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NEW ZEALAND PUBLIC RADIO CHARTER

ANALYSIS

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A BILL INTITULED

An Act to—

- 5
- (a) Incorporate National Radio, Concert FM, and News and Current Affairs, subsidiaries of Radio New Zealand Limited, as a Crown entity to be known as New Zealand Public Radio;
 - (b) Establish the Charter of New Zealand Public Radio;
 - (c) Provide a publicly funded broadcasting service to promote a national identity, cultural and

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educational programmes, and to provide independent current affairs and news programmes:

- (d) Provide for the dissolution of Radio New Zealand Limited and the transfer of its assets and liabilities to New Zealand Public Radio and a new State enterprise to be called New Zealand Commercial Radio: 5
- (e) Amend the State-Owned Enterprises Act 1986, the Broadcasting Act 1989, and certain other enactments 10

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

1. Short Title—This Act may be cited as the New Zealand Public Radio Charter Act 1993.

2. Treaty of Waitangi—In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to the management of New Zealand Public Radio, shall take into account the principles of the Treaty of Waitangi. 15

PART I

NEW ZEALAND PUBLIC RADIO 20

3. Part to be read with Broadcasting Act 1989—This Part of this Act shall be read together with and deemed part of the Broadcasting Act 1989 (in this Part of this Act referred to as the principal Act).

4. Title—The Title of the principal Act is hereby amended by inserting, after paragraph (c), the following paragraph: 25

“(ca) To incorporate National Radio, Concert FM, and News and Current Affairs Limited, subsidiaries of Radio New Zealand Limited, as a Crown entity to be known as New Zealand Public Radio; and”. 30

5. Interpretation—Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “authority”, the following definition:

“‘Board’ means the New Zealand Public Radio Board of Management constituted by section 68c of this Act.”. 35

6. New Part VA inserted—The principal Act is hereby amended by inserting, after Part V, the following new Part:

“PART VA

“NEW ZEALAND PUBLIC RADIO

5 “68A. **New Zealand Public Radio**—(1) There shall be a body corporate called New Zealand Public Radio which shall incorporate National Radio, Concert FM, and News and Current Affairs Limited, being subsidiaries of Radio New Zealand limited and existing immediately prior to the commencement of the New Zealand Public Radio Charter Act 1993.

10 “(2) New Zealand Public Radio shall be a body corporate with perpetual succession and a common seal and, subject to this Act and to any other Act or rule of law, shall have and may exercise all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity.

15 “68B. **Board of Governors**—(1) There is hereby constituted a Board of Governors of New Zealand Public Radio. The Board of Governors shall consist of 12 members, including a Chairperson and Deputy Chairperson, appointed by the Governor-General for a term of 5 years, who shall as far as possible be representative of the New Zealand community.

20 “(2) The functions of the Board of Governors are to—

“(a) Ensure that the Charter of New Zealand Public Radio is being fulfilled; and

25 “(b) Ensure that the general conduct of the business of New Zealand Public Radio is being carried out by the Board of Management in a manner consistent with the purpose expressed in **section 68D** of this Act.

30 “(3) Each member may be paid fees or allowances out of money appropriated by Parliament for the purposes of the Board in accordance with the Fees and Travelling Allowances Act 1951.

35 “68C. **Board of Management**—There is hereby constituted a New Zealand Public Radio Board of Management. The Board shall be responsible to the Board of Governors constituted under **section 68B** of this Act for the general conduct of the business of New Zealand Public Radio.

40 “68D. **Purpose of Part**—The purpose of this Part of this Act is to provide New Zealand with a public broadcasting service of the highest possible quality, free from commercial influence in order to—

“(a) Enhance the intellectual, scientific, and cultural development of New Zealand; and

