

BROADCASTING BILL

EXPLANATORY NOTE

THIS Bill, which comes into force on 1 April 1989,—

- (a) Provides for the maintenance of programme standards in broadcasting in New Zealand; and
 - (b) Establishes the Broadcasting Standards Authority and defines its functions and powers; and
 - (c) Establishes the Broadcasting Commission and defines its functions and powers; and
 - (d) Prohibits the broadcasting, for a fee or any other consideration, of election programmes; and
 - (e) Enables political parties to broadcast election programmes for Parliamentary elections free of charge; and
 - (f) Restricts the right to remove directors of Radio New Zealand Limited or of Television New Zealand Limited or of any subsidiary of either company; and
 - (g) Repeals the Broadcasting Act 1976; and
 - (h) Provides for matters incidental thereto.
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Hon. Jonathan Hunt

BROADCASTING

ANALYSIS

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A BILL INTITULED

An Act—

- (a) To provide for the maintenance of programme standards in broadcasting in New Zealand; and
- (b) To establish the Broadcasting Standards Authority and to define its functions and powers; and 5
- (c) To establish the Broadcasting Commission and to define its functions and powers; and
- (d) To prohibit the broadcasting, for a fee or any other consideration, of election programmes; and 10
- (e) To enable political parties to broadcast election programmes for Parliamentary elections free of charge; and
- (f) To restrict the right to remove directors of Radio New Zealand Limited or of Television New Zealand Limited or of any subsidiary of either company; and 15
- (g) To repeal the Broadcasting Act 1976; and
- (h) To provide for matters incidental thereto

BE IT ENACTED by the Parliament of New Zealand as follows: 20

1. Short Title and commencement—(1) This Act may be cited as the Broadcasting Act 1988.

(2) Except as provided in section 64 (3) of this Act, this Act shall come into force on the 1st day of April 1989.

2. Interpretation—In this Act, unless the context otherwise requires,— 25

“Advertising programme” means a programme or part of a programme intended to promote the interest of any person, or to promote any product or service for the commercial advantage of any person, and for which, 30

in either case, payment is made, whether in money or otherwise:

“Approved code of broadcasting practice” means a code of broadcasting practice—

5 (a) Developed and issued under **section 19 (1) (f)** of this Act; or

(b) Approved for the purposes of this Act under **section 19 (1) (g)** of this Act:

10 “Authority” means the Broadcasting Standards Authority established by **section 18** of this Act:

“Broadcaster” means a person who broadcasts programmes:

15 “Broadcasting” means any transmission of programmes, whether or not encrypted, by radio waves or other means of telecommunication for reception by the public by means of broadcasting receiving apparatus but does not include any such transmission of programmes—

20 (a) Made on the demand of a particular person for reception only by that person; or

(b) Made solely for performance or display in a public place:

“Commission” means the Broadcasting Commission established by **section 33** of this Act:

25 “Minister” means the Minister of Broadcasting:

“Programme”—

(a) Means sounds or visual images, or a combination of sounds and visual images, intended—

30 (i) To inform, enlighten, or entertain; or

(ii) To promote the interests of any person; or

(iii) To promote any product or service; but

(b) Does not include visual images, whether or not combined with sounds, that consist predominantly of alphanumeric text:

35 “Publish” includes broadcast:

“Working day” means any day of the week other than—

(a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign’s birthday, and Waitangi Day; and

40 (b) A day in the period commencing with the 25th day of December in any year and ending with the 15th day of January in the following year.

Cf. 1976, No. 132, s. 2 (1); 1982, No. 178, s. 2 (1)

3. Act to bind the Crown—This Act shall bind the Crown.

PART I

PROGRAMME STANDARDS

4. Responsibility of broadcasters for programme standards—(1) Every broadcaster is responsible for maintaining in its programmes and their presentation, 5 standards which are consistent with—

- (a) The observance of good taste and decency; and
- (b) The maintenance of law and order; and
- (c) The privacy of the individual; and
- (d) The principle that when controversial issues of public 10 importance are discussed, reasonable efforts are made to present significant points of view either in the same programme or in other programmes within the period of current interest; and
- (e) Any approved code of broadcasting practice applying to 15 the programmes.

(2) Where—

- (a) Any film has been submitted under the Films Act 1983 or any former corresponding Act for censorship and approval for exhibition; and 20
- (b) Approval of the film for exhibition has been refused or has been given subject to excisions therefrom—
no broadcaster,—

(c) In the case of any film in respect of which such approval has been refused, shall broadcast the film or any part 25 thereof; or

(d) In the case of any film that has been approved for exhibition subject to excisions therefrom, shall broadcast the film or any part thereof if the film or, as the case may be, that part thereof, includes any 30 part of the film required to be excised,—

except with the consent of the Chief Censor of Films and subject to any conditions subject to which the Chief Censor has given the consent.

(3) No broadcaster shall be under any civil liability in respect 35 of any failure to comply with any of the provisions of this section.

Cf. 1976, No. 132, ss. 24 (1) (c), (e), (f), (g), (2), (4), 95 (1) (c), (e), (f), (g), (2), (5); 1982, No. 178, ss. 5, 19; 1983, No. 130, s. 76 (2), (3) 40

PART II

COMPLAINTS

5. Principles—This Part of this Act is based on the following principles:

- 5 (a) Broadcasters have a responsibility to deal with complaints relating to broadcasts and must establish a proper procedure to deal with them:
- (b) A body other than the broadcaster must be available to complainants to ensure that broadcasters discharge their responsibilities in relation to programme standards:
- 10 (c) Complaints based merely on a complainant's preferences are not, in general, capable of being resolved by a complaints procedure:
- 15 (d) An independent complaints procedure is not a substitute for proper consideration of complaints by the broadcaster:
- (e) Complaints should be made promptly to the broadcaster:
- (f) Formal complaints must be made in writing:
- 20 (g) Most complaints that are capable of being resolved by an independent complaints procedure should not be required to be resolved by that procedure but should be capable of being resolved by proper consideration and proper response on the part of the broadcaster:
- 25 (h) The first consideration of a complaint should be prompt and without undue formality:
- (i) Further consideration of a complaint calls for greater formality.

Cf. 1976, No. 132, s. 95A (b)-(j); 1982, No. 6, s. 11

30 **6. Formal complaints about programmes**—(1) Subject to subsection (2) of this section, it is the duty of every broadcaster—

- (a) To receive and consider formal complaints about any programme broadcast by it where the complaint constitutes, in respect of that programme, an allegation that the broadcaster has failed to comply with section 4 of this Act; and
- 35 (b) To establish procedures for investigating any such complaint and to publicise those procedures.
- (2) Nothing in this section requires a broadcaster to receive and consider any complaint that is not lodged in writing with the broadcaster within 20 working days after the date on which
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the programme to which the complaint relates was broadcast by the broadcaster.

Cf. 1976, No. 132, ss. 95B (1) (a) (ii), (iv)–(vii), (b), 95C (1) (a) (ii), (iv)–(vii), (b); 1982, No. 6, s. 11; 1982, No. 178, s. 20

7. Decisions in respect of formal complaints—(1) If a complaint under section 6 (1) (a) of this Act is found to be justified, in whole or in part, the broadcaster shall take appropriate action and shall inform the complainant in writing of the action taken.

