

# BROADCASTING CORPORATION BILL

## EXPLANATORY NOTE

THE purpose of this Bill is to establish a Broadcasting Corporation and to define its functions and powers. The proposed Corporation will exercise those functions and powers now exercised by the Minister under the Broadcasting Act 1936 and all property, rights, and obligations of the Crown under that Act will, at the commencement of the proposed Act, vest in the Corporation. The Corporation will also have other functions which are referred to particularly in this note. The term "broadcasting" includes television broadcasting.

## PART I

### THE NEW ZEALAND BROADCASTING CORPORATION

*Clause 3* establishes the New Zealand Broadcasting Corporation. The Corporation will consist of three members appointed by the Governor-General of whom one shall be appointed as Chairman.

*Clause 4* provides that the term of office of members will be three years but that the first members appointed, other than the Chairman, will retire in rotation.

*Clauses 5, 6, 7, and 8* provide for the appointment of deputies, for the filling of extraordinary vacancies, for meetings of the Corporation, and for the appointment of advisory committees. The clauses follow the standard pattern.

*Clause 9* permits the Director-General to be present or represented at meetings of the Corporation or of committees appointed by the Corporation.

*Clause 10* prescribes the functions of the Corporation which, in general, are to carry on, develop, extend, and improve the broadcasting service. The Corporation is required to satisfy itself that programmes broadcast are of a high standard and do not offend against good taste and decency.

*Clause 11* requires the Corporation to comply with the general policy of the Government as to broadcasting and with any general or special directions of the Minister.

*Clause 12* sets out in detail the powers of the Corporation necessary for the exercise of its functions. The clause empowers the Minister to exercise control over the capital expenditure of the Corporation.

*Clause 13* authorises the Corporation to establish and operate short-wave stations. Programmes broadcast from these stations will be subject to more direct control by the Minister than other programmes provided by the Corporation.

*Clause 14* empowers the Corporation to enter into contracts with persons for the provision of programmes or parts of programmes to be broadcast by the Corporation. Any such programmes, if broadcast from a commercial station or a television station, may contain advertisements but will be subject to the general provisions of the Bill and to such other terms and conditions as may be set out in the contract.

*Clause 15* authorises the Corporation to take land under the Public Works Act 1928 for the purpose of exercising its functions and powers.

*Clause 16* provides for the appointment of a Director-General of Broadcasting who will be the chief executive officer of the Corporation. The Director-General will be appointed for a term of five years but is required to retire from office on attaining the age of 65 years.

*Clause 17* provides for the appointment of officers and employees and for the provision of superannuation benefits to those persons. Where any officer is, at the commencement of the proposed Act, a contributor to the Government Superannuation Fund, he will for the purposes of the Superannuation Act 1956 be deemed to remain in the Government service. Officers may elect to rejoin the Public Service within one year of appointment from that Service.

*Clause 18* empowers the Corporation to delegate its powers to the Director-General.

*Clause 19* vests in the Corporation the property, rights, and privileges of the Crown in respect of the broadcasting service carried on by the Minister under the Broadcasting Act 1936, and *clause 20* transfers all contracts, rights, and liabilities of the Crown in that respect to the Corporation.

## PART II

### FINANCIAL PROVISIONS

*Clause 21* establishes a Broadcasting Account and prescribes the manner in which it, and any subsidiary account, may be operated upon.

*Clause 22* prescribes the money which is to be paid into the Broadcasting Account and *clause 23* prescribes the money payable out of that account.

*Clause 24* empowers the Corporation, with the consent of the Minister of Finance, to borrow by way of overdraft or otherwise.

*Clause 25* authorises the Minister of Finance to lend money and give guarantees for advances to the Corporation.

*Clause 26* specifies the classes of securities in which the Corporation may invest its money.

*Clause 27* provides for unauthorised expenditure up to £500 in any financial year.

*Clause 28* provides for the submission to the Minister of an annual report and accounts and for the presentation of these to Parliament.

*Clause 29* requires the Corporation to prepare estimates of its expenditure and receipts and to forward the estimates to the Minister.

*Clause 30* requires the accounts of the Corporation to be audited by the Audit Office.

## PART III

## PRIVATE BROADCASTING STATIONS

This Part relates to the operation and control of private broadcasting stations (which are broadcasting stations not operated by the Corporation). It is proposed that these stations may not operate without a warrant from the Minister. New Zealand is a party to an international convention which in effect requires all broadcasting stations to be licensed by the Crown. The functions of the Post Office under the Post Office Act 1959 are to ensure that technical problems associated with the operation of a multiplicity of stations are solved in an orderly manner. It is not proposed to interfere in any way with the functions of the Post Office except to provide that the holding of a warrant is a condition precedent to the issue of a licence under the Post Office Act. The fact that a warrant has been issued will be no guarantee that a licence will be granted if technical considerations make that course inadvisable.

*Clause 31* prohibits the operation of private broadcasting stations otherwise than pursuant to a warrant issued by the Minister. The clause requires the production of a warrant before any licence under the Post Office Act 1959 is issued.

*Clause 32* requires the Corporation to make surveys for the purpose of ascertaining if any locality is sufficiently served with broadcasting services. If additional services are required, applications for warrants will be called for. No application will be considered unless it has been called for under the proposed section.