- “(b) Stimulate critical thought; and
 - “(c) Promote informed debate on public issues; and
 - “(d) Provide a forum for all New Zealanders and thereby engender a sense of citizenship and national identity; and 5
 - “(e) Enrich the lives of all New Zealanders with entertainment of recognised excellence.
- “68E. **Charter of New Zealand Public Radio**—(1) The functions of New Zealand Public Radio shall be to—
- “(a) Provide within New Zealand innovative, comprehensive and independent broadcasting services of a high standard as part of the New Zealand broadcasting system and, without limiting the generality of the foregoing, to provide— 10
 - “(i) Broadcasting programmes that inform and entertain, and reflect the cultural diversity of the New Zealand community; and 15
 - “(ii) Broadcasting programmes which reflect and promote biculturalism; and
 - “(iii) A range of New Zealand broadcasting programmes including Maori, information, special interest, and entertainment programmes not provided by other radio services; and 20
 - “(b) Transmit to countries outside New Zealand broadcasting programmes of news, current affairs, entertainment and cultural enrichment that will— 25
 - “(i) Encourage awareness of New Zealand and an international understanding of New Zealand attitudes on world affairs; and
 - “(ii) Enable New Zealand citizens living and travelling outside New Zealand to obtain information about New Zealand affairs and New Zealand attitudes on world affairs; and 30
 - “(c) Encourage and promote the musical, dramatic and other performing arts in New Zealand. 35
- “(2) In providing broadcasting services within New Zealand, New Zealand Public Radio shall take account of—
- “(a) The broadcasting services provided by the commercial and public sectors of the New Zealand broadcasting system; and 40
 - “(b) The standards from time to time approved by the New Zealand Broadcasting Standards Authority in respect of broadcasting services; and

- “(c) Its responsibility to be the provider of an independent national public broadcasting service to provide a balance between programmes of wide appeal and specialised programmes; and
- 5 “(d) The multi-cultural character of the New Zealand community; and
- “(e) Its responsibility to promote biculturalism; and
- “(f) Broadcasting programmes which contribute to the development of educational services in New Zealand; and
- 10 “(g) Its responsibility for an historical sound archive; and
- “(h) Surveys which shall be commissioned from time to time to establish whether the audience for New Zealand Public Radio considers that its standards are being maintained.
- 15 “(3) The functions of New Zealand Public Radio under subsection (1) of this section and the duties imposed on New Zealand Public Radio under subsection (2) of this section, constitute the Charter of New Zealand Public Radio.
- 20 “(4) The Charter of New Zealand Public Radio shall be reviewed by the House of Representatives at 10-yearly intervals.

25 “68F. **Further provisions applying in respect of New Zealand Public Radio and constitution of Board and committees**—The provisions set out in Schedules 1A and 1B to this Act shall also apply in respect of New Zealand Public Radio, the Board and its committees.”

30 **7. New Schedules inserted**—The principal Act is hereby amended by inserting, after the First Schedule, the **Schedules 1A and 1B** set out in the First Schedule to this Act.

PART II

DISSOLUTION OF RADIO NEW ZEALAND LIMITED AND TRANSITIONAL PROVISIONS

- 35 **8. Interpretation**—In this Part of this Act, unless the context otherwise requires,—
- “Assets”, “liabilities”, and “transfer”,—
- (a) In relation to Radio New Zealand Limited and New Zealand Commercial Radio, have the same meanings given to them by section 29 (1) of the State-Owned Enterprises Act 1986; and
- 40 (b) Have corresponding meanings in relation to New Zealand Public Radio:

“Ministers” means the Minister of Communications, the Minister responsible for Radio New Zealand Limited, and the Minister for State Owned Enterprises.

9. Dissolution of Radio New Zealand Limited—

Notwithstanding any provision of any enactment or rule of law, on the commencement of this Act,— 5

- (a) Radio New Zealand Limited shall be dissolved and the term of office of every member of the Board of Radio New Zealand Limited shall cease:
- (b) All assets (including warrants and authorisations for the time being in force under any Act) and liabilities vested in Radio New Zealand Limited shall vest in the Crown: 10
- (c) All money payable to Radio New Zealand Limited shall become payable to the Crown: 15
- (d) All proceedings pending by or against Radio New Zealand Limited (including proceedings before the Broadcasting Standards Authority) may be carried on, completed, or enforced by, or against the Crown.

10. Officers and employees—Subject to this Act but notwithstanding any provision of any other Act or rule of law,— 20

- (a) On the commencement of this Act, each officer or employee of Radio New Zealand Limited shall become an officer or employee, as the case may be, of the Crown, but, for the purposes of every enactment, law, award, determination, contract, and agreement relating to the employment of each such officer or employee the contract of employment of that officer or employee shall be deemed to have been unbroken and the period of service with Radio New Zealand Limited shall be deemed to have been a period of service with the Crown; and 25
- (b) The terms and conditions of employment of each such officer or employee shall, until varied, be identical with the terms and conditions of that officer’s or employee’s employment with Radio New Zealand Limited immediately before the commencement of this Act and be capable of variation in the same manner; and 35
- (c) No such officer or employee shall be entitled to receive any payment or other benefit by reason only of that officer, employee, or appointee ceasing by virtue of 40

this Act to be an officer, employee, or appointee of Radio New Zealand Limited.