(2) If a complaint under section 6 (1) (a) of this Act is found not to be justified, in whole or in part, the broadcaster shall notify the complainant in writing of the decision.

Cf. 1976, No. 132, s. 95D; 1982, No. 6, s. 11; 1982, No. 178, s. 22

8. Right of complainant to refer formal complaint to Authority—Subject to section 9 of this Act, where—

- (a) The complainant, in respect of a complaint under section 6 (1) (a) of this Act, is dissatisfied with the decision or with the action taken by the broadcaster; or
- (b) The broadcaster has not, within 15 working days after receiving the complaint, notified the complainant in writing of the date on which the complaint will be considered (being within a reasonable time after the lodging of the complaint); or
- (c) The complaint constitutes an allegation that a broadcaster has failed to comply with section 4 (1) (c) of this Act,—the complainant may refer the complaint to the Authority.

Cf. 1976, No. 132, s. 95E; 1982, No. 6, s. 11; 1982, No. 178, s. 22

9. Time limits—(1) The Authority shall not accept a complaint referred to it under section 8 (a) of this Act after the expiry of the period of 20 working days beginning with the first working day after the day on which the complainant received from the relevant broadcaster notice of its decision in relation to the complaint.

(2) The Authority shall not accept a complaint referred to it under section 8 (b) of this Act after the expiry of the period of 45 working days beginning with the first working day after the day on which the programme to which the complaint relates was broadcast.

(3) The Authority shall not accept a complaint referred to it under section 8 (c) of this Act after the expiry of the period of 20

working days beginning with the first working day after the day on which the programme to which the complaint relates was broadcast.

10. Consideration and determination of complaints by Authority—(1) The Authority may, if it thinks fit, consider and determine any complaint referred to it under **section 8** of this Act without a formal hearing, but, in that case,—

(a) Shall give the complainant and the broadcaster a reasonable opportunity to make submissions to it in writing in relation to the complaint; and

(b) Shall have regard to all relevant submissions made to it in writing in relation to the complaint.

(2) In considering every complaint referred to it under **section 8** of this Act, the Authority shall provide for as little formality and technicality as is permitted by—

(a) The requirements of this Act; and

(b) A proper consideration of the complaint; and

(c) The principles of natural justice.

Cf. 1976, No. 132, s. 95v (1); 1982, No. 6, s. 11; 1982, No. 178, s. 22

11. Power of Authority to decline to determine complaint—The Authority may decline to determine a complaint referred to it under **section 8** of this Act if it considers—

(a) That the complaint is frivolous, vexatious, or trivial; or

(b) That, in all the circumstances of the complaint, it should not be determined by the Authority.

12. Evidence—(1) The Authority may receive as evidence any statement, document, information, or matter that in its opinion may assist it to deal effectively with a complaint referred to it under **section 8** of this Act, whether or not it would be admissible in a Court of law.

(2) The Authority may take evidence on oath, and for that purpose a member or officer of the Authority may administer an oath.

13. Decisions on complaints—(1) If, in the case of a complaint referred to the Authority under **section 8** of this Act, the Authority decides that the complaint is justified, in whole or in part, the Authority may make any one or more of the following orders:

- (a) An order directing the broadcaster to publish, in such manner as shall be specified in the order, and within such period as shall be so specified, a statement which relates to the complaint and which is approved by the Authority for the purpose: 5
- (b) An order directing the broadcaster to refrain from broadcasting for such period, not exceeding 24 hours, in respect of each programme in respect of which the Authority has decided the complaint is justified, and at such time as shall be specified in the order: 10
- (c) An order referring the complaint back to the broadcaster for consideration and determination by the broadcaster in accordance with such directions or guidelines as the Authority thinks fit:
- (d) If the Authority finds that the broadcaster has failed to maintain, in relation to any individual, standards that are consistent with the privacy of that individual, an order directing the broadcaster to pay to that individual, as compensation, a sum not exceeding \$5,000. 20
- (2) If, in the case of a complaint referred to the Authority under **section 8** of this Act, the Authority decides that the complaint is justified, in whole or in part, or is not justified, in whole or in part, the Authority shall give notice in writing of the decision— 25
- (a) To the broadcaster by which the programme was broadcast; and
- (b) To the complainant.
- (3) If a complaint is found to be justified, in whole or in part, the broadcaster by which the programme was broadcast shall— 30
- (a) Comply with any order made under **subsection (1)** of this section; and
- (b) Give notice in writing to the Authority and the complainant of the manner in which the order has been complied with. 35
- (4) Every statement published pursuant to an order made under **subsection (1)** of this section shall be deemed for the purposes of clause 8 of Part II of the First Schedule to the Defamation Act 1954 to be a notice published on the authority of a Court of Justice. 40

Cf. 1976, No. 132, s. 95x; 1982, No. 6, s. 11

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

who fails to comply with an order made in respect of that broadcaster under **section 13(1)** of this Act.

15. Notice of decisions—(1) The Authority shall give public notice of the decision of the Authority on each complaint referred to it under **section 8** of this Act.

(2) Copies of the decision of the Authority on each complaint referred to it under **section 8** of this Act, which copies shall include in each case the Authority's reasons for its decision, shall be procurable by purchase from the Authority at a reasonable price.

(3) Every notice published under **subsection (1)** of this section shall be deemed for the purposes of clause 2 of Part I of the First Schedule to the Defamation Act 1954 to be a fair and accurate report of the proceedings of a Court of Justice in New Zealand.

Cf. 1976, No. 132, s. 67B; 1982, No. 6, s. 9

16. Power to award costs—(1) Subject to **subsection (2)** of this section, the Authority may, in any proceedings, order any party to pay to any other party such costs and expenses (including expenses of witnesses) as are reasonable, and may apportion any such costs between the parties in such manner as it thinks fit.

(2) No award of costs shall be made under **subsection (1)** of this section against the complainant unless—

(a) In the opinion of the Authority, the complaint is frivolous or vexatious or one that ought not to have been made; or

(b) The Authority considers it proper to do so by reason of the failure of the complainant to prosecute any proceedings related to the complaint at the time fixed for its hearing or to give adequate notice of the abandonment of any proceeding related to the complaint.

(3) Where, through failure to prosecute any proceeding at the time fixed for its hearing or to give adequate notice of the abandonment of any proceeding, the Authority considers it proper to do so, the Authority may order the party in default to pay to the Crown such sums for costs as it considers reasonable.

Cf. 1976, No. 132, s. 67c; 1982, No. 6, s. 9

17. Enforcement of orders for costs—(1) For the purpose of enforcing any order of the Authority for the payment of costs, a duplicate of such order may be filed by the person to

whom the costs are payable in the office of the Court named in the order and shall thereupon be enforceable in all respects as a final judgment of that Court in its civil jurisdiction.