*Clause 33* provides for hearings by the Corporation of inquiries relating to applications for warrants. The Corporation is given the powers of a Commission of Inquiry for the purpose of any such hearing and is directed to inform the Minister as to whether or not it recommends the issue of a warrant.

*Clause 34* specifies the matters which the Corporation is required to take into consideration when considering applications.

*Clause 35* provides that warrants will be classified as either television warrants or sound radio warrants. Advertising may be permitted in each class but only if the warrant specifically authorises advertising.

*Clause 36* empowers the Minister, after having regard to the finding of the Corporation, but in his discretion, to grant or refuse the issue of a warrant. The decision of the Minister will be final.

*Clause 37* prescribes the conditions which may be imposed in warrants.

*Clause 38* prescribes that every warrant will have effect for the period specified therein.

*Clause 39* prescribes that existing private broadcasting stations (of which there are a few) will be deemed to be operating under a warrant. No advertising will be permitted from these stations except pursuant to a new warrant issued after application.

*Clause 40* prohibits the transfer, without the consent of the Minister, of warrants and broadcasting stations in respect of which warrants have been issued.

*Clause 41* provides for the amendment and revocation of the conditions of warrants during their currency.

*Clause 42* provides for the renewal of warrants.

*Clause 43* provides for the revocation and suspension of warrants.

*Clause 44* provides that applications for the amendment, renewal, transfer, or revocation of warrants will be referred by the Minister to the Corporation. The Corporation will, after hearing the application, inform the Minister of its recommendations and the Minister, after having regard to the findings of the Corporation, will make his decision which shall be final.

## PART IV

### MISCELLANEOUS PROVISIONS

*Clause 45* provides that nothing in the proposed Act will relieve any person (including the Corporation) from obtaining and complying with a licence under the Post Office Act 1959 in respect of the operation of a broadcasting station. Existing stations of the Broadcasting Service will be licensed without application.

*Clause 46* permits the transmission of advertising programmes from—

- (a) Commercial stations operated by the Corporation;
- (b) Television stations operated by the Corporation; and
- (c) Private broadcasting stations specially authorised in that behalf.

Except as provided by the clause no advertising may be transmitted from any broadcasting station whether operated by the Corporation or by any other person.

Where the Corporation operates a commercial station in any locality, it is required to provide, as far as practicable, an alternative service from a station which is not a commercial station.

*Clause 47* prescribes the manner in which contracts of the Corporation may be made.

*Clause 48* makes the Corporation liable for the payment of land tax and income tax.

*Clause 49* empowers the Corporation to insure its members against loss from accident arising in the course of the exercise of their powers and duties.

*Clause 50* prohibits the registration of any body having a name identical or similar to that of the Corporation.

*Clause 51* provides for the remuneration and travelling expenses of members of the Corporation and of any committee of the Corporation.

*Clause 52* provides that members of the Corporation shall not be liable for any act or default of the Corporation or the member made in good faith.

*Clause 53* authorises Government Departments to provide services for the Corporation.

*Clause 54* prescribes that the Act shall bind the Crown.

*Clause 55* authorises the making of regulations.

*Clause 56* repeals existing legislation relating to broadcasting.

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Hon. Mr Kinsella

## BROADCASTING CORPORATION

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## A BILL INTITULED

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

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

**1. Short Title and commencement**—(1) This Act may be cited as the Broadcasting Corporation Act 1961.

(2) This Act shall come into force on the first day of April, nineteen hundred and sixty-two. 10

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

“Advertising programme” means a programme or part of a programme intended to serve as an advertisement for the pecuniary benefit of any person: 15

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

“Commercial station” means a broadcasting station established or operated by the Corporation from which advertising programmes are broadcast; but does not 25 include a television station:

“Corporation” means the New Zealand Broadcasting Corporation established by this Act:

“Director-General” means the Director-General of Broadcasting appointed under this Act: 30

“Minister” means the Minister of Broadcasting:

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

“Programme” includes any signal, announcement, item, 35 communication, picture, or other matter broadcast or intended to be broadcast from a broadcasting station for reception by the public:

“Short-wave station” means a broadcasting station operating on high frequency and providing programmes for 40 reception beyond New Zealand:

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

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

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## PART I

### NEW ZEALAND BROADCASTING CORPORATION

**3. New Zealand Broadcasting Corporation**—(1) There is hereby established a Corporation, to be called the New Zealand Broadcasting Corporation.

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

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

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

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(2) With respect to the first members of the Corporation, other than the Chairman, appointed under this Act, the following provisions shall apply:

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(a) One of those members shall retire at the expiration of one year from the date of their appointment, and the other member shall retire at the end of two years from that date:

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(b) The member so to retire at the end of one year shall be determined by agreement of the two members; and failing agreement the member then to retire shall be determined by lot.

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

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

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(2) In the case of the incapacity of the Chairman his deputy may or may not be one of the other members, and if the deputy of the Chairman is one of the other members some other person may be appointed to act as the deputy of that member. 5

(3) Any deputy appointed under this section shall, while he acts as such, be deemed to be a member of the Corporation.

