

BROADCASTING AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Broadcasting Act 1989.

Clause 1 relates to the Short Title and commencement.

Clause 2 inserts into section 2 of the principal Act new definitions of the terms “approved financial reporting standard”, “financial year”, “total operating revenue”, and “series”.

The new terms “financial year” and “total operating revenue” relate primarily to the annual levy provided for in the new sections 30A to 30B (as inserted by *clause 12*).

The new term “series” relates primarily to the powers conferred on the Broadcasting Standards Authority by the new section 13A (as inserted by *clause 6*).

Clause 3 inserts a new paragraph (ba) into section 6 (1) of the principal Act. The new paragraph requires broadcasters to broadcast notices publicising the procedure for making formal complaints about programmes. Broadcasters are to be required to broadcast on average one notice for each day of broadcasting per year.

Clause 4 amends section 8 of the principal Act. The effect of the amendment is to reduce from 60 working days to 20 working days the time available to a broadcaster for considering a formal complaint about a programme. In exceptional circumstances the time may be extended to 40 working days. In the case of a complaint about an election programme, the time available to the broadcaster for considering the complaint continues to be 48 hours.

Clause 5 amends section 9 of the principal Act. The amendment is consequential on the amendments made to section 8 of the principal Act by *clause 4*.

Clause 6 inserts a new section 13A into the principal Act. The clause gives the Broadcasting Standards Authority additional powers to make orders in respect of a “series”.

The Authority will have the power to order the withdrawal of any programme within a series if the Authority is satisfied that the broadcasting of that programme is injurious to the public good. In determining whether the broadcasting of a programme within a series is injurious to the public good, the

Authority may make an order directing the broadcaster to make available to the Authority a copy of any visual recordings, transcripts, or other material related to programmes within the series.

If, after viewing the material, the Authority is satisfied that the broadcasting of any programme within the series is injurious to the public good, the Authority may make one or both of the following orders:

- (a) An order directing the broadcaster to withdraw that programme;
- (b) An order specifying conditions that must be complied with by any broadcaster who broadcasts the series that is the subject of the complaint or any programme in that series.

If, after viewing the material, the Authority is satisfied that the broadcasting of each and every further programme within the series is likely to be injurious to the public good, the Authority may make—

- (a) An order directing that the broadcaster withdraw the series that is the subject of the complaint; or
- (b) An order directing the broadcaster to withdraw one or more specified programmes; or
- (c) An order (which may be made in conjunction with an order made under paragraph (b)) specifying the conditions that must be complied with by any broadcaster who broadcasts the series that is the subject of the complaint or any programme in that series.

Subclauses (1) and (2) set out the criteria to which the Authority must have regard in determining whether the broadcasting of programmes within a series is injurious to the public good.

Subclauses (3) and (4) set out the orders that the Authority may make.

Subclauses (5) to (7) require compliance by all broadcasters with orders made.

Clause 7 repeals section 14 of the principal Act, and substitutes a new section. *Paragraph (b)* of the new section makes it an offence for a broadcaster to contravene an order made under the new *section 13A (2)*. The offence is punishable on summary conviction by a fine not exceeding \$100,000.

Clause 8 adds a new *subsection (4)* to section 16 of the principal Act. The new *subsection (4)* provides that where the Authority finds a complaint against a broadcaster to be justified in whole or in part, the Authority may order the broadcaster to pay to the Crown by way of costs, within one month after the date on which notice in writing of the decision is given to the broadcaster, such sum, not exceeding \$5,000, as the Authority thinks fit.

Clause 9 confers a right of appeal to the High Court against any decision or order made by the Broadcasting Standards Authority under the new *section 13A* (as inserted by *clause 6* of the Bill).

Clause 10 effects 2 amendments to section 26 of the principal Act (which relates to the membership of the Broadcasting Standards Authority).

One of the amendments provides that one of the 4 members of the Authority is to be appointed after consultation by the Minister of Communications with such representatives of the broadcasting industry as the Minister of Communications thinks fit.

The other amendment is consequential on the transfer of responsibility for the administration of the Parliamentary election broadcasting regime from the extended Broadcasting Standards Authority to the Electoral Commission.

Clause 11 effects an amendment that is consequential on the transfer of responsibility for the administration of the Parliamentary election broadcasting

regime from the extended Broadcasting Standards Authority to the Electoral Commission.

Clause 12 inserts into the principal Act new sections 30A to 30G. The new sections provide for the collection of an annual levy from each broadcaster whose total annual operating revenue is greater than \$500,000. Transitional provisions in relation to the levy payable in respect of the 1994-1995 year are contained in clauses 24 to 26.

The annual levy (which is to be payable to the Broadcasting Standards Authority) is calculated by multiplying by .051 percent the broadcaster's total operating revenue (which is defined in clause 2) for the immediately preceding financial year.

Each broadcaster will, irrespective of its total annual operating revenue, be required to send to the Broadcasting Standards Authority each year a return setting out the total operating revenue of the broadcaster for the immediately preceding financial year.

Under the new section 30D the Broadcasting Standards Authority will have power to grant to a broadcaster a rebate in respect of the whole or any part of the annual levy paid by that broadcaster.

In deciding whether or not to grant a rebate under section 30D, the Broadcasting Standards Authority is required to have regard to—

- (a) Whether or not the broadcaster ceased broadcasting during the financial year in respect of which the levy was paid; and
- (b) The levy paid by the broadcaster.

It will be an offence for a broadcaster to fail to file a return setting out the broadcaster's total operating revenue for the immediately preceding financial year.

Clause 13 amends section 31 of the principal Act (which relates to the funds of the Broadcasting Standards Authority). The section is consequentially amended to take account of the new source of funding provided by the annual levies payable by broadcasters under the new section 30B of the principal Act.

Clause 14: Under section 49(1) of the principal Act the Minister of Communications determines in each year the amount that the Broadcasting Commission may spend, in the immediately succeeding financial year, on account of its own administrative expenses.

This clause provides that the administrative expenses do not, for the purposes of that section, include the expenditure made by the Broadcasting Commission in making funds available under paragraphs (e) to (g) of section 36 of the principal Act for—

- (a) Broadcasting; and
- (b) The production of programmes to be broadcast; and
- (c) The archiving of programmes.

Clause 15: Under section 53M(1) of the principal Act the Minister of Communications determines in each year the amount that Te Reo Whakapuaki Irirangi may spend, in the immediately succeeding financial year, on account of its own administrative expenses.

This clause provides that the administrative expenses do not, for the purposes of that section, include the expenditure made by Te Reo Whakapuaki Irirangi in making funds available under section 53B of the principal Act for—

- (a) Broadcasting; and
- (b) The production of programmes to be broadcast.

Clause 16 repeals section 69 of the principal Act, and substitutes a new section. Section 69 defines terms for the purposes of Part VI of the principal Act (which Part relates to Parliamentary election programmes).

The new clause contains for the first time, definitions of the terms “constituency candidate”, “Electoral Commission”, and “Register of Political Parties”. All of these terms have the same meaning as they have in the Electoral Act 1993. In other cases references to the Electoral Act 1956 have been omitted, and references to the Electoral Act 1993 have been substituted.

The definition of the term “major political party” has been repealed as this definition is no longer required.

Clause 17 amends section 70 of the principal Act (which relates to the prohibition on paid election programmes).

Subclause (1) effects an amendment that is consequential on the establishment of the Electoral Commission by the Electoral Act 1993.

