

New Zealand.



ANALYSIS.

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1936, No. 15.

AN ACT to make Better Provision for the Carrying-on of a National Broadcasting Service, and to provide for certain other Matters in relation to Broadcasting.

[11th June, 1936.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Broadcasting Act, 1936, and, except as provided in section seventeen hereof, shall come into force on the first day of July, nineteen hundred and thirty-six.

Title.

Short Title
and
commencement.

Interpretation.

See Reprint
of Statutes.
Vol. VI,
p. 928

Abolition of
New Zealand
Broadcasting
Board.
Ibid., Vol. I.
p. 700
1934-35, No. 40

Appointment of
Director of
Broadcasting.

REFER 19
No. 8. Minister to
carry on
national
broadcasting
service.

REFER 19
No. 8.

REFER 19
No. 2.

2. In this Act, unless the context otherwise requires,—
- “ Advisory Council ” or “ Council ” means the Broadcasting Advisory Council appointed under this Act:
- “ Director ” means the Director of Broadcasting appointed under this Act:
- “ Minister ” means the Minister for the time being charged with the administration of this Act:
- “ Private broadcasting station ” means a wireless telegraphy station licensed as a broadcasting station under the Post and Telegraph Act, 1928, but does not include any station operated by the Minister:
- “ Programme ” includes any signal, announcement, item, communication, or other matter transmitted or intended to be transmitted from a broadcasting station for reception by the public:
- “ Receiving-station license ” means a license issued under the Post and Telegraph Act, 1928, for the installation and working of any apparatus or equipment designed and installed for the purpose of receiving but not of transmitting wireless communications.

3. (1) The New Zealand Broadcasting Board established under the Broadcasting Act, 1931, as amended by section two of the Broadcasting Amendment Act, 1934-35, is hereby abolished.

(2) All property of the said Board is hereby vested in His Majesty the King, and all rights, liabilities, and engagements of the Board are hereby declared to be rights, liabilities, and engagements of His Majesty.

(3) All references to the said Board in any Act, or in any agreement, deed, instrument, application, license, notice, or other document whatsoever shall, unless inconsistent with the context or with the provisions of this Act, be hereafter read as references to the Minister.

4. The Minister shall carry on the broadcasting service heretofore carried on by the New Zealand Broadcasting Board, and may develop and improve that service from time to time.

5. (1) There shall from time to time be appointed a Director of Broadcasting, who, under the control of the Minister, shall be charged with the administration of this Act.

(2) The Director shall be appointed by the Governor-General in Council, to hold office during pleasure. No person appointed as Director shall continue to hold office continuously without reappointment for a longer period than three years.

(3) On the occurrence from any cause of a vacancy in the office of Director (whether by reason of death or resignation or otherwise), and in case of the absence from duty of the Director (from whatever cause arising), the powers, duties, and functions of the Director may be exercised and performed by any person authorized in that behalf by the Minister.

(4) The fact that any person exercises or performs any power, duty, or function of the Director with the concurrence of the Minister shall be conclusive evidence of his authority so to do.

(5) For the purposes of this section the powers, duties, and functions of the Director shall be deemed to include such of the powers of the Minister as the Director may for the time being be authorized to exercise pursuant to a delegation under section eight hereof.

6. (1) There may also from time to time be appointed such officers of the Public Service as may from time to time be considered necessary for the purposes of this Act.

Appointment of
other officers.

(2) All persons who on the commencement of this Act are permanent officers of the New Zealand Broadcasting Board shall thereupon be deemed to be officers of the Public Service within the meaning of the Public Service Act, 1912, and, subject to the provisions of subsection two of the last preceding section, shall hold office accordingly as if they had been appointed under this section. A certificate signed by the Director that any person was on the commencement of this Act a permanent officer of the New Zealand Broadcasting Board shall be conclusive evidence of that fact.

See Reprint
of Statutes,
Vol. VII,
p. 522

REFER 19
No. 8.

(3) Every person appointed under this section after the commencement of this Act shall be appointed under the Public Service Act, 1912, save that no person shall be so appointed except on the recommendation of the Director.

AMD. 19
No. 8.

(4) Notwithstanding anything to the contrary in the Public Service Act, 1912, any person (not being then a

permanent officer of the Public Service) who is possessed of any technical or other expert knowledge in relation to broadcasting may be at any time appointed an officer of the Public Service under this section.

Superannuation
rights of
certain
officers.