(4) No appointment of a deputy and no acts done by him as such, and no act done by the Corporation while any deputy is acting as such, shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased. 10

**6. Extraordinary vacancies—**(1) Any member of the Corporation may at any time be removed from office by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by written notice given to the Minister. 15

(2) If any member of the Corporation dies or resigns, or is removed from office, his office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy. 20

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

(4) Every person appointed to fill an extraordinary vacancy shall be appointed for the residue of the term for which the vacating member was appointed. 25

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

**7. Meetings of Corporation—**(1) The first meeting of the Corporation shall be held on a day to be appointed in that behalf by the Minister. 30

(2) Subsequent meetings of the Corporation shall be held at such times and places as the Corporation from time to time appoints. 35

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

(4) At all meetings of the Corporation the quorum necessary for the transaction of business shall be two members. 40

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



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

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

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

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

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

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

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

(3) Any person may be appointed to be a member of any committee appointed under this section notwithstanding that he is not a member of the Corporation.

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

**9. Director-General may be represented at meetings**—

35 (1) The Director-General or an officer of the Corporation appointed in that behalf by the Director-General may attend any meeting of the Corporation or any committee appointed by the Corporation.

40 (2) Any person attending a meeting under the authority of this section may take part in the deliberations but shall have no vote at the meeting and shall, if the Corporation or the committee so directs, retire temporarily from the meeting.

**10. General functions of Corporation—**(1) The general functions of the Corporation shall be—

- (a) To carry on a broadcasting service within New Zealand and from time to time develop, extend, and improve that service in the public interest: 5
- (b) To consider applications for warrants to establish and operate private broadcasting stations and other applications relating to warrants:
- (c) To exercise supervision and control over programmes broadcast from New Zealand broadcasting stations: 10
- (d) To advise the Minister in respect of matters relating to broadcasting:
- (e) To advise the Government as to the rates of fees which, in the opinion of the Corporation, should be payable in respect of broadcast receiving station licences, whether the licences are issued in respect of television broadcasting or otherwise: 15
- (f) To exercise and perform such functions, powers, and duties in relation to broadcasting as are conferred or imposed on it under this Act or otherwise howso- 20  
ever.

(2) It shall be the duty of the Corporation to satisfy itself that, so far as possible, the programmes broadcast by the Corporation comply with the following requirements, that is to say— 25

- (a) That nothing is included in the programmes which offends against good taste or decency or is likely to incite to crime or to lead to disorder or to be offensive to public feeling:
- (b) That the programmes maintain a proper balance in their subject-matter and a high general standard of quality: 30
- (c) That any news given in the programmes (in whatever form) is presented with due accuracy and impartiality and with due regard to the public interest. 35

**11. Corporation to comply with Government directions—**

In the exercise of its functions and powers under this Act the Corporation shall comply with the general policy of the Government of New Zealand with respect to broadcasting and shall comply with any general or special directions given in writing by the Minister pursuant to the policy of the Government in relation thereto. 40

**12. Powers of Corporation**—(1) The Corporation shall have such powers, rights, and authorities as may reasonably be necessary or expedient to carry out its functions, and in particular it may from time to time—

- 5 (a) Establish, install, and operate broadcasting stations:
- (b) Acquire by purchase, lease, sublease, or otherwise, any land or interest in land, with or without any building:
- 10 (c) Erect, alter, or reconstruct any broadcasting station, or any building or structure for use in connection with any broadcasting station, or in connection with the exercise of its powers, on any land belonging to or administered by the Corporation:
- 15 (d) Dispose of by sale, lease, sublease, or otherwise any land or interest in land:
- (e) Acquire by purchase, bailment, or otherwise, any personal property, rights, or privileges that it thinks necessary for the purposes of this Act:
- 20 (f) Dispose of by sale, bailment, or otherwise, or turn to account or otherwise deal with, any personal property, rights, or privileges of the Corporation:
- (g) With the prior approval of the Minister of Finance, and on and subject to such terms and conditions as that Minister may approve, advance money to any person or body of persons, whether incorporated or not, carrying on or intending to carry on the business of producing programmes for broadcasting, whether in conjunction with any other business or not, or give in respect of any advances made to any such person or body as aforesaid by any other person any guarantee, indemnity, or security:
- 25 (h) With the prior approval of the Minister of Finance, subscribe for, acquire, and hold, and dispose of or otherwise deal with, shares or stock in any company, whether incorporated within or outside New Zealand, carrying on or intending to carry on the business of providing programmes for broadcasting, whether in conjunction with any other business or not:
- 30 (i) Use the facilities and equipment of the broadcasting service in such manner as may be thought fit for the purpose of promoting and assisting in the development and carrying on of those arts and cultural pursuits which are usually included in the purpose of broadcasting:
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- (j) Organise and present concerts and entertainments for the general public or any section of the general public, notwithstanding that the concerts or entertainments may not be broadcast:
- (k) Take on lease, rent, or purchase houses, or purchase sites and erect houses, for the use of its officers: 5
- (l) Publish or arrange for the publication of such periodicals or other publications as it may consider of benefit to any broadcasting service carried on by the Corporation: 10
- (m) Do all such things as the Corporation considers to be in the interests of the community for the purpose of developing and improving broadcasting talent:
- (n) Act in combination or association with any person or body whether incorporated or not and whether in New Zealand or elsewhere for any of the aforesaid purposes. 15
- (2) The Corporation shall before the first day of May in each financial year submit to the Minister for his approval a programme of capital works proposed to be undertaken by the Corporation during that financial year. 20
- (3) In the exercise of its functions and powers the Corporation shall have regard to any directions by the Minister in respect of capital expenditure generally and shall not undertake capital expenditure in excess of twenty-five thousand pounds for any particular purpose without the consent of the Minister. 25
- 13. Short-wave stations—**(1) The Corporation may establish and operate short-wave stations within New Zealand.
- (2) All programmes broadcast from short-wave stations shall be approved by the Minister. 30
- (3) Any such approval may be general in its nature or may relate to any particular programme or any particular class of programmes.
- (4) The Corporation shall, if directed by the Minister and in accordance with the directions of the Minister, broadcast any programme or matter which the Minister requires to be broadcast. 35
- (5) No warrant under Part III of this Act shall be issued in respect of a short-wave station. 40