Subclause (2) inserts new *subsections (2A) to (2C)*. The new subsections allow a political party or group of related political parties to spend their own money on election programmes. The amounts spent by any political group or group of related political parties must not exceed, by more than 25 percent, the largest amount allocated to any one political party or group of political parties under *section 74A*.

Clause 18 repeals sections 70A to 80 of the principal Act, and substitutes new sections. All of the sections are contained in Part VI of the principal Act (which Part relates to Parliamentary election programmes).

Section 70A has been amended by omitting the references to the Broadcasting Standards Authority, and substituting references to the Electoral Commission.

Section 70B is re-enacted without amendment.

Section 70c (which relates to the notice required to be given to the Electoral Commission by each electoral party that considers that it will qualify for an allocation of time under *section 73* (in respect of an election period)) has been amended to reflect the fact that a political party will not necessarily nominate candidates for particular electorates.

Section 70D re-enacted without amendment.

Section 71 has been amended by omitting the references to the Broadcasting Standards Authority, and substituting references to the Electoral Commission. Subsection (3) (which related to the Parliament that was due to expire in the year 1990) has been omitted as spent.

Subsection (2) is new. It provides that, for the purpose of issuing invitations to broadcasters the Electoral Commission may require, from time to time, that the Broadcasting Standards Authority supply the Electoral Commission with a list of all broadcasters that have made a return under *section 30A* for the last financial year.

Sections 71A and 72 have been amended by omitting the references to the Broadcasting Standards Authority, and substituting references to the Electoral Commission.

Section 73 has been amended by omitting the references to the Broadcasting Standards Authority, and substituting references to the Electoral Commission. The former subsection (2A) (which related to the classification of major political parties) has been omitted.

Section 74 has been amended by omitting the reference to the Broadcasting Standards Authority, and substituting a reference to the Electoral Commission. The function of notifying the Electoral Commission of the amount of money appropriated by Parliament for the purpose of enabling political parties to meet all or part of the costs of broadcasting election programmes is conferred on the Minister of Justice. Under *section 74*, as enacted in 1990, that function was conferred on the Minister of Communications.

Sections 74A and 74B have been amended by omitting the references to the Broadcasting Standards Authority, and substituting references to the Electoral Commission. The references to the Secretary of Commerce have been replaced by references to the Secretary for Justice. *Section 74A (2) (a)* has been amended to make it clear that the allocations to political parties will be in such proportions as the Electoral Commission thinks fit.

Section 75 has been amended by omitting the references to the Broadcasting Standards Authority, and substituting references to the Electoral Commission. The criteria to which the Electoral Commission will be required to have regard in making an allocation of time or money under this section have been changed.

Sections 76 and 76A have been amended by omitting the references to the Broadcasting Standards Authority, and substituting references to the Electoral Commission. In addition, consequential amendments have been made to *subsection (4) of section 76A*.

Sections 76B and 77 have been amended by omitting the references to the Broadcasting Standards Authority, and substituting references to the Electoral Commission. In addition the references in *section 76B* to the Secretary of Commerce have been replaced by references to the Secretary for Justice.

Section 76c is new. It specifies modifications that will, in the case of a snap general election, need to be made to the procedure specified in this Part of the principal Act.

Section 77A has been amended by omitting the reference to the Broadcasting Standards Authority, and substituting a reference to the Electoral Commission. In addition the reference to the Secretary of Commerce has been replaced by a reference to the Secretary for Justice. Under the new *section 77A (4)* the Secretary for Justice may pay to the person issuing the account for the production for broadcasting of the opening address or the closing address of a political party a sum on account of the production costs. Under *section 77A (4)* (as enacted in 1993), the sum on account of production costs was required to be paid to the actual television broadcaster or radio broadcaster, and not to the production house. In practice the production house rather than the actual broadcaster will invoice the Secretary for Justice.

Sections 79, 79A, and 79B are re-enacted without amendment.

Section 79BA is new. The new section requires every political party or group of related political parties to file a complete and accurate written statement setting out all election programmes broadcast by that political party or group of related political parties. Even a party or a group of related political parties that does not spend any money on election broadcasts will be required to file a return with the Electoral Commission. The return is to be filed within 10 working days after polling day. Failure to comply with *section 79BA* of the Act will be an offence against *section 80*.

Section 79c has been amended by omitting the reference to the Broadcasting Standards Authority, and substituting a reference to the Electoral Commission.

Section 80 (which prescribes offences) now contains a reference to a failure to comply with *section 79BA*.

Clause 19 (which amends section 82 of the principal Act) authorises the making of regulations allowing the Broadcasting Commission, in such situations as the Broadcasting Commission considers appropriate,—

- (a) To grant concessions from the payment of public broadcasting fees; or
- (b) To waive payment of public broadcasting fees.

Clause 20 declares the Broadcasting Commission to be a public body for the purposes of the Public Bodies Contracts Act 1959.

Clause 21 inserts the name of the Broadcasting Standards Authority into the Sixth Schedule to the Public Finance Act 1989. Every Crown entity named in the Sixth Schedule to the Public Finance Act 1989 is required to deliver a draft statement of intent to its responsible Minister and to deliver to that responsible Minister the annual report required by section 41i of that Act.

Clause 22 inserts into section 5 of the Electoral Act 1993 (which sets out the functions of the Electoral Commission) a new paragraph referring to the duties of that Commission in relation to Parliamentary election programmes.

Clause 23 affects consequential repeals.

Transitional Provisions in Relation to Levies

Clauses 24 to 26 are transitional provisions relating to the annual levy payable to the Broadcasting Standards Authority by broadcasters. The provisions relate to the annual levy payable in respect of the 1994–1995 financial year.

BROADCASTING AMENDMENT

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A BILL INTITULED

An Act to amend the Broadcasting Act 1989

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

1. Short Title and commencement—(1) This Act may be cited as the Broadcasting Amendment Act 1995, and shall be read together with and deemed part of the Broadcasting Act 1989* (hereinafter referred to as the principal Act). 5

(2) This Act shall come into force on the day after the date on which this Act receives the Royal assent.

2. Interpretation—Section 2 (1) of the principal Act (as amended by section 3 of the Broadcasting Amendment Act (No. 2) 1990 and section 2 of the Broadcasting Amendment Act 1993) is hereby amended by inserting, in their appropriate alphabetical order, the following definitions: 10

“ ‘Approved financial reporting standard’ has the meaning given to that term by section 2 (1) of the Financial Reporting Act 1993: 15

“ ‘Financial year’ means the period of 12 months ending on the 30th day of June:

“ ‘Series’— 20

“ (a) Means two or more related sequential programmes; but

“ (b) Does not include any news or current affairs programme:

“ ‘Total operating revenue’ means total operating revenue as defined in Approved Financial Reporting Standard No. 9:” 25

3. Formal complaints about programmes—(1) Section 6 (1) of the principal Act is hereby amended by inserting, after paragraph (b), the following paragraph: 30

“ (ba) To broadcast notices publicising the procedure for making such complaints,—

“ (i) With the equivalent in each year of one notice per day for each day of broadcasting; and

“ (ii) With the notices being broadcast at different programming times but in such a manner that the notices are broadcast in the course of a year at all programming times, including prime time and children’s programming times; and” 35

*1989, No. 25

Amendments: 1990, No. 103; 1991, No. 21; 1993, No. 69

4. Right of complainant to refer formal complaint to Authority—(1) Section 8 (1) of the principal Act (as substituted by section 4 (1) of the Broadcasting Amendment Act 1993) is hereby amended by repealing paragraph (b), and substituting the following paragraphs:

“(b) Except as provided in **subsection (1A)** of this section, the complaint is a complaint about a programme (other than an election programme broadcast pursuant to Part VI of this Act) and the broadcaster has not, within 20 working days after receiving the complaint, notified the complainant of—

“(i) The decision of the broadcaster; or

“(ii) The action taken by the broadcaster in relation to the complaint; or

“(ba) The complaint is a complaint about an election programme broadcast pursuant to Part VI of this Act and the broadcaster has not, within 48 hours after receiving the complaint, notified the complainant of—

“(i) The decision of the broadcaster; or

“(ii) The action taken by the broadcaster in relation to the complaint; or”.