7. (1) With respect to persons who are permanent officers of the New Zealand Broadcasting Board on the commencement of this Act and who were contributors to the Public Service Superannuation Fund immediately prior to their appointment as permanent officers of the said Board (not being persons who have heretofore retired from the Public Service on a retiring-allowance), the following special provisions shall apply:—

(a) They may elect to become contributors to the Public Service Superannuation Fund as if they had not ceased to be contributors thereto, in which case there shall be payable into that Fund, by or on account of every such person, an amount equal to the sum of—

(i) The amount heretofore refunded to him from the Public Service Superannuation Fund pursuant to section thirty-seven of the Public Service Superannuation Act, 1927;

(ii) The several contributions that would have been payable by him into the Public Service Superannuation Fund if he had continued to be a contributor to that Fund and if the salary received by him from the New Zealand Broadcasting Board were salary within the meaning and for the purposes of the Public Service Superannuation Act, 1927; and

(iii) Interest on the amounts aforesaid, at the rate of four and three-fifths per centum per annum, to be computed in respect of the amount referred to in subparagraph (i) of this paragraph from the date of the refund, and to be computed in respect of the amount referred to in subparagraph (ii) of this paragraph from the dates when the several contributions to the Fund would have become payable:

(b) If any such officer does not, within one month after the commencement of this Act, make an election in accordance with the provisions of

See Reprint
of Statutes,
Vol. VII,
p. 575

paragraph (a) hereof, he shall become a contributor to the Fund on the commencement of this Act, and his service with the Government and the New Zealand Broadcasting Board before the commencement of this Act shall not be taken into account for the purpose of computing any retiring-allowance to which he may hereafter become entitled.

(2) For the purpose of computing the amount of the retiring-allowance to which any person who makes an election under paragraph (a) of the last preceding subsection may hereafter become entitled his continuous Government service shall not be deemed to have been interrupted by his service with the New Zealand Broadcasting Board, and the whole period of his service as a permanent officer of the said Board before the commencement of this Act shall be deemed to have been Government service.

8. (1) The Minister may from time to time, by writing under his hand, delegate to the Director such of his powers as he thinks fit.

Delegation of
Minister's
powers.

REFER 19
No. 2.

(2) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister in person.

(3) Any such delegation may be made subject to such conditions and restrictions (if any) as the Minister thinks fit, and may be made either generally or in relation to any particular matter.

(4) Unless and until any such delegation is revoked it shall continue in force according to its tenor. In the event of the Minister by whom any such delegation has been made ceasing to hold office it shall continue to have effect as if made by the person for the time being holding office as Minister and, in the event of the Director to whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding office as Director or for the time being exercising the functions of the Director.

(5) The fact that the Director or any person lawfully acting for the Director exercises any power of the Minister shall, in the absence of proof to the contrary, be sufficient evidence of his authority so to do.

Provision for
appointment of
Broadcasting
Advisory
Council.

9. (1) For the purpose of advising the Minister in respect of such matters in relation to this Act as he may refer to it, there may be appointed in accordance with this section an advisory body to be called the Broadcasting Advisory Council.

(2) The Advisory Council shall consist of not more than five members, to be from time to time appointed by the Governor-General on the recommendation of the Minister.

(3) The members of the Council shall be appointed for a term not exceeding three years, save that any such member may be reappointed, or may be at any time removed from office by the Governor-General, or may resign his office by writing addressed to the Minister.

(4) Members of the Council (not being officers in the service of the Government) shall be paid such allowances and travelling-expenses as may be prescribed in that behalf by regulations under this Act.

(5) The Council shall meet at such times and places as the Minister may from time to time determine.

10. (1) For the purposes of this Act there shall be established at the Reserve Bank of New Zealand an account to be known as the Broadcasting Account.

(2) Part X of the Public Revenues Act, 1926, shall apply with respect to the Broadcasting Account in the same manner as it applies to the several accounts mentioned therein.

(3) The Broadcasting Account shall be operated on only by cheque signed by the Director and countersigned by the Audit Office.

11. For the purposes of the Broadcasting Account there may be opened at the Reserve Bank or at any other bank such imprest or other subsidiary accounts as may from time to time be authorized in accordance with the Public Revenues Act, 1926.

12. There shall from time to time be paid into the Broadcasting Account the moneys following:—

(a) All moneys belonging to the New Zealand Broadcasting Board at the commencement of this Act, and all moneys received after the commencement of this Act which, if this Act had not been passed, would have been payable to that Board:

Broadcasting
Account.

See Reprint
of Statutes,
Vol. VII,
p. 46

REP. 19
No. s.
Substitutn.

Subsidiary
accounts.

Moneys
payable
into the
Broadcasting
Account.

REFER 19
No. s.

- (b) All fees received pursuant to regulations made under section one hundred and ninety-nine of the Post and Telegraph Act, 1928, in respect of receiving-station licenses:
- (c) All moneys derived from the operation of commercial stations established by the Minister pursuant to section fourteen of this Act:
- (d) Any other moneys that may be appropriated by Parliament for the purposes of the Broadcasting Account, or that may otherwise be lawfully payable into the Account.

See Reprint of Statutes, Vol. VI, p. 928

13. (1) There shall from time to time, without further appropriation than this section, be paid out of the Broadcasting Account the moneys following:—

Moneys payable out of Broadcasting Account.