(2) In every case where an order for costs is made, the order shall name the Court in which the order may, if necessary, be enforced. 5

(3) The Court so named shall, where the amount recoverable under the order—

(a) Exceeds \$12,000, be the High Court; and

(b) Does not exceed \$12,000, be the District Court. 10

Cf. 1976, No. 132, s. 67D; 1982, No. 6, s. 9

PART III

BROADCASTING STANDARDS AUTHORITY

18. Establishment of Authority—There is hereby established an Authority to be called the Broadcasting Standards Authority. 15

19. Functions of Authority—(1) The functions of the Authority shall be—

(a) To receive and determine complaints from persons who are dissatisfied with the outcome of complaints made to broadcasters under **section 6 (1) (a)** of this Act; and 20

(b) To receive and determine complaints from persons where the complaint constitutes an allegation that a broadcaster has failed to comply with **section 4 (1) (c)** of this Act, and the complainant has elected to refer the complaint to the Authority in the first instance; and 25

(c) To publicise its procedures in relation to complaints; and

(d) To issue to any or all broadcasters, advisory opinions relating to broadcasting standards, ethical and professional conduct in broadcasting; and 30

(e) To encourage the development and observance by broadcasters of codes of broadcasting practice in relation to—

(i) The protection of children:

(ii) The portrayal of violence: 35

(iii) Fair and accurate programming and procedures for correcting factual errors and redressing unfairness:

(iv) Safeguards against the portrayal of persons in programmes in a manner that encourages denigration of, or discrimination against, sections of the community on account of sex, race, age, 40

occupational status or as a consequence of legitimate expression of religious, cultural, or political beliefs:

- 5 (v) Presentation of appropriate warnings in respect of programmes, including programmes that have been classified as suitable only for particular audiences:
- (f) To develop and issue codes of broadcasting practice of a kind described in **paragraph (e)** of this subsection in any case where the Authority considers it appropriate:
- 10 (g) To approve, for the purposes of this Act, codes of practice of a kind described in **paragraph (e)** of this subsection:
- (h) To conduct research and publish findings on matters relating to standards in broadcasting.
- (2) The Authority shall, in encouraging, under **subsection (1) (e)** 15 of this section, the development by broadcasters of codes of broadcasting practice, encourage broadcasters to consult with such persons as the broadcasters consider appropriate.

20. Notification and publication of approved codes of broadcasting practice—(1) Where a code of broadcasting practice is issued under **section 19 (1) (f)** of this Act or approved under **section 19 (1) (g)** of this Act, the Authority shall publish in the *Gazette* as soon as practicable a notice—

- (a) Stating that the code of broadcasting practice has been so issued or approved; and
- 25 (b) Indicating where copies of the approved code of broadcasting practice can be purchased.
- (2) The Authority shall publish each approved code of broadcasting practice.
- (3) Copies of all approved codes of broadcasting practice that 30 are for the time being in force shall be procurable by purchase from the Authority at a reasonable price.

21. Power of Minister to request Authority to consider matter involving broadcasting standards—(1) Where the Minister considers it is desirable in the public interest to do so, 35 the Minister may refer any matter relating to broadcasting standards to the Authority and require the Authority to consider whether or not it is appropriate to issue an advisory opinion on the matter under **section 19 (1) (c)** of this Act.

- (2) As soon as practicable after referring any matter to the 40 Authority under **subsection (1)** of this section, the Minister shall publish in the *Gazette* and lay before the House of Representatives a copy of the reference.

22. Powers of Authority—The Authority shall have all such powers as are reasonably necessary or expedient to enable it to carry out its functions.

Cf. 1976, No. 132, s. 67 (8); 1982, No. 6, s. 9

23. Power of Authority to commission surveys—The Authority may commission programme, audience research, market, or technical surveys for the purpose of obtaining information necessary for the performance of its functions and not available to the Authority from other sources.

Cf. 1976, No. 132, s. 67 (3); 1982, No. 6, s. 9 10

24. Membership of Authority—(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.

(2) The person appointed to be Chairperson of the Authority shall be a barrister or solicitor of not less than 7 years' practice of the High Court, whether or not the person holds or has held judicial office. 15

(3) For the purposes of any matter before the Authority, the Authority may co-opt any one or more persons whose qualifications or experience are likely, in the opinion of the Authority, to be of assistance to the Authority in dealing with that matter. 20

(4) Every person co-opted under this section for the purposes of any matter shall be entitled to take part in the Authority's proceedings in relation to that matter, but shall not be entitled to vote thereon. 25

(5) Where any person co-opted under this section fails to exercise, in relation to any matter, any right conferred on that person by subsection (4) of this section, that failure shall not affect the validity of any meeting, hearing, or other proceeding of the Authority in respect of that matter. 30

(6) Any person appointed as a member of the Authority or as its Chairperson may hold that office concurrently with any other office. 35

Cf. 1976, No. 132, s. 61 (1), (2), (3), (9), (10), (11), (12); 1982, No. 6, s. 7 (2)

25. Term of office of members of Authority—(1) Except as otherwise provided in subsection (3) of this section and 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. 40

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

(3) Of the first members of the Authority other than the Chairperson, one shall be appointed for an initial term of 1 year and the other two shall be appointed for an initial term of 2 years.

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

Cf. 1976, No. 132, s. 61 (6), (7), (8)

26. Continuation of membership—Where the term of office of a person who is a member of the Authority expires or where a person who is a member of the Authority resigns his or her office, the Minister may request any such person to continue to act as if he or she were a member of the Authority for the purpose of any proceeding in which that person took part and which was commenced before the expiration of his or her term of office or before his or her resignation took effect, as the case may be, and, if any such person agrees to any such request and so acts, he or she shall be deemed, for that purpose and for such period as the Minister determines from time to time, to continue to be a member of the Authority.

Cf. 1976, No. 132, s. 63 (6); 1982, No. 6, s. 8 (1)

27. Delegation of functions or powers by Authority—

(1) The Authority may from time to time, delegate either generally or particularly, to any of its members any of its functions or powers.

(2) Every delegation under this section shall be in writing.

(3) No delegation under this section shall include the power to delegate under this section.

(4) Subject to any general or special directions given or conditions imposed by the Authority, the person to whom any functions or powers are delegated under this section may exercise those functions or powers in the same manner and with the same effect as if they had been conferred on that person directly by this Act and not by delegation.

(5) Every member of the Authority purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(6) No such delegation shall affect or prevent the exercise of any function or power by the Authority, nor shall any such delegation affect the responsibility of the Authority for the actions of any person acting under the delegation.

(7) Every delegation under this section to one or two members of the Authority shall have effect notwithstanding that, under **clause 2** of the **First Schedule** to this Act, the quorum necessary for the transaction of business at a meeting of the Authority is 3 members.

28. Rules in relation to retention of recordings of programmes—(1) The Authority may from time to time make and promulgate rules in relation to the retention by broadcasters of recordings or programmes broadcast by them.

(2) Any such rules may apply generally to all broadcasters, or may apply only to broadcasters of specified types or classes, and may from time to time be varied, amended, or revoked.

(3) Any such rules may require every broadcaster, when requested to do so by the Authority, to make suitable arrangements for enabling the Authority to view or hear any programme a copy of which is retained by the broadcaster under this section.

(4) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 who fails to comply with any rules made under this section.

(5) Rules made under this section shall be deemed to be regulations for the purposes of the Regulations Act 1936.