14. **Programmes may be provided by contractor**—Any programmes broadcast by the Corporation may be provided by persons who, under contracts with the Corporation, have, subject to the terms and conditions of any such contract, the right to provide programmes or parts of programmes to be broadcast by the Corporation and the Corporation may enter into such contracts and make such arrangements as may be necessary for the purposes of this section.

15. **Power to take land**—(1) For the purposes of facilitating the acquisition of land for the purposes of this Act the Governor-General may, on the application of the Corporation and at its expense in all things, take under the Public Works Act 1928, as if for a public work within the meaning of that Act, any land, or any particular estate or interest in land (whether for the time being subsisting separately or not), or any easement over any land (whether for the time being subsisting or not).

(2) Notwithstanding anything to the contrary in the Public Works Act 1928, the effect of a Proclamation issued for the purposes of this section shall be to vest the land, estate, interest, or easement, as the case may be, in the Corporation instead of Her Majesty; and all proceedings subsequent to the issue of the Proclamation in respect of compensation, or otherwise for the purpose of complying with the said Act, shall be taken against the Corporation, which shall be deemed to be the respondent and shall be liable in respect of the taking to the same extent as Her Majesty or the Minister of Works would have been liable if the taking had been for the purposes of a Government work.

16. **Director-General**—(1) There shall from time to time be appointed a Director-General of Broadcasting, who shall be the chief executive officer of the Corporation.

(2) The Director-General shall be appointed by the Governor-General in Council, on the recommendation of the Corporation, to hold office for a term of five years. Any person appointed as Director-General may from time to time be reappointed.

(3) Notwithstanding the provisions of subsection (2) of this section, any person appointed as Director-General shall retire from office on attaining the age of sixty-five years and may be removed from office by the Governor-General in Council, on the recommendation of the Corporation, for disability, bankruptcy, neglect of duty, or misconduct.

(4) On the occurrence from any cause of a vacancy in the office of Director-General (whether by reason of death or resignation or otherwise), and in the case of his absence from duty (from whatever cause arising), the powers, duties, and functions of the Director-General may be exercised and performed by any person authorised in that behalf by the Minister. 5

(5) The fact that any person exercises or performs any power, duty, or function of the Director-General with the concurrence of the Minister shall be conclusive evidence of his authority to do so. 10

(6) All references to the Director of Broadcasting in any Act, regulation, order, or other enactment or in any agreement, deed, instrument, application, notice, or other document whatsoever shall, unless the context otherwise requires, be read as references to the Director-General. 15

**17. Officers and employees—**(1) The Corporation may from time to time appoint such officers and employees, including acting or temporary or casual officers and employees, as it thinks necessary for the efficient exercise of its functions and powers and may at any time remove any officer or employee from his office or employment. 20

(2) Officers and employees of the Corporation shall be paid such salaries and allowances (within scales fixed by the Corporation in agreement with the Public Service Commission) as the Corporation from time to time determines. 25

(3) Officers and employees of the Corporation shall be employed on terms and conditions of employment from time to time determined by the Corporation in agreement with the Public Service Commission. 30

(4) The Corporation shall out of its funds subsidise or contribute to the National Provident Fund or any other fund or scheme established with the approval of the Minister of Finance for the purpose of providing superannuation or retiring allowances for its officers and employees. 35

(5) All persons who immediately before the date of the commencement of this Act were contributors to the Government Superannuation Fund shall, if employed by the Corporation within three months after that date, be deemed, for the purposes of the Superannuation Act 1956, to have remained in the Government service and the provisions of that Act shall apply to any such person employed as aforesaid in all respects as if his service in the employment of the Corporation were Government service. For the purposes of the Superannuation Act 1956, the controlling authority in relation to any such person shall be the Corporation. 40 45

(6) Any person who immediately before the date of the commencement of this Act was an officer of the Public Service employed in the broadcasting service and who is employed by the Corporation at any time within three months after  
 5 that date may, at any time within one year after his appointment as an officer or employee of the Corporation, elect to resume employment in the Public Service and, in any such case, notwithstanding the provisions of any enactment to the contrary, his employment in the Public Service shall be  
 10 deemed to have continued without interruption:

Provided that this subsection shall not apply to any person whose employment by the Corporation is terminated for misconduct or neglect of duty:

15 Provided also that no person shall be entitled to receive any salary as a member of the Public Service in respect of any period during which he was employed by the Corporation.

**18. Delegation of powers of Corporation**—(1) The Corporation may from time to time delegate to the Director-General such of its powers as the Corporation thinks fit,  
 20 including the power of delegation conferred by this subsection.

(2) Every such delegation may be revoked at any time, and no such delegation shall prevent the exercise of any power by the Corporation.

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

30 (4) In the event of the Director-General to whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding office as Director-General or for the time being exercising the functions of the Director-General.

