

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE]
House of Representatives, 12 July 1968

Words struck out by the Committee are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]
House of Representatives, 12 November 1968.

Words struck out by the Committee of the Whole are shown in italics within double bold round brackets, or with double black rule at beginning and after last line; words inserted are shown in roman underlined with a triple rule, or with triple rule before first line and after last line.

Hon. Mr Adams-Schneider

BROADCASTING AUTHORITY

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A BILL INTITULED

**An Act to establish the New Zealand Broadcasting Authority
and to define its powers and functions**

BE IT ENACTED by the General Assembly of New Zealand
in Parliament assembled, and by the authority of the same, 5
as follows:

1. Short Title—This Act may be cited as the Broadcasting
Authority Act (1967) 1968.

2. Interpretation—In this Act, unless the context otherwise
requires,— 10

“Advertising programme” means a programme or part
of a programme intended to serve as an advertisement
for the pecuniary benefit of any person:

“Authority” means the New Zealand Broadcasting Autho-
rity established by this Act: 15

“Broadcasting” means the dissemination of any form
of radioelectric communication (including the wire-
less transmission of writing, signs, signals, pictures,
images, and sounds of all kinds by means of Hertzian
waves) intended to be received by the public either 20
directly or through the medium of relay stations;
and “to broadcast” has a corresponding meaning:

“Broadcasting station” includes a diffusion service:

“Commercial broadcasting station” means a broadcasting
station from which advertising programmes are 25
broadcast:

“Corporation” means the New Zealand Broadcasting
Corporation established by the Broadcasting Corpora-
tion Act 1961:

“Diffusion service” means a service whereby sounds or 30
visual images are transmitted by the person operating
the service to subscribers to the service over wires or
other material substance for reception by apparatus
designed to receive the transmissions:

“Minister” means the Minister of Broadcasting: 35

“Private broadcasting station” means a broadcasting
station established or operated by some person other
than the Corporation:

“Programme” includes any signal, announcement, item,
communication, picture, or other matter broadcast 40
or intended to be broadcast from a broadcasting
station for reception by the public:

“Relay station” means a broadcasting station which
receives broadcast programmes from another broad-
casting station for the purpose of the transmission of 45
those programmes directly to the public:

“Television station” means a broadcasting station from which television programmes are broadcast:

“Warrant” means a warrant issued by the Authority under this Act in respect of the establishment or operation of a broadcasting station.

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PART I

NEW ZEALAND BROADCASTING AUTHORITY

3. Broadcasting Authority—(1) There is hereby established an Authority to be called the New Zealand Broadcasting Authority.

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(2) The Authority shall consist of three members who shall be appointed by the Governor-General on the recommendation of the Minister and of whom one shall be appointed as Chairman.

15

New

(2A) The person appointed to be Chairman of the Authority shall be a barrister or solicitor of not less than seven years' practice of the Supreme Court, whether or not he holds or has held any judicial office. Any person appointed as Chairman may hold that office concurrently with any other office held by him.

20

(3) The Authority shall be a body corporate with perpetual succession and a common seal, and shall be capable of holding real and personal property, and of suing and being sued, and of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer.

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4. Term of office of members—(1) Except as otherwise provided by this Act, every member of the Authority shall be appointed for a term of three years, but may from time to time be reappointed.

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(2) Of the first members of the Authority other than the Chairman, one shall be appointed for a term of one year and the other shall be appointed for a term of two years. In any case a member may be reappointed for a term of three years.

35

(3) Notwithstanding anything to the contrary in this Act, every member of the Authority, unless he sooner vacates his office under section 6 of this Act, shall continue in office until his successor comes into office.

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5. Deputies of members—(1) In any case in which the Minister is satisfied that any member of the Authority is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister may appoint a deputy to act for that member during his incapacity.

(2) In the case of the incapacity of the Chairman, his deputy may or may not be one of the other members, but shall in any case be a person qualified for appointment as Chairman under subsection (2A) of section 3 of this Act; and, if the deputy of the Chairman is one of the other members, some other person may be appointed to act as the deputy of that member. 5

(3) Any deputy appointed under this section shall, while he acts as such, be deemed to be a member of the Authority, and the deputy of the Chairman shall have all the powers of the Chairman. 10

(4) No appointment of a deputy and no act done by him as such, and no act done by the Authority while any deputy is acting as such, shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased. 15

6. Extraordinary vacancies—(1) Any member of the Authority may at any time be removed from office by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by written notice given to the Minister. 20

(2) If any member of the Authority dies or resigns, or is removed from office, his office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy. 25

(3) An extraordinary vacancy shall be filled by the appointment of a person in the same manner as the appointment of the vacating member.

(4) Every person appointed to fill an extraordinary vacancy shall be appointed for the residue of the term for which the vacating member was appointed. 30

(5) The powers of the Authority shall not be affected by any vacancy in the membership thereof.

7. Meetings of Authority—(1) The first meeting of the Authority shall be held on a day to be appointed in that behalf by the Minister. 35

(2) Subsequent meetings of the Authority shall be held at such times and places as the Authority from time to time appoints.

