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THE PARLIAMENT OF THE COMMONWEALTH
OF AUSTRALIA

HOUSE OF REPRESENTATIVES

SPECIAL BROADCASTING SERVICE BILL 1991

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Transport and
Communications, the Hon Kim C Beazley MP)



SPECIAL BROADCASTING SERVICE BILL 1991

OUTLINE

This Bill provides a new legislative base for the SBS to replace the current provisions governing the operation of the SBS contained in Parts III and IIIA of the *Broadcasting Act 1942*.

The Bill defines the Charter of the SBS and sets out its structure, powers and responsibilities. The principal effect will be to establish the SBS as a statutory authority with similar powers and operational structures to the ABC, taking account of policy reforms applying generally to statutory authorities and Government Business Enterprise where appropriate.

The SBS Charter establishes the primary role of the SBS as being Australia's multicultural broadcaster. It provides a broad statement of the main objective of the SBS which will be to provide multilingual and multicultural broadcasting services which inform, educate and entertain all Australians, and in doing so, reflect Australia's multicultural society.

The Bill contains provisions setting out the respective duties of the Board of Directors and Managing Director and provides for their appointment, remuneration and leave arrangements. The Bill also provides for the staffing arrangements for the SBS.

The Bill requires the SBS to prepare a Corporate Plan setting out the objectives and overall strategies and policies to be followed by the SBS. The Corporate Plan will also be required to provide details of the SBS's consultative mechanisms for gauging community needs and opinions. The Bill provides for the establishment of an Interim Community Advisory Committee to assist the SBS Board to develop its initial community consultative mechanisms.

The Bill allows the SBS to receive money from sponsorships and advertising. In addition, the Bill limits the amount of advertising and sponsorship announcements the SBS can sell to five minutes per hour and requires that the announcements be broadcast only between programs or in natural program breaks. Within these statutory limitations and any applicable requirements of the *Broadcasting Act 1942*, the SBS Board will have discretion to determine a range of matters about the types of advertising and sponsorship announcements it will broadcast and when they will be broadcast.

FINANCIAL IMPACT

This Bill will have no direct impact on Commonwealth expenditure or revenue. No additional resources will be required by the SBS to meet its new Charter obligations or to comply with its management responsibilities. It is the Government's intention that at least for the period ending 30 June 1994, the SBS will not be subject to taxation on any off-Budget revenue it earns through its business activities and sponsorship and advertising.

ABBREVIATIONS

In this Explanatory Memorandum, the following abbreviations are used -

the Bill	the Special Broadcasting Service Bill 1991
the ABC Act	the Australian Broadcasting Corporation Act 1983
the Broadcasting Act	the Broadcasting Act 1942
the SBS Act	the Special Broadcasting Service Act 1991

NOTES ON CLAUSES

PART 1 - PRELIMINARY

Clause 1 - Short title etc.

This clause provides for the citation of the *Special Broadcasting Service Act 1991*.

Clause 2 - Commencement

Clause 2(1) provides for the commencement of most of the SBS Act 28 days after it receives the Royal Assent.

Clause 2(2) provides for section 53 of the SBS Act to commence upon Proclamation. That section provides for the staff of the SBS to be employed under terms and conditions determined by the SBS. Until that section commences, the staff will continue to be employed under the Public Service Act 1922 (see clause 52). Clause 81(3) requires the SBS to consult with relevant unions before determining the new terms and conditions. The staffing provision will commence on a date to be proclaimed to allow the SBS time to consult with relevant unions and finalise the new arrangements.

The standard provision requiring commencement within 6 months if commencement has not been earlier proclaimed has not been included as it is possible that the consultations with the unions will take longer than this. The Bill does not, therefore, impose a time limit for the commencement of the provision.

Clause 3 - Interpretation

This clause provides definitions of terms used in the SBS Act.

Clause 4 - Extension to External Territories

This clause provides that the SBS Act extends to all the external Territories.

PART 2 - ESTABLISHMENT, FUNCTIONS AND MANAGEMENT OF THE SBS

Clause 5 - Special Broadcasting Service Corporation

Clause 5(1) continues the existence of the Special Broadcasting Service (established under section 79C of the

Broadcasting Act) under the name 'Special Broadcasting Service Corporation'.

Clause 5(2) provides that the SBS has a seal and enables the SBS to sue and be sued.

Clause 5(3) requires judicial notice to be taken of the SBS seal appearing on a document.

Clause 6 - Charter of the SBS

This clause sets out the Charter of the SBS. The Charter sets out in detail the functions and the duties of the SBS. The current functions are set out in section 79D of the Broadcasting Act.

Clause 6(1) makes the principal function of the SBS the provision of multilingual and multicultural radio and television services which inform, educate and entertain all Australians and in so doing, reflect Australia's multicultural society.

Clause 6(2) imposes duties on the SBS, to be carried out in performing its principal function. These are to:

- (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) contribute to the overall diversity of Australian television and radio services, particularly taking into account the contribution of the Australian Broadcasting Corporation and the public broadcasting sector; and
- (h) 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.

Clause 6(3) provides that the principal functions and duties of the SBS, set out in sections 6(1) and 6(2) constitute the Charter of the SBS.

Clause 6(4) provides that nothing in section 6 imposes a duty on the SBS enforceable in a court.

Clause 6(5) provides that a subsidiary function of the SBS will be to carry on any business or other activity incidental to the fulfilment of the charter.

Clause 7 - Establishment of Special Broadcasting Service Board

This clause creates the Board of Directors of the SBS under the name Special Broadcasting Service Board.

Clause 8 - Constitution of the Board

This clause provides that the membership of the Board is made up of the Managing Director and not fewer than 4 nor more than 8 non-executive Directors.

Clause 9 - Role of the Board

This clause establishes the role of the Board, which is to decide the objectives, strategies and policies to be followed by the SBS in performing its functions and to ensure that the SBS performs its functions in a proper, efficient and economical manner and with maximum benefit to the people of Australia.

Under clause 47(1), the objectives, strategies and policies must be included in the corporate plan. Under clause 72(i), each SBS annual report must contain an assessment of the extent to which the operations of the SBS and its subsidiaries have achieved the corporate plan objectives and the functions of the SBS.

Clause 10 - Duties of the Board

Clause 10(1) sets out the duties of the Board.