(2) Section 8 of the principal Act (as so substituted) is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Where, within 20 working days after receiving the complaint, the broadcaster notifies the complainant that, in the opinion of the broadcaster,—

“(a) The determination of the complaint necessitates consideration of such a large quantity of information that meeting the original time limit would unreasonably interfere with the operations of the broadcaster; or

“(b) The consultations necessary to make a decision on the complaint are such that a proper response to the complaint cannot reasonably be made within the original time limit,—

subsection (1) (b) of this section shall have effect in relation to that complaint as if, for the expression ‘20 working days’, there were substituted the expression ‘40 working days’.”

5. Time limits—Section 9 (2) of the principal Act is hereby amended by omitting the expression “80”, and substituting the expression “60”.

6. Additional powers to make orders in respect of series—The principal Act is hereby amended by inserting, after section 13, the following section:

- “13A. (1) Notwithstanding section 13 of this Act, if, in the case of a complaint referred to the Authority under section 8 of this Act, the Authority considers that, in relation to a particular programme within a series, a broadcaster has failed to comply with section 4 of this Act because that programme contains material that—
- “10 (a) Describes, depicts, or otherwise deals with—
- “(i) Acts of torture, the infliction of serious physical harm, or acts of significant cruelty; or
- “(ii) Sexual violence or sexual coercion or violence or coercion in association with sexual conduct; or
- “(iii) Other sexual or physical contact of a degrading, dehumanising, or demeaning nature; or
- “(iv) Sexual conduct with or by children or both; or
- “(v) Physical conduct in which sexual satisfaction is derived from inflicting or suffering cruelty or pain; or
- “20 (b) Exploits the nudity of young children; or
- “25 (c) Promotes or encourages criminal acts or acts of terrorism; or
- “25 (d) Portrays persons in a manner that encourages denigration of, or discrimination against, sections of the community on account of sex, race, age, disability, or religious belief,—
- in a manner that is injurious to the public good, the Authority may make an order directing the broadcaster to make available to the Authority—
- “30 (e) A copy of any visual recordings; or
- “30 (f) A copy of any transcript; or
- “30 (g) Any other material,—
- related to further programmes within the series.
- “35 (2) In determining whether or not the broadcasting of any programme within a series is injurious to the public good, the Authority shall, in addition to the matters specified in subsection (1) of this section, have regard to—
- “40 (a) The dominant effect of the programme as a whole; and
- “40 (b) The impact of the programme given the medium in which the programme is presented; and
- “40 (c) The character of the programme, including any merit, value, or importance the programme has in relation

to artistic, social, cultural, educational, scientific, or other matters; and

5 “(d) The persons, class of persons, or age of persons by whom the programme was intended, or is likely, to be viewed; and

“(e) The purpose of the programme; and

“(f) Any other relevant matter relating to the broadcasting of the programme.

10 “(3) If, after viewing the material referred to in **paragraphs (e) to (g) of subsection (1)** of this section, the Authority is satisfied that the broadcasting of any programme within the series is injurious to the public good, the Authority may make one or both of the following orders:

15 “(a) An order directing that the broadcaster withdraw that programme:

“(b) An order specifying the conditions that must be complied with by any broadcaster who broadcasts the series that is the subject of the complaint or any programme in that series.

20 “(4) If, after viewing the material referred to in **paragraphs (e) to (g) of subsection (1)** of this section, the Authority is satisfied that the broadcasting of each and every further programme within the series is likely to be injurious to the public good, the Authority may make—

25 “(a) An order directing that the broadcaster withdraw the series that is the subject of the complaint; or

“(b) An order directing that the broadcaster withdraw one or more specified programmes; or

30 “(c) A order (which may be made in conjunction with an order made under **paragraph (b)** of this subsection) specifying the conditions that must be complied with by any broadcaster who broadcasts the series that is the subject of the complaint or any programme in that series.

35 “(5) Where the Authority makes, under **subsection 3 (a) or subsection 4 (b)** of this section, an order in relation to any programme, no broadcaster shall broadcast that programme.

40 “(6) Where the Authority makes, under **subsection 3 (b) or subsection 4 (c)** of this section, an order in relation to any series or programmes in a series, no broadcaster shall broadcast, otherwise than in accordance with the conditions specified in the order, that series or any programme in that series.

45 “(7) Where the Authority makes, under **subsection 3 (a)** of this section, an order in relation to any series, no broadcaster shall broadcast that series or any programme in that series.”

7. Offences—The principal Act is hereby amended by repealing section 14, and substituting the following section:

“14. Every broadcaster commits an offence and is liable on summary conviction to a fine not exceeding \$100,000—

“(a) Who fails to comply with an order made in respect of that broadcaster under section 13 (1) of this Act; or 5

“(b) Who contravenes an order made under section 13A (2) of this Act.”

8. Power to award costs—Section 16 of the principal Act is hereby amended by adding the following subsection: 10

“(4) Without limiting subsections (1) to (3) of this section, where the Authority finds a complaint against a broadcaster to be justified, in whole or in part, the Authority may order the broadcaster to pay to the Crown by way of costs, within one month after the date on which notice in writing of the decision 15 is given to the broadcaster under section 13 (2) of this Act, such sum not exceeding \$5,000, as the Authority thinks fit.”

9. Appeal against decision of Authority—Section 18 (1) (b) of the principal Act is hereby amended by inserting, after the expression “section 13”, the expression “or 20 section 13A”.

10. Membership of Authority—(1) Section 26 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsections:

“(1) The Authority shall consist of 4 members, who shall be appointed by the Governor-General on the recommendation of the Minister, and of whom one shall be appointed as Chairperson. 25

“(1A) One of the members appointed under subsection (1) of this section shall be appointed after consultation by the Minister with such representatives of the broadcasting industry as the Minister thinks fit.” 30

(2) Section 26 of the principal Act is hereby further amended by repealing subsection (3) (as amended by section 6 of the Broadcasting Amendment Act 1993). 35

(3) Section 6 of the Broadcasting Amendment Act 1993 is hereby consequentially repealed.

11. Term of office of members of Authority—The principal Act is hereby amended by repealing section 27, and substituting the following section: 40

“27. (1) Except as otherwise provided in clause 1 (5) of the First Schedule to this Act, every member of the Authority shall be appointed for a term of 3 years.

5 “(2) Every member of the Authority shall be eligible for reappointment from time to time.

“(3) Every member of the Authority shall, unless the member sooner vacates the member’s office under clause 1 of the First Schedule to the Act, continue in office until the member’s successor comes into office, notwithstanding that
10 the term for which the member was appointed may have expired.”