(3) The Chairman of the Authority, or any two members thereof, may at any time call a special meeting of the Authority. 40

(4) At all meetings of the Authority the quorum necessary for the transaction of business shall be two members.

(5) The Chairman shall preside at all meetings of the Authority at which he is present. 45

(6) In the absence of the Chairman or his deputy from any meeting, the members present shall elect one of their number to preside at that meeting.

5 (7) All questions arising at any meeting of the Authority shall be decided by a majority of the valid votes recorded thereon.

(8) At any meeting of the Authority the Chairman or other person presiding shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

10 (9) A resolution in writing signed, or assented to by letter or telegram, by all members of the Authority shall be as valid and effectual as if it had been passed at a meeting of the Authority duly called and constituted.

15 (10) Subject to the provisions of this Act and of any regulations thereunder, the Authority may regulate its procedure in such manner as it thinks fit.

8. Committees—(1) The Authority may from time to time appoint a committee or committees, consisting of two or more members, to advise the Authority on such matters relating to its functions as are referred to them by the Authority.

New

25 (1A) In particular, but without limiting the generality of subsection (1) of this section, committees may be appointed to advise the Authority on matters relating to religion, children's programmes, or advertising so far as those matters relate to the Authority's functions.

(2) A person may be appointed to be a member of any committee appointed under this section notwithstanding that he is not a member of the Authority.

30 (3) Subject to the provisions of this Act, of any regulations thereunder, or of any general or special directions of the Authority, any such committee may regulate its procedure in such manner as it thinks fit.

9. Functions and powers of Authority—(1) The general functions of the Authority shall be—

35 (a) To consider and adjudicate upon applications for warrants to establish and operate broadcasting stations and other applications relating to warrants:

40 (b) To ensure that holders of warrants comply with the conditions to which those warrants are subject and with the rules of the Authority so far as those rules are applicable to the broadcasting station concerned:

- (c) To advise the Minister in respect of such matters relating to broadcasting as may be referred to it by the Minister:
- (d) To exercise and perform such functions, powers, and duties in relation to broadcasting as are conferred or imposed on it under this Act or otherwise howsoever. 5
- (2) In the exercise of its functions with respect to the granting, renewal, transfer, amendment, revocation, or suspension of warrants, it shall be the duty of the Authority to act judicially and in accordance with the principles of natural justice. 10
- (3) The Authority shall have such powers, rights, and authorities as may reasonably be necessary or expedient to carry out its functions and, without limiting the generality of the foregoing provisions of this subsection, in particular it may— 15
- (a) From time to time conduct surveys for the purpose of ascertaining the extent to which broadcasting services are available in any locality to which any survey relates, whether or not an application for a warrant has been made in respect of the establishment of a broadcasting station in that locality: 20
- (b) Publish or arrange for the publication of such periodicals, pamphlets, or other publications as it may consider of benefit to any persons engaged in broadcasting: 25
- (c) Act in combination or association with any person or body, whether incorporated or not and whether in New Zealand or elsewhere. 30

New

- (d) Out of the proceeds of any levy on private broadcasting stations imposed under section 33 of this Act, make grants or pay subsidies to any body or organisation engaged in assisting, promoting, or carrying out any performing art or cultural pursuit. 35

(4) The Authority shall not exercise any function or power under this Act in respect of any short-wave station within the meaning of the Broadcasting Corporation Act 1961.

10. Authority to make rules—(1) In the exercise of its functions the Authority shall ensure, as far as it may do so under the powers conferred by this Act,— 40

- (a) That nothing is included in programmes which offends against good taste and decency or is likely to incite to crime or to lead to disorder or to be offensive to public feeling: 45
- (b) That programmes maintain a proper balance in their subject-matter and a high general standard of quality:

(c) That news given in programmes (in whatever form) is presented with due accuracy and impartiality and with due regard to public interest.

5 (2) The Authority shall from time to time, after consultation with the Corporation and representatives of owners of private broadcasting stations for the time being holding warrants under this Act, prepare and promulgate rules in respect of all or any of the following matters:

10 (a) For giving effect to the provisions of subsection (1) of this section:

(b) Prescribing the character and standard of advertising which may be broadcast:

15 (c) Prescribing standards of programmes and prohibiting the broadcast of such matters as may be prescribed in the rules:

20 (d) Providing that matter broadcast during a specified period shall contain a prescribed proportion of items produced in New Zealand and encouraging, in such manner as the Authority thinks fit, the inclusion in broadcasting schedules of as much matter produced in New Zealand as is reasonably possible:

25 (e) Prescribing rules of procedure in respect of applications for warrants and in respect of other applications relating to warrants and in respect of hearings before the Authority:

30 (f) Requiring the holders of warrants to submit information to the Authority regarding their programmes, financial affairs, ownership, control, and such other matters concerning their operations as the rules may specify:

(g) Providing for such matters as are necessary for the Authority to exercise its functions and for its due administration.