Clause 10(2) provides that the duties imposed on the Board under section 10 are not enforceable in a court.

Under clause 47(1)(b)(iii), the corporate plan prepared by the Board must outline the overall strategies and policies that the SBS and its subsidiaries are to follow to ensure that the Board performs its role and fulfils its duties under clause 10.

Clause 11 - Minister may give directions to the Board

Clause 11(1) provides that the Minister may, after consulting with the Board, give to the Board such written directions in relation to the performance of the SBS's functions as appear to him/her to be necessary in the public interest.

Clause 11(2) provides that the Minister may only give directions in relation to a prescribed matter or in prescribed circumstances. An example of a matter which could be prescribed is occupational health and safety. The requirement for matters and circumstances to be prescribed will ensure that the Parliament will have the opportunity to disallow particular matters or circumstances where it is concerned that it is inappropriate for directions to be given relating to such matters.

Clause 11(3) provides that the Minister cannot give directions which relate to the content or scheduling of programs.

Clause 11(4) requires that when the Minister does give a direction under this clause he/she cause a copy of the direction to be tabled in each House of Parliament within 15 sitting days of the direction being given.

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

Clause 12(1) provides that the Minister may direct the SBS to broadcast particular matter from all or some of the stations from which SBS programs are broadcast if the Minister thinks that it would be in the national interest.

A similar power is contained in section 78 of the ABC Act, and has been used for directing the ABC to broadcast matters such as the ceremonial opening of a new Parliamentary term and the ceremonial opening of the new Parliament House.

Clause 12(2) provides that the matter referred to in clause 12(1) must be broadcast free of charge and in accordance with the direction.

Clause 12(3) provides that the Minister may direct that a matter required to be broadcast under section 12(1) be broadcast in a language or languages specified in the direction. This provision is included in recognition of the SBS's role as a multilingual broadcaster.

Clause 12(4) makes the application of subsection 12(1) subject to subsection 116(1) of the Broadcasting Act which will provide, by virtue of an amendment in clause 108 of

the Bill, that the SBS may determine to what extent and in what manner it broadcasts political matter.

Clause 12(5) requires directions under this clause to be sent by telex or facsimile or by notice in writing to the Managing Director.

Clause 12(6) requires the Minister to table in both Houses of Parliament particulars of, and reasons for, any direction under section 12 within 7 sitting days after giving the direction. The period of 7 days is included instead of the standard 15 sitting days for tabling matters in Parliament in recognition of the importance of the Parliament being informed quickly of any direction to broadcast matter. The period is the same as in the corresponding provision of the ABC Act (section 78).

Clause 13 - SBS and Board not otherwise subject to Government direction

This clause provides that the SBS is not subject to any direction, by or on behalf of the Commonwealth Government, except as provided under the SBS Act or other Commonwealth Acts.

Clause 14 - Managing Director

This clause provides that there is to be a Managing Director of the SBS.

Clause 15 - Duties of the Managing Director

Clause 15(1) provides that the affairs of the SBS are to be managed by the Managing Director.

Clause 15(2) requires the Managing Director, in managing SBS affairs and exercising powers under the Act, to act in accordance with any policies and directions of the Board.

Clause 15(3) deems anything done by the Managing Director in the name of, or on behalf of, the SBS to be done by the SBS.

PART 3 - THE BOARD OF DIRECTORS AND THE MANAGING DIRECTOR

Division 1 - Provisions relating to non-executive Directors

Clause 16 - This Division applies to non-executive Directors

This clause applies Division 1 to non-executive Directors.

Clause 17 - Appointment of non-executive Directors

Clause 17(1) provides that non-executive Directors will be appointed by the Governor-General.

Clause 17(2) sets out the matters to which the Governor-General must have regard in appointing non-executive Directors. These are the need to ensure that:

- (a) 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) Directors collectively comprise persons with a diversity of cultural perspectives; and
- (c) Directors include a person who has an understanding of the interests of employees. To satisfy himself/herself that a proposed appointee has the necessary level of understanding, the Governor-General must have regard to consultations between the Minister and representatives of industrial organisations representing employees.

Clause 17(3) provides that an appointment under section 17 is not invalid merely because of a defect or irregularity in relation to the appointment.

Clause 18 - Term of appointment

Clause 18(1) provides that each non-executive Director is to be appointed for a maximum period of 5 years and is eligible for reappointment.

Clause 18(2) limits any re-appointment to a maximum period of 5 years.

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

This clause provides that non-executive Directors hold office on a part-time basis.

Clause 20 - Terms and conditions of appointment not provided for by Act

This clause provides that a non-executive Director holds office on terms and conditions determined by the Governor-General in relation to those matters not provided for by the Act.

Clause 21 - Appointment of Chairperson and Deputy Chairperson

Clause 21(1) requires the Governor-General to appoint one of the non-executive Directors to be Chairperson of the Board and another non-executive Director to be Deputy Chairperson of the Board.

Clause 21(2) provides that a person must not continue to hold the position of Chairperson, Deputy Chairperson, acting Chairperson or acting Deputy Chairperson if the person has ceased to be a non-executive Director of the Board.

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

This clause provides that the performance of the functions or the exercise of the powers of the Board is not affected merely because of a vacancy in the position of Chairperson, Deputy Chairperson or Managing Director or because the number of non-executive Directors on the Board falls below 4 for not longer than 6 months.

Clause 23 - Remuneration and allowances of non-executive Directors

Clause 23(1) provides that the remuneration of non-executive Directors is determined by the Remuneration Tribunal.

Clause 23(2) provides that a non-Executive Director is to be paid such allowances as are prescribed.

Clause 23(3) makes this clause have effect subject to the Remuneration Tribunal Act 1973.

Clause 24 - Acting Chairperson and other acting non-executive Directors

Clause 24(1) provides that the Deputy Chairperson automatically acts as Chairperson when there is a vacancy in the office or when the Chairperson is absent from duty or from Australia or is unable to perform the duties of the office.

Clause 24(2) provides that the Minister can appoint a non-executive Director to act as Deputy Chairperson if there is a vacancy in the office or the Deputy Chairperson is absent or unable to perform the duties of the office.