29. Funds of Authority—The funds of the Authority shall consist of—

- (a) Any money appropriated by Parliament for the purposes of the Authority and paid to the Authority for the purposes of the Authority;
- (b) All other money lawfully received by the Authority for the purposes of the Authority;
- (c) All accumulations of income derived from any such money.

30. Seal—The Authority shall have a seal which shall be judicially noticed in all Courts and for all purposes.

Cf. 1976, No. 132, s. 61 (4)

31. Exemption from income tax—The income of the Authority shall be exempt from income tax.

32. Further provisions applying in respect of Authority—The provisions set out in the First Schedule to this Act shall apply in respect of the Authority.

PART IV

BROADCASTING COMMISSION

5

33. Establishment of Commission—(1) There is hereby established a Commission to be called the Broadcasting Commission.

10 (2) The Commission shall be a body corporate with perpetual succession and a common seal, with power to purchase, take, hold, transfer, and lease property, to sue and be sued, and shall have all rights, powers, and privileges of a natural person.

34. Functions of Commission—The functions of the Commission are—

- 15 (a) To reflect and develop New Zealand identity and culture by promoting programmes about New Zealand or New Zealand interests; and
- 20 (b) To maintain and, where the Commission considers that it is appropriate, extend the coverage of television and sound radio broadcasting to remote New Zealand communities which would otherwise not receive a commercially viable signal; and
- 25 (c) To ensure that a range of broadcasts is available to cater for the interests of minorities in the community and of women—
by making funds available for broadcasting and for the production of programmes to be broadcast, on such terms and conditions as the Commission thinks fit.

30 **35. Powers of Commission**—The Commission shall have all such powers as are reasonably necessary or expedient to enable it to carry out its functions.

36. Matters to be taken into account in relation to funding proposals—The Commission, in assessing any proposal for the Commission to make funds available for broadcasting or for the production of a programme or programmes to be broadcast, shall have regard to—

- 35 (a) The extent to which the project to which the proposal relates could be funded from sources other than the Commission; and
- 40 (b) The potential size of the audience likely to benefit from the project to which the proposal relates; and

- (c) The extent of the likely benefit to the consumers of broadcasting services affected by the project in relation to the cost of the project; and
- (d) In the case of a proposal for the production of a programme or programmes, the extent to which the proposed programme or programmes would contribute to the availability of a balanced range of programmes catering for various interests in the community; and 5
- (e) In the case of a proposal for the production of a programme or programmes, the likelihood that the proposed programme or programmes, if produced, would be broadcast. 10

37. Requirements in relation to standards—The Commission shall require from recipients of funding from the Commission in relation to the production of a programme or programmes, in such form as the Commission shall determine, undertakings that the programme or programmes, will be consistent with the standards specified in **section 4 (1)** of this Act. 15

38. Requirements in relation to equal employment opportunities—The Commission may decline to make funds available under **section 34** of this Act, where it considers that the prospective recipient is not operating an appropriate equal employment opportunities plan in circumstances where it would be practicable for the prospective recipient to do so. 20 25

39. Objectives in relation to funding—The Commission shall, in making funds available under **section 34** of this Act, endeavour to ensure that—

- (a) In each year ending with the close of the 30th day of June, the amount of funds that the Commission makes available is matched by an equal or greater amount of funds from sources other than the Commission; and 30
- (b) In relation to each project for which it makes funds available, no less than 30 percent of the total funding of the project is provided from sources other than the Commission. 35

40. Prohibition in relation to certain directions—Nothing in this Act authorises the Commission to give a direction to any person to whom the Commission has made 40

funds available under **section 34** of this Act, in respect of a particular programme.

41. Contracts in relation to use of funds—In making funds available under **section 34** of this Act, the Commission shall, to the extent that, in the opinion of the Commission, it is practicable to do so,—

- (a) Invite competitive proposals for the use of funds made available by the Commission; and
- (b) Ensure by the terms of contracts that the recipients of the funds are obliged both to attain specified standards of performance and to account for the use of the funds; and
- (c) Adopt measures to ensure that recipients of funds comply with the terms referred to in **paragraph (b)** of this section.

42. Commission to have regard to Government policy—(1) In the exercise of its functions, duties, powers, rights, and authorities under this Act, the Commission shall have regard to the general policy of the Government in relation to broadcasting or to the functions, duties, powers, rights, and authorities of the Commission as that policy is communicated to the Commission from time to time by notice in writing by the Minister, and shall comply with any directions given by the Minister to the Commission by notice in writing pursuant to any such policy.

(2) Nothing in **subsection (1)** of this section authorises the Minister to give a direction under that subsection in respect of—

- (a) A particular programme; or
 - (b) The gathering or presentation of news or the preparation or presentation of current affairs programmes.
- (3) Where a notice is given to the Commission under **subsection (1)** of this section, the Minister shall, as soon as practicable after the giving of the notice,—
- (a) Publish a copy of it in the *Gazette*; and
 - (b) Lay a copy of it before the House of Representatives.

Cf. 1976, No. 132, s. 20 (1), (2) (a), (b), (c), (4), (5); 1982, No. 6, s. 4 (1)

43. Membership of Commission—(1) The Commission shall consist of not less than 3 members and not more than 6 members, who shall be appointed by the Governor-General on

the recommendation of the Minister, of whom one shall be appointed as Chairperson.

(2) No person shall be recommended for appointment as a member of the Commission unless, in the opinion of the Minister, that person is qualified for appointment, having regard to the functions and powers of the Commission, by virtue of that person's knowledge of, or experience in, broadcasting, programme production, or business.

44. Term of office of members of Commission—

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

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

(3) Of the first members of the Commission not more than 2 may be appointed for an initial term of 1 year and not more than 2 may be appointed for an initial term of 2 years.

(4) Where the term for which a member of the Commission has been appointed expires, that member of the Commission, unless sooner vacating or removed from office under clause 1 of the First Schedule to this Act, shall continue to hold office by virtue of the appointment for the term that has expired, until—

- (a) That member is reappointed; or
- (b) A successor to that member is appointed; or
- (c) That member is informed in writing by the Minister that the member is not to be reappointed and that a successor to that member is not to be appointed.

45. Public broadcasting fees—(1) For the purpose of providing funds to enable it to exercise its functions under this Act, the Commission may charge fees, to be known as public broadcasting fees, in accordance with regulations made under this Act.

(2) Any public broadcasting fee that is not paid in accordance with regulations made under this Act may be recovered from the person liable at the suit of the Commission in any Court of competent jurisdiction.

(3) The Commission may from time to time enter into agreements or arrangements, on such terms and conditions as it thinks fit, with any person to collect or assist in collecting public broadcasting fees.

Cf. 1976, No. 132, s. 51A; 1986, No. 124, s. 32 (1)

46. Funds of Commission—(1) The funds of the Commission shall consist of—

- 5 (a) Subject to **subsection (2)** of this section, any money appropriated by Parliament for the purposes of the Commission and paid to the Commission for the purposes of the Commission:
- (b) All public broadcasting fees paid pursuant to regulations made under this Act:
- 10 (c) All other money lawfully received by the Commission for the purposes of the Commission:
- (d) All accumulations of income derived from any such money.
- (2) The Commission shall repay to the Consolidated Account in each financial year, all money appropriated by Parliament and paid to the Commission under **subsection (1) (a)** of this section.