35 (3) Any rules under this section may apply generally to all broadcasting stations or may apply only to broadcasting stations of specified types or classes and may from time to time be varied, amended, or revoked.

40 (4) All rules under this section and all variations and amendments of any such rules shall be forwarded to the Minister, the Corporation, and all holders of warrants for the time being in force under this Act.

45 (5) The Authority may include, as conditions of any warrant issued under this Act, such of the rules under this section as may be specified in the warrant.

11. Directions by Authority—(1) Where it appears to the Authority that any broadcasting station is being operated in a manner contrary to the rules of the Authority notified to the holder of the warrant issued in respect of that station, it may give to the holder such directions in writing as the Authority thinks necessary to ensure that the rules are complied with. 5

(2) If the holder of the warrant fails, within such time as may be specified in the directions, to comply with any directions under this section or if any matter is broadcast from a broadcasting station contrary to the provisions of any such directions, he shall be deemed to have committed a breach of the conditions of the warrant. 10

12. Authority to comply with Government policy—
Struck Out

(1) In the exercise of its functions and powers under this Act the Authority shall comply with the general policy of the Government of New Zealand and shall comply with any general or special directions given by the Minister to the Authority by notice in writing pursuant to the policy of the Government in relation to the functions and powers of the Authority. 15
20

New

(1) In the exercise of its functions and powers under this Act the Authority shall comply with the general policy of the Government in relation to the functions and powers of the Authority, and shall comply with any general or special directions given by the Minister to the Authority by notice in writing pursuant to the policy of the Government in relation to those functions and powers. 25

(2) A copy of every notice under subsection (1) of this section shall be laid by the Minister before Parliament within twenty-eight days after the date of the notice if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the commencement of the next ensuing session. 30
35

13. Employees of Authority—(1) The Authority may from time to time appoint a Secretary and such other employees, including acting or temporary or casual employees, as it thinks necessary for the efficient exercise of its functions or powers, and may, subject to any contract of service, at any time remove any employee from his office or employment. 40

(2) Officers and employees of the Authority shall be paid such salaries and allowances (within scales fixed by the Authority in agreement with the State Services Commission) as the Authority from time to time determines.

5 (3) Officers and employees of the Authority shall be employed on terms and conditions of employment from time to time determined by the Authority in agreement with the State Services Commission.

10 (4) The Authority shall out of its funds subsidise or contribute to the National Provident Fund or any other fund or scheme established with the approval of the Minister of Finance for the purpose of providing superannuation or retiring allowances for its officers and employees.

15 (5) Before any employee entrusted by the Authority with the custody or control of money by virtue of his office enters on the duties of his office, the Authority shall take sufficient security for the faithful execution of his office.

20 (6) Any person in the service of the Crown may be appointed to be an employee of the Authority, but no such person shall be entitled to hold office concurrently as an employee of the Authority and as a servant of the Crown except—

25 (a) In the case of a person subject to the State Services Act 1962, with the consent of the State Services Commission; and

(b) In any other case, with the consent of the Minister of the Crown to whose control he is subject.

30 **14. Fees and travelling allowances—**(1) The Authority is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) There may be paid to members of the Authority and of any committee appointed by the Authority out of the funds of the Authority remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

40 **15. Authority to be Commission of Inquiry—**(1) The Authority shall be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and, subject to the provisions of this Act, the provisions of sections 3, 4, 4A, and 5 to 10 of that Act shall apply accordingly:

New

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Provided that any disputed point of law referred to the Supreme Court under section 10 of that Act shall be heard and determined by the Administrative Division of the Supreme Court.

(2) The Chairman of the Authority, or any other member or the Secretary of the Authority purporting to act by direction or within the authority of the Chairman, may issue summonses requiring the attendance of witnesses before the Authority, and the production of documents, or may do any other acts preliminary or incidental to the hearing of any matter by the Authority. 5

PART II

ESTABLISHMENT OF BROADCASTING STATIONS

16. Warrants required—(1) Before a person (including the Corporation) is granted a licence under the Post Office Act 1959 to establish and operate a broadcasting station he shall obtain a warrant under this Part of this Act. 10

(2) Subject to the provisions of this Act, no person shall establish or operate a broadcasting station otherwise than in conformity with the terms and conditions of a warrant issued by the Authority under this Act and for the time being in force. 15

(3) The licensee of any broadcasting station who, at the commencement of this Act, is deemed under section 39 of the Broadcasting Corporation Act 1961 to be the holder of a warrant under that Act shall be deemed to be the holder of a warrant under this Act: 20

Provided that any warrant to which this subsection applies shall be subject to a condition that no advertising programme shall be broadcast from the broadcasting station to which the warrant applies except under a warrant issued by the Authority pursuant to a new application under this Act. 25

(4) Any warrant to which subsection (3) of this section applies shall be subject to such terms and conditions as the Authority thinks fit to impose under and in accordance with this Act. 30

17. Warrants in respect of Corporation stations—(1) Within fourteen days after the date of the commencement of this Act the Corporation shall forward to the Authority a list of all broadcasting stations (other than relay stations) established and operated by the Corporation at that date. 35

(2) Every such list shall contain such particulars as the Authority may require in order to give effect to paragraphs (a) to (f) of subsection (1) of section 24 of this Act. 40

(3) Upon receipt of the list referred to in subsection (1) of this section, the Authority shall issue to the Corporation a warrant for each broadcasting station referred to in the list.