12. New sections inserted—The principal Act is hereby amended by inserting, after section 30, the following sections:

15 “30A. **Return on total operating revenue**—(1) Every broadcaster shall, not later than the 31st day of July in each year, give to the Authority a return, for the broadcaster’s immediately preceding financial year, of the total operating revenue derived by that broadcaster in that financial year from broadcasting within New Zealand.

20 “(2) The return—

“(a) Shall be in such form and contain such particulars as the Authority may require; and

25 “(b) Shall be accompanied by a certificate signed by an auditor and stating whether or not, in that auditor’s opinion, the return represents a true and fair statement of the total operating revenue derived by the broadcaster in the financial year of the broadcaster to which the return relates from broadcasting within New Zealand.

30 “(3) Notwithstanding **subsection (2)** of this section, a broadcaster may in any year satisfy the requirements of **subsection (1)** of this section by giving to the Authority, not later than the 31st day of July in that year, a copy of the broadcaster’s financial statement for the financial year of the
35 broadcaster to which the return relates, being a financial statement that contains a statement of the broadcaster’s total operating revenue for that financial year.

40 “(4) Where a broadcaster gives to the Authority in accordance with **subsection (3)** of this section the broadcaster’s financial statement for any financial year, the broadcaster’s total operating revenue for that financial year, as stated in that financial statement, will, for the purposes of **subsection (1)** of this section, be deemed to be the total operating revenue derived

by that broadcaster in that financial year from broadcasting within New Zealand.

“30B. **Payment of annual levy**—(1) Where a return given to the Authority under **section 30A** of this Act by a broadcaster shows that, in the financial year of the broadcaster to which the return relates, the broadcaster had a total operating revenue of more than \$500,000, that return shall be accompanied by an annual levy calculated in accordance with **section 30C** of this Act. 5

“(2) The annual levy shall be payable in respect of each financial year of the broadcaster during which programmes are broadcast within New Zealand by the broadcaster. 10

“(3) Where a broadcaster commences broadcasting within New Zealand during the financial year of the broadcaster to which the return under **section 30A** of this Act relates, no annual levy shall be payable by the broadcaster in respect of that financial year. 15

“(4) The annual levy payable under **subsection (1)** of this section shall be payable by the broadcaster not later than the 30th day of July of the year in which the return is required to be given to the Authority. 20

“30C. **Annual levy**—The amount of the annual levy payable under **section 30B** of this Act by a broadcaster shall be an amount ascertained in accordance with the following formula: 25

$$a \times b$$

where—

“a is the broadcaster’s total operating revenue for the financial year of the broadcaster to which the return under **section 30A** of this Act relates; and

“b is .00051. 30

“30D. **Rebates**—(1) The Authority may grant to a broadcaster a rebate in respect of the whole or any part of the annual levy paid by that broadcaster under **section 30B** of this Act.

“(2) In deciding whether or not to grant a rebate, the Authority shall have regard to— 35

“(a) Whether or not the broadcaster ceased broadcasting during the financial year of the broadcaster in respect of which the levy was paid; and

“(b) The levy paid by the broadcaster. 40

“30E. **Recovery of levies**—Any annual levy that is not paid in accordance with this Act may be recovered from the

broadcaster liable at the suit, and in the name, of the Authority in any Court of competent jurisdiction.

5 “30F. **Goods and services tax**—The amount of the levy calculated under **section 30B** of this Act is exclusive of any goods and services tax payable under the Goods and Services Tax Act 1985.

“30G. **Offence**—Every broadcaster commits an offence and is liable on summary conviction to a fine not exceeding \$100,000 who contravenes **section 30A** of this Act.”

10 **13. Funds of Authority**—Section 31 of the principal Act is hereby amended by inserting, after paragraph (a), the following paragraph:

“(aa) All annual levies paid by broadcasters under **section 30B** of this Act.”.

15 **14. Administrative expenses**—Section 49 of the principal Act is hereby amended by adding the following subsection:

20 “(5) For the purposes of this section ‘administrative expenses’ means all expenditure made by the Commission (other than expenditure made by the Commission in making funds available for the purposes specified in paragraphs (e) to (g) of section 36 of this Act).”

25 **15. Administrative expenses**—Section 53M of the principal Act (as inserted by section 8 of the Broadcasting Amendment Act 1993) is hereby amended by adding the following subsection:

30 “(4) For the purposes of this section ‘administrative expenses’ means all expenditure made by Te Reo Whakapuaki Irirangi (other than expenditure made by Te Reo Whakapuaki Irirangi in making funds available under section 53B of this Act for broadcasting and the production of programmes to be broadcast).”

35 **16. Interpretation**—The principal Act is hereby amended by repealing section 69 (as substituted by section 8 of the Broadcasting Amendment Act (No. 2) 1990), and substituting the following section:

“69. In this Part of this Act, unless the context otherwise requires,—

“‘Candidate’ has the meaning given to that term by section 3 of the Electoral Act 1993:

- “ ‘Constituency candidate’ has the meaning given to that term by section 3 of the Electoral Act 1993:
- “ ‘Election’ means a general election or by-election within the meaning of the Electoral Act 1993:
- “ ‘Election period’, in relation to an election, means the period— 5
- “(a) Beginning with writ day; and
- “(b) Ending with the close of the day preceding polling day:
- “ ‘Election programme’ means a programme— 10
- “(a) Used or appearing to be used to promote or procure the election of any person at an election; or
- “(b) Advocating support for a candidate or for a political party; or
- “(c) Notifying meetings held or to be held in connection with an election: 15
- “ ‘Electoral Commission’ means the Electoral Commission established under section 4 of the Electoral Act 1993:
- “ ‘Free-to-air television broadcasting’ means broadcasting of television programmes by means of radio waves propagated in space without artificial guide, where persons wishing to view programmes are not required to pay to do so: 20
- “ ‘General election’ means a general election within the meaning of the Electoral Act 1993: 25
- “ ‘Production costs’, in relation to an opening address or a closing address, includes the costs of linking between venues and broadcasting studios:
- “ ‘Register’ and ‘Register of Political Parties’ means the Register of Political Parties established under section 62 (2) of the Electoral Act 1993.” 30

17. Prohibition on paid election programmes—

(1) Section 70 (2) of the principal Act (as substituted by section 9 of the Broadcasting Amendment Act 1993) is hereby amended by repealing paragraph (d), and substituting the following paragraph: 35

“ (d) Any advertisement placed by the Electoral Commission or by the Chief Registrar of Electors, the Chief Electoral Officer, a Registrar of Electors, a Returning Officer, or other official for the purposes of the Electoral Act 1993; or” 40

(2) Section 70 of the principal Act (as so substituted) is hereby further amended by inserting, after subsection (2), the following subsections:

“(2A) Nothing in subsection (1) of this section applies in respect of programmes broadcast in an election period by a political party or group of related political parties if—

5 “(a) Those programmes are paid for with money raised by that political party or group of related political parties; and

10 “(b) The total amount spent on the cost of the broadcasting time of all election programmes broadcast by that political party or group of related political parties in that election period and paid for with money raised by that political party or group of related political parties does not exceed by more than 25 percent the largest amount allocated to any one political party or group of political parties under **section 74A** of this Act in respect of that election period.

15 “(2B) Notwithstanding **subsection (2A)** of this section, where a group of related political parties broadcasts programmes in an election period, any programme broadcast in that election period by an individual political party that belongs to that group shall not be excluded from the application of subsection (1) of this section by **subsection (2A)** of this section.