11. Transfer of assets to New Zealand Public Radio and New Zealand Commercial Radio—

(1) The Ministers may, from time to time, prepare a list or lists specifying the assets and liabilities vested in the Crown by **section 9** of this Act which, in the opinion of the Ministers, should be transferred to—

- (a) New Zealand Public Radio under this Act; or
- (b) New Zealand Commercial Radio under the State-Owned Enterprises Act 1986.

(2) Every list prepared under **subsection (1)** of this section shall—

- (a) Contain a description of each asset and liability, either individually or as a group or class; and
- (b) State the value attributed by the Ministers to each asset and liability, either individually or as a group or class; and
- (c) Be signed by the Ministers; and
- (d) Be laid before the House of Representatives by the Minister for State Owned Enterprises within 12 sitting days after the date on which it is signed.

(3) The Governor-General may, by Order in Council, vest in New Zealand Commercial Radio on a date specified in the order, any assets or liabilities specified in a list prepared pursuant to **subsection (1)** of this section and referred to in the order.

(4) The Governor-General may, by Order in Council, do any one or more of the following:

- (a) Transfer to New Zealand Public Radio assets and liabilities of the Crown;
- (b) Authorise New Zealand Public Radio to act on behalf of the Crown in providing goods or services, or in managing assets or liabilities of the Crown;
- (c) Grant to New Zealand Public Radio leases, licences, easements, permits, or rights of any kind in respect of any assets or liabilities of the Crown—

for such consideration, and on such terms and conditions as the Ministers may agree with the New Zealand Public Radio Board of Management.

12. Assets relating to land and interests in land may be transferred separately—

(1) Assets that are fixed to, or are under or over, any land may be transferred to New Zealand Public Radio pursuant to this Act or New Zealand Commercial

Radio pursuant to the State-Owned Enterprises Act 1986 whether or not any interest in the land is also transferred.

(2) Where any such asset is so transferred, the asset and the land shall be regarded as separate assets each capable of separate ownership.

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13. Issue of equity securities and debt securities—

(1) Every Order in Council made under **section 11 (3)** of this Act shall specify—

(a) The kind, number, nominal value, and terms of any—

(i) Equity securities; and

(ii) Debt securities—

that shall be issued by New Zealand Commercial Radio consequent upon the transfer to it of the assets and liabilities specified in the order; and

(b) The date on which the equity securities and debt securities shall be issued.

(2) On the date specified in each Order in Council pursuant to **subsection (1) (b)** of this section, New Zealand Commercial Radio shall issue to the Minister in equal proportions—

(a) Fully paid up equity securities of such kind, number, nominal value, and terms as are specified in the order:

(b) Debt securities of such kind, number value, and terms as are specified in the order.

(3) Nothing in subsections (1) (b) and (2) of section 60 of the Companies Act 1955 shall apply in respect of equity securities issued pursuant to **subsection (2)** of this section.

14. Application of State-Owned Enterprises Act 1986—

(1) The State-Owned Enterprises Act 1986 shall apply, with all necessary modifications, to each vesting of assets and liabilities that takes place by virtue of an Order in Council made under **section 11 (3)** of this Act and to each asset or liability so vested as if—

(a) That vesting were the transferring of assets and liabilities pursuant to section 23 (1) of that Act; and

(b) The terms and conditions under which the assets and liabilities were vested were agreed between the Ministers and the State enterprise in which they were vested.

(2) For the purposes of section 23 (2) and (5) (c) of the State-Owned Enterprises Act 1986, every Order in Council made under **section 11 (3)** of this Act shall be deemed to be a contract entered into pursuant to section 23 (1) of that Act.

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15. Additional provisions relating to vesting of assets and liabilities of Radio New Zealand Limited in the Crown—(1) Nothing effected or authorised by this Act shall—

- 5 (a) Be regarded as placing the Crown, any State enterprise or any other person in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
- 10 (b) Be regarded as giving rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; or
- 15 (c) Be regarded as placing the Crown, Radio New Zealand Limited, any State enterprise, or any other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property or the disclosure of any information; or
- (d) Release any surety from any obligation; or
- (e) Invalidate or discharge any contract or security.