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

*Transfer of Rights and Obligations of Crown to Corporation*

**19. Transfer of property to Corporation**—(1) All—

- 40 (a) Land;  
 (b) Interests in land; and  
 (c) Personal property, rights, or privileges—  
 vested in or held on behalf of the Crown and used or administered for the purposes of or in connection with any broadcasting service carried on by the Minister under the Broadcasting

Act 1936 immediately before the commencement of this Act are, notwithstanding the provisions of the Public Works Act 1928, hereby vested in the Corporation subject to any leases, rights, easements, and interests subsisting in respect of the land or property at the date of the vesting. 5

(2) The District Land Registrar, on a written request of the Corporation and on payment of the appropriate fee, shall make such entries in his registers and on any outstanding documents of title and generally do all such things as may be necessary to give effect to the provisions of this section. 10

**20. Transfer of contracts and liabilities in respect of broadcasting service**—Except as otherwise provided by this Act, on the commencement of this Act, the following provisions shall apply:

- (a) All debts, liabilities, and obligations, whether present or contingent, incurred in the name or on behalf of the Crown in respect of any property, right, or privilege vested in the Corporation under section 19 of this Act shall become debts, liabilities, and obligations of the Corporation: 15 20
- (b) All money payable to the Crown in respect of any such property, right, or privilege shall become payable to the Corporation:
- (c) The benefit of every contract entered into by or on behalf of the Crown in respect of any such property, right, or privilege shall be deemed to be assigned to the Corporation: 25
- (d) All proceedings pending by or against the Crown in respect of any broadcasting service carried on by the Minister under the Broadcasting Act 1936 shall be carried on by or against the Corporation. 30

## PART II

### FINANCIAL PROVISIONS

**21. Broadcasting Account**—(1) For the purposes of this Act there shall be established at the Reserve Bank of New Zealand an account to be known as the Broadcasting Account which shall be the same account as that established under the same name under section 10 of the Broadcasting Act 1936. 35

(2) The Broadcasting Account shall be operated on only by cheque signed by or on behalf of the Director-General, and countersigned by an officer authorised in that behalf by the Corporation. For the purposes of this subsection the Corporation may from time to time authorise any officer of the Corporation to sign cheques on behalf of the Director-General or to countersign cheques. 40 45



(3) For the purposes of the Broadcasting Account there may be opened at the Reserve Bank or at any other bank such imprest or other subsidiary accounts as the Corporation may think necessary or desirable. Any such account shall  
5 be operated on by cheque signed by the Director-General or any officer of the Corporation authorised in that behalf by the Director-General.

**22. Money payable into Broadcasting Account**—In addition to the money in the Broadcasting Account at the commencement of this Act, there shall from time to time be paid into  
10 the Broadcasting Account—

- (a) All fees received pursuant to regulations under the Post Office Act 1959 in respect of receiving-station licences:
- 15 (b) All money derived from the operation of any broadcasting station by the Corporation:
- (c) All fees received in respect of warrants issued by the Minister:
- 20 (d) All other money derived from the operations of the Corporation under this Act or otherwise payable into the Broadcasting Account.

**23. Money payable out of Broadcasting Account**—There shall from time to time be paid out of the Broadcasting Account—

- 25 (a) All money required to be expended for the purposes of the exercise of the functions and powers of the Corporation:
- (b) All money payable, in accordance with regulations under this Act, to persons operating private broadcasting stations:
- 30 (c) All money payable to the Post Office Account, in accordance with regulations under this Act, in respect of the issue of receiving-station licences or in respect of other services provided by the Post Office:
- 35 (d) All other money payable out of the Broadcasting Account pursuant to this Act or any other Act.

**24. Borrowing powers**—The Corporation may from time to time, with the consent of the Minister of Finance and on and subject to such terms and conditions as he thinks fit,  
40 borrow money by way of overdraft or otherwise and issue debentures or mortgage or charge any of its real or personal property.

**25. Advances to Corporation**—(1) The Minister of Finance may from time to time, on behalf of the Crown,—

- (a) Advance money to the Corporation; and
- (b) Give in respect of any advances made to the Corporation by any other person any guarantee, indemnity, or security,—

on and subject to such terms and conditions as that Minister thinks fit.

(2) All money required to be paid by the Minister of Finance under this section shall, without further appropriation than this section, be paid out of the Consolidated Fund or out of the National Development Loans Account. Where any payment under this section is made out of the National Development Loans Account the authority of the Minister of Finance to borrow money under section 11 of the New Zealand Loans Act 1953 shall be deemed to be extended as if the money so paid had been authorised to be transferred from the National Development Loans Account to another fund or account as mentioned in that section.

(3) The Minister of Finance may from time to time, on behalf of the Crown, enter into agreements with the Corporation for the purpose of giving full effect to the provisions of this section.

**26. Investment of money**—Any money belonging to the Corporation may from time to time be invested—

- (a) In New Zealand Government securities:
- (b) On deposit in any bank or banks approved by the Minister of Finance, or in the Post Office Savings Bank:
- (c) In any manner, or in any securities, that may from time to time be authorised by the Minister of Finance.

**27. Unauthorised expenditure**—In any financial year the Corporation may expend for purposes not authorised by this or any other Act any sum or sums not amounting in the aggregate to more than five hundred pounds.