20 “(2c) Nothing in subsection (1) of this section restricts the amount of money that a political party or group of related political parties may spend on the production costs of an election programme broadcast under **subsection (2A)** of this section.”

30 **18. New sections substituted—**(1) The principal Act is hereby amended by repealing sections 70A to 72 (as enacted by section 8 of the Broadcasting Amendment Act (No. 2) 1990), section 73 (as enacted by section 13 of the Broadcasting Amendment Act 1993), sections 74 to 77 (as enacted by section 8 of the Broadcasting Amendment Act (No. 2) 1990), section 77A (as enacted by section 18 of the Broadcasting Amendment Act 1993), and sections 79 to 80 (as enacted by section 8 of the Broadcasting Amendment Act (No. 2) 1990), and substituting the following sections:

35 “**70A. Obligation of political parties to give notice to Electoral Commission—**(1) In every year in which a Parliament is due to expire, the Electoral Commission shall specify, by notice in the *Gazette*, a date by which any political party that considers that it will qualify for an allocation of time under **section 73** of this Act or of money under **section 74A** of this Act, in respect of the election period that will apply in relation

to the general election to held in that year, must notify the Electoral Commission in writing that it considers itself to be so qualified.

“(2) The date specified under **subsection (1)** of this section may be a date before the beginning of the election period. 5

“(3) Each political party that considers that it will qualify for an allocation of time under **section 73** of this Act or of money under **section 74A** of this Act in respect of an election period shall notify the Electoral Commission in writing that it considers itself to be so qualified. 10

“70B. **Time by which notice must be given**—Every notice given under **section 70A (3)** of this Act shall be given,—

“(a) Where a date has been specified under **section 70A (1)** of this Act, not later than that date; and

“(b) In any other case, as soon as practicable after writ day and before noon on nomination day. 15

“70C. **Contents of notice**—Every notice given under **section 70A (3)** of this Act shall state, among other things,—

“(a) The full name of the political party; and

“(b) Details of any relationships that may exist between that political party and any other political parties in New Zealand which the Electoral Commission may need to take into account in allocating time or money to political parties; and 20

“(c) Either— 25

“(i) That the party is registered on the Register of Political Parties; or

“(ii) That the party is intending to apply for registration on the Register of Political Parties at least 3 months before the date in that year on which the Parliament is due to expire; or 30

“(d) Where the political party considers that it is eligible for an allocation of time and money under **section 75 (1) (b)** of this Act,—

“(i) The full name of each person who has declared his or her intention of becoming a constituency candidate for that political party at the general election to be held in that year; and 35

“(ii) The electoral district for which each person to whom **subparagraph (i)** of this paragraph applies intends to be a constituency candidate. 40

“70D. **Persons deemed to be candidates**—Where a political party states, pursuant to **section 70C (d)** of this Act, that a person has declared his or her intention of becoming a

constituency candidate at an election, that person shall, until noon on nomination day for that election, be deemed, for the purposes of **subsections (1) (b) and (1) (c) (i) of section 75** of this Act, to be a candidate at that election, whether that person is nominated or not.

5

“71. Invitation to broadcasters—(1) The Electoral Commission may from time to time invite broadcasters to permit political parties to broadcast election programmes free of charge or at discounted rates in an election period.

10

“(2) For the purpose of issuing invitations to broadcasters the Electoral Commission may require, from time to time, that the Authority supply the Electoral Commission with a list of all broadcasters that have made a return under **section 30A** of this Act for the last financial year.

15

“(3) Notwithstanding **subsection (1)** of this section, the opening addresses and closing addresses of political parties shall be broadcast—

“(a) By Television New Zealand Limited on one free-to-air channel with national coverage; and

20

“(b) By Radio New Zealand Limited on the service known as National Radio.

“(4) Notwithstanding **subsection (1)** of this section, the Electoral Commission shall during the term of each Parliament issue an invitation under **subsection (1)** of this section not earlier than 9 months and not later than 8 months before the date on which that Parliament is due to expire.

25

“71A. Replies to invitation—(1) Every broadcaster who receives an invitation under **section 71** of this Act shall reply to that invitation by giving a written reply to the Electoral Commission within 20 working days after the day on which the invitation is received by the broadcaster.

30

“(2) The reply—

“(a) Shall state—

35

“(i) The amount of time that the broadcaster is prepared to make available in the election period free of charge; and

“(ii) The amount of time that the broadcaster is prepared to make available in the election period at discounted rates; and

40

“(iii) The discounted rates (if any); and

“(iv) Any conditions proposed in relation to the scheduling and duration of election programmes within the time that the broadcaster is prepared to make available; and

- “(b) May indicate the broadcasting stations or networks on which the broadcaster is prepared to make the time available; and
- “(c) May indicate separately the amount of time that the broadcaster is prepared to make available free of charge or at discounted rates for— 5
- “(i) Opening addresses; and
- “(ii) Closing addresses; and
- “(d) In the the case of Television New Zealand Limited and Radio New Zealand Limited, the amount of time that will be provided for— 10
- “(i) Opening addresses in accordance with **section 77A (3)** of this Act; and
- “(ii) Closing addresses in accordance with **section 77A (3)** of this Act; and 15
- “(e) May, in relation to time that the broadcaster is prepared to make available, include proposals for the allocation of that time to political parties.
- “(3) Notwithstanding anything in **subsections (1) and (2)** of this section, a broadcaster— 20
- “(a) Shall, in stating discounted rates under **subsection (2) (a)** of this section, have regard to the provisions of **section 79B** of this Act; and
- “(b) Shall, in making proposals under **subsection (2) (e)** of this section, have regard to the provisions of **section 75** of this Act. 25
- “72. Duty of Electoral Commission to refer replies to political parties—**(1) The Electoral Commission shall, in accordance with this section, give to— 30
- “(a) Each political party that has given a notice to the Electoral Commission under **section 70A (3)** of this Act; and
- “(b) The Minister of Justice,—
- a copy of each reply given to the Electoral Commission under **section 71A** of this Act. 35
- “(2) The Electoral Commission—
- “(a) Shall accumulate the replies received under **section 71A** of this Act; and
- “(b) As soon as all of the broadcasters have replied or the period of 20 working days specified in **section 71A (1)** of this Act has expired, whichever is the sooner, shall comply with **subsection (1)** of this section in respect of each reply given to the Electoral Commission under **section 71A** of this Act. 40

“**(3)** Where a reply is received after the expiration of the period of 20 working days specified in **section 71A (1)** of this Act, the Electoral Commission shall, as soon as practicable after that reply is received, comply with **subsection (1)** of this section in relation to that reply.

“**(4)** The Electoral Commission shall, in complying with this section, ensure, so far as practicable, that, when copies of a reply are sent to political parties and the Minister of Justice, each of the intended recipients receives a copy of the reply on the same day.

“**73. Allocation of time to political parties**—**(1)** Subject to **subsections (2) and (3)** of this section and to **sections 75, 75A, and 76** of this Act, the Electoral Commission shall, in respect of each election period, allocate to political parties, in such proportions as the Electoral Commission thinks fit—

“**(a)** The time that broadcasters have offered in response to an invitation under **section 71** of this Act, to make available to political parties for the broadcasting of election programmes free of charge or at discounted rates; and

“**(b)** The time that Television New Zealand Limited and Radio New Zealand Limited have made available for opening addresses and closing addresses in accordance with **section 77A (3)** of this Act.