47. Exemption from income tax—The income of the Commission shall be exempt from income tax.

20 **48. Seal**—The common seal of the Commission shall be judicially noticed in all Courts and for all purposes.

49. Further provisions applying in respect of Commission—The provisions set out in the First Schedule to this Act shall apply in respect of the Commission.

PART V

25 PARLIAMENTARY ELECTION PROGRAMMES

50. Interpretation—In this Part of this Act, unless the context otherwise requires,—

- “Election” means a general election or by-election within the meaning of the Electoral Act 1956:
- 30 “Election period”, in relation to an election, means the period—
- (a) Beginning with writ day; and
- (b) Ending with the close of the day preceding polling day:
- 35 “Election programme” means a programme—
- (a) Used or appearing to be used to promote or procure the election of any candidate at an election; or
- 40 (b) Advocating support for a candidate or for a political party to which a candidate belongs; or

(c) Notifying meetings held or to be held in connection with an election.

51. Prohibition on paid election programmes—

(1) Except as provided in subsection (2) of this section, no broadcaster shall, for a fee or any other consideration, permit the broadcasting, within or outside an election period, of an election programme. 5

(2) Nothing in this section applies in respect of—

(a) Any advertisement placed 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 1956; or 10

(b) Any non-partisan advertisement broadcast, as a community service, by the broadcaster.

(3) Nothing in this section restricts the broadcasting, in relation to an election, of news or of comments or of current affairs programmes. 15

52. Obligation to permit political parties to broadcast election programmes free of charge—Subject to sections 53 to 60 of this Act, every broadcaster shall, in each election period, permit political parties to broadcast election programmes free of charge. 20

53. Amount of time—(1) Subject to subsection (2) of this section and to section 54 of this Act, the Parliamentary Service Commission shall determine, in respect of each election period,— 25

(a) The amount of time each broadcaster named in the determination shall make available to political parties for the broadcasting of election programmes free of charge; and 30

(b) The periods of time that are to be available to political parties on each broadcasting station for the broadcasting of election programmes free of charge.

(2) The total amount of time in each election period to be made available to political parties by broadcasters for the broadcasting of election programmes free of charge shall not exceed,— 35

(a) For television programmes, 6 hours; and

(b) For radio programmes, 6 hours.

54. Consultation with broadcasters—(1) The Parliamentary Service Commission shall not make a determination under **section 53 (1)** of this section unless—

5 (a) The Parliamentary Service Commission has consulted with such broadcasters as are likely to be affected by the determination and those broadcasters have had the opportunity to give their comments on the proposed determination to the Parliamentary Service Commission; and

10 (b) The Parliamentary Service Commission has considered any such comments.

(2) The modification of any determination by the Parliamentary Service Commission after complying with **subsection (1)** of this section shall not require the Parliamentary Service Commission to grant to any broadcaster any further opportunity to give the comments of the broadcaster on the modified determination to the Parliamentary Service Commission.

20 (3) The failure of any broadcaster to avail itself of the opportunity to consult with, or to give comments to, the Parliamentary Service Commission under **subsection (1)** of this section, or to comply with any other request of the Parliamentary Service Commission, shall not prevent the making by the Parliamentary Service Commission of a determination under **section 53 (1)** of this Act or affect its validity.

55. Allocation of time to political parties—Subject to this section, the Parliamentary Service Commission shall, in respect of each election period,—

30 (a) Allocate to political parties, in such proportions as the Parliamentary Service Commission thinks fit, the total amount of time that the Parliamentary Service Commission has determined, under **section 53 (1) (a)** of this Act, shall be made available to political parties for the broadcasting of election programmes free of charge; and

35 (b) Fix the periods of time that are to be available to each political party on each broadcasting station for the broadcasting of election programmes free of charge.

40 **56. Criteria in relation to allocation of time to political parties**—(1) The Parliamentary Service Commission shall not allocate any time to a political party under **section 55** of this Act unless—

- (a) That political party conducts its affairs throughout New Zealand and has a national organisation; and
 - (b) That political party has consistently expressed philosophies or policies on a range of issues over the period of 12 months immediately preceding the issue of the writ for the election; and 5
 - (c) In the case of a general election, persons belonging to that party are candidates at that general election for at least 10 seats in the House of Representatives; and
 - (d) In the case of a by-election,— 10
 - (i) A person belonging to that political party is a candidate at that by-election; and
 - (ii) Persons belonging to that party were candidates at the immediately preceding general election for at least 10 seats in the House of Representatives. 15
- (2) The Parliamentary Service Commission shall, in allocating time to a political party under **section 55** of this Act have regard to—
- (a) The number of persons who voted at the immediately preceding general election for candidates belonging to that political party; and 20
 - (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
 - (c) The number of members of Parliament who,— 25
 - (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 30
 - (d) 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. 35

57. Consultation with political parties—(1) Before allocating time to a political party under **section 55** of this Act the Parliamentary Service Commission shall grant to every political party the opportunity to meet with and be heard by the Parliamentary Service Commission. 40

(2) The modification of any allocation by the Parliamentary Service Commission after complying with **subsection (1)** of this section shall not require the Parliamentary Service Commission

to grant to any political party any further opportunity to meet with and be heard by the Parliamentary Service Commission.

(3) The failure of any political party to avail itself of the opportunity to meet with and be heard by the Parliamentary Service Commission under **subsection (1)** of this section, or to comply with any other request of the Parliamentary Service Commission, shall not prevent the making by the Parliamentary Service Commission of decisions on the allocation of time under **section 55** of this Act or affect the validity of those decisions.

58. Programme standards in relation to election programmes—

(1) The Parliamentary Service Commission shall from time to time, after consultation with the Authority, make rules prescribing standards that are to apply in relation to election programmes and such other rules as the Parliamentary Service Commission considers are necessary in the public interest in relation to election programmes.

(2) Rules made under **subsection (1)** of this section shall be deemed to be regulations for the purposes of the Regulations Act 1936.

59. Approval of election programmes—

(1) Before any election programme is broadcast, the political party for which it is to be broadcast shall submit a copy of the programme, in such manner as the Parliamentary Service Commission shall require, to the Authority for its approval.

(2) The Authority shall not give its approval under **subsection (1)** of this section, in relation to an election programme unless it is satisfied that the election programme does not contravene any rules for the time being in force under **section 58** of this Act.

(3) No person shall broadcast, for or on behalf of a political party, in an election period an election programme other than an election programme approved under **subsection (2)** of this section.

(4) Nothing in **Part I** or **Part II** of this Act shall apply in relation to an election programme broadcast pursuant to, and in conformity with, this Part of this Act.

60. 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 51** or **section 52** of this Act; or
- (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— other than pursuant to, and in conformity with, this Part of this Act: 5

(c) Contravenes **section 59 (3)** of this Act.

