



## ANALYSIS

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1990, No. 104

**An Act to amend the Radiocommunications Act 1989**

[28 August 1990]

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title**—This Act may be cited as the Radiocommunications Amendment Act (No. 2) 1990, and shall be read together with and deemed part of the Radiocommunications Act 1989 (hereinafter referred to as the principal Act).

**2. Interpretation**—Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “manager”, the following definition:

“ ‘Mobile transmitter’ means a transmitter intended to be used while in motion or during halts at unspecified points:”.

**3. Registration of licences and modifications where management rights mortgaged**—The principal Act is hereby amended by repealing section 26, and substituting the following section:

“26. (1) Where—

“(a) An instrument received by the Registrar for registration under section 16 (1) of this Act is a licence in the form prescribed for the purposes of section 48 of

this Act or a modification in the form prescribed for the purposes of section 54A of this Act; and

- “(b) A mortgage of the management rights pursuant to which the licence is granted is registered under this Act,—

the Registrar shall not register that licence or that modification unless the Registrar receives from the applicant for registration an acknowledgment from the mortgagee that the mortgagee has consented to the grant of that licence or the making of that modification.

“(2) Every such acknowledgment shall be in the prescribed form and shall be signed by the mortgagee.”

**4. Creation of licence by manager**—Section 48 (d) of the principal Act is hereby amended by inserting, after the word “location”, the words “or within a specified area”.

**5. Contents of licence to transmit radio waves**—The principal Act is hereby amended by repealing section 49, and substituting the following section:

“49. (1) Every licence to which section 48 (a) or section 48 (b) of this Act applies shall—

“(a) Specify the name of the rightholder; and

“(b) Specify—

“(i) Where the transmitter or transmitters are installed at a single fixed location, that location, or, where the transmitter or transmitters are not installed at a single fixed location, the area from which a mobile transmitter or transmitters may transmit pursuant to the licence; and

“(ii) The maximum power of emissions permitted under the licence; and

“(iii) The maximum bandwidth of the emissions permitted under the licence; and

“(iv) The class of emissions permitted under the licence; and

“(v) The antenna horizontal radiation pattern; and

“(vi) The antenna polarisation; and

“(vii) In relation to a transmitter or transmitters at a fixed location, the antenna height; and

“(c) Specify—

“(i) A location or locations as the receive coverage location or locations applying to the licence; or

“(ii) An area as the receive coverage area applying to the licence; and

“(d) Specify the maximum permitted interfering signals applying to any location or locations specified pursuant to paragraph (c) (i) of this section or any area specified pursuant to paragraph (c) (ii) of this section; and

“(e) Specify—

“(i) The expiry date of the licence, being a date not later than the expiry date specified in the record of management rights to which the licence relates; and

“(ii) Any conditions applying to the exercise of the rightholder’s rights, being conditions not inconsistent with any conditions specified in the record of management rights to which the licence relates; and

“(f) Specify, in relation to every frequency on which transmissions are permitted pursuant to the licence,—

“(i) That frequency; and

“(ii) The unwanted emission limits applying to emissions from the transmitter or transmitters, expressed as the maximum e.i.r.p. of such emissions; and

“(iii) The commencement date of the right to transmit on that frequency; and

“(iv) The expiry date of the right to transmit on that frequency, being a date not later than the expiry date of the licence.

“(2) Those matters referred to in paragraphs (a) to (e) of subsection (1) of this section shall be common to all frequencies on which transmissions are permitted pursuant to the licence.”

**6. Modification of frequencies on a licence**—The principal Act is hereby amended by inserting, after section 54, the following section:

“54A. (1) Where a rightholder entitled to exercise rights under a licence to which section 48 (a) or section 48 (b) of this Act applies wishes to modify the frequencies specified on the licence, the rightholder may present to the Registrar for the purposes of registration a notice in the prescribed form.

“(2) A modification under subsection (1) of this section may involve the addition or deletion of frequencies.

“(3) Every notice presented under subsection (1) of this section shall—

- “(a) Specify each frequency that is to be added or deleted; and
- “(b) Specify in relation to each frequency that is to be added to the licence—
- “(i) That frequency; and
  - “(ii) The unwanted emission limits applying to emissions from the transmitter or transmitters, expressed as the maximum e.i.r.p. of such emissions; and
  - “(iii) The commencement date of the right to transmit on that frequency; and
  - “(iv) The expiry date of the right to transmit on that frequency, being a date not later than the expiry date of the licence; and
- “(c) Be signed by every manager who has the management rights in relation to any frequency to which the modification effected by the notice relates.
- “(4) The Registrar shall not register any notice presented under subsection (1) of this section until the Registrar receives, in relation to the notice, a certificate from an approved radio engineer stating that, in the opinion of that engineer, the modification to which the notice relates—
- “(a) Will not endanger the functioning of any radionavigation service; and
  - “(b) Will not endanger the functioning of any radio service essential to the protection of life or property; and
  - “(c) Is technically compatible with services operated pursuant to existing licences, having regard to—
    - “(i) The International Radio Regulations; and
    - “(ii) The CCIR reports and recommendations; and
    - “(iii) Annex 10 to the Convention on International Civil Aviation; and
    - “(iv) The International Convention for the Safety of Life at Sea; and
    - “(v) Any relevant reference standards issued by the Secretary.”

**7. Effect of caveat**—Section 91 (1) of the principal Act is hereby amended—

- (a) By inserting in paragraph (a), after the word “creating”, the words “or modifying”; and
- (b) By inserting in paragraph (b), after the word “transferring”, the words “or modifying”.

**8. Regulations**—(1) Section 116 (1) (e) of the principal Act is hereby amended by inserting, after the word “payable”, the words “, and providing for the waiver of any such fees by the Secretary”.

(2) Section 135 (1) of the principal Act is hereby amended by inserting, after the words “payment of the fees”, the words “; and providing for the waiver of any such fees by the Secretary or the Registrar”.

**9. Interpretation**—Section 144 (1) of the principal Act is hereby amended by repealing paragraph (a) of the definition of the term “gross income”, and substituting the following paragraph:

“(a) Means the gross earnings received from all sources during a financial year in respect of—

“(i) The provision or disposal of programmes, advertisements, or other matter broadcast or intended to be broadcast by that incumbent that involve the exercise of the rights conferred by any radio apparatus licence held by the incumbent or by any licence of which the incumbent is the rightholder; and

“(ii) The provision of any other services that involve the exercise of the rights conferred by any radio apparatus licence held by the incumbent or by any licence of which the incumbent is the rightholder; and”.

**10. Transfer of rights of incumbents in relation to television services**—The principal Act is hereby amended by inserting, after section 146, the following section:

“146A. (1) Subject to subsection (2) of this section, a person who is the incumbent in relation to a frequency to which section 145 of this Act applies, being a frequency used for the purposes of any television service to which section 146 (1) (a) of this Act applies, may transfer that person’s rights as the incumbent to any other person.

“(2) A transfer to which subsection (1) of this section applies shall not take effect unless the Secretary, at the written request of the incumbent, issues to the transferee the radio apparatus licences in relation to the frequency.

“(3) When a transfer to which subsection (1) of this section applies takes effect, the transferee—

- “(a) Shall become the incumbent in relation to the frequency;  
and
- “(b) Shall, while the transferee is the incumbent,—
- “(i) Be entitled to transfer, in accordance with subsections (1) and (2) of this section, the transferee’s rights as the incumbent in relation to the frequency;  
and
- “(ii) Perform the obligations imposed on the incumbent by this Part of this Act.”

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This Act is administered in the Ministry of Commerce.

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