5 (4) Every such warrant shall be subject to the conditions referred to in paragraphs (a) to (f) of subsection (1) of section 24 of this Act in accordance with the particulars supplied by the Corporation under subsection (2) of this section and certified by the Director-General of Broadcasting.

10 (5) Pending the issue of a warrant under this section, the Corporation shall be deemed to be the holder of a warrant in respect of each broadcasting station operated by it at the commencement of this Act.

15 **18. Relay stations**—(1) Where the Corporation applies for a licence under section 164 of the Post Office Act 1959 to establish and operate a relay station for the purpose of transmitting programmes from any broadcasting station operated by the Corporation, no warrant shall be required under this Act in respect of that relay station.

20 (2) Where any warrant issued to a person other than the Corporation contains a condition authorising the establishment or operation of relay stations in respect of the broadcasting station for which the warrant was issued, the holder of the warrant shall not be required to obtain a further warrant under this Act in any case where he applies, under section 164
25 of the Post Office Act 1959, for a licence in respect of any relay station to which the warrant relates.

(3) Except as otherwise provided by this section, a warrant shall be required under this Act before any person establishes or operates a relay station.

30 **19. Offences in respect of unauthorised broadcasting stations**—(1) Any person who contrary to the provisions of section 16 of this Act operates a broadcasting station commits an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months or to
35 a fine not exceeding one thousand dollars and (if the offence is a continuing one) to a further fine not exceeding forty dollars for every day during which the offence has continued, or to both imprisonment and fine.

40 (2) If any company or body corporate operates a private broadcasting station contrary to the provisions of (*section 17*) section 16 of this Act, every director and other person acting in the management of the company or body corporate shall, in addition to any penalty to which the company or body corporate may be liable, be liable on summary conviction to
45 imprisonment for a term not exceeding three months or to a fine not exceeding two hundred dollars, or to both.

20. Applications and hearings—(1) Every application for a warrant shall be in the prescribed form and shall be forwarded to the Secretary of the Authority accompanied by the prescribed fee. A copy of each application shall be forwarded by the Secretary to the Director-General of the Post Office and to the Corporation. 5

(2) Every application under this section shall contain such information as may be required by the Director-General of the Post Office to enable him to ascertain whether or not the proposed broadcasting station will comply with the technical requirements of the Post Office. 10

(3) The Authority shall fix a time and place for the hearing of an inquiry in respect of any application under this section and shall give to the applicant, the Director-General of the Post Office, the Corporation, and all such other persons as, in the opinion of the Authority, are likely to be affected at least twenty-one days' notice of the time and place fixed for the hearing. 15

New

(3A) The Authority shall also give notice in some newspaper or newspapers having a regular circulation in the locality to which the application relates of the receipt of the application, of the time within which it will receive written submissions for or against the application, and of the time and place at which a hearing will be held by the Authority for the purpose of considering the application. 25

(3B) Every such hearing shall be held in public unless the Authority considers it in the interest of the parties and of all other persons concerned that the hearing or any part thereof should be held in private. 30

(4) At any such hearing the Authority shall hear all evidence tendered and representations made which it deems relevant to the subject-matter of the application.

(5) Any such hearing may, in the discretion of the Authority, be adjourned from time to time and from place to place. 35

(6) Where there are more applications than one relating to the same or adjacent localities, the Authority may, in its discretion, deal with all applications at the same hearing or with such number of any such applications as it thinks fit.

(7) The Authority at the conclusion of the hearing shall grant or refuse to grant the application for a warrant. 40

(8) No application for a warrant shall be granted until the Director-General of the Post Office certifies that the conditions attached to the warrant under section 24 of this Act comply with the technical requirements of the Post Office. 45

21. Matters to be considered—In considering any application for a warrant, the Authority, before determining whether or not to grant the application, shall have regard to—

- 5 (a) The extent to which the proposed service is necessary or desirable in the public interest:
- (b) The economic effect which the establishment of the station to which the application relates is likely to have in respect of broadcasting stations already in operation:
- 10 (c) The effect which the establishment of the station to which the application relates may have on broadcasting services, other than services provided by commercial broadcasting stations, provided by the Corporation in the public interest:
- 15 (d) The needs of New Zealand or the locality or localities proposed to be served, in respect of broadcasting services:
- (e) The financial ability of the applicant to carry on the proposed service:
- 20 (f) The likelihood of the applicant's carrying on the proposed service satisfactorily:
- (g) The results of any survey conducted by the Authority:
- (h) The desirability of avoiding monopolies in the ownership or control of news media:
- 25 (i) The hours during which the applicant proposes to broadcast programmes:
- (j) The extent of advertising matter which the applicant proposes to broadcast:
- (k) The proposed rates and charges to be made in respect of advertising programmes:
- 30 (l) The provisions of the News Media Ownership Act 1965:
- (m) Such matters as may be necessary for the purpose of imposing conditions under section 24 of this Act:
- (n) All evidence or representations received by it at the hearing:
- 35 (o) Such other matters as may be prescribed in regulations in that behalf.

