

[AS REPORTED FROM THE PLANNING AND DEVELOPMENT  
COMMITTEE]

*House of Representatives, 4 September 1990.*

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

*Graham Kelly*

**BROADCASTING (NEW ZEALAND MUSIC QUOTA)**

ANALYSIS

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A BILL INTITULED

5 **An Act to promote a New Zealand identity and culture by  
requiring a New Zealand music quota in respect of  
music broadcast by *(a radio station)* broadcasters of  
sound radio programmes**

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

**1. Short Title and commencement**—(1) This Act may be cited as the Broadcasting (New Zealand Music Quota) Act 1990.

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10 (2) This Act shall come into force on the date on which it receives the Royal assent.

No. 4—2

*Price  
incl. GST \$2.20*

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(2) This Act shall come into force on the 1st day of April 1991.

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**2. Interpretation**—In this Act, unless the context otherwise requires,— 5

“Broadcast week” means the transmissions of a radio station over a period of 7 days from a Sunday to the following Saturday:

“Commission” means the Broadcasting Commission established by section 35 of the Broadcasting Act 1989: 10

“Licence” means a licence granted pursuant to the Telecommunications Act 1987 to a radio station to transmit radio waves: 15

“New Zealand music” means—

(a) Music recorded by a New Zealand resident and composed by a New Zealand resident; or

(b) Music recorded by a New Zealand resident and recorded in New Zealand; or 20

(c) Music composed by a New Zealand resident and recorded in New Zealand; or

(d) Music performed live in New Zealand:

“Radio station” means a broadcasting station from which sound radio programmes are broadcast: 25

“Quota” means the New Zealand music quota established by section 3 of this Act.

**3. Quota deemed to be condition of each licence granted to radio stations**—A quota with the following conditions shall be deemed to be incorporated into every licence held by or granted to a radio station: 30

(a) That the following percentages of the total music broadcast in any broadcast week consist of New Zealand music:

(i) By 1 April 1991, a minimum of 15 percent: 35

(ii) By 1 April 1992, a minimum of 17.5 percent:

(iii) By 1 April 1993, a minimum of 20 percent:

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- (b) That the New Zealand music component of the total music broadcast shall be scheduled between the hours of 6.00 a.m. and 12 midnight:
- 5 (c) That in calculating the total music broadcast and the percentage of New Zealand music for the purposes of this section, advertising and promotional programmes of the radio station with a music content shall be excluded.

10 **4. Commission to monitor compliance with quota—**

(1) Notwithstanding anything in the Broadcasting Act 1989 the Commission shall have the function to monitor the compliance of radio stations with the quota.

15 (2) In the exercise of its function under subsection (1) of this section the Commission may from time to time record the broadcast week of a radio station to establish the radio station's compliance, or non-compliance as the case may be, with the quota.

20 **5. Offence—**Every radio station which is found under section 4 of this Act to have failed to comply with the quota commits an offence and is liable on summary conviction—

- (a) For a first offence, to a fine not exceeding \$10,000;
- (b) For a second offence, to a fine not exceeding \$15,000;
- 25 (c) For a third or subsequent offence, to a fine not exceeding \$20,000.

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

30 “Advertising programme” has the meaning given to that term by section 2 of the Broadcasting Act 1989:

“Broadcaster” has the meaning given to that term by section 2 of the Broadcasting Act 1989:

35 “New Zealand music”, in relation to music broadcast by a broadcaster of sound radio programmes, means music derived from—

- (a) A recording (whether made in New Zealand or outside New Zealand) of music—

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|---|--|
| <ul style="list-style-type: none"> <li>(i) Played or performed (whether in New Zealand or outside New Zealand) by a person who was, at the time when the music was played or performed, a New Zealand citizen or a New Zealand resident or by a group of persons at least 50 percent of whom were, at the time when the music was played or performed, New Zealand citizens or New Zealand residents or both; and</li> <li>(ii) Composed or created by a person who was, at the time when the music was composed or created, a New Zealand citizen or a New Zealand resident or by a group of persons at least 50 percent of whom were, at the time when the music was composed or created, New Zealand citizens or New Zealand residents or both:</li> </ul> | <p>5</p> <p>10</p> <p>15</p> <p>20</p> |
| <ul style="list-style-type: none"> <li>(b) A recording (made in New Zealand) of music played or performed in New Zealand— <ul style="list-style-type: none"> <li>(i) By a person who was, at the time when the music was played or performed, a New Zealand citizen or a New Zealand resident; or</li> <li>(ii) By a group of persons, at least 50 percent of whom were, at the time when the music was played or performed, New Zealand citizens or New Zealand residents or both:</li> </ul> </li> </ul>  | <p>25</p> <p>30</p>                    |
| <ul style="list-style-type: none"> <li>(c) A recording (made in New Zealand) of music composed or created— <ul style="list-style-type: none"> <li>(i) By a person who was, at the time when the music was composed or created, a New Zealand citizen or a New Zealand resident; or</li> <li>(ii) By a group of persons at least 50 percent of whom were, at the time when the music was composed or created, New Zealand citizens or New Zealand residents or both:</li> </ul> </li> </ul>  | <p>35</p> <p>40</p>                    |
| <ul style="list-style-type: none"> <li>(d) An actual rendition or an actual performance of the music which is taking place contemporaneously in New Zealand:</li> </ul>   | <p>40</p>                              |