PART VI

MISCELLANEOUS PROVISIONS

61. Advertising hours—(1) Subject to **subsections (2) and (3)** of this section, no broadcaster shall broadcast an advertising programme—

- (a) During the hours between 5 a.m. and noon on—
 - (i) Sunday; or
 - (ii) Anzac Day; or 15
- (b) On—
 - (i) Christmas Day; or
 - (ii) Good Friday.

(2) Nothing in this section prevents the inclusion in any programme broadcast on a Sunday of a credit in respect of a sponsorship or underwriting arrangement entered into in relation to that programme. 20

(3) Nothing in this section prevents the broadcasting of any advertising programme that—

- (a) Is broadcast only as part of a service of the type which is commonly known as teletext and which comprises only text or graphics or both; and 25
- (b) Is for display only on receiving sets equipped with a decoding device.

Cf. 1976, No. 132, s. 73A; 1985, No. 61, s. 6 30

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

- (a) Requiring the payment from time to time of public broadcasting fees of amounts specified in the regulations by persons who own, possess, hire or use television receiving equipment, and such regulations may prescribe different fees in respect of different classes of equipment or different classes of persons, and exempt any class of person from payment of the fees: 35 40

- (b) Requiring persons who sell or hire television receiving equipment to keep records and make returns thereof to the Commission, and prescribing offences for failure to comply with any such requirements, and the amount of the fines that may be imposed in respect of such offences (which fines shall be an amount not exceeding \$500);
- (c) Providing for such matters as are contemplated by or necessary for giving effect to the provisions of this Act and for its due administration.

Cf. 1976, No. 132, s. 98 (ja), (jb), (k); 1986, No. 124, s. 32 (1)

63. Amendment to Commerce Act 1986—The First Schedule to the Commerce Act 1986 is hereby amended by adding to Class B the following item:

“Broadcasting or the publishing of newspapers or both	Broadcasting	\$2,500,000”.
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64. Amendment to State-Owned Enterprises Amendment Act 1987—(1) The State-Owned Enterprises Amendment Act 1987 is hereby amended by repealing so much of Part C of the First Schedule as relates to—

- (a) The amendment to section 76 (3) of the Broadcasting Act 1976 that occurs first in that Part;
- (b) Section 76A (2) of the Broadcasting Act 1976;
- (c) The amendment to section 76A (5) of the Broadcasting Act 1976 that was made in that Part in association with the amendment to section 76A (2) of that Act;
- (d) The amendment to section 77 (2) of the Broadcasting Act 1976 that occurs second in that Part;
- (e) Section 78 (1) of the Broadcasting Act 1976;
- (f) The amendment to section 81 (4) of the Broadcasting Act 1976 that occurs first in that Part.

(2) The Trade and Industry Act Repeal Act 1988 is hereby amended, as from its commencement, by omitting from the Second Schedule the item relating to the State-Owned Enterprises Amendment Act 1987.

(3) This section shall be deemed to have come into force on the 1st day of December 1988.

65. Amendment to State-Owned Enterprises Amendment Act (No. 4) 1988—The State-Owned Enterprises Amendment Act (No. 4) 1988 is hereby amended by repealing section 7, and substituting the following section:

“7. Ministers of the Crown not to give certain directions—(1) Nothing in this Act or the principal Act authorises any Minister of the Crown to give a direction to Radio New Zealand Limited, or Television New Zealand Limited, or any subsidiary of Radio New Zealand Limited or Television New Zealand Limited, or any director or officer or employee of Radio New Zealand Limited or Television New Zealand Limited or any such subsidiary, in respect of—

“(a) A particular programme or a particular allegation or a particular complaint; or 10

“(b) The gathering or presentation of news or the preparation or presentation of current affairs programmes; or

“(c) The responsibility of Radio New Zealand Limited or Television New Zealand Limited for programme standards. 15

“(2) No director of Radio New Zealand Limited or Television New Zealand Limited or of any subsidiary of Radio New Zealand Limited or Television New Zealand Limited, may be removed for any reason relating to— 20

“(a) A particular programme or a particular allegation or a particular complaint; or

“(b) The gathering or presentation of news or the preparation or presentation of current affairs programmes; or 25

“(c) The responsibility of Radio New Zealand Limited or Television New Zealand Limited for programme standards.”

66. Consequential amendments—The enactments specified in the **Second Schedule** to this Act are hereby amended 30 in the manner indicated in that Schedule.

67. Repeals and savings—(1) The enactments specified in the **Third Schedule** to this Act are hereby repealed.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of the 35 **Broadcasting Amendment Act (No. 2) 1988** does not affect the amendments made by section 15 of that Act to—

(a) Sections 19 (10) (c) (ii), 41 (1) (a), and 49 (1) (e) of the Copyright Act 1962; and

(b) The Local Authorities (Members’ Interests) Act 1968; and 40

(c) The Queen Elizabeth the Second Arts Council of New Zealand Act 1974; and

(d) The Official Information Act 1982; and

(e) The Civil Defence Act 1983.

68. Revocations—The regulations and order specified in the Fourth Schedule to this Act are hereby revoked.

69. Savings and transitional provisions in relation to public broadcasting fee—(1) Notwithstanding the repeals and revocations effected by this Act, during the period beginning with the 1st day of April 1989 and ending with the close of the 30th day of June 1989, section 51A of the Broadcasting Act 1976 (as enacted by section 32 (1) of the State-Owned Enterprises Act 1986 and as modified by section 21 of the Broadcasting Amendment Act (No. 2) 1988) and the provisions of regulations 28A to 28P of the Broadcasting Regulations 1977 (as inserted by regulation 2 of the Broadcasting Regulations 1977, Amendment No. 9 and as modified by section 21 of the Broadcasting Amendment Act (No. 2) 1988) shall have effect as if this Act had not been passed.

(2) Notwithstanding the repeals and revocations effected by this Act, any public broadcasting fees that are, immediately before the 1st day of July 1989, payable to the Secretary of Commerce, shall, from the commencement of that day, become payable to the Commission as if they were payable under this Act.

(3) The Secretary of Commerce shall pay to the Commission, as soon as practicable after the 30th day of June 1989, any money paid to the Secretary of Commerce by way of public broadcasting fees during the period beginning on the 1st day of December 1988 and ending with the close of the 30th day of June 1989 to the extent that any money so paid to the Secretary of Commerce has not been expended by the Secretary of Commerce before the expiration of the 30th day of June 1989.

70. Transitional provisions in relation to appeals under Broadcasting Act 1976—(1) Notwithstanding the repeals and revocations effected by this Act, all appeals which, before the 1st day of April 1989, have been made under section 84 of the Broadcasting Act 1976 and which have not been completed or determined before that date shall be completed or determined as if this Act had not been passed.

(2) Notwithstanding the repeals and revocations effected by this Act, the members of the Broadcasting Tribunal who were in office immediately before the commencement of this Act

shall continue in office until the close of the 31st day of December 1989 for the purpose of any appeal to which **subsection (1)** of this section applies, and, for that purpose, the Broadcasting Tribunal, as so continued, may exercise, as if the Broadcasting Act 1976 and the regulations revoked by this Act 5 were still in force, such of its powers and functions, including the power to issue warrants under section 71 of the Broadcasting Act 1976, as are necessary.