22. Classification of warrants—(1) Every warrant under this Part of this Act shall be either—

- 40 (a) A television warrant—meaning thereby a warrant in relation to the operation of a television station; or
- (b) A sound radio warrant—meaning thereby a warrant in relation to the operation of a broadcasting station other than a television station.

(2) Every warrant shall specify whether or not advertising programmes may be broadcast from the station to which the warrant relates.

Struck Out

23. Proceedings before Authority not subject to appeal— 5
 Proceedings before the Authority shall not be held bad for want of form, and no appeal shall lie from any determination or decision of the Authority:

Provided that nothing in this section shall be construed—

- (a) To prohibit or restrict the Supreme Court from 10
 exercising a supervisory jurisdiction over the Authority on questions of law; or
- (b) To restrict the power of the Authority to refer any
 disputed point of law to the Supreme Court for
 decision pursuant to section 10 of the Commissions 15
 of Inquiry Act 1908.

New

23. Appeals against decision of Authority—(1) Where the Authority—

- (a) Refuses an application for a warrant; or 20
- (b) Refuses an application for the renewal of a warrant;
 or
- (c) Refuses an application for consent to any transaction
 requiring the consent of the Authority under section
26 of this Act; or 25
- (d) Amends a warrant; or
- (e) Revokes a warrant; or
- (f) Suspends a warrant for any period exceeding seven
 days; or
- (g) Grants an application for a warrant in any case where 30
 the application was objected to at the hearing by
 a person who at the time of the hearing was the
 holder of a warrant—

the applicant, or the warrant holder, or the objector, as
 the case may be, may appeal to **((the Supreme Court))** the 35
Administrative Division of the Supreme Court (in this section
referred to as the Court) against the decision of the Authority
 on giving notice of appeal within fourteen days after the
 giving of the decision.

(2) The notice of appeal shall be in writing and shall be 40
 filed in the Supreme Court. It shall not be necessary to
 state in the notice the grounds of appeal. Either before or
 immediately after the filing of the notice, a copy of it shall
 be left with the Secretary of the Authority.

New

(3) The **((Supreme))** Court shall hear and determine the appeal as if the decision of the Authority had been made in the exercise of a discretion.

- 5 (4) On any appeal under subsection (1) of this section, the **((Supreme))** Court may revoke or vary any decision or determination of the Authority and may itself make any decision or determination which could have been made by the Authority in the first instance, and any decision of the
10 **((Supreme))** Court under this section shall be final and conclusive.

Struck Out

(5) Every appeal under this section shall be heard by at least three Judges of the Supreme Court.

- 15 (6) The decision of the Court shall be in accordance with the opinion of the majority of the Judges present. If the Judges present are equally divided in opinion the decision appealed against shall be deemed to be affirmed.

- 20 (7) The operation of the decision appealed against shall be suspended until the final determination of the appeal. In the case of the refusal of an application for the renewal of a warrant, or in the case of the revocation or suspension of a warrant, the warrant shall, if the appeal is not finally determined on or before the expiry of the warrant by effluxion of
25 time, be deemed to be extended until the final determination of the appeal.

- (8) As soon as possible after the receipt by the Secretary of the Authority of a copy of any notice of appeal, the Secretary shall send to the office of the Supreme Court in
30 which the appeal has been filed—

- (a) Any application and supporting documents filed with the Authority, and any written submissions, statements, reports, and other papers relating to the decision appealed against:
35 (b) A copy of any notes made by the Chairman of the evidence given at the hearing:
(c) Any exhibits in the custody of the Authority:
(d) A copy of the decision appealed against.

- 40 (9) Every appeal under this section shall be by way of rehearing; but where any question of fact is involved in any appeal the evidence taken before the Authority bearing on the question shall, subject to any special order, be brought before the **((Supreme))** Court as follows:

New

(a) As to any evidence given orally, by the production of a copy of the Chairman's note or of a written statement read by the witness while under oath, or of such other materials as the **((Supreme))** Court may deem expedient: 5

(b) As to any evidence taken by affidavit and as to any exhibits, by the production of the affidavits and such of the exhibits as may have been forwarded to the Court by the Authority, and by the production by the appellant or the Authority of such exhibits as are in his or its custody: 10

Provided that the **((Supreme))** Court may in its discretion rehear the whole or any part of the evidence, and shall rehear the evidence of any witness if the Court has reason to believe that any note of the evidence of that witness made by the Chairman is or may be incomplete in any material particular. 15

(10) The Court shall have full discretionary power to hear and receive further evidence on questions of fact, either by oral evidence or by affidavit. 20

(11) If the appellant does not appear at the time appointed for hearing the appeal, his appeal shall be dismissed.

