

Television New Zealand Bill

Government Bill

As reported from the committee of the whole House

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (majority)

Subject to this Act,

Text struck out by a majority

New (majority)

Subject to this Act,

Text inserted by a majority

<Subject to this Act,>

Words struck out by a majority

<Subject to this Act,>

Words inserted by a majority

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Text inserted

((Subject to this Act,))

Words struck out

Subject to this Act,

Words inserted

Hon Steve Maharey

Television New Zealand Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Television New Zealand Act **2001**.

Part 1 Preliminary provisions

2 Commencement

This Act comes into force on ((1 July 2001)) the day after the date on which it receives the Royal assent.

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3 Purpose of Act

The purpose of this Act is to—

- (a) provide for a Television New Zealand Crown entity group consisting of a Crown holding company with 2 subsidiaries, one of which conducts a television business and the other a transmission business: 10
- (b) ensure that the Television New Zealand Crown entity group has, and continues to have, a television function and that the subsidiary responsible for the television business gives effect to its Charter while maintaining its commercial performance: 15
- (c) ensure that the subsidiary responsible for the transmission business operates as a successful business: 15
- (d) provide for the governance of the Crown entity group, including reporting requirements and the role of shareholding Ministers. 20

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3 Purpose of Act

The purpose of this Act is to—

- (a) provide for the existing State enterprise Television New Zealand Limited to be split into a Crown entity conducting a television business and a State enterprise conducting a transmission business; and 25
- (b) ensure that the Crown entity responsible for the television business gives effect to its Charter while maintaining its commercial performance; and 30
- (c) provide for the governance of the Crown entity, including reporting requirements and the role of shareholding Ministers.

4 Interpretation

In this Act, unless the context otherwise requires,—

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<p>Crown entity has the same meaning as in section 2(1) of the Public Finance Act 1989</p>

- equal employment opportunities programme** means a programme aimed at identifying and eliminating 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 5
- GAAP** means generally accepted accounting practice (as defined in section 2 of the Financial Reporting Act 1993) 10
- good employer** means 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— 15
- (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— 20
 - (i) the aims and aspirations of Māori; and
 - (ii) the employment requirements of Māori; and
 - (iii) the need for greater involvement of Māori as employees of the employer operating the personnel policy; and 25
 - (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 30
 - (h) recognition of the employment requirements of persons with disabilities

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shareholding Ministers means the Minister of Finance and the Minister of Broadcasting

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shareholding Ministers means the Minister of Finance and the Minister for the time being responsible for TVNZ

State enterprise means an organisation that is named in the First Schedule of the State-Owned Enterprises Act 1986; and includes a subsidiary of such an organisation

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subsidiary means a company within the meaning of section 5 of the Companies Act 1993

THL means the company Transmission Holdings Limited

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TVNZ means the company Television New Zealand Limited

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TVNZG means the company Television New Zealand Group Limited

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TVNZG Crown entity group means the companies TVNZG, TVNZ, and THL

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TVNZG subsidiaries means the companies TVNZ and THL.

5 Meaning of maintaining commercial performance

For the purposes of this Act, a company is **maintaining its commercial performance** if—

- (a) it operates in a financially responsible manner so that it maintains its financial viability; and
- (b) its activities generate, on the basis of GAAP, an adequate rate of return on shareholders' funds; and
- (c) it is operating as a successful going concern. 5

6 Act binds the Crown

This Act binds the Crown.

Part 2

Structure and shareholdings of ((TVNZG)) TVNZ and transmission business <Crown entity group> 10

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7 TVNZG

There is a company called Television New Zealand Group Limited incorporated under the Companies Act 1993, all the shares of which are held by the shareholding Ministers.

8 TVNZ to be subsidiary of TVNZG 15

- (1) On the day of commencement of this Act,—
 - (a) TVNZ will cease to be a State enterprise subject to the State-Owned Enterprises Act 1986; and
 - (b) the Ministers who hold shares in TVNZ will transfer their shares to TVNZG for the consideration that the shareholding Ministers determine, following consultation with TVNZ. 20
- (2) The shareholding Ministers are responsible to the House of Representatives for the exercise or performance of the powers, duties, and functions conferred or imposed on them by this Act or the constitution of TVNZG. 25
- (3) The ceasing of TVNZ to be a State enterprise and the transfer of shares from the shareholders of TVNZ to TVNZG under **subsection (1)** does not give any party to a contract with TVNZ or any of its subsidiaries a right to avoid that party's obligations under that contract. 30

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9 Additional subsidiary to be formed

There is a subsidiary of TVNZG called Transmission Holdings Limited.