“**(2)** The Electoral Commission, in allocating time to political parties under **subsection (1)** of this section,—

“**(a)** Shall consider whether the proposals made under **section 71A (2) (e)** of this Act for the allocation of broadcasting time can be adopted either—

“**(i)** In full; or

“**(ii)** With modifications specified by the Electoral Commission; and

“**(b)** Shall modify proposals made under **section 71A (2) (e)** of this Act if, in the opinion of the Electoral Commission, the proposals are not consistent with the provisions of **section 75** of this Act.

“**(3)** The Electoral Commission shall not under this section allocate any time to an individual political party if that political party has received an allocation of time under this section as part of a group of related political parties.

“**74. Amount of public money to be allocated to political parties**—**(1)** The Minister of Justice shall notify the Electoral Commission, in respect of each election period, of the amount of money appropriated by Parliament for the purpose

of enabling political parties to meet all or part of the costs of broadcasting election programmes.

“(2) Where a general election takes place after the year 1990, an amount of money equal to the amount of public money allocated under **section 74A** or **section 77A** of this Act in respect of the broadcasting of election programmes at the immediately preceding general election shall, unless an Act of Parliament expressly provides otherwise, be deemed to have been appropriated by Parliament for the purpose of enabling political parties to meet all or part of the costs of broadcasting election programmes at the first-mentioned general election. 5 10

“(3) Where an amount of money is deemed by **subsection (2)** of this section to have been appropriated by Parliament for the purpose specified in that subsection, that amount shall be payable out of public money for that purpose without further appropriation than this subsection. 15

“**74A. Allocation of money to political parties**—(1) The Electoral Commission shall, in respect of each election period, decide the allocation to political parties of the amount of any money appropriated by Parliament for the purpose of enabling political parties to meet all or part of the costs of broadcasting election programmes during that election period. 20

“(2) The decision made under **subsection (1)** of this section—

“(a) Shall set out the allocations (which shall be in such proportions as the Electoral Commission thinks fit); and 25

“(b) May include conditions concerning the manner in which any political party is to expend its allocation.

“(3) Conditions included in a decision pursuant to **subsection (2)(b)** of this section may include conditions requiring the political party or group of related political parties to advise the Electoral Commission of the value of election programme bookings made by the political party or group of related political parties. 30

“(4) Where the Electoral Commission decides under **subsection (1)** of this section to allocate a sum of money to a political party, the Electoral Commission shall supply a copy of its decision to— 35

“(a) That political party; and

“(b) The Secretary for Justice. 40

“(5) The Electoral Commission shall not under this section allocate any money to an individual political party if that political party has received an allocation of money under this section as part of a group of related political parties.

“74B. **Application and payment of allocation**—(1) Every political party to which an amount of money is allocated under **section 74A** of this Act—

5 “(a) Shall expend that money only for the purpose of meeting—

“(i) The production costs of any election programme broadcast by the political party during the election period; or

10 “(ii) The cost of the broadcasting time of any election programme broadcast by the political party during the election period; and

“(b) Shall, in expending that money for the purpose specified in **paragraph (a)** of this subsection, observe any conditions imposed by the Electoral Commission under **section 74A** of this Act.

15 “(2) Every political party shall submit to the Electoral Commission, together with such information as the Electoral Commission may require from time to time, accounts issued to the political party in respect of the expenditure by that political party of its allocation.

20 “(3) Any account submitted to the Electoral Commission under **subsection (2)** of this section may be in respect of—

25 “(a) The production costs of any election programme broadcast by the political party during the election period; or

“(b) The cost of the broadcasting time of any election programme broadcast by the political party during the election period; or

“(c) Both.

30 “(4) When the Electoral Commission is satisfied in relation to any account that the account or any part of the account should be paid, the Electoral Commission shall give to the Secretary for Justice a written direction requiring the Secretary for Justice to pay to the person who issued the account the amount approved by the Electoral Commission for payment.

35 “(5) The Secretary for Justice shall comply with any direction given to the Secretary for Justice under **subsection (4)** of this section.

40 “75. **Criteria in relation to allocation of time and money to political parties**—(1) The Electoral Commission shall not allocate any time to a political party under **section 73** of this Act or make under **section 74A** of this Act an allocation of money to a political party unless—

“(a) In the case of a general election,—

- “(i) That party was registered on the Register of Political Parties at least 3 months before the dissolution of Parliament for that general election; or
- “(ii) Persons belonging to that party or group of related political parties are constituency candidates at that general election for at least 5 seats in the House of Representatives; and 5
- “(c) In the case of a by-election, a person belonging to that political party is a candidate at that by-election and either— 10
- “(i) That party was registered on the Register of Political Parties at least 3 months before the issue of the writ for the by-election; or
- “(ii) Persons belonging to that party or group of related political parties were constituency candidates at the immediately preceding general election for at least 5 seats in the House of Representatives. 15
- “(2) The Electoral Commission shall, in allocating time to a political party under **section 73** of this Act or in making under **section 74A** of this Act an allocation of money to a political party, have regard to— 20
- “(a) The number of persons who voted at the immediately preceding general election for that party and for candidates belonging to that political party; and 25
- “(b) The number of persons who voted at any by-election held since the immediately preceding general election for any candidate belonging to that political party; and 30
- “(c) The number of members of Parliament who,—
- “(i) In the case of a general election, were members of that political party immediately before the expiration or dissolution of Parliament; and
- “(ii) In the case of a by-election, were members of that political party immediately before the date on which the vacancy occurred; and 35
- “(d) Any relationships that exist between a political party and any other political party; and
- “(e) Any other indications of public support for that political party such as the results of public opinion polls and the number of persons who are members of that political party. 40
- “(3) Notwithstanding anything in **subsection (1)** or **subsection (2)** of this section, an allocation made under **section 73** of this Act of 45

time in an election period or a decision made under **section 74A** of this Act in respect of an election period may be made before the beginning of the election period.

5 “75A. **Consultation with broadcasters**—(1) The Electoral Commission shall not allocate time under **section 73** of this Act or make an allocation of money under **section 74A** of this Act or make a determination under **section 77A** of this Act unless—

10 “(a) The Electoral Commission has consulted with such broadcasters as are likely to be affected by the allocation or determination and those broadcasters have had the opportunity to give their comments on the proposed allocation or determination to the Electoral Commission; and

15 “(b) The Electoral Commission has considered any such comments.

“**(2)** Where the Electoral Commission adopts in full, pursuant to **section 73** of this Act, a proposal made by a broadcaster under **section 71A (2) (e)** of this Act, the Electoral Commission shall not be required by **subsection (1)** of this section to consult with that

20 broadcaster.
“**(3)** The modification of any allocation or determination by the Electoral Commission after complying with **subsection (1)** of this section shall not require the Electoral Commission to grant to any broadcaster any further opportunity to give the comments of the broadcaster on the modified allocation or

25 determination to the Electoral Commission.
“**(4)** The failure of any broadcaster to avail itself of the opportunity to consult with, or to give comments to, the Electoral Commission under **subsection (1)** of this section, or to

30 comply with any other request of the Electoral Commission—

“**(a)** Shall not prevent the making of—
“**(i)** Any allocation of time under **section 73** of this Act; or

35 “**(ii)** Any allocation or money under **section 74A** of this Act; or

“**(iii)** Any determination under **section 77A** of this Act; and

“**(b)** Shall not affect the validity of—

40 “**(i)** Any allocation of time under **section 73** of this Act; or

“**(ii)** Any allocation of money under **section 74A** of this Act; or

“**(iii)** Any determination under **section 77A** of this Act.