SCHEDULES

Sections 32, 49

FIRST SCHEDULE

PROVISIONS APPLYING IN RESPECT OF BROADCASTING STANDARDS
AUTHORITY AND BROADCASTING COMMISSION

1. Extraordinary vacancies—(1) Any member of the Authority or the Commission 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.

(2) Any member of the Authority or the Commission may at any time resign his or her office by giving written notice to that effect to the Minister.

(3) If any member of the Authority or the Commission dies, or resigns, or is removed from office, the vacancy thereby created shall be deemed to be an extraordinary vacancy.

(4) An extraordinary vacancy may be filled by the appointment of a person by the Governor-General on the recommendation of the Minister.

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

(6) The powers of either body shall not be affected by any vacancy in its membership.

2. Meetings—(1) Meetings of each body shall be held at such times and places as the body or its Chairperson from time to time appoints.

(2) At any meeting of either body the quorum necessary for the transaction of business shall be 3 members.

(3) At all meetings of either body its Chairperson shall preside if he or she is present.

(4) In the absence of the Chairperson from any meeting, the members present shall elect one of their number to preside at that meeting.

(5) All questions arising at any meeting shall be decided by a majority of the votes cast by the members present.

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

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

(8) Subject to this Act, each body may regulate its procedure in such manner as it thinks fit.

3. Remuneration and travelling allowances—The members of each body shall be paid such fees, salaries and allowances, and such travelling allowances and expenses, as the body may from time to time determine with the approval of the Minister.

4. Employees—(1) The Authority and the Commission may each appoint such officers and employees, including officers and employees on secondment from other organisations, as it thinks necessary for the efficient performance of its functions.

FIRST SCHEDULE—*continued*PROVISIONS APPLYING IN RESPECT OF BROADCASTING STANDARDS
AUTHORITY AND BROADCASTING COMMISSION—*continued*

(2) Subject to the terms and conditions of employment, each body may at any time terminate or suspend the employment of any of its officers and employees.

(3) Officers and employees appointed under **subclause (1)** of this clause shall be employed on such terms and conditions of employment and shall be paid such salaries and allowances as their employer from time to time determines.

(4) Any determination under **subclause (3)** of this clause shall take effect on such date (whether the date of the determination or any earlier or later date) as may be specified therein. If no date is specified, the determination shall take effect on the date thereof.

5. Personnel policy—(1) The Authority and the Commission shall each operate a personnel policy that complies with the principle of being a good employer.

(2) For the purposes of this clause a “good employer” is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—

- (a) Good and safe working conditions; and
- (b) An equal employment opportunities programme; and
- (c) The impartial selection of suitably qualified persons for appointment; and
- (d) Recognition of—
 - (i) The aims and aspirations of the Maori people; and
 - (ii) The employment requirements of the Maori people; and
 - (iii) The need for greater involvement of the Maori people as employees of the employer operating the personnel policy; and
- (e) Opportunities for the enhancement of the abilities of individual employees; and
- (f) Recognition of the aims and aspirations, and the cultural differences, of ethnic or minority groups; and
- (g) Recognition of the employment requirements of women; and
- (h) Recognition of the employment requirements of persons with disabilities.

6. Equal employment opportunities—(1) The Authority and the Commission—

- (a) Shall each develop and publish in each year an equal employment opportunities programme;
- (b) Shall each ensure in each year that the equal employment opportunities programme for that year is complied with.

(2) For the purposes of this clause and **clause 5** of this Schedule, an equal employment opportunities programme means a programme that is aimed at the identification and elimination of all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality in respect of the employment of any persons or group of persons.

FIRST SCHEDULE—*continued*PROVISIONS APPLYING IN RESPECT OF BROADCASTING STANDARDS
AUTHORITY AND BROADCASTING COMMISSION—*continued*

7. Choice of procedure—Where the circumstances giving rise to a personal grievance by a person employed by the Authority or the Commission are also such that that person would be entitled to make a complaint under the Human Rights Commission Act 1977 or the Race Relations Act 1971 or to exercise a right of review or appeal, that person may take one but not more than one of the following steps:

- (a) The person may invoke, in relation to those circumstances, the procedures applicable in relation to personal grievances under the Labour Relations Act 1987 or the relevant award or agreement:
- (b) The person may make, in relation to those circumstances, a complaint under the Human Rights Commission Act 1977 or the Race Relations Act 1971:
- (c) The person may exercise the right of review or appeal.

8. Superannuation or retiring allowances—For the purpose of providing a superannuation fund or retiring allowance for any of the officers or employees of the Authority or the Commission or for any members of the Authority or the Commission, sums by way of subsidy or contribution may from time to time be paid into any scheme under the National Provident Fund Act 1950 containing provision for employer subsidy, or into any other employer-subsidised scheme approved by the Minister of Finance for the purposes of this clause.

9. Application of certain Acts to members and employees—No person shall be deemed to be employed in the service of Her Majesty for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956 by reason of that person's appointment as a member of the Authority or as a member of the Commission or by reason only of that person's employment under **clause 4** of this Schedule.

10. Bank accounts—(1) The Authority and the Commission may each open at any bank or banks such accounts as are necessary for the exercise of its functions and powers.

(2) All money received by either body, or by any employee of either body shall, as soon as practicable after it has been received, be paid into such bank accounts of the body as the body from time to time determines.

(3) The withdrawal or payment of money from any such account shall be authorised in such manner as the body thinks fit.

11. Investment of money—Any money which belongs to either body and which is not immediately required for expenditure by the body may be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.

12. Financial statements—(1) As soon as is practicable after the 30th day of June in each year, the Authority and the Commission shall each prepare the following statements:

- (a) Statements of its financial position at the end of the year ending with that day:
- (b) Statements of all changes in its financial position during the year:

FIRST SCHEDULE—*continued*PROVISIONS APPLYING IN RESPECT OF BROADCASTING STANDARDS
AUTHORITY AND BROADCASTING COMMISSION—*continued*

- (c) Statements of its revenue and expenditure during the year:
- (d) Such other statements as are necessary to show fully its financial position during the year.

13. Audit of accounts and financial statements—(1) The Audit Office shall audit the accounts of the Authority and the accounts of the Commission, and the financial statements referred to in **clause 12** of this Schedule.

(2) For the purposes of **subclause (1)** of this clause, the Audit Office shall have and may exercise and perform—

- (a) All the functions, duties, and powers of an auditor under the Companies Act 1955; and
- (b) All the powers it has under the Public Finance Act 1977 in respect of public money and stores, and the audit of local authorities' accounts.

14. Annual report and statements to be laid before House of Representatives—(1) As soon as is practicable after the 30th day of June in each year, the Authority and the Commission shall each prepare and give to the Minister a report of its proceedings and operations for the year, together with a copy of the accounts and financial statements and the report of the Audit Office on them.

(2) As soon as practicable after receiving copies of any such report, accounts, statements, and report of the Audit Office, the Minister shall lay copies before the House of Representatives.

15. Statement of Commission's goals—The Commission shall in each year include in its report of its operations for that year—

- (a) A statement of its goals for the next 3 years and of the steps that it proposes to take for the purpose of meeting those goals; and
- (b) A statement of the extent to which it met its goals in the year to which the report relates.