Clause 24(3) provides that the Minister can appoint a person to act as a non-executive Director if there is a vacancy in the office, the non-executive Director is acting as Deputy Chairperson under clause 24(2) (or is acting as Chairperson because of the combined operation of clauses 24(2) and (1)) or is absent or unable to perform the duties of the office.

Clause 24(4) provides that the Minister can determine the terms and conditions (apart from the remuneration and allowances) of a person acting as Chairperson, Deputy Chairperson or non-executive Director.

Clause 24(5) provides that an acting Chairperson, Deputy Chairperson or non-executive Director is to be paid the same remuneration and allowances payable to the Chairperson, Deputy Chairperson or a non-executive Director.

Clause 24(6) provides that any action taken by someone purporting to act under section 24 will not be invalid merely because of a defect or irregularity in the appointment, the occasion for the appointment had not arisen, or because the appointment had ceased to have effect or because the occasion of the person to act had not arisen or had ceased.

Clause 25 - Leave of absence of non-executive Directors

Clause 25(1) provides that the Minister can grant leave for the Chairman to be absent from a meeting of the Board upon such conditions as the Minister thinks fit.

Clause 25(2) provides that the Board may grant the Chairperson leave of absence from a meeting of the Board if the leave is due to ill health.

Clause 25(3) provides that the Chairperson can grant non-executive Directors leave of absence from meetings of the Board upon such conditions as the Chairperson thinks fit.

Clause 26 - Resignation of non-executive Directors

This clause provides that a non-executive director may resign by delivering to the Governor-General a signed written resignation.

Clause 27 - Removal of non-executive Directors from office

Clause 27(1) provides that the Governor-General may terminate the appointment of a non-executive Director for misbehaviour or physical or mental incapacity.

Clause 27(2) provides that if:

- (a) a non-executive Director becomes bankrupt, etc or fails without reasonable excuse to disclose any pecuniary interest under section 43; or
- (b) the Chairperson or acting Chairperson is absent without approval for 3 consecutive meetings of the Board; or
- (c) a non-executive director (other than the Chairperson or acting Chairperson) is absent without approval for 3 consecutive meetings of the Board;

the Governor-General must terminate the appointment.

Clause 27(3) provides that the Governor-General must terminate the appointment of all or some non-executive Directors if the Minister proposes such termination(s) because he/she considers the performance of the Board has been unsatisfactory for a significant period of time.

Clause 27(4) provides that the Governor-General must terminate the appointment of a particular non-executive Director if the Minister considers that his/her performance has been unsatisfactory over a significant period of time and proposes that the appointment should be terminated.

Division 2 - Provisions relating to the Managing Director

Clause 28 - Appointment of Managing Director

Clause 28(1) provides that the Board must appoint the Managing Director.

Clause 28(2) provides that the appointment of a Managing Director is not invalid merely because of a defect or irregularity in relation to the appointment.

Clause 29 - Term of appointment of Managing Director

Clause 29(1) provides that the Managing Director may be appointed for a maximum period of 5 years and that he/she may be re-appointed.

Clause 29(2) provides that any period of re-appointment must not exceed 5 years.

Clause 30 - Managing Director holds office on a full-time basis

This clause provides that the Managing Director holds office on a full-time basis.

Clause 31 - Terms and conditions of appointment not provided for by Act

This clause provides that the Managing Director shall hold office on such terms and conditions as are determined by the Board except where other provision is made by this Act.

Clause 32 - Remuneration and allowances of Managing Director

Clause 32(1) provides that the remuneration of the Managing Director is determined by the Remuneration Tribunal under the Remuneration Tribunal Act 1973.

Clause 32(2) provides that the Managing Director is to be paid such allowances as are determined by the Board.

Clause 32(3) provides that section 32 has effect subject to the Remuneration Tribunal Act 1973.

Clause 33 - Acting Managing Director

Clause 33(1) provides that the Board can appoint a person to act as Managing Director for a maximum period of 12 months if there is a vacancy in the position of Managing Director or the Managing Director is absent or unable to perform the duties of the position.

Clause 33(2) provides that the Board can determine the terms and conditions of appointment, except the remuneration and allowances, of a person acting as Managing Director.

Clause 33(3) provides that a person acting as Managing Director must be paid the same remuneration as the Managing Director and such allowances as are determined by the Board.

Clause 33(4) provides that any action taken by someone purporting to act under this clause will not be invalid merely because of a defect or irregularity in the appointment, the occasion for the appointment had not arisen, or because the appointment had ceased to have effect or because the occasion for the person to act had not arisen or had ceased.

Clause 34 - Leave of absence of Managing Director

Clause 34(1) provides that the recreation leave entitlements of the Managing director will be determined by the Remuneration Tribunal.

Clause 34(2) provides that the Board must approve the Managing Director taking recreation leave.

Clause 34(3) provides that the Board will determine and approve all leave other than recreation leave and determine the terms and conditions for such leave.

Clause 35 - Resignation of Managing Director

This clause provides that the Managing Director may resign by delivering a signed written resignation to the Board.

Clause 36 - Duty of Managing Director to disclose certain interests

This clause requires the Managing Director to provide written notice to the Chairperson of any pecuniary interests that he/she has or acquires in any business.

Clause 37 - Removal of Managing Director from office

Clause 37(1) provides that the Managing Director holds office during the Board's pleasure.

Clause 37(2) provides that the Managing Director must be removed from office by the Board if:

- (a) he/she engages in other employment without the approval of the Board; or
- (b) he/she is absent from duty without the approval of the Board for 14 consecutive days or 28 days in a 12 month period; or
- (c) he/she becomes bankrupt, etc; or

- (d) he/she fails to disclose without reasonable excuse any pecuniary interest under section 36.

Division 3 - Meetings of the Board

Clause 38 - Meetings of the Board

Clause 38(1) requires the Board to hold sufficient meetings to ensure the efficient performance of its role and duties.

Clause 38(2) provides that the Chairperson can convene a meeting of the Board at any time and that he must convene a meeting if he/she receives a written request signed by a sufficient number of non-executive Directors (at least 4 Directors if there are 6 or less non-executive Directors on the Board and at least 5 Directors if there are more than 6 non-executive Directors on the Board).

Clause 38(3) provides that the Chairperson will determine the location of Board meetings.

Clause 39 - Presiding at meetings

Clause 39(1) provides that the Chairperson will preside at all meetings at which he/she is present.