- (a) All moneys required to be expended for the purpose of providing programmes to be transmitted from broadcasting stations operated by the Minister, not being salaries, allowances, or expenses payable to the Director, or to officers of the Public Service, or to members of the Advisory Council, as such:
- (b) All moneys payable, in accordance with regulations made under this Act in that behalf, to licensees of private broadcasting stations:
- (c) All moneys payable to the Post Office Account, in accordance with regulations made under this Act in that behalf, in respect of the issue of receiving-station licenses.

REFER 19
No. 2.
AMD. 19
No. 5.
AMD. 19
No. 2.

(2) There shall also from time to time be paid out of the said account, in accordance with the appropriation of Parliament, the salaries and allowances of officers and of members of the Advisory Council and all other expenditure incurred in the administration of this Act:

Provided that any such expenditure incurred with the approval of the Minister in respect of the financial year ending on the thirty-first day of March, nineteen hundred and thirty-seven, may, in anticipation of appropriation by Parliament, be paid without further appropriation than this section.

14. (1) Except as provided in the next succeeding subsection, no programme or part of a programme intended to serve as an advertisement for the pecuniary benefit of any person shall be transmitted from any broadcasting station, whether operated by the Minister or by any other person.

Prohibition of advertisements, except from commercial stations operated by the Minister.

REFER 19
No. a.

(2) The Minister may from time to time establish and operate broadcasting stations (hereinafter referred to as commercial stations) from which programmes that include advertising matter may be transmitted.

(3) For every locality that is served by a commercial station the Minister shall provide an alternative service from at least one broadcasting station that is not a commercial station.

Minister to supervise programmes of private broadcasting stations.

15. (1) In addition to his other functions under this Act, the Minister shall have the duty of supervising all programmes to be transmitted from private broadcasting stations, and for that purpose may prohibit, either absolutely or subject to such conditions as he thinks fit, the transmission from any private broadcasting station of any programme or part of a programme which in his opinion is unsuitable for broadcasting.

(2) Upon receiving a report by the Minister that any licensee of a private broadcasting station has failed to comply with any prohibition or condition with respect to its programmes imposed by the Minister pursuant to the foregoing provisions of this section, the Minister of Telegraphs, with the approval of the Minister charged with the administration of this Act, may cancel the license of the licensee, or may take such other action as may be prescribed or as may be considered necessary for the purpose of ensuring compliance with any such prohibition or condition.

(3) Nothing in this section shall be deemed to constitute the owner or licensee of any broadcasting station the agent of the Minister, or to impose any liability on the Government in respect of any expense incurred by any such owner or licensee.

Limitation of number of private broadcasting stations.

16. No licenses for private broadcasting stations shall hereafter be issued if the effect of such issue would be to increase the number of such licenses in force at any one time beyond the number of such licenses held immediately prior to the commencement of this Act by persons other than the New Zealand Broadcasting Board.

Restricting transfers of licenses for private broadcasting stations.

17. (1) Except with the consent in writing of the Minister of Telegraphs, no licensee of a private broadcasting station shall assign, sublet, transfer, or otherwise dispose of, or permit any other person to participate in, the benefit of his license.

(2) Except as aforesaid, no person shall sell, transfer, or otherwise dispose of, or shall mortgage or charge, the transmitting apparatus of any private broadcasting station, or any part thereof, or any interest in any such apparatus or part thereof.

(3) If any licensee of a private broadcasting station acts in contravention of the provisions of subsection one or of subsection two of this section he shall be deemed to have committed a breach of the conditions subject to which his license was issued.

(4) This section shall be deemed to have come into force on the first day of June, nineteen hundred and thirty-six.

18. (1) The Minister shall within three months after the end of each financial year cause to be prepared a report on his operations under this Act for the year.

(2) The said report, together with statements of account to be prepared by the Director in accordance with section fifty-seven of the Finance Act, 1932, shall be laid before Parliament within fourteen days after it has been received by the Minister if Parliament is then sitting or, if Parliament is not sitting, shall be laid before Parliament within fourteen days after the commencement of the next ensuing session thereof.

19. (1) The Governor-General may from time to time, by Order in Council, make all such regulations as are contemplated by this Act or as are reasonably required for the purpose of giving effect thereto.

(2) All regulations made under the authority of this section shall be published in the *Gazette*, and shall be laid before Parliament within fourteen days after the date of such publication if Parliament is then sitting or, if Parliament is not sitting, shall be laid before Parliament within fourteen days after the commencement of the next ensuing session thereof.

20. (1) The Broadcasting Act, 1931, section fifty-four of the Finance Act, 1932, and the Broadcasting Amendment Act, 1934-35, are hereby repealed.

(2) All acts of authority which originated under any of the enactments hereby repealed and are subsisting on the commencement of this Act shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.

Commencement
of this
section.

Annual report
and accounts
to be
presented to
Parliament.

AMD. 19

No. 11

1932, No. 11

Regulations.

Repeals.

See Reprint
of Statutes,
Vol. I, p. 700
1932, No. 11
1934-35, No. 40