**28. Annual report and accounts to be presented to Parliament**—(1) As soon as may be reasonably practicable after the end of each financial year, the Corporation shall furnish to the Minister a report of its operations for that financial year, together with a copy of its audited balance sheet and

profit and loss account and such other statements of account as may be necessary to show fully the financial position of the Corporation and the financial results of its operations during that year.

5 (2) A copy of the report and of such balance sheet, profit and loss account, and statements as aforesaid shall be laid before Parliament after their receipt by the Minister if Parliament is then sitting, and otherwise within twenty-eight days after Parliament reassembles.

10 **29. Estimates of receipts and expenditure**—(1) The Corporation shall, for each financial year, prepare an estimate, in a form approved by the Minister of Finance, of the amount of the expenditure for all purposes and the receipts of the Corporation.

15 (2) The estimate shall be forwarded in duplicate to the Minister of Broadcasting on or before the first day of May in the financial year to which it relates.

**30. Audit of accounts**—The accounts of the Corporation shall be audited by the Audit Office, which for that purpose shall have all such powers as it has under the Public Revenues Act 1953 in respect of public money and public stores and the audit of local authorities' accounts.

### PART III

#### PRIVATE BROADCASTING STATIONS

25 **31. Private broadcasting stations**—(1) Before a person is granted a licence under the Post Office Act 1959 to establish and operate a private broadcasting station he shall obtain a warrant under this Part of this Act.

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

30 (3) Any person who contrary to the provisions of this section operates a private broadcasting station commits an offence and shall be liable on summary conviction to a fine not exceeding five hundred pounds and (if the offence is a continuing one) to a further fine not exceeding twenty pounds for every day during which the offence has continued.

(4) If any company operates a broadcasting station contrary to the provisions of this section, every director and other person acting in the management of the company shall, in addition to any penalty to which the company may be liable, be liable on summary conviction to a fine not exceeding twenty pounds for every day on which the station is operated. 5

**32. Applications for warrants—**(1) The Corporation shall from time to time conduct surveys for the purpose of ascertaining the extent to which broadcasting services are available in any locality to which any such survey relates. 10

(2) If, after making such inquiries and examining such evidence as it thinks fit and after having regard to any additional broadcasting services it proposes to establish and to any representation made by the Director-General of the Post Office, the Corporation is of the opinion that any locality in New Zealand is inadequately served by existing broadcasting services, it shall, by public notice, call for applications for warrants under this Act to establish and operate a broadcasting station in the locality to which the notice relates. 15

(3) Every notice under subsection (2) of this section shall specify the class or type of broadcasting station in respect of which applications are called and such other matters as the Director-General thinks fit or as may be prescribed by regulations under this Act. 20

(4) Every application for a warrant shall be in the prescribed form and shall be forwarded in the first instance to the Director-General who shall notify the Minister of the application and refer it to the Corporation. A copy of each application shall be forwarded by the Director-General to the Director-General of the Post Office. 30

(5) Applications for warrants shall be granted only by the Minister in accordance with this Act and regulations under this Act.

(6) No application for a warrant shall be considered unless the application has been called for under subsection (2) of this section. 35

**33. Hearings by Corporation—**(1) Where an application for a warrant has been referred to it, the Corporation shall fix a time and place for the hearing of an inquiry in respect of the application and shall give to the applicant, the Director-General, and all such other persons as, in the opinion of the Corporation, are likely to be affected at least seven days' notice of the time and place fixed for the hearing. 40

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

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

10 (4) For the purpose of conducting any inquiry under this section, the Corporation shall be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908 and, subject to the provisions of this Act and of any regulations under this Act, all the provisions of that Act shall apply accordingly.

15 (5) The Corporation at the conclusion of the hearing shall recommend or refuse to recommend to the Minister that the application for a warrant be granted.

**34. Matters to be considered before making recommendation**—In considering any application for a warrant, the Corporation, before determining whether or not to recommend the grant of the application, shall have regard to—

- 20 (a) The extent to which the proposed service is necessary or desirable in the public interest:
- (b) The needs of New Zealand or the locality or localities as a whole proposed to be served, in respect of broadcasting services:
- 25 (c) The financial ability of the applicant to carry on the proposed service:
- (d) The likelihood of the applicant's carrying on the proposed service satisfactorily:
- 30 (e) The broadcasting services of any kind already provided in respect of the localities to be served:
- (f) The hours during which the applicant proposes to broadcast programmes:
- (g) The extent of advertising matter which the applicant proposes to broadcast:
- 35 (h) The proposed rates and charges to be made in respect of advertising programmes:
- (i) All evidence or representations received by it at the hearing:
- 40 (j) Such other matters as may be prescribed by regulations in that behalf.

**35. Classification of warrants**—(1) Every warrant issued under this Act shall be either—

- 45 (a) A television warrant—meaning thereby a warrant in relation to the operation of a television station; or

- (b) A sound radio warrant – meaning thereby a warrant in relation to the operation of a broadcasting station other than a television station.
- (2) Every warrant shall specify whether or not advertising programmes may be broadcast from the broadcasting station to which the warrant relates. 5

**36. Issue of warrants—**(1) The Minister, after having regard to any recommendation of the Corporation in that respect may, in his discretion, issue or refuse to issue a warrant in respect of which an application has been made under this Act. 10

(2) The Minister shall not refuse to issue a warrant which the Corporation has recommended should be issued unless in his opinion it would be contrary to the public interest to issue the warrant. 15

(3) Every decision of the Minister under this section shall be final and conclusive.