Clause 39(2) provides that in the absence of the Chairperson, the Deputy Chairperson will preside.

Clause 39(3) provides that in the absence of both the Chairperson and Deputy Chairperson, either the acting Chairperson or a non-executive Director elected by the Directors, will preside.

Clause 40 - Quorum and voting at meetings

Clause 40(1) sets out the numbers for a quorum of the Board - 4 Directors if there are not more than 6 non-executive Directors on the Board and 5 Directors if there are more than 6. It also provides that all questions will be decided by a majority of votes and that the presiding Director has a deliberative vote and, if necessary, a casting vote.

Clause 40(2) provides that if a Director is absent from a meeting of the Board because it is discussing a matter in which he/she has a pecuniary interest, a quorum can still be constituted even if his/her absence brings the numbers of Directors below those normally required for a quorum in clause 40(1).

Clause 40(3) requires the Managing Director not to be present at any deliberations of the Board, or take part in

any decisions, about the appointment or terms and conditions of employment of a Managing Director.

Clause 41 - Conduct of Meetings

Clause 41(1) provides that the Director presiding at a meeting of the Board can give directions regarding procedures to be followed at or in connection with the meeting.

Clause 41(2) provides that Directors can participate in meetings by means of telephone, closed-circuit television or any other means of communication.

Clause 41(3) provides that if members participate in meetings in accordance with clause 41(2), they are taken to be present at the meeting.

Clause 42 - Resolutions without formal meetings

This clause provides that a resolution of the Board can be made without a meeting, if a majority of a quorum of members under subsection 40(1) agree.

Clause 43 - Duty of Directors to disclose certain interests at meetings

Clause 43(1) requires a Director who has a pecuniary interest in a matter to be considered by the Board, to disclose that interest to the Board as soon as possible after becoming aware of the relevant facts.

Clause 43(2) provides that a disclosure under subsection 43(1) must be recorded in the minutes and that, unless the Minister or the Board otherwise determines, the Director must not be present during any deliberation of, or take part in any decision about, the matter.

Clause 43(3) provides that a Director who has made a disclosure under section 43(1) must not be present during any deliberation of the Board or take part in any decision by the Board about a determination whether the Director can stay for deliberations or take part in the decision about the matter.

PART 4 - POWERS AND DUTIES OF THE SBS

Clause 44 - General powers of the SBS

Clause 44(1) gives the SBS the power to do all things necessary or convenient for or in connection with, or as

incidental to, the performance of its functions, and gives the following particular examples of its powers:

- (a) to produce, promote and present programs or provide facilities for the production, promotion or presentation of programs; and
- (b) to transmit programs or provide facilities for the transmission of programs; and
- (c) to arrange for the transmission of programs; and
- (d) to make facilities and staff available to persons for the production, presentation or transmission of programs; and
- (e) to acquire, accept, take on hire, dispose of or let out, personal property (including programs or rights or interests in programs); and
- (f) to prepare, promote and distribute printed material; and
- (g) to make promote and distribute films, sound recordings, video tapes, computer programs and other similar material; and
- (h) to make, promote and distribute any other thing associated with, or with the activities of, the SBS; and
- (i) to acquire, hold or dispose of real property; and
- (j) to erect buildings, structures or carry out works; and
- (k) to enter into contracts; and
- (l) to make arrangements for the holding of, or organising or subsidising, any public concert or other public entertainment; and
- (m) to accept gifts, devices 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; and
- (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; and
- (o) to appoint agents and attorneys, and to act as an agent for other persons; and
- (p) to engage persons to perform services for the SBS otherwise than as employees of the SBS; and
- (q) to do anything incidental to any of its powers.

Clause 44(2) provides that the SBS can determine charges payable under subsection 44(1). This will enable the SBS, for example, to charge for products it markets and services it provides.

Clause 44(3) prevents the SBS from accepting any service, gift, bequest, etc. which is likely to affect its independence or integrity.

Clause 44(4) makes it clear that the rule in clause 43(3) does not prevent the SBS from accepting services, facilities or money from the Commonwealth, a State or Territory or a Government authority.

Clause 44(5) provides that the program schedules of the SBS must be made available at an SBS office on equal terms to newspaper, magazine or journal publishers in Australia before the program schedules are published by the SBS.

Clause 44(6) provides that the powers of the SBS may be exercised within or outside Australia.

Clause 45 - Advertising and Sponsorship

Clause 45(1) provides the SBS with the power to broadcast advertisements and sponsorship announcements.

Clause 45(2) stipulates that advertisements or sponsorship announcements may only be broadcast between programs or during natural program breaks and restricts them to a maximum of 5 minutes in any 60 minutes of broadcasting.

Clause 45(3) specifies types of advertisements and sponsorship announcements which are not intended to be included in the 5 minute limitation referred to in section 45(2). These are:

- (a) publicity about SBS programs;
- (b) promotion of SBS products, services or activities where the SBS does not receive any payment or other consideration for the promotion (this is intended to allow the SBS to nominate specific retail outlets where its products can be purchased as long as the SBS receives no payment or other consideration from the nominated retailer for the promotion);
- (c) the broadcast of community announcements, which the SBS provides free of charge or other consideration; and
- (d) moving text overlaid on the test pattern.

Clause 45(4) requires the Board to develop and publicise guidelines on the kinds of advertisements or sponsorship

announcements that it is prepared to broadcast and provides that the Board can also develop guidelines on other matters relating to advertisements and sponsorship announcements including:

- (a) their placement; and
- (b) their duration; and
- (c) the kinds of advertising and sponsorship (if any) that particular kinds of programs may carry.

Clause 45(5) requires the Board to revise its guidelines from time to time to ensure they reflect changing circumstances and practice. It also requires the Board to include the guidelines in its corporate plan.

Clause 45(6) is intended to clarify that guidelines on advertisements and sponsorship in subsection 45(4) may be based on the type of product or service.

Clause 45(7) provides that any action taken by the Board in refusing, or refusing the placement of, an advertisement or sponsorship announcement is not to be taken as discrimination under subsection 100(3) of the Broadcasting Act if the Board's decision is in accordance with the guidelines developed under subsection 45(4).

Clause 46 - Corporate Plans

Clause 46(1) requires the Board to prepare corporate plans.