(12) If the appellant does not prosecute his appeal with due diligence, the Authority may apply to the **((Supreme))** Court for the dismissal of the appeal. 25

(13) The Registrar of the Supreme Court shall send to the Secretary of the Authority a memorandum of the decision of the Court, and such proceedings shall be had thereon as if the decision had been given by the Authority.

(14) The Registrar shall also return to the Secretary of the Authority any application, papers, and exhibits forwarded by the Secretary pursuant to subsection (9) of this section. 30

(15) Proceedings before the Authority shall not be held bad for want of form, and except as provided by this section no appeal shall lie from any decision or determination of the Authority: 35

Struck Out

Provided that nothing in this subsection shall be construed—

(a) To prohibit or restrict the Supreme Court from exercising a supervisory jurisdiction over the Authority on questions of law; or 40

(b) To restrict the power of the Authority to refer any disputed point of law to the Supreme Court for decision pursuant to section 10 of the Commissions of Inquiry Act 1908. 45

New

New

5 Provided that nothing in this subsection shall be construed to prohibit or restrict the Supreme Court from exercising a supervisory jurisdiction over the Authority on questions of law.

10 **23A. Reasons for decisions of Authority**—When the Authority makes any decision against which any person is entitled to appeal under section 23 of this Act, it shall state its reasons for the decision which shall, if so requested by that person, be delivered in writing.

24. Conditions of warrant—(1) Every warrant under this Part of this Act shall prescribe—

- 15 (a) The class of broadcasting station in respect of which the warrant is issued:
- (b) The locality in which the station is to be situated:
- (c) The power of the station:
- (d) The hours during which the station may operate:
- 20 (e) The times during which advertising programmes may be transmitted:
- (f) The frequency on which the station may operate:
- (g) Whether or not relay stations may or shall be established or operated in respect of the broadcasting station and the terms or conditions (if any) applicable in respect of any relay station authorised:
- 25 (h) Such other matters or conditions as may be prescribed by regulations under this Act or as the Authority thinks proper.

30 (2) Every warrant (including any warrant issued to the Corporation under section 17 of this Act) shall be subject to a condition that the frequency allocated to the station to which the warrant relates may be altered to comply with national or international planning requirements in respect of broadcasting frequencies.

35 **25. Duration of warrants**—(1) Subject to the provisions of this Act, every warrant shall, unless sooner revoked, continue in force until a date five years after the date of its issue:

40 Provided that where application for the renewal of a warrant is duly made under this Act, the warrant shall, where the application for renewal is not disposed of before the date of the expiry of the warrant, continue in force until the application is disposed of unless the Authority, with the approval of the Minister, otherwise directs.

(2) Notwithstanding the provisions of this section, any warrant issued to the Corporation under section 17 of this Act shall continue in force until revoked under this Act.

26. Transfer of warrants—(1) Except with the consent in writing of the Authority, the holder of a warrant under this Part shall not assign, sublet, transfer, or otherwise dispose of, or permit any other person to participate in the benefit of his warrant. 5

(2) Except with the consent in writing of the Authority, 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. 10

New

(2A) In considering any application for its consent under this section, the Authority shall have regard to such of the matters referred to in section 21 of this Act as are relevant to the application. 15

(3) If the holder of a warrant acts in contravention of this section, he shall be deemed to have committed a breach of the conditions subject to which his warrant was issued. 20

27. Amendment of conditions—The Authority during the currency of a warrant may, of its own motion or on the application of the holder of the warrant, amend or revoke any of the terms and conditions of the warrant or add any new terms and conditions which in its opinion are necessary in the public interest: 25

Provided that no conditions shall be amended or added under this section which conflict with any conditions for the time being in force under the licence issued under section 164 of the Post Office Act 1959 in respect of the broadcasting station concerned. 30

28. Renewal of warrants—(1) Every application for the renewal of a warrant shall be made to the Authority not less than twenty-eight days before the date on which the warrant expires: 35

Provided that where the Authority is satisfied that failure to make any such application within the specified period is due to justifiable mistake or other reasonable cause, it may accept an application made at any time before the expiration of the warrant. 40

(2) In granting any renewal of a warrant the Authority may either endorse the existing warrant or issue a new warrant, but any such warrant shall show that it is in renewal of a warrant.

5 (3) The renewal of a warrant shall take effect for the same period as the term of the warrant renewed, but any such renewal (*shall be granted*) may be granted in advance to take effect as aforesaid and shall be subject to such terms and conditions as may be prescribed in the renewal.

10 *New*

(4) Every application for the renewal of a warrant shall be granted by the Authority unless it is of the opinion that sufficient grounds exist for the revocation of the warrant and the holder of the warrant has been notified accordingly.

15 **29. Revocation and suspension of warrants—**(1) The Authority may at any time notify the holder of a warrant that it proposes to revoke or suspend the warrant on the ground that the broadcasting station to which the warrant relates has not been carried on in conformity with the terms and
20 conditions of the warrant.