**37. Conditions of warrant—**Every warrant issued by the Minister under this Act may prescribe—

- (a) The class of broadcasting station in respect of which the warrant is issued: 20
- (b) The locality in which the station is to be situated:
- (c) The power of the station:
- (d) The hours during which the station may operate:
- (e) Such other matters and conditions as may be prescribed by this Act or regulations thereunder or as the Minister thinks proper. 25

**38. Duration of warrants—**Every warrant shall, unless sooner revoked, expire on such day as may be prescribed in the warrant: 30

Provided that where application for the renewal of a warrant is duly made under this Act, the warrant shall, where the application for a renewal is not disposed of before the date of expiry of the warrant, continue in force until the application is disposed of unless the Minister otherwise directs. 35

**39. Existing private broadcasting stations—**(1) The licensee of any private broadcasting station operating at the commencement of this Act under a licence granted under the Post Office Act 1959 shall, without application under this Act, be deemed to be the holder of a warrant under this Act: 40

Provided that any such broadcasting station shall be subject in all respects to this Act and the warrant shall be deemed to be a sound radio warrant which does not authorise the broadcasting of advertising programmes.

5 (2) Except pursuant to a warrant issued by the Minister pursuant to a new application under this Act, no advertising programme shall be broadcast from any broadcasting station to which this section relates.

10 **40. Transfer of warrants**—(1) Except with the consent in writing of the Minister, the holder of a warrant issued in respect of a private broadcasting station shall not assign, sublet, transfer, or otherwise dispose of, or permit any other person to participate in, the benefit of his warrant.

15 (2) Except as provided by subsection (1) of this section, no person shall sell, transfer, or otherwise dispose of, or shall mortgage or charge the transmitting apparatus of any private broadcasting station, or any part thereof, or any interest in any such apparatus or part thereof.

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

25 **41. Amendment or revocation of terms and conditions of warrants**—The Minister during the currency of a warrant may, of his own motion or on the application of the holder of the warrant, amend or revoke any of the terms and conditions of the warrant or add any new terms and conditions which in his opinion are necessary in the public interest.

30 **42. Renewal of warrants**—(1) Every application for the renewal of a warrant shall be made to the Minister not less than twenty-eight days before the day on which the warrant expires:

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

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

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

**43. Revocation and suspension of warrants—**(1) The Minister may at any time notify the holder of a warrant that he proposes to revoke or suspend the warrant on the ground that the broadcasting station to which the warrant relates has not been carried on in conformity with the terms and conditions of the warrant. 10

(2) If, after having regard to any recommendation of the Corporation, the Minister is of the opinion that the broadcasting station has not been carried on in conformity with the warrant, he may revoke the warrant. 15

(3) Instead of revoking any warrant as aforesaid the Minister may suspend the warrant for such period as he thinks fit.

(4) Where, in the opinion of the Minister, the circumstances of the case do not justify the revocation or suspension of the warrant, he may alter to an earlier date the expiry date specified in the warrant. 20

**44. Functions of Corporation with respect to certain applications—**(1) Every application to the Minister for—

(a) The amendment of a warrant;

(b) The renewal of a warrant; or 25

(c) The transfer of a warrant,

and every notification by the Minister that he proposes to revoke or suspend a warrant, shall be referred by the Minister to the Corporation.

(2) The Corporation shall consider every such application and notification and, if it considers any such course necessary, shall hold an inquiry for the purpose of determining whether or not it should recommend to the Minister that the application be granted or the warrant be suspended or revoked, as the case may be. 30 35

(3) The Minister, after having regard to any recommendation of the Corporation in that respect, may, in his discretion, make such decision as he considers appropriate in the circumstances and any such decision shall be final and conclusive.

(4) In considering any matter under this section the Corporation shall have all the powers and authorities conferred on it by this Part of this Act in respect of applications for new warrants and the provisions of this Part, as far as they are applicable and with the necessary modifications, shall apply accordingly. 40 45



PART IV

MISCELLANEOUS PROVISIONS

5 **45. Persons operating broadcasting stations to comply with Post Office Act 1959**—Nothing in this Act shall be so construed as to relieve any person (including the Corporation) from any obligation to obtain and comply with a licence under the Post Office Act 1959 in respect of any broadcasting station or, except as provided by subsection (1) of section 31 hereof, to affect the provisions of that Act or any regulations  
10 thereunder with respect to broadcasting stations:

Provided that, subject to such conditions as may be prescribed in writing by the Postmaster-General, the Corporation shall be entitled, without application, to a licence under that Act for any broadcasting station operated by the Minister  
15 immediately before the commencement of this Act and transferred thereunder to the Corporation.

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

- (a) Any commercial station established or operated by the Corporation:
- (b) Any television station established or operated by the Corporation:
- (c) Any private broadcasting station from which, in accordance with the warrant issued in respect of the station, advertising programmes may be broadcast.

25 (2) For every locality that is served by a commercial station the Corporation, so far as is practicable, shall provide an alternative service from at least one broadcasting station,  
30 other than a television station, that is not a commercial station.

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

**47. Contracts of Corporation**—(1) Any contract which, if made between private persons, must be by deed shall, if made by the Corporation, be in writing under the common seal of the Corporation.