Clause 46(2) provides that the first corporate plan must be for a period of between 3 and 5 years and must be given to the Minister within 6 months of the commencement of the Act.

Clause 46(3) provides that each subsequent corporate plan must be for a period of between 3 and 5 years and begin immediately after the end of the previous plan.

Clause 46(4) provides that the Board can review and revise a corporate plan at any time.

Clause 47 - Matters to be included in corporate plan

Clause 47(1) sets out the matters which must be included in each corporate plan:

- (a) the objectives of the SBS and its subsidiaries; and
- (b) an outline of the overall strategies and policies that the SBS and its subsidiaries are to follow to: achieve the objectives of the SBS; and to fulfil the SBS's

charter and subsidiary functions; and to ensure that the Board performs its role under paragraph 9(b) and its duties under section 10; and

- (c) a forecast of the revenue and expenditure of the SBS and its subsidiaries, including a forecast of capital expenditure and borrowings; and
- (d) such financial or operational performance indicators and targets as the Board considers appropriate; and
- (e) the community consultative measures that the Board proposes to adopt 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 (in relation to this matter, the Board is required to establish an Interim Community Advisory Committee under clause 77 which will advise the Board on community consultative measures to be included in the first corporate plan); and
- (f) such other matters as are prescribed.

Clause 47(2) provides that the forecast of revenue and expenditure must include an assessment of all the taxes and charges that would be payable by the SBS under any Commonwealth, State or Territory laws if the SBS were not excluded from taxation liability by virtue of section 67 of the SBS Act.

Clause 47(3) defines 'subsidiary' to mean a public company that carries on, or proposes to carry on, a business or other activity related to or incidental to the performance of any of the functions of the SBS which is controlled by the SBS.

Clause 48 - Corporate plans to be given to Minister

This clause provides that as soon as practicable after the Board prepares new or revised corporate plans, it must give the Minister a copy.

Clause 49 - Minister may direct a variation of a corporate plan

Clause 49(1) provides that the Minister may, after consultation with the Board, direct the Board to vary the community consultative measures in a corporate plan within 60 days of receiving the plan.

Clause 49(2) provides that the Minister may only direct the Board to vary a corporate plan if he/she is not satisfied that the community consultative measures would be effective

in ensuring that the Board is aware of and responsive to community needs and opinions on matters relevant to the charter.

Clause 49(3) provides that in directing the Board to vary the community consultative measures (under section 48(2)), the Minister can require the Board to establish a Community Advisory Council in accordance with such arrangements as are specified in the direction.

Clause 49(4) provides that a Ministerial direction under section 49 must be in writing and must set out the reasons for the direction.

Clause 50 - Board to notify Minister of certain matters

This section requires the Board to notify the Minister immediately if it considers that matters have arisen which will prevent or significantly affect the achievement of goals set out in the corporate plan (ie. the objectives of the SBS, the strategies and policies that are to be followed under the plan and the forecasts of revenue and expenditure).

Clause 51 - Power to form companies etc.

Clause 51 provides that the SBS, with the approval of the Minister, can establish, or acquire an interest in, companies and enter into other business relationships and joint ventures to undertake authorised business activities.

Clause 51(1) defines 'authorised business' to be a business or other activity related to or incidental to the performance of any of the functions of the SBS and 'prescribed company' to be a public company that carries on or proposes to carry on an authorised business.

Clause 51(2) provides that the SBS can, for the purpose of carrying out authorised business activities: establish or participate in the formation of public companies; trade in stocks shares and other securities in public companies; and enter into partnerships or other arrangements with another person or body. It can also provide technical or other assistance and facilities in relation to any company, partnership or a business arrangement it enters into pursuant to this clause. Clause 50(2)(c) envisages but is not confined to arrangements such as joint ventures, co-production arrangements and marketing arrangements.

Clause 51(3) permits the SBS to exercise its powers under section 51(2) and to expend money in connection with an authorised business only with the Minister's approval. Such an approval could be given, for example, for classes of arrangements or expenditures.

Clause 51(4) provides that where a prescribed company in which the SBS has an interest ceases to be a prescribed company, the Minister may direct the SBS in relation to the disposal of its interest in the company.

Clause 51(5) provides that clause 51 does not authorise a prescribed company to carry on an authorised business other than in accordance with applicable law.

PART 5 - STAFF

Clause 52 - Staff of the SBS until section 53 commences

Clause 52(1) provides that employees of the SBS are to be persons appointed or employed under the Public Service Act 1922.

Clause 52(2) provides that the Managing Director will have the same powers as a Secretary under the Public Service Act 1922 in relation to employment matters.

Clause 52(3) provides that section 52 shall be taken to be repealed on the commencement of new staffing provisions in accordance with section 53.

Clause 53 - Staff of the SBS

Clause 53(1) provides that the SBS can engage its own employees.

Clause 53(2) provides that the SBS shall determine the terms and conditions of employment of its employees.

Clause 2(2) provides for this section to commence upon Proclamation. Until this section commences, the staff will continue to be employed under the Public Service Act 1922 (see clause 52). Clause 81(3) requires the SBS to consult with relevant unions before determining the new terms and conditions. The new staffing provision will commence on a date to be proclaimed to allow the SBS time to consult with relevant unions and finalise the new arrangements.

Clause 54 - The SBS is to achieve and maintain high standards as an employer

This clause requires the SBS, as an employer, to maintain high standards in relation to occupational health and safety, industrial democracy, equal employment opportunity practices, etc.

PART 6 - FINANCE

Clause 55 - Money to be appropriated

Clause 55(1) provides that there is payable to the SBS such money as from time to time is appropriated by Parliament for the purposes of the SBS.

Clause 55(2) allows the Minister for Finance to determine the times at which, and in what amounts, money appropriated by Parliament is to be paid to the SBS.

Clause 56 - Money of the SBS

This clause identifies the sources of funds available to the SBS:

- (a) money paid in accordance with clause 55; and
- (b) money borrowed by the SBS under clauses 58 or 59; and
- (c) money received by the SBS as consideration for services and facilities it provides; and
- (d) proceeds from the sale or other disposition of any property of the SBS (including programs and rights or interests in programs); and
- (e) money received in respect of sponsorships and 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.