20 (2) District Land Registrars are hereby authorised to make such entries in their respective registers and do everything necessary to give effect to the vesting of any land or any estate or interest in land under this Act.

(3) The provisions of this Act vesting any assets or liabilities in the Crown shall have effect notwithstanding any enactment, 25 rule of law, or agreement, and, in particular, but without limitation, the provisions of this Act vesting any land in the Crown shall have effect notwithstanding any provision contained in the Land Act 1948, the Reserves Act 1977, or the Public Works Act 1981, or in any other Act relating to land.

30 (4) A certificate, signed by the Chief Surveyor for the land district in which the land is situated, that any land described in the certificate, or described in any document on which the certificate appears, is land to which **subsection (3)** of this section applies shall be sufficient evidence, in the absence of proof to 35 the contrary, that that subsection applies to the land.

(5) Where by virtue of this Act any land vests in the Crown, the land shall vest in the Crown, subject to all leases, agreements to lease, easements, and encumbrances existing in respect of any part of that land immediately before the land 40 vests in the Crown but otherwise freed and discharged from all trusts and reservations affecting it.

16. Application of Goods and Services Tax Act 1985—
For the purposes of the Goods and Services Tax Act 1985, every vesting of assets or liabilities pursuant to **section 11 (3)** of

this Act shall be deemed to be a transfer of a part of a taxable activity as a going concern that is capable of separate operation.

17. Final report of Radio New Zealand Limited—(1) As soon as practicable after the commencement of this Act, the persons who were the members of the Radio New Zealand Limited immediately before that day shall send to the Minister responsible for Radio New Zealand Limited a report of its operations (including a summary of the activities of each of its subsidiaries).

(2) The report shall be called the Final Report of Radio New Zealand Limited.

(3) A copy of the Final Report of Radio New Zealand Limited shall be presented to the House of Representatives by the Minister responsible for Radio New Zealand Limited as soon as practicable after its receipt by that Minister.

18. Final accounts of Radio New Zealand Limited—

(1) As soon as reasonably practicable after the commencement of this Act, the Treasury shall cause to be prepared final accounts of Radio New Zealand Limited as at the close of the day prior to the date of the commencement of this Act.

(2) A copy of the final accounts, together with a copy of the report of the Audit Office on those accounts, shall be sent by the Treasury to the Minister responsible for Radio New Zealand Limited.

(3) A copy of the final accounts, together with a copy of the report of the Audit Office on those accounts, shall be presented to the House of Representatives by the Minister responsible for Radio New Zealand Limited as soon as practicable after their receipt by that Minister.

19. Amendment to First and Second Schedules to State-Owned Enterprises Act 1986—The First and Second Schedules to the State-Owned Enterprises Act 1986 (as amended by the State-Owned Enterprises Amendment Act (No. 4) 1988) are hereby amended, in each case, by omitting the item “Radio New Zealand Limited”, and substituting the item “New Zealand Commercial Radio”.

20. Consequential amendments—(1) The enactments specified in the **Second Schedule** to this Act are hereby amended in the manner indicated in that Schedule.

SCHEDULES

FIRST SCHEDULE

Section 7

NEW SCHEDULES 1A AND 1B INSERTED IN BROADCASTING ACT 1989

“SCHEDULE 1A

Section 68F

“FURTHER PROVISIONS APPLYING IN RESPECT OF NEW ZEALAND PUBLIC RADIO

1. New Zealand Public Radio to be Crown entity for purposes of Public Finance Act 1989—New Zealand Public Radio shall be a Crown entity for the purposes of the Public Finance Act 1989.

2. Funds of New Zealand Public Radio—The funds of New Zealand Public Radio shall consist of—

- (a) All money appropriated by Parliament for the purposes of New Zealand Public Radio which shall be paid to the Board for the purposes of New Zealand Public Radio by the Broadcasting Commission as directed by the Minister;
- (b) All money received by New Zealand Public Radio by way of fees, rent, or otherwise in respect of any real or personal property vested in or controlled by the Board, or in respect of the performance or exercise or any of the functions or powers of the Board;
- (c) All money received by New Zealand Public Radio from the sale or other disposal of any of its real or personal property;
- (d) All accumulations of income derived from any such money.