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(e) An actual rendition or an actual performance of the music—

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(i) Which is taking place contemporaneously outside New Zealand; and

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(ii) Which is being played or performed by a person who is a New Zealand citizen or a New Zealand resident or by a group of persons at least 50 percent of whom are New Zealand citizens or New Zealand residents or both:

“New Zealand resident” means a person who, at the relevant time,—

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(a) Resided in New Zealand; and

(b) Was not—

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(i) A prohibited immigrant or a person to whom section 7 of the Immigration Act 1987 applied; or

(ii) A person obliged, by or pursuant to the Immigration Act 1987 or any earlier Act, to leave New Zealand immediately or within a specified time; or

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(iii) Deemed for the purposes of the Immigration Act 1987 or any earlier Act to be in New Zealand unlawfully:

“Programme” has the meaning given to that term by section 2 of the Broadcasting Act 1989:

“Week” means a period of 7 days beginning on Sunday.

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**3. Quotas in relation to New Zealand music**—Every broadcaster of sound radio programmes who broadcasts music—

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(a) Shall ensure, in relation to the total amount of music broadcast by that broadcaster in any week in the period of 12 months beginning on the 1st day of April 1991, that the quota of New Zealand music broadcast in that week is at least 10 percent of that total amount; and

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(b) Shall ensure, in relation to the total amount of music broadcast by that broadcaster in any week in the period of 12 months beginning on the 1st day of April 1992, that the quota of New Zealand music broadcast

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in that week is at least 12.5 percent of that total amount; and	
(c) Shall ensure, in relation to the total amount of music broadcast by that broadcaster in any week in the period of 12 months beginning on the 1st day of April 1993, that the quota of New Zealand music broadcast in that week is at least 15 percent of that total amount; and	5
(d) Shall ensure, in relation to the total amount of music broadcast by that broadcaster in any week in the period of 12 months beginning on the 1st day of April 1994, that the quota of New Zealand music broadcast in that week is at least 17.5 percent of that total amount; and	10
(e) Shall ensure, in relation to the total amount of music broadcast by that broadcaster in any week beginning after the 31st day of March 1995, that the quota of New Zealand music broadcast in that week is at least 20 percent of that total amount.	15
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<b>3A. Calculation of quota of New Zealand music</b> —In calculating, for the purposes of <b>section 3</b> of this Act, the total amount of music or the amount of New Zealand music broadcast by a broadcaster of sound radio programmes in any week, no account shall be taken of—	25
(a) Music broadcast in that week as part of an advertising programme; or	
(b) Music broadcast on any day in that week before 6 a.m.	
<b>3B. Calculation of music played or performed by expatriates</b> —In calculating, for the purposes of <b>section 3</b> of this Act, the quota of New Zealand music broadcast by a broadcaster of sound radio programmes in any week, music—	30
(a) Which is played or performed or composed or created—	
(i) By a person who was, at the time when the music was played or performed or composed or created, a New Zealand citizen residing outside New Zealand; or	35
(ii) By a group of persons of whom more than 50 percent were, at the time when the music was played	

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or performed or composed or created, New Zealand citizens residing outside New Zealand; and

- 5 (b) Which is New Zealand music,—  
shall, to the extent that it exceeds 50 percent of the quota, be treated as if it were not New Zealand music.

**5. Offence**—(1) Every person commits an offence who fails to comply with **section 3** of this Act.

- 10 (2) Every person who commits an offence against **subsection (1)** of this section is liable on summary conviction—

- (a) In the case of a first offence, to a fine not exceeding \$10,000; and  
(b) In the case of a second offence, to a fine not exceeding \$15,000; and  
15 (c) In the case of a third or subsequent offence, to a fine not exceeding \$20,000.

**6. Amendment to Broadcasting Act 1989**—Section 21 (1) of the Broadcasting Act 1989 is hereby amended by adding the following paragraph:

- 20 “(i) To monitor the extent to which broadcasters of sound radio programmes comply with **section 3** of the Broadcasting (New Zealand Music Quota) Act 1990.”