Clause 57 - Application and investment of money

Clause 57(1) provides that money of the SBS is only to be used for payment of expenses (including capital expenditure), obligations and liabilities of the SBS arising under the Act and for remuneration of Directors, staff or members of the Interim Community Advisory Committee, or a Community Advisory Committee or other body established by the Board.

Clause 57(2) provides that money that is not immediately required by the SBS may be invested in an approved bank, in securities of the Commonwealth or in any other manner approved by the Treasurer.

Clause 57(3) provides that "approved bank" in clause 57(2) means the Reserve Bank of Australia or a bank approved by the Treasurer.

Clause 58 - Borrowing from the Commonwealth

This clause provides that the Minister for Finance may lend money to the SBS on behalf of the Commonwealth on such terms and conditions as he/she considers appropriate.

Clause 59 - Borrowings otherwise than from the Commonwealth

Clause 59(1) provides that the SBS may borrow money from someone other than the Commonwealth in accordance with the written approval of the Treasurer.

Clause 59(2) provides that the money may be borrowed wholly or partly in foreign currency.

Clause 60 - Guarantee of borrowing

Clause 60(1) provides that the Treasurer may enter into a contract on behalf of the Commonwealth to guarantee the SBS's obligations incurred under section 59.

Clause 60(2) provides that a determination of the Treasurer to guarantee the SBS's obligations under section 59 has force by virtue of section 60.

Clause 60(3) provides that a contract to guarantee the SBS's obligations under section 59 may include a provision that any proceedings under the contract can be taken in a court of a foreign country or waiving the Commonwealth's immunity of suit in such a court.

Clause 61 - The SBS may give security

This clause provides that the SBS can give security over its assets for the performance of any obligation in respect of money borrowed under sections 58 or 59 or in respect of money paid or payable by the Commonwealth under a guarantee under section 60.

Clause 62 - Borrowings not otherwise permitted

This clause provides that the SBS may not borrow money except under this Part.

Clause 63 - Delegation by Treasurer

This clause enables the Treasurer to delegate his powers under sections 59 and 60 to an officer in the Department of the Treasury.

Clause 64 - Hedging contracts etc.

Clause 64(1) gives the SBS a broad power to enter into contracts and make arrangements to reduce or eliminate risks of adverse financial consequences in relation to SBS contracts and borrowings.

Clause 64(2) provides the Minister with a discretion to determine, revoke and vary guidelines in relation to hedging arrangements, etc. entered into by the SBS under subsection 64(1).

Clause 64(3) provides that hedging arrangements, etc. that the SBS enters into must be in accordance with the Ministerial guidelines under subsection 64(2) where such guidelines have been issued.

Clause 64(4) provides that a hedging agreement does not require Ministerial approval under subsection 66(1) which requires the SBS to seek Ministerial approval for contracts which exceed \$2 million in value.

Clause 64(5) provides that 'proposed borrowing' means a proposed borrowing of money that is in accordance with an approval by the Treasurer under section 59.

Clause 65 - Estimates

This clause provides that the SBS must prepare estimates of receipts and expenditure for each financial year or for any other period which the Minister may direct, in such form and by such date as the Minister directs.

Clause 66 - Limits on contracts

Clause 66(1) provides that the SBS cannot enter into a contract in which the SBS will pay or receive an amount exceeding \$2,000,000 (or such higher amount as is prescribed by regulations) without the approval of the Minister. It is standard practice in provisions of this kind to enable a higher amount to be set in regulations to provide for it to be increased from time to time to take into account the effect of inflation. Because the higher amount is included in regulations, it can be disallowed by the Parliament.

Clause 66(2) provides that section 66(1) does not apply in relation to receipts for the sale or other disposition of programs and rights or interests in programs.

Clause 67 - Taxation

This clause provides that the SBS is not subject to taxation under any law of the Commonwealth, a State or Territory and, in particular, is not subject to sales tax.

Clause 68 - Application to the SBS of Division 3 of Part XI of the Audit Act

This clause declares the SBS a public authority to which Division 3 of Part XI of the Audit Act 1901 applies. That Division sets out financial rules which accordingly will apply to the SBS.

PART 7 - MISCELLANEOUS

Clause 69 - Application of Broadcasting Act

This clause provides that the Broadcasting Act does not apply in relation to the broadcasting services provided by the SBS unless it expressly provides otherwise. The consequential amendments in Part 8 make particular provisions of that Act apply to the SBS.

Clause 70 - Provision and operation of transmission facilities etc.

Clause 70(1) provides that the Minister may arrange for the provision and operation of transmission facilities for the purposes of broadcasting the programs of the SBS.

Clause 70(2) provides that the Minister can stipulate what charges, if any, will be paid by the SBS for the provision and operation of transmission facilities arranged by the Minister.

Clause 71 - Lines for conveyance of electric current to transmission facilities

Clause 71(1) empowers a person acting under the authority of the Minister to install and maintain any electric line and arrange for the supply of electric current which are necessary in relation to the provision and operation of transmission facilities.

Clause 71(2) provides that the installation and maintenance of electric lines and the supply of an electric current, by a person acting under the authority of the Minister, are to be provided without charge to the SBS unless the Minister otherwise determines.

Clause 71(3) provides that a person providing and operating a transmission facility under the authority of the Minister has the same powers and is under the same obligations as apply to a general carrier under Division 3 of Part 7 of the Telecommunications Act 1991.

Clause 72 - Matters to be included in annual report

Clause 72 sets out the information which is to be included in the annual report prepared under section 63M of the Audit Act 1901:

- (a) particulars of any broadcast of national importance made in accordance with a Ministerial direction under subsection 12(1); and
- (b) particulars of any broadcast made because of a Ministerial direction otherwise than under this Act; and
- (c) particulars of any written statement of Commonwealth Government policy given to the Board by the Minister and any action 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 (where advertising or sponsorship is not associated with a particular program or programs, particulars of the advertising or sponsorship are intended to be reported and annotated to the effect that there was 'no association'); and
- (g) particulars of any direction by the Minister during the year under sections 11 or 12;
- (h) particulars of the 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

- (i) 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 SBS's functions; and
- (j) particulars of any activities carried out during the year by the SBS under section 51(2); and
- (k) particulars of the activities during the year of any authorised business with which the SBS is associated under section 51.