3. Exemption from income tax—New Zealand Public Radio shall be exempt from the payment of income tax.

Cf. 1972, No. 11, s. 26

4. Protection of names—(1) No body shall be incorporated or registered under any other enactment or in any other manner, under the name “New Zealand Public Radio”.

(2) No person other than New Zealand Public Radio shall, either alone or with any other person or persons,—

- (a) Trade or carry on business under any name listed in **subclause (1)** of this clause; or
- (b) Trade or carry on business under any other name, knowing that that name so resembles any name listed in **subclause (1)** of this clause, as to be likely to mislead any person.

(3) Every person who contravenes **subclause (2)** of this clause commits an offence, and is liable on summary conviction to a fine not exceeding \$1,000, and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part of a day during which the offence continues.

FIRST SCHEDULE—*continued*NEW SCHEDULES 1A AND 1B INSERTED IN BROADCASTING ACT 1989—*continued*

Section 68F

“SCHEDULE 1B

“CONSTITUTION OF NEW ZEALAND PUBLIC RADIO BOARD OF MANAGEMENT AND COMMITTEES

1. Membership—(1) The Board shall consist of not fewer than 6 nor more than 8 members to be appointed from time to time by the Governor-General on the recommendation of the Minister.

(2) One member of the Board shall be appointed as Chairperson by the Governor-General on the recommendation of the Minister.

(3) In recommending persons for appointment as members of the Board, the Minister—

- (a) Shall ensure that the members of the Board have between them the range of skills and experience required for the carrying out of the functions of the Board; and
- (b) Shall have regard, in particular, to—
 - (i) The need for the members of the Board to have between them a blend of management and financial skills;
 - (ii) The need for members to have knowledge and experience of, and commitment to, the functions of the Board, and the specific activities of Broadcasting.

2. Co-opted members—(1) For the purposes of any matter before the Board, the Board may co-opt any person or person whose qualifications or experience are likely, in the opinion of the Board, to be of assistance to the Board in dealing with that matter.

(2) Every person co-opted under **subclause (1)** of this clause shall be entitled to take part in the proceedings of the Board in relation to that matter, but shall not be entitled to vote on that matter.

(3) The failure of any person co-opted under **subclause (1)** of this clause to exercise, in relation to any matter, any right conferred on that person by **subclause (2)** of this clause, shall not affect the validity of any meeting or other proceeding of the Board in respect of that matter.

3. Term of office—(1) Subject to **subclauses (4) and (5)** of this clause and to **clause 1** of this Schedule every member of the Board shall be appointed for a term of 3 years.

(2) Subject to **subclause (3)** of this clause, every member of the Board shall be eligible for reappointment from time to time.

(3) Upon the completion by any person of 5 consecutive years' service as a member of the Board, that person shall cease to be eligible for reappointment until after the lapse of 3 years during which that person does not hold office as a member of the Board.

(4) Where the term for which a member of the Board has been appointed expires, that member, unless sooner vacating or removed from office under **clause 4** of this Schedule 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 that member is not to be reappointed and that a successor to that member is not to be appointed.

FIRST SCHEDULE—*continued*

NEW SCHEDULES 1A AND 1B INSERTED IN BROADCASTING ACT 1989—*continued*

“SCHEDULE 1B—*continued*

(5) With respect to the first members appointed under **clause 1** of this Schedule, the following provisions shall apply:

- (a) Two of those members shall be appointed for an initial term of 1 year; and
- (b) Two of those members shall be appointed for an initial term of 2 years; and
- (c) The rest of those members shall be appointed for an initial term of 3 years.

4. Extraordinary vacancies—(1) Any member of the Board may at any time be removed from office by the Governor-General for disability affecting performance of duty, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General.

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

(3) The powers of the Board shall not be affected by any vacancy in its membership.

5. Deputy Chairperson—(1) The Board may from time to time appoint one of its members as the Deputy Chairperson of the Board.

(2) Unless the Deputy Chairperson sooner resigns from that office, or is appointed to be the Chairperson of the Board, or vacates his or her office as a member of the Board, he or she shall hold the office of Deputy Chairperson of the Board until the appointment of a successor in accordance with this clause, and shall be eligible for reappointment.