(2) Any contract which, if made between private persons, must be signed by the parties to be charged therewith shall, if made by the Corporation, be either under the common seal of the Corporation or signed by two members of the Corporation on behalf of and by direction of the Corporation. 5

(3) Any contract which, if made between private persons, may be made orally, may be similarly made by or on behalf of the Corporation by any member acting by direction of the Corporation or by any other person pursuant to the authority of the Corporation. 10

(4) The Corporation may, by writing under its common seal, empower any person, either generally or in respect of any specified matter, to execute on its behalf in any place in or beyond New Zealand, instruments under or for the purposes of this Act. An instrument executed by such an attorney on behalf of the Corporation shall bind the Corporation and if executed as a deed shall have the same effect as if it were under the common seal of the Corporation. 15

(5) Notwithstanding anything to the contrary in the foregoing provisions of this section, no contract made by or on behalf of the Corporation shall be invalid by reason only that it was not made in manner provided by this section, if it was made pursuant to a resolution of the Corporation or to give effect to a resolution of the Corporation. 20

**48. Taxation—**(1) The Corporation shall be liable for the payment of land tax and income tax. 25

(2) Subparagraph (iii) of paragraph (b) of subsection (1) of section 86 of the Land and Income Tax Act 1954 is hereby repealed.

**49. Corporation may insure members—**The Corporation may from time to time enter into contracts of insurance insuring members of the Corporation against loss from personal accident arising out of and in the course of the exercise of their powers and duties as members, and may pay the premiums payable in respect of any such contracts. 30 35

**50. No other corporation to be formed with similar name—**No company or other body shall be incorporated or registered under any Act or otherwise with a name that is identical with the name of the Corporation or that in the opinion of the Registrar of Companies so resembles that name as to be calculated to deceive. 40

**51. Remuneration and travelling expenses**—(1) The Corporation is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

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

10 (3) Any money payable under this section shall be paid from the Consolidated Fund out of money appropriated by Parliament for the purpose:

15 Provided that any money paid from the Consolidated Fund as aforesaid shall be repaid to that Fund from the Broadcasting Account.

**52. Members of Corporation not personally liable**—No member of the Corporation shall be personally liable for any act or default done or made by the Corporation or by any member thereof in good faith in the course of the operations  
20 of the Corporation.

**53. Government Departments may provide services for Corporation**—The Crown, acting through any Government Department, may from time to time, at the request of the Corporation, enter into contracts or arrangements for the  
25 execution or provision by the Department for the Corporation of any work or service, or for the supply to the Corporation of any goods, stores, or equipment, on and subject to such terms and conditions as may be agreed upon.

**54. Regulations**—(1) The Governor-General may from time  
30 to time, by Order in Council, make regulations for all or any of the following purposes:

35 (a) Prescribing the procedures to be followed in respect of applications and the hearing of applications for warrants for private broadcasting stations under this Act:

(b) Providing for the control or supervision by the Corporation of programmes broadcast from private broadcasting stations or provided by persons other than the Corporation:

40 (c) Requiring bodies corporate or organisations which are applicants for warrants to disclose such information relating to their control or membership as may be prescribed or as may be required by the Minister:

- (d) Prohibiting, regulating, or controlling the ownership or control of private broadcasting stations by persons or classes of persons prescribed in the regulations:
  - (e) Regulating or controlling the transfer of shares in companies which hold warrants and the transfer of interests in private broadcasting stations: 5
  - (f) Prescribing forms of applications and other forms required under this Act:
  - (g) Prescribing conditions which may be prescribed in warrants: 10
  - (h) Prescribing the manner in which registers of warrants under this Act shall be kept and the form of any such registers:
  - (i) Prescribing fees payable in respect of applications, hearings, and warrants under this Act: 15
  - (j) Prescribing fines, not exceeding two hundred pounds for the breach of any such regulations or for failure to comply with any condition, duty, or obligation lawfully imposed in any manner by or under any such regulation or (in cases where no specific penalty is imposed by this Act) by this Act: 20
  - (k) Generally providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the administration thereof. 25
- (2) Regulations made under this section shall be laid before Parliament.

**55. Repeals**—The enactments specified in the Schedule hereto are hereby repealed.

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SCHEDULE

Section 55

ENACTMENTS REPEALED

- 1936, No. 15—The Broadcasting Act 1936. (1957 Reprint, Vol. 1, p. 681.)
- 1937, No. 11—The Broadcasting Amendment Act 1937. (1957 Reprint, Vol. 1, p. 691.)
- 1943, No. 20—The Statutes Amendment Act 1943: Section 4. (1957 Reprint, Vol. 1, p. 692.)
- 1946, No. 42—The Public Service Amendment Act 1946: Paragraph (f) of section 22 and so much of the Schedule as relates to the Broadcasting Act 1936. (1957 Reprint, Vol. 12, pp. 324, 380.)
- 1947, No. 60—The Statutes Amendment Act 1947: Section 8. (1957 Reprint, Vol. 1, pp. 683, 692.)
- 1948, No. 35—The Finance Act 1948: So much of the Schedule as relates to the Broadcasting Amendment Act 1937. (1957 Reprint, Vol. 5, p. 150.)
- 1953, No. 73—The Public Revenues Act 1953: Paragraph (a) of section 72. (1957 Reprint, Vol. 12, p. 291.)
- 1959, No. 5—The Broadcasting Amendment Act 1959.
- 1960, No. 34—The Broadcasting Amendment Act 1960.