Clause 73 - Delegation by the SBS

This clause provides that the SBS may delegate to a director or an employee of the SBS (by writing under its seal) all or any of its powers under the SBS Act or the regulations.

Clause 74 - Delegation by Managing Director

This clause provides that the Managing Director may delegate to an employee of the SBS, by signed instrument, all or any of his/her powers under the SBS Act or regulations.

Clause 75 - Regulations

This clause provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed or necessary or convenient for carrying out or giving effect to the Act.

PART 8 - TRANSITIONAL

Clause 76 - Interpretation

This clause provides definitions of terms used in Part 8.

Clause 77 - Interim Community Advisory Committee

Clause 77(1) requires the Board to establish an Interim Community Advisory Committee.

Clause 77(2) provides that the Interim Community Advisory Committee will advise the Board on community consultative measures to be included in the SBS's first corporate plan.

Clause 77(3) provides that the each member of the Interim Community Advisory Committee is to be appointed by the Board.

Clause 77(4) sets out a requirement for membership of the Interim Community Advisory Committee ie. that members should have an understanding of Australia's multicultural society and, in particular, interests relevant to and an understanding of ethnic, Aboriginal or Torres Strait Islander communities.

Clause 77(5) provides that the Interim Community Advisory Committee ceases to exist on the day that the SBS has submitted its first corporate plan to the Minister.

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

Clause 78(1) provides that the present Executive Director of SBS is deemed to be appointed by the Board as the new Managing Director for the balance of his original term of appointment as Executive Director and on the same terms and conditions for matters other than remuneration and allowances.

Clause 78(2) provides that any determination of remuneration in accordance with section 125F of the Broadcasting Act continues in force as if it were a determination in accordance with section 32 of this Act.

Clause 78(3) provides that any regulations made under section 125F of the Broadcasting Act in respect of allowances payable to the Executive Director remain in force as if they had been determined in accordance with section 32 of this Act.

Clause 79 - Person holding office as member of the old body corporate

Clause 79(1) provides that the present members of the SBS are deemed to be appointed as non-executive Directors of the Board for the balance of the original term of appointment as members and on the same terms and conditions for matters other than remuneration and allowances.

Clause 79(2) provides that any determination of remuneration under section 125F of the Broadcasting Act continues in force as if it were a determination under section 23 of this Act.

Clause 79(3) provides that any regulations made under section 125F of the Broadcasting Act in respect of allowances payable to members of the SBS remain in force as

if they had been determined in accordance with section 23 of this Act.

Clause 80 - Persons employed or engaged by the old body corporate

Clause 80(1) provides that present officers and employees of the SBS are deemed to be engaged under section 52 of this Act on the restructuring day on the same terms and conditions as previously applied.

Clause 80(2) provides that a person who had been engaged to perform services for the old body corporate, other than as a member of the staff of the SBS, is deemed to be engaged under paragraph 44(1)(p) of this Act under the same terms and conditions.

Clause 81 - Persons engaged under section 52

Clause 81(1) provides that once new staffing provisions have been determined by the SBS and section 52 of the Act is repealed, employees of the SBS under section 52 will be deemed to be employed under section 53 of the Act.

Clause 81(2) provides that terms and conditions of employment determined by the SBS on or before the date on which the new staffing provisions come into effect, will come into effect on that day and will be taken to have been determined under subsection 53(2).

Clause 81(3) requires the SBS to consult with representatives of industrial organisations representing the interests of employees before making determinations under subsection 81(2) which are to come into effect on the day section 53 commences.

Clause 82 - Delegations and authorisations

Clause 82(1) provides that any delegation of a power under section 79X of the Broadcasting Act remains in force for a period of one month as a delegation under section 73 of this Act of the corresponding power under the new Act. This will give the SBS time after the new Act commences to revise its delegations.

Clause 82(2) provides that an authorisation in relation to the old body corporate remains in force for one month after the commencement of the new Act.

**Clause 83 - References to old body corporate
in instruments etc.**

This clause provides that any reference to the SBS in any Commonwealth, State or Territory law, any contract, award or instrument to which the SBS 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 SBS.

Clause 84 - Property, powers, liabilities etc

Clause 84(1) provides that the present assets, powers, rights, liabilities and obligations of the SBS before restructuring are deemed to be transferred to the restructured SBS from the restructuring day onwards.

Clause 84(2) provides that section 84 applies to assets inside or outside Australia, powers conferred by or rights existing under the law of a foreign country and liabilities or obligations arising under the law of a foreign country.

Clause 85 - Saving of proceedings

Clause 85(1) enables any action taken by or against the SBS prior to restructuring to continue, and also enables any proceedings which might have been initiated by or against the SBS before the restructuring day to be commenced after that day.

Clause 85(2) provides that any investigation being undertaken or which could have been undertaken by the Commonwealth Ombudsman under the *Ombudsman Act 1976* into an action taken by the old SBS can continue or be commenced as if the action was taken by the new body corporate.

Clause 86 - Judicial notice

This clause provides that 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.

Clause 87 - Application of money

This clause provides that the money of the restructured SBS Corporation may be used for payment of any expenses, obligations, liabilities, etc. incurred by the SBS before restructuring day and for any remuneration or allowance incurred under the Broadcasting Act which were not paid before the restructuring day.

Clause 88 - First estimates

This clause provides that unless directed by the Minister the first period for which estimates are required of the SBS under this Act will be for the period 1 July 1992 to 30 June 1993.

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

This clause provides that any bank account maintained by the SBS immediately before the restructuring day shall be treated from that day onwards as if it had been opened under this Act.

Clause 90 - Audit

This clause provides that for the purposes of section 63L of the Audit Act 1901 all accounts and records of financial transactions of the SBS prior to the restructuring day shall be taken to be those of the restructured body corporate. This will enable the Auditor-General to inspect and audit those accounts and records despite the restructuring having occurred.

Clause 91 - Annual report and financial statements

Clause 91(1) provides that if the SBS had not produced a report and financial statement for the period to 30 June or part thereof prior to the restructuring day, the new Board of the SBS must ensure that the report is prepared.

Clause 91(2) provides that if the restructuring day occurs on a day other than 1 July, that the annual report for the financial year in which restructuring occurs will have to include details in relation to the operations of the old body corporate for the part of the year that preceded the restructuring day. The provision does not require a separate report and financial statement for the periods before and after restructuring. Rather, the provision envisages that the one report and financial statement will cover the normal 12 month period.