(3) If the Deputy Chairperson is appointed to be the Chairperson of the Board, or ceases to be a member of the Board, he or she shall thereupon vacate the office of Deputy Chairperson.

(4) During any vacancy in the office of Chairperson of the Board, or in the absence of the Chairperson from New Zealand, or while the Chairperson is incapacitated by sickness or otherwise, the Deputy Chairperson shall have and may exercise all the powers and functions of the Chairperson.

(5) No acts done by the Deputy Chairperson acting as the Chairperson shall in any proceedings be questioned on the grounds that the occasion for the Deputy Chairperson so acting had not arisen or had ceased.

Cf. 1972, No. 11, s. 9

6. Rules—The Board may from time to time, by resolution, make, alter, or rescind any rules not inconsistent with this Act, for all or any of the following purposes:

- (a) Prescribing the procedure to be followed at any meeting of the Board, or at any committee of the Board;
- (b) Providing for the custody of the property of the corporation and the use of New Zealand Public Radio's common seal;
- (c) Prescribing the duties of its officers and other employees;
- (d) Such other purposes as may be deemed necessary or expedient for duly carrying out the work of the Board or of any committee thereof.

FIRST SCHEDULE—*continued*NEW SCHEDULES 1A AND 1B INSERTED IN BROADCASTING ACT 1989—*continued*“SCHEDULE 1B—*continued*”

7. Committees—(1) The Board may from time to time, by resolution, appoint, alter, discharge, continue or reconstitute any committee to advise the Board on such matters relating to the Board's functions and powers as are referred to that committee by the Board.

(2) Every committee shall consist of such number of persons as the Board thinks fit to enable the committee to carry out such of the Board's functions and powers as may be delegated to the committee under **clause 8** of this Schedule.

(3) Any person may be appointed to be a member of a committee, whether or not that person is a member of the Board.

(4) Subject to this Act, to any rules made by the Board under **clause 6** of this Schedule, and to any direction given by the Board, every committee may regulate its own procedure.

Cf. 1972, No. 11, s. 15

8. Delegation of functions and powers—(1) Subject to **subclause (4)** of this clause, the Board may from time to time, either generally or specifically, delegate any of its functions and powers to any of its committees or members or to any employee or employees of the Board, whether by name or as the holder or holders for the time being of any specified office of offices.

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

(3) The Board shall ensure that a copy of every delegation under this section is kept at its office and is made available for inspection by any person.

(4) The Board shall not delegate the following powers:

- (a) The power of delegation conferred by **subclause (1)** of this clause;
- (b) The power to borrow money conferred by **clause 21** of this Schedule;
- (c) The power to make, alter, or rescind rules conferred by **clause 6** of this Schedule.

(5) Any delegation under this clause may be made to—

- (a) A specified person; or
- (b) A person belonging to a specified class of persons; or
- (c) The holder for the time being of a specified office or appointment; or
- (d) The holder for the time being of an office or appointment of a specified class.

(6) Subject to any general or special directions given or conditions imposed by the Board or the Board of Governors, the committee or person to whom any such delegation is made may exercise or perform the delegated functions or powers in the same manner and with the same effect as if they had been conferred directly by this Act and not by delegation.

(7) Every committee or person 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.

(8) Where the Board or any delegate of the Board uses a written document to inform any other person of action taken by a delegate of the Board, that document shall—

- (a) State that the action was taken by a delegate of the Board; and

FIRST SCHEDULE—*continued*

NEW SCHEDULES 1A AND 1B INSERTED IN BROADCASTING ACT 1989—*continued*

“SCHEDULE 1B—*continued*

- (b) Give the delegate’s name and office, or the name of the committee that acted pursuant to the delegation, as the case may be; and
- (c) State that a copy of the instrument of delegation is available for inspection at the Board’s office.

(9) Every delegation under this section shall be revocable at will, but any such revocation shall not take effect until it is communicated to the delegate.

(10) Until any such delegation is revoked, it shall continue in force according to its tenor, notwithstanding any change in the membership of the Board or of any committee.

(11) No delegation under this clause shall prevent the performance or exercise of any function or power by the Board.

Cf. 1972, No. 11, s. 12

9. Contracts—(1) Any contract which, if made by private persons, must be by deed shall, if made by the Board, be in writing under the common seal of New Zealand Public Radio.