(2) If the Authority is of the opinion that the broadcasting station has not been carried on in conformity with the warrant, it may, after consideration in accordance with this Part, revoke the warrant.

25 (3) Instead of revoking any warrant as aforesaid, the Authority may suspend the warrant for such period as it thinks fit.

(4) Notwithstanding the provisions of this section, no
30 warrant held by the Corporation in respect of any broadcasting station, other than a commercial broadcasting station, shall be suspended or revoked except on the request of the Corporation or with the approval of the Minister.

30. Consideration of applications—(1) The Authority shall, on the application of the holder of the warrant, or without any
35 such application if it considers any such course necessary, or desirable, hold an inquiry before it—

(a) Amends a warrant; or

(b) Renews a warrant; or

(c) *Agrees to the transfer or assignment of a warrant; or*

40 *New*

(c) Consents to any transaction requiring the consent of the Authority under section 26 of this Act; or

- (d) Revokes a warrant; or
- (e) Suspends a warrant for any period exceeding seven days.
- (2) The Authority may, in its discretion, make such decision as it considers appropriate in the circumstances and, subject to the provisions of this Act, any such decision shall be final and conclusive. 5
- (3) In considering any matter under this section the Authority shall have all the ~~(powers and authorities)~~ powers, duties, and authorities conferred on it by this Part of this Act in respect of applications for new warrants and the provisions of this Part, as far as they are applicable and with the necessary modifications, shall apply accordingly. 10

PART III

FINANCIAL PROVISIONS

31. Broadcasting Authority Account—(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 Authority Account. 15

(2) The Authority may from time to time open at the Reserve Bank of New Zealand or at any branch or agency of the Bank of New Zealand such imprest or subsidiary accounts as it deems necessary for the exercise of its functions and powers. 20

(3) Every account under this section shall be operated on only by cheque signed by such person or persons as the Authority appoints from time to time for that purpose. 25

32. Money payable into and out of account—(1) There shall from time to time be paid into the Broadcasting Authority Account—

(a) All fees received in respect of warrants issued by the Authority: 30

(b) The proceeds of any levy payable under section 33 of this Act:

(c) All other money otherwise payable into the Account.

(2) There shall from time to time be paid out of the Broadcasting Authority Account— 35

(a) All money required to be expended for the purposes of the exercise of the functions and powers of the Authority:

(b) All other money required to be expended from the Account. 40

33. **Levy**—(1) For the purpose of providing funds to enable the Authority to exercise its functions and powers, the Governor-General may from time to time impose, by and in accordance with regulations under this Act, a levy on broadcasting stations operating in New Zealand at a rate not exceeding that authorised in the regulations.

(2) Any levy under this section may apply to all broadcasting stations or to any particular class of broadcasting stations and the amount of the levy may vary in respect of different classes of broadcasting stations.

34. **Borrowing powers of Authority**—(1) The Reserve Bank may grant to the Authority, and the Authority may receive from the Reserve Bank, accommodation by way of overdraft in aid of the Broadcasting Authority Account, and that Account may be overdrawn accordingly:

Provided that the amount of the accommodation by way of overdraft shall not at any time exceed such sum as may for the time being be authorised by the Minister of Finance, who in giving any such authority may impose such conditions in respect thereof as he thinks fit.

(2) The grant by the Reserve Bank of accommodation by way of overdraft as aforesaid shall not, for the purposes of paragraph (d) of subsection (1) of section 9 of the Reserve Bank of New Zealand Act 1964, be deemed to be the lending of money without security.

(3) Except as otherwise provided by this section, the Authority shall not borrow any money or mortgage or charge any of its property without the prior consent in writing of the Minister of Finance.

35. **Insurance of members**—It shall be lawful for the Authority from time to time to enter into contracts of insurance insuring its members against loss from personal accident arising out of and in the course of the exercise of their powers and duties as members and to pay the premiums payable in respect of any such contracts.

36. **Unauthorised expenditure**—The Authority may in any financial year expend for purposes not authorised by this or any other Act for the time being in force any sum or sums not amounting in the aggregate to more than five hundred dollars.

37. Accounts and audit—(1) The Authority shall keep full and correct accounts of all money received and expended by it and the accounts shall be audited by the Audit Office, which for that purpose shall have and may exercise all such powers as it has under the Public Revenues Act 1953 in respect of public money and the audit of local authorities' accounts. 5

(2) The Authority shall, as soon as practicable after the end of every financial year, cause the accounts of the Authority for that financial year to be balanced and prepare a balance-sheet of the Authority as at the end of the financial year, together with an account of income and expenditure showing the financial transactions for that year. 10

PART IV

MISCELLANEOUS PROVISIONS

38. Authority may co-opt specialist advice—The Authority may invite any person or any officer of the Public Service or a representative of any body who, in the opinion of the Authority, has expert knowledge concerning any aspect of broadcasting which is likely to be of assistance to the Authority to attend any meeting or inquiry held under this Act and to take part in the proceedings. 15 20