Clause 92 - Transfer of appropriations

Clause 92(1) provides that any money which has been appropriated to the SBS prior to the restructuring day, is deemed to have been appropriated to the restructured body corporate.

Clause 92(2) provides that subsection 92(1) does not apply in relation to money which has already been spent by the SBS.

Clause 92(3) defines "Appropriation Act" to mean an Act appropriating money for the financial year ending on 30 June 1992 and includes an Act making interim provision for such an appropriation.

PART 9 - CONSEQUENTIAL AMENDMENTS OF THE BROADCASTING ACT 1942

Clause 93 - Principal Act

This clause provides that, in this Part, 'Principal Act' means the Broadcasting Act 1942.

Clause 94 - Interpretation

This clause provides for minor consequential amendments to definitions and interpretive rules in the Principal Act and inserts a definition of the term 'SBS'.

Clause 95 - Use of lines for transmission of programs

This clause makes a minor consequential amendment by substituting a reference to "SBS" for "Service" in subsection 6B(1).

Clause 96 - Insertion of new section

Clause 96(1) provides for the insertion of a new section 15F in Division 1 of Part II of the Broadcasting Act. The new section provides for payment of remuneration to members of the Australian Broadcasting Tribunal as determined by the Remuneration Tribunal. This provision is being re-located from section 125F as it will no longer refer to members of the SBS (clause 23 will now contain remuneration arrangements for SBS non-executive Directors).

Clause 96(2) provides that any determination made for the purpose of section 125F prior to the commencement of this section relating to a Tribunal member or associate member shall remain in effect for the purposes of the amended Broadcasting Act.

Clause 96(3) provides that any regulation made for the purpose of subsection 125F(3) prior to the commencement of this section relating to the allowances of Tribunal members or associate members shall remain in effect for the purposes of the amended Broadcasting Act.

Clause 97 - Ordinary inquiries

This clause makes a minor consequential amendment to section 17C of the Broadcasting Act to replace a reference to "Service" with "SBS".

Clause 98 - Directed inquiries

This clause makes minor consequential amendments to paragraph 18(2A)(a) of the Broadcasting Act to replace references to "Service" with "SBS".

Clause 99 - Area inquiries

This clause makes minor consequential amendments to paragraph 18A(1)(a) of the Broadcasting Act to replace references to "Service" with "SBS".

Clause 100 - Repeal of Parts III and IIIA

This clause provides for the repeal of Parts III and IIIA of the Broadcasting Act which contain the provisions establishing and governing the operations of the SBS.

Clause 101 - Purpose of limited licence

This clause makes a minor consequential amendment to subsection 81B(8) of the Broadcasting Act to replace a reference to "Service" with "SBS".

Clause 102 - Retransmission permits

This clause makes minor consequential amendments to subsection 89DA(5) of the Broadcasting Act to replace references to "Service" with "SBS".

Clause 103 - Special Provisions relating to advertisements

This clause extends the application of the commercial advertising restrictions set out in the section 103 to the SBS.

Clause 104 - Particulars of programs to be made available

This clause amends section 105 of the Principal Act to ensure the SBS (like the ABC) receives details of programs

to be broadcast by a licensee before the details are published.

Clause 105 - Certain programs to be made available to licensees

This clause amends section 113 to provide that the SBS shall make available to a licensee (whose service area does not overlap any service provided by the SBS) programs for broadcasting as specified by the Minister. This amendment makes the existing rule which applies in relation to the ABC also apply to the SBS.

Clause 106 - Corporation & SBS may make programs available to certain licensees

This clause amends section 113A to provide that the Managing Director of the SBS may make available to the holder of a retransmission permit such programs as the Managing Director sees fit.

Clause 107 - Televising of sporting events and entertainment

This clause amends section 115 of the Principal Act to provide that the SBS cannot televise any entertainment or sporting event in whole or in part if the event is in a place where admission is charged and filming of these events is done from outside that place.

Clause 108 - Broadcasting of political matter or controversial matter

This clause amends section 116 of the Principal Act to allow the SBS to determine to what extent and in what matter political or controversial matter will be broadcast.

Clause 109 - Identification etc in relation to political matter

This clause amends section 117 of the Principal Act to provide that where the SBS televises any political matter at the request of another person, immediately afterwards the SBS must announce and transmit in the form of images and words particulars of the authorisation of the broadcast.

Clause 110 - Records of matter broadcast

This clause amends section 117A of the Principal Act to provide that where the SBS broadcasts matter relating to a political subject or current affairs in various forms, the SBS shall ensure a record is made by means of a device for recording images and sound.

Clause 111 - Broadcasting of objectionable items

This clause amends section 118 of the Principal Act to provide that the SBS shall not broadcast matter which is blasphemous, indecent or obscene.

Clause 112 - Interference with broadcasting of programs etc.

This clause amends section 121 of the Principal Act to provide that a person shall not knowingly prevent or interfere with the broadcasting of programs by the SBS or the facilities used to provide such programs.

Clause 113 - Additional functions of Minister

This clause amends section 125D of the Principal Act to provide that the Minister in discharging the responsibility to plan the development of broadcasting services in Australia shall consult with the SBS in relation to matters affecting the SBS.

Clause 114 - Repeal of section 125F

This clause repeals section 125F of the Principal Act as a consequence of clause 23 and the amendment in clause 96.

Clause 115 - Control of broadcasting in case of emergency

This clause amends section 131 of the Principal Act which provides that if in case of emergency the Minister may be authorised by the Governor-General to exercise complete control over matter transmitted from broadcasting facilities. This amendment provides that persons authorised by the Minister shall have access to premises and full authority over the SBS in such an emergency situation.

PART 11 - CONSEQUENTIAL AMENDMENTS OF OTHER ACTS

Clause 116 - Consequential amendments of other Acts

Clause 116(1) provides that the Acts set out in the Schedule are to be amended as set out in the schedule.

Clause 116(2) is an application provision which prevents certain amendments to the *Copyright Act 1968* made by the Schedule affecting copyright existing at the time the amendments are made.

SCHEDULE

The Schedule makes minor amendments to other Commonwealth legislation consequential upon this Act.