(2) Any contract which, if made by private persons, must be signed by the parties to be charged therewith shall, if made by the Board, be either under the common seal of New Zealand Public Radio or signed by a member or officer of the Board on behalf of and by authority of the Board.

(3) Any contract which, if made by private persons, may be made orally may be made in the manner specified in **subclause (2)** of this clause as in the case of a deed, or in the manner specified in **subclause (3)** of this clause as in the case of a contract required to be in writing, or may be made orally by or on behalf of the Board by any member or officer of the Board acting by authority of the Board.

10. Protection of persons acting under authority of Act—No person who does any act in pursuance or intended pursuance of any of the functions conferred on him or her by or under this Act shall be under any civil or criminal liability in respect of the act, whether on the ground of want of jurisdiction, or mistake of law or fact, or on any other ground, unless he or she has acted in bad faith or without reasonable care.

Cf. 1972, No. 11, s. 28

11. Meetings—(1) Meetings of the Board shall be held at such times and places as the Board or its Chairperson from time to time appoints, but the Board shall meet at least once in each financial year.

(2) The Chairperson, or any 2 members, may at any time call a special meetings in accordance with **subclause (3)** of this clause.

(3) Not less than 7 days’ notice of any special meeting, and of the business to be transacted at that meeting, shall be given to each member of the Board for the time being in New Zealand, and no business other than that specified in the notice shall be transacted at that meeting.

(4) At any meeting of the Board the quorum necessary for the transaction of business shall be 4 members.

(5) At all meetings of the Board its Chairperson shall preside if he or she is present. If the Chairperson and the Deputy Chairperson are absent, the

FIRST SCHEDULE—*continued*NEW SCHEDULES 1A AND 1B INSERTED IN BROADCASTING ACT 1989—*continued*“SCHEDULE 1B—*continued*”

members present shall appoint one of their number to be chairperson of that meeting.

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

(7) At any meeting of the Board, 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.

(8) A resolution signed, or assented to by letter, facsimile transmission, telex, or other method of communication, by no less than 4 members of the Board shall have the same effect as a resolution duly passed at a meeting of the Board.

(9) Subject to the provisions of this Act, and of any rules of the Board made under clause 6 of this Schedule and any directions by the Board of Governors, the Board may regulate its own procedure.

Cf. 1972, No. 11, s. 10

12. Fees and allowances of members of Board and committees—

There may be paid out of money appropriated by Parliament for the purpose to the members of the Board and the member of any committee appointed under this Act 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.

Cf. 1972, No. 11, s. 27

13. Employees—(1) The Board may appoint such employees, including employees on secondment from other organisations, as it thinks necessary for the efficient performance of its functions.

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

(3) Before entering into any collective employment contract under the Employment Contracts Act 1991, the Board shall consult with the State Services Commissioner about the conditions of employment to be included in the collective employment contract.

14. Personnel policy—(1) The Board shall operate a personnel policy that complies with the principle of being a good employer.

(2) For the purposes of this section, 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 substantial involvement of Maori people as employees of the Board; and

FIRST SCHEDULE—*continued*

NEW SCHEDULES 1A AND 1B INSERTED IN BROADCASTING ACT 1989—*continued*

“SCHEDULE 1B—*continued*

- (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.

15. Equal employment opportunities—(1) The Board shall—

- (a) Develop and publish in each year an equal employment opportunities programme for the Board; and
- (b) Ensure in each year that the programme for that year is complied with.

(2) For the purposes of this clause and **clause 14** 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.

16. Choice of procedure—Where the circumstances giving rise to a personal grievance by a person employed by the Board 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, that person may take one, but not both, of the following steps:

- (a) The person may invoke, in relation to those circumstances, the procedures applicable in relation to personal grievances under the Employment Contracts Act 1991 or the relevant award or agreement; or
- (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.

17. Superannuation or retiring allowances—(1) For the purpose of providing a superannuation fund or retiring allowances for its employees, or for any of its members, the Board may from time to time pay sums by way of subsidy or contribution into any superannuation scheme that is registered under the Superannuation Schemes Act 1989.

(2) Notwithstanding anything in this Act, a person who, immediately before becoming an employee of the Board, is a contributor to the Government Superannuation Fund under Part II or Part IIA of the Government Superannuation Fund Act 1956 shall, for the purposes of that Act, be deemed to be employed in the Government service so long as that person continues to be an employee of the Board; and that Act shall apply to that person in all respects as if that person's service as an employee of the Board is Government service.