16. Members not personally liable—No member of the Authority or the Commission shall be personally liable for any act of default done or made by the Authority or the Commission or by any member of the Authority or the Commission in good faith in the course of the operations of the Authority or the Commission.

Cf. 1976, No. 132, s. 64

Section 66

SECOND SCHEDULE
ENACTMENTS AMENDED

Title of Act	Amendment
1954, No. 46—The Defamation Act 1954 (R.S. Vol. 2, p. 307)	<p>By repealing the definition of the term “broadcasting station” in section 2 (1) (as substituted by section 15 of the Broadcasting Amendment Act (No. 2) 1988), and substituting the following definition:</p> <p>“ ‘Broadcast’ has the meaning given to it by section 2 of the Broadcasting Act 1988:</p> <p>“ ‘Broadcasting station’ means any station from which programmes are broadcast.”.</p> <p>By inserting in section 2 (1), after the definition of the term “newspaper”, the following definition:</p> <p>“ ‘Programme’ has the meaning given to it by section 2 of the Broadcasting Act 1988.”.</p>
1956, No. 107—The Electoral Act 1956 (R.S. Vol. 19, p. 159)	<p>By repealing paragraph (c) of subsection (1) of section 127 (as substituted by section 39 (1) of the Electoral Amendment Act 1981), and substituting the following paragraph:</p> <p>“(c) At any time on polling day before the close of the poll makes any statement having direct or indirect reference to the poll by means of any loudspeaker or public address apparatus or cinematograph or television apparatus:</p> <p>“Provided that this paragraph shall not restrict the publication by radio or television broadcast made by a broadcaster within the meaning of section 2 of the Broadcasting Act 1988 of—</p> <p>“(i) Any advertisement placed by the Chief Electoral Officer; or</p> <p>“(ii) Any non-partisan advertisement broadcast, as a community service, by a broadcaster within the meaning of section 2 of the Broadcasting Act 1988; or</p> <p>“(iii) Any news in relation to an election.”.</p> <p>By omitting from the third proviso to paragraph (f) of subsection (1) of section 127 (as substituted by section 39 (1) of the</p>

SECOND SCHEDULE—*continued*
 ENACTMENTS AMENDED—*continued*

Title of Act	Amendment
1956, No. 107—The Electoral Act 1956 (R.S. Vol. 19, p. 159)— <i>continued</i>	Electoral Amendment Act 1981) the words “the Broadcasting Corporation of New Zealand or other holder of a warrant under the Broadcasting Act 1976”, and substituting the words “a broadcaster within the meaning of section 2 of the Broadcasting Act 1988”.
1962, No. 33—The Copyright Act 1962 (R.S. Vol. 11, p. 1)	<p>By inserting in section 2 (1), after the definition of the term “artistic work”, the following definition: “ ‘Broadcaster’ has the meaning given to it by section 2 of the Broadcasting Act 1988.”.</p> <p>By inserting in section 2 (1), after the definition of the term “prescribed”, the following definition: “ ‘Programme’ has the meaning given to it by section 2 of the Broadcasting Act 1988.”.</p> <p>By repealing subsection (1) of section 15 (as substituted by section 15 of the Broadcasting Amendment Act (No. 2) 1988, and substituting the following subsection: “(1) Copyright shall subsist, subject to the provisions of this Act, in every programme broadcast by a broadcaster.”.</p> <p>By omitting from section 15 (2) (as amended by section 15 of the Broadcasting Amendment Act (No. 2) 1988), the words “broadcasting body”, and substituting the words “every broadcaster”.</p> <p>By omitting from section 15 (5) (as amended by section 15 of the Broadcasting Amendment Act (No. 2) 1988), the words “a broadcasting body”, and substituting the words “a broadcaster”.</p> <p>By omitting from section 16 (as amended by section 15 of the Broadcasting Amendment Act (No. 2) 1988), the words “a broadcasting body” in both places where they appear, and substituting in each case the words “a broadcaster”.</p> <p>By omitting from section 60 (1) (as amended by section 15 of the Broadcasting</p>

SECOND SCHEDULE—*continued*
ENACTMENTS AMENDED—*continued*

Title of Act	Amendment
1962, No. 33—The Copyright Act 1962 (R.S. Vol. 11, p. 1)— <i>continued</i>	Amendment Act (No. 2) 1988), the words “any broadcasting station that is established and operated under the Broadcasting Act 1976”, and substituting the words “a broadcaster”.
1975, No. 9—The Ombudsmen Act 1975 (R.S. Vol. 21, p. 657)	By inserting in Part II of the First Schedule, in its appropriate alphabetical order, the following item: “The Broadcasting Commission.”
1982, No. 156—The Official Information Act 1982	By inserting in the First Schedule (as substituted by section 23 (1) of the Official Information Amendment Act 1987), in their appropriate alphabetical order, the following items: “Broadcasting Authority. “Broadcasting Commission”.

Section 67 (1)

THIRD SCHEDULE

REPEALS

- 1976, No. 132—The Broadcasting Act 1976. (R.S. Vol. 13, p. 1.)
- 1977, No. 45—The Broadcasting Amendment Act 1977. (R.S. Vol. 13, p. 87.)
- 1977, No. 184—The Broadcasting Amendment Act (No. 2) 1977. (R.S. Vol. 13, p. 87.)
- 1979, No. 49—The Broadcasting Amendment Act 1979. (R.S. Vol. 13, p. 88.)
- 1981, No. 109—The Broadcasting Amendment Act 1981. (R.S. Vol. 13, p. 89.)
- 1982, No. 6—The Broadcasting Amendment Act 1982. (R.S. Vol. 13, p. 89.)
- 1982, No. 178—The Broadcasting Amendment Act (No. 2) 1982. (R.S. Vol. 13, p. 92.)
- 1985, No. 61—The Broadcasting Amendment Act 1985.
- 1985, No. 167—The Broadcasting Amendment Act (No. 2) 1985.
- 1986, No. 124—The State-Owned Enterprises Act 1986: So much of the Third Schedule as relates to the Broadcasting Act 1976.
- 1987, No. 117—The State-Owned Enterprises Amendment Act 1987: So much of Part C of the First Schedule as relates to the Broadcasting Act 1976.
- 1988, No. 161—The Broadcasting Amendment Act (No. 2) 1988.

Section 68

FOURTH SCHEDULE
REGULATIONS AND ORDER REVOKED

Title	Statutory Regulations Serial Number
The Broadcasting Regulations 1977	1977/11
The Broadcasting Regulations 1977, Amendment No. 1	1977/236
The Broadcasting Regulations 1977, Amendment No. 2	1977/287
Revocation of Broadcasting Amendment Regulations	1980/120
The Broadcasting Regulations 1977, Amendment No. 5	1981/295
The Broadcasting Regulations 1977, Amendment No. 6	1983/36
The Broadcasting Regulations 1977, Amendment No. 7	1985/197
The Broadcasting Regulations 1977, Amendment No. 8	1986/204
The Broadcasting Regulations 1977, Amendment No. 9	1987/76