39. Annual report—(1) The Authority shall furnish to the Minister a report of its proceedings and operations during each year ending with the thirty-first day of March, together with a copy of its accounts and balance sheet for that year certified by the Audit Office, as soon as practicable after the end of that year. 25

(2) A copy of the report and of the accounts and balance sheet so certified shall be laid before Parliament if then sitting, and, if not, within twenty-eight days after the commencement of the next ensuing session. 30

40. Authentication of documents—(1) Any determination, notice, rule, direction, requirement, consent, or other instrument made, given, imposed, or issued by or on behalf of the Authority shall be sufficiently authenticated if it is signed by the Chairman or any other member of the Authority or by an officer of the Authority on behalf of and by direction of the Authority. 35

(2) Every instrument purporting to have been executed in accordance with subsection (1) of this section shall, in the absence of proof to the contrary, be deemed for all purposes to have been duly executed. 40

41. Evidence—(1) A copy of any resolution of the Authority certified by the Secretary of the Authority to be correct, shall, until the contrary is proved, be sufficient evidence of the resolution in any proceedings under this Act.

5 (2) A certificate signed by the Secretary of the Authority to the effect that any warrant or consent required under this Act has or has not been given by the Authority or is not for the time being in force shall, until the contrary is proved, be sufficient evidence of the matters stated therein.

10 (3) A certificate purporting to have been signed by the Secretary of the Authority shall, in the absence of proof to the contrary, be deemed for all purposes to have been duly signed.

42. Contracts of Authority—(1) The Local Authorities (Members' Contracts) Act 1954 is hereby amended by
15 inserting in Part II of the First Schedule, in its appropriate alphabetical order, the following item:

“The New Zealand Broad- casting Authority		(1967) <u>1968</u> , No. —The Broadcasting Authority Act (1967) <u>1968</u> .”
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20 (2) The Public Bodies Contracts Act 1959 is hereby amended by inserting in Part II of the First Schedule, in its appropriate alphabetical order, the following item:

“The New Zealand Broad- casting Authority		(1967) <u>1968</u> , No. —The Broadcasting Authority Act (1967) <u>1968</u> .”
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30 **43. Members of Authority not personally liable**—No member of the Authority shall be personally liable for any act or default done or made by the Authority or by any member thereof in good faith in the course of the operations of the Authority.

44. Provisions as to advertising—(1) Advertising programmes may, in accordance with this Act, be broadcast from—

35 (a) Any commercial broadcasting station established and operated by the Corporation at the commencement of this Act:

(b) Any television station established and operated by the Corporation at the commencement of this Act:

40 (c) Any other broadcasting station from which, in accordance with the warrant issued in respect of the station, advertising programmes may be broadcast.

(2) Except as otherwise provided by this section, no advertising programme shall be broadcast from any broadcasting station whether operated by the Corporation or by any other person.

45. Other Acts not affected—(1) Nothing in this Act shall be so construed as to relieve any person (including the Corporation) from any obligation to obtain and comply with a licence under the Post Office Act 1959 in respect of any broadcasting station or to affect the provisions of that Act or any regulations thereunder with respect to broadcasting stations. 5 10

(2) Where a warrant is revoked or suspended under this Act, any licence issued under the Post Office Act 1959 in respect of the broadcasting station to which the warrant relates shall, for the purposes of that Act, be deemed to be revoked or, as the case may require, suspended for the same period as the period of suspension of the warrant. 15

(3) Nothing in this Act shall affect the provisions of the News Media Ownership Act 1965.

46. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes: 20

(a) Prescribing fees payable under this Act:

Struck Out

(b) Regulating or controlling changes in the ownership or control of private broadcasting stations: 25

New

(b) Limiting or regulating the ownership or control, or changes in the ownership or control, whether direct or indirect, of private broadcasting stations or their operation and management, and of companies operating or controlling such stations, and the holding, acquisition, or disposal of shares of and stock, debentures, rights, or interests of any kind in such companies; and prescribing, or authorising the Authority to prescribe, such conditions and requirements as may be necessary for any such purposes as aforesaid: 30 35

(c) Providing for such matters as are contemplated by or necessary for giving effect to the provisions of this Act and for the due administration thereof.

47. Consequential amendments—The enactments specified in the Schedule to this Act are hereby amended in the manner indicated in that Schedule.

SCHEDULE

Section 47

AMENDMENTS TO BROADCASTING CORPORATION ACT 1961

Provision Amended	Amendment
Section 2	By repealing the definition of the term "warrant".
Section 4	By omitting from subsection (3) the words "the Board", and substituting the words "the Corporation".
Section 10	By repealing paragraphs (b) and (c) of subsection (1).
Section 22	By repealing paragraph (c).
Section 23	By repealing paragraph (b).
Part III	By repealing this Part.
Section 45	By repealing this section.
Section 46	By repealing subsections (1) and (3).
Section 54	By repealing paragraphs (a) to (j) of subsection (1).