“76. Consultation with political parties—(1) The Electoral Commission shall,—

“(a) Before allocating time to a political party under **section 73** of this Act; and

“(b) Before allocating any money under **section 74A** of this Act; and

“(c) Before making any determination under **section 77A** of this Act,—

grant to every political party that has notified the Electoral Commission under **section 70A (3)** of this Act that it considers that it will qualify for an allocation of time under **section 73** of this Act the opportunity to meet with and be heard by the Electoral Commission. 10

“(2) The modification of any allocation or determination by the Electoral Commission after complying with **subsection (1)** of this section shall not require the Electoral Commission to grant to any political party any further opportunity to meet with and be heard by the Electoral Commission. 15

“(3) The failure of any political party to give a notice under **section 70A (3)** of this Act or to avail itself of the opportunity to meet with and be heard by the Electoral Commission under **subsection (1)** of this section, or to comply with any other request of the Electoral Commission,— 20

“(a) Shall not prevent the making of—

“(i) Any allocation of time under **section 73** of this Act; or 25

“(ii) Any allocation or money under **section 74A** of this Act; or

“(iii) Any determination under **section 77A** of this Act; and 30

“(b) Shall not affect the validity of—

“(i) Any allocation of time under **section 73** of this Act; or

“(ii) Any allocation of money under **section 74A** of this Act; or 35

“(iii) Any determination under **section 77A** of this Act.

“76A. Power of Electoral Commission to vary allocations—(1) If, after any allocation is made under **section 73** or **section 74A** of this Act,— 40

“(a) A broadcaster in respect of which an allocation of time has been made ceases to be a broadcaster; or

“(b) A political party does not accept any allocation of time under **section 73** of this Act or any allocation of money under **section 74A** of this Act; or

“(c) The party ceases to be registered; or

5 “(d) The number of persons who are candidates belonging to a political party or group of related political parties changes,—

the Electoral Commission may, subject to **subsection (4)** of this section, vary the allocation under **section 73** or **section 74A** of this
10 Act, as the case may require.

“(2) The varying of any allocation pursuant to this section shall not require the Electoral Commission to grant to any political party the opportunity to meet with and be heard by the Electoral Commission.

15 “(3) The Electoral Commission shall, in varying any allocation pursuant to this section, have regard to—

“(a) The views of political parties received by the Electoral Commission in the course of consultations undertaken in accordance with **section 76** of this Act; and
20

“(b) Such of the matters referred to in **sections 73, 74A, and 75** of this Act, as the case may require.

“(4) Where effect has been given in whole or in part to an allocation made under **section 74A** of this Act to a political party,
25 the Electoral Commission shall not vary the allocation pursuant to this section unless—

“(a) The registration of that political party is cancelled under section 70 of the Electoral Act 1993; or

30 “(b) It is satisfied that a false representation in relation to the number of persons belonging to the political party who were to be constituency candidates for seats at the election was made by or on behalf of the political party; or

35 “(c) It is satisfied that the number of seats for which persons belonging to the political party or group of related political parties are nominated as constituency candidates at the election is less than 5.

“**76B. Recovery of money from political party—**

40 (1) Where effect has been given in whole or in part to an allocation made under **section 74A** of this Act and the Electoral Commission, acting under **section 76A** of this Act varies that allocation, the Electoral Commission may determine that the whole or part of the money paid by or on behalf of the political

party or to the political party as a result of that allocation be repaid to the Crown by the political party.

“(2) Where the Electoral Commission makes a determination under **subsection (1)** of this section,—

“(a) The Electoral Commission shall give a copy of that determination to both the political party and the Secretary for Justice; and 5

“(b) The Secretary for Justice may recover from the political party as a debt due to the Crown the amount specified in the determination as being repayable to the Crown by the political party. 10

“76c. **Procedure in relation to early elections**—(1) This section applies in any case where a writ for a general election is issued during the term of a Parliament and, at the time of the issue of that writ either— 15

“(a) No invitation in respect of a general election has, during the term of that Parliament, been issued under **section 71 (1)** of this Act; or

“(b) If an invitation in respect of a general election has, during the term of that Parliament, been issued under **section 71 (1)** of this Act, the time at which the Electoral Commission must discharge, in relation to the replies received to that invitation, the obligations imposed on the Electoral Commission by **section 72 (1)** of this Act has not arrived. 20 25

“(2) Where this section applies, this Part of this Act shall apply subject to the modifications specified in this section.

“(3) Where this section applies, the Electoral Commission shall issue an invitation under **section 71 (1)** of this Act at the earliest available opportunity to— 30

“(a) All broadcasting industry associations; and

“(b) All known broadcasters not represented by a broadcasting industry association.

“(4) Every broadcaster who receives an invitation issued in accordance with **subsection (3)** of this section, shall reply to the Electoral Commission by such means as it considers appropriate within 72 hours after the time at which the invitation was issued by the Electoral Commission. 35

“(5) The Electoral Commission shall specify at the earliest available opportunity, by notice in the *Gazette*, a date by which any political party that considers it will qualify for an allocation of time under **section 73** of this Act or of money under **section 74A** of this Act, in respect of the election period that will apply in 40

relation to the general election, must notify the Electoral Commission that it considers itself to be so qualified.

5 “(6) Each political party that considers it will qualify for an allocation of time under **section 73** of this Act or of money under **section 74A** of this Act shall notify the Electoral Commission, by such means as it considers expedient, that it considers itself to be so qualified.

10 “(7) The Electoral Commission may impose, for the consultation required under **section 75A (1) (a)** of this Act, such time periods as are reasonable in the circumstances.

15 “(8) The Electoral Commission may require that any political party that wishes to avail itself of the opportunity to meet with and be heard by the Electoral Commission under **section 76 (1)** of this Act must avail itself of that opportunity within such reasonable period of time as shall be specified by the Electoral Commission.

20 “**77. Broadcasting of election programmes**—(1) Subject to this section and to **section 77A** of this Act, every broadcaster who has, in response to an invitation under **section 71** of this Act, offered to permit political parties to broadcast election programmes free of charge or at discounted rates, shall broadcast election programmes on behalf of every political party allocated time for the broadcasting of election programmes free of charge or at discounted rates, as the case may require, on stations operated by the broadcaster.

25 “(2) Subject to **section 77A** of this Act, every broadcaster to which **subsection (1)** of this section applies shall act in accordance with the allocation of time under **section 73** of this Act applying to the broadcaster.

30 “(3) In the event of any dispute between—

“(a) Any broadcaster and any political party; or

“(b) Any broadcaster and any other broadcaster; or

35 “(c) Any political party and any other political party—
concerning the time at which any election programme is to be broadcast free of charge, the Electoral Commission shall decide the matter in dispute.

“(4) Every decision of the Electoral Commission under **subsection (3)** of this section shall be final.