(3) Nothing in **subclause (2)** of this clause entitles any person to become a contributor to the Government Superannuation Fund after that person has once ceased to be a contributor.

FIRST SCHEDULE—*continued*NEW SCHEDULES 1A AND 1B INSERTED IN BROADCASTING ACT 1989—*continued*“SCHEDULE 1B—*continued*”

(4) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with **subclause (2)** of this clause, to an employee of the Board who is a contributor to the Government Superannuation Fund, the term “controlling authority”, in relation to that employee, means the Board.

18. Application of certain Acts to members and employees—Subject to **clause 17(2)** of this Schedule, no person shall be deemed to be employed in the service of the Crown for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956 by reasons only of that person’s appointment under **clause 13** of this Schedule.

19. Bank accounts—(1) The Board shall open at any bank or banks such accounts as are necessary for the exercise of its functions and powers.

(2) All money received by the Board, or by any member or employee of the Board for the purposes of New Zealand Public Radio, shall, as soon as practicable after it has been received, be paid into such bank accounts of the Board as the Board from time to time determines.

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

(4) Any bank account of the Board shall be operated only by cheque or other instrument signed by a member or an officer of the Board authorised by the Board to do so, and shall be countersigned by another member or officer of the Board authorised to do so.

Cf. 1972, No. 11, s. 20

20. Investment of money—Subject to the terms of any trust or endowment, any money held by or on behalf of New Zealand Public Radio and which is not immediately required for expenditure, may be invested by the Board—

- (a) In accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds; or
- (b) In such other manner as the Board, with the prior approval of the Minister, may determine.

Cf. 1972, No. 11, s. 21; 1988, No. 119, s. 14 (1)

21. Borrowing powers—(1) The Board may, from time to time, borrow money from any bank by way of overdraft.

(2) Without prejudice to **subclause (1)** of this clause, the Board may, with the prior written approved of the Minister borrow money by way of mortgage, debentures, bonds, or otherwise, and may mortgage or charge any of its real or personal property, whether present or future, in such manner as it thinks fit.

Cf. 1972, No. 11, s. 23

SECOND SCHEDULE

Section 20

ENACTMENTS AMENDED RELATING TO CONSTITUTION OF NEW ZEALAND
PUBLIC RADIO AND NEW ZEALAND COMMERCIAL RADIO

Enactment	Amendment
1975, No. 9—The Ombudsmen Act 1975 (R.S. Vol. 21, p. 657)	By omitting from Part II of the First Schedule (as inserted by the State-Owned Enterprises Amendment Act (No. 4 1988)) the item “Radio New Zealand Limited”. By inserting in Part II of the First Schedule, as so inserted, in their appropriate alphabetical order, the following items: “New Zealand Commercial Radio” “New Zealand Public Radio”.
1976, No. 65—The Income Tax Act 1976 (R.S. Vol. 12, p. 1)	By omitting from the Fourteenth Schedule (as inserted by the State-Owned Enterprises Amendment Act (No. 4 1988)) the item “Radio New Zealand Limited”. By inserting in the Fourteenth Schedule, as so inserted, in its appropriate alphabetical order, the following item: “New Zealand Public Radio”.
1982, No. 156—The Official Information Act 1982	By omitting from the First Schedule (as inserted by the State-Owned Enterprises Amendment Act (No. 4 1988)) the item “Radio New Zealand Limited”. By inserting in Part II of the First Schedule, as so inserted, in their appropriate alphabetical order, the following items: “New Zealand Commercial Radio” “New Zealand Public Radio”.
1988, No. 162—The State-Owned Enterprises Amendment Act (No. 4) 1988	By repealing sections 2 (1) and 3 (1). By omitting the words “Radio New Zealand Limited” where they appear in sections 4, 5, 6, 7, 8 and 11, and substituting in each case the words “New Zealand Commercial Radio”. By repealing so much of the Schedule as relates to Radio New Zealand Limited.
1989, No. 44—The Public Finance Act 1989	By inserting in the Fourth Schedule (as added by section 41 of the Public Finance Amendment Act 1992), in its appropriate alphabetical order, the following item: “New Zealand Public Radio”.