, relating to the power of the Commission to purchase and dispose of assets.

Clause 29 provides that section 63 of the Principal Act (relating to studios to be provided by the Commission) continues to have effect for the purposes of the Special Broadcasting Service even though there is no longer a Commission.

Clause 30 provides that section 64 of the Principal Act (relating to authorized transmissions) continues to have effect for the purposes of the Special Broadcasting Service even though there is no longer a Commission.

Clause 31 repeals sections 65 to 71B (inclusive) of the Principal Act, dealing with certain functions and the finances of the Commission.

Clauses 32, 33 and 34 provide that sections 72, 73 and 74 of the Principal Act (dealing with taxation, studios and transmitting stations, etc. and electric lines) continue to have effect for the purposes of the Special Broadcasting Service even though there is no longer a Commission.

Clause 35 and 36 substitute "Corporation" for "Commission" in sections 75 and 76 of the Principal Act, dealing with national translator station licences.

Clauses 37 provides that section 77 of the Principal Act (empowering the Minister to require the Commission to refrain from broadcasting or televising any matter) continues to have effect for the purposes of the Special Broadcasting Service even though there is no longer a Commission.

Clause 38 repeals section 78 of the Principal Act, dealing with the annual report and financial statement of the Commission.

Clause 39 provides that references to sections 64 and 77 (dealing with the power of the Minister to direct the Commission to broadcast or televise matter in the national interest) in section 78A of the Principal Act continue to apply to the Special Broadcasting Service.

Clauses 40 and 41 repeal sections 79 and 79A of the Principal Act dealing with certain assumption of liabilities by the Commission and the Joint Consultative Committee of the Commission.

Clause 42 applies certain sections of the Principal Act to the Special Broadcasting Service.

Clauses 43 and 44 substitute "Corporation" for "Commission" in sections 105 and 105R of the Principal Act, dealing with certain particulars of programs.

Clause 45 omits from section 111E of the Principal Act, dealing with remuneration, any reference to the Commission.

Clause 46 to 57 (inclusive) substitute "Corporation" or "Managing Director of the Corporation" for "Commission" wherever it occurs in different sections of the Principal Act.

PART IV - AMENDMENTS OF THE COPYRIGHT ACT 1968

Clause 58 provides that the Copyright Act 1968 is in this Part referred to as the Principal Act.

Clauses 59 to 64 (inclusive) transfer copyright subsisting in television or sound broadcasts from the Commission to the Corporation and generally substitute a reference to the Corporation in place of a reference to the Commission.

PART V - AMENDMENT OF THE
FREEDOM OF INFORMATION ACT 1982

Clause 65 provides that the Freedom of Information Act 1982 is in this Part referred to as the Principal Act.

Clause 66 substitutes a reference in the Principal Act to Corporation in place of Commission.

PART VI - AMENDMENTS OF THE PARLIAMENTARY PROCEEDINGS
BROADCASTING ACT 1946

Clause 67 provides that the Parliamentary Proceedings Broadcasting Act 1946 is in this Part referred to as the Principal Act.

Clauses 68 and 69 substitute references in the Principal Act to Corporation in place of Commission.

PART VII - AMENDMENTS OF THE TELECOMMUNICATIONS
ACT 1975

Clause 70 provides that the Telecommunications Act 1975 is in this Part referred to as the Principal Act.

Clause 71 substitutes references in the Principal Act to Corporation in place of Commission.