“**77A. Opening addresses and closing addresses**—

40 (1) Where time is allocated to a political party under **section 73 (1)** of this Act for the broadcasting of television programmes free of charge or at discounted rates, part of that time may be allocated to that political party for—

- “(a) The broadcasting of an election programme consisting of an opening address on behalf of that political party; and
- “(b) The broadcasting in the last week of the election period of an election programme consisting of a closing address on behalf of that political party. 5
- “(2) Every opening address and every closing address broadcast pursuant to **subsection (1)** of this section—
- “(a) Shall be broadcast on all broadcasting stations during time made available (in response to an invitation under **section 71** of this Act) for the broadcasting of opening addresses and closing addresses; and 10
- “(b) Shall be broadcast between the hours of 7.00 p.m. and 9.00 p.m.; and
- “(c) Shall not be broken by advertising programmes. 15
- “(3) Notwithstanding **subsection (1)** of this section, but subject to **section 73 (1) (b)** of this Act, the opening addresses and closing addresses of political parties shall be broadcast—
- “(a) By Television New Zealand Limited on one free-to-air channel with national coverage; and 20
- “(b) Radio New Zealand Limited on the service known as National Radio.
- “(4) A sum on account of the production costs shall be paid by the Secretary for Justice out of public money appropriated by Parliament for the purpose to the person who issued the account for the production for broadcasting of the opening address or closing address. 25
- “(5) The amounts to be paid under **subsection (4)** of this section shall be determined in each case by the Electoral Commission.
- “**79. Programme standards in relation to election programmes**—Nothing in **section 4 (1) (d)** of this Act applies in relation to an election programme broadcast pursuant to this Part of this Act. 30
- “**79A. Hours during which election programmes prohibited**—(1) No broadcaster shall broadcast election programmes on television— 35
- “(a) During the hours between 6 a.m. and noon on—
- “(i) Sunday; or
- “(ii) Anzac Day; or
- “(b) On— 40
- “(i) Christmas Day; or
- “(ii) Good Friday; or
- “(iii) Easter Sunday.

“(2) No broadcaster shall broadcast election programmes on sound radio on—

“(a) Christmas Day; or

“(b) Good Friday; or

5 “(c) Easter Sunday.

“79B. **Obligation to give identical terms to each political party or candidate**—(1) No broadcaster shall offer or give to any political party, whether by way of a reply under section 71A of this Act or otherwise, net terms for broadcasting 10 time that are more favourable than those offered or given to any other political party that buys or expresses an interest in buying comparable time from that broadcaster.

“(2) No broadcaster shall offer or give to any candidate net terms for broadcasting time that are more favourable than 15 those offered or given to any other candidate who buys or expresses an interest in buying comparable time from that broadcaster.

“79BA. **Returns in relation to money spent by political parties**—(1) Every political party or group of related political 20 parties shall, within 10 working days after polling day for any election, give to the Electoral Commission a complete and accurate written statement, signed by or on behalf of the political party or group of related political parties, setting out in relation to all election programmes broadcast by that political 25 party or group of related political parties during the election period for that election,—

“(a) The length of each election programme and the time at which it was broadcast and the broadcaster; and

30 “(b) The amount paid for the broadcasting of each election programme and the rate or rates by which that amount was fixed.

“(2) This section shall apply to a political party or group of related political parties even though that political party or group of political parties has not broadcast any election 35 programmes.

“79c. **Returns in relation to broadcasting time**—Every broadcaster shall, within 10 working days after polling day for any election, give to the Electoral Commission a complete and accurate written statement, signed by or on behalf of the 40 broadcaster, setting out in relation to election programmes broadcast by that broadcaster during the election period for that election,—

“(a) The candidate or political party for whom or for which each election programme was broadcast:

“(b) The length of each election programme and the time at which it was broadcast:

“(c) The amount paid for the broadcasting of each election programme and the rate or rates by which that amount was fixed. 5

“80. **Offences**—Every person commits an offence and is liable on summary conviction to a fine not exceeding \$100,000 who—

“(a) Fails to comply with **section 70** or **section 77 (1)** or **section 77 (2)** or **section 79A** or **section 79B** or **section 79BA** or **section 79c** of this Act; or 10

“(b) In an election period,—

“(i) Broadcasts an election programme for or on behalf of a political party; or

“(ii) Arranges for the broadcasting of an election programme for or on behalf of a political party— 15
other than pursuant to, and in conformity with, this Part of this Act.”

19. Regulations—Section 82 of the principal Act is hereby amended by inserting, after paragraph (a), the following paragraph: 20

“(aa) Authorising the Commission, in such situations as the Commission considers appropriate,—

“(i) To grant concessions from the payment of public broadcasting fees; or 25

“(ii) To waive payment of public broadcasting fees.”.

20. Contracts of Commission—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: 30

“The Broadcasting Commission	1989, No. 25—The Broadcasting Act 1989.”
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21. Amendment to Public Finance Act 1989—The Public Finance Act 1989 is hereby amended by inserting in the Sixth Schedule (as added by section 41 of the Public Finance Amendment Act 1992), in its appropriate alphabetical order, the following item: 35

“Broadcasting Standards Authority.”

22. Amendment to Electoral Act 1993—Section 5 of the Electoral Act 1993 is hereby amended by inserting, after paragraph (aa) (as inserted by section 2b of the Electoral Reform Act 1995), the following paragraph:

5 “(ab) To carry out such duties in relation to Parliamentary election programmes as are prescribed by Part VI of the Broadcasting Act 1989.”

23. Repeals—Sections 10 to 19 of the Broadcasting Amendment Act 1993 are hereby consequentially repealed.

10 *Transitional Provisions in Relation to Levies*

24. Return on total operating revenue—(1) Every broadcaster shall, not later than 2 months after the commencement of this section, give to the Authority a return for the financial year of the broadcaster that ended in the period of 12 months immediately preceding the 31st day of July 1995, of the total operating revenue derived by the broadcaster in that financial year from broadcasting in New Zealand.

20 (2) Section 30A (2) of the principal Act shall apply in relation to the return required by subsection (1) of this section as if it were a return required by section 30A (1) of the principal Act.

25 (3) In relation to the return required by subsection (1) of this section, subsections (3) and (4) of section 30A of the principal Act shall apply as if that return were a return required by section 30A (1) of the principal Act and as if, for the expression “the 31st day of July in that year” in subsection (3) of section 30A of the principal Act, there were substituted the words “2 months after the commencement of this section”.

30 **25. Payment of annual levy in respect of 1994–1995 year**—(1) Where a return given to the Authority under section 24(1) of this Act by a broadcaster shows that, in the financial year of the broadcaster that ended in the period of 12 months immediately preceding the 31st day of July 1995, the broadcaster had a total operating revenue of more than \$500,000, that return shall be accompanied by an annual levy calculated in accordance with the following formula:

$$a \times b$$

where—

40 a is the broadcaster’s total operating revenue for the financial year of the broadcaster that ended in the period of 12 months immediately preceding the 31st day of July 1995; and

- b is $c \times 0.00051$; and
- c is that percentage of the year ending on the 30th day of June 1996 that is left after this section comes into force.

(2) Where a broadcaster commenced broadcasting within New Zealand during the financial year of the broadcaster that ended in the period of 12 months immediately preceding the 31st day of July 1996, no annual levy shall be payable by that broadcaster in respect of that financial year. 5

(3) The annual levy payable under **subsection (1)** of this section shall be payable by the broadcaster not later than 2 months after the commencement of this section. 10

(4) **Sections 30D to 30F** of the principal Act shall, with all necessary modifications, apply in relation to the levy payable under **subsection (1)** of this section as if it were a levy payable under **section 30A** of this Act. 15

26. Offence—Every broadcaster commits an offence and is liable on summary conviction to a fine not exceeding \$100,000 who contravenes **section 24** of this Act.