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7 TVNZ ceases to be State enterprise

On the day of commencement of this Act, TVNZ ceases to be a State enterprise subject to the State-Owned Enterprises Act 1986. 5

8 Separation of transmission business

(1) TVNZ must prepare and submit to the shareholding Ministers, as soon as practicable after the commencement of this Act, a separation proposal providing for THL, or the transmission business that was owned and operated, directly or indirectly, by TVNZ at the commencement of this Act,— 10

(a) to be separated from TVNZ; and
(b) to become a new State enterprise subject to the State-Owned Enterprises Act 1986. 15

(2) The separation proposal—

(a) must specify a date on which the separation is to take effect, which must be no later than **31 December 2003**; and
(b) must identify how the separation of the transmission business is to take place, including the shares, property, rights, and liabilities of TVNZ, THL, or any other subsidiary or nominee of TVNZ that are to be transferred. 20

9 Implementation of separation proposal by Order in Council

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(1) The Governor-General may, by Order in Council made on the recommendation of the shareholding Ministers, approve the draft separation proposal.

(2) The Order in Council—

(a) must appoint an effective date for the separation (which must be on or before **31 December 2003**); and 30

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| (b) | must identify the draft proposal approved, but need not incorporate it in the order; and | |
| (c) | must ensure that the company that becomes a State enterprise becomes, at the same time, subject to the Official Information Act 1982 and the Ombudsmen Act 1975 and to Schedule 18 of the Income Tax Act 1994. | 5 |
| (3) | On the date appointed in the order,— | |
| (a) | the company nominated in the separation proposal becomes a State enterprise subject to the State-Owned Enterprises Act 1986; and | 10 |
| (b) | all of the shares so nominated in the separation proposal are deemed to be transferred in equal parts to the Ministers who are to be the shareholding Ministers of the new State enterprise; and | |
| (c) | all of the property, rights, and liabilities that are so nominated in the separation proposal are deemed to be transferred to the new State enterprise (or any subsidiary of the State enterprise that may be specified in the proposal). | 15 |
| (4) | The transfer (or the transfers cumulatively, as the case may be) in subsection (3)(b) and (c) is or are deemed to take place for a consideration equal to the book value of the equity of the transmission business that is transferred under the separation proposal. | 20 |
| 9A | Transitional provisions
The ceasing of TVNZ to be a State enterprise, and the separation of the transmission business, does not give any party to a contract with TVNZ or THL or the company that owns the transmission business or any of those companies' subsidiaries a right to avoid that party's obligations under that contract. | 25

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| 9B | Responsibilities of shareholding Ministers
The shareholding Ministers are responsible to the House of Representatives for the exercise or performance of the powers, functions, and duties conferred or imposed on them by this Act or by the constitution of TVNZ. | 35 |

Struck out**10 Functions and objectives of TVNZG**

- (1) *<The constitution of TVNZG must provide that>* TVNZG's principal functions are to—
- (a) endeavour to ensure that the TVNZG subsidiaries carry out their functions and fulfil their objectives; and 5
 - (b) oversee the operations of the TVNZG subsidiaries; and
 - (c) endeavour to ensure that TVNZ gives effect to its Charter while maintaining its commercial performance.
- (2) In carrying out its functions, TVNZG has the following objectives: 10
- (a) to be a good employer, as defined in **section 4**:

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- (b) to develop and publish for itself an equal employment opportunities programme each year and to ensure that that programme is complied with:

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- (c) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates and by endeavouring to accommodate or encourage those interests when able to do so: 15
- (d) to ensure that, in the event that the functions or objectives of the TVNZG subsidiaries are or may be in conflict or competition, those functions or objectives are given the appropriate weight: 20
- (e) to maintain its commercial performance, as defined in **section 5**.

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10 Functions and objectives of TVNZ

- (1) TVNZ's principal function is to provide the television and other services that may be specified from time to time in its current statement of intent.
- (2) In carrying out its functions, TVNZ's principal objective is to give effect to its Charter (set out below) while maintaining its commercial performance: 5

The following Charter shall apply to all those parts of TVNZ's operations that contribute to its broadcast content. It shall be predominantly fulfilled through free-to-air broadcasting. In programming for particular audiences, TVNZ is to consider all relevant provisions of the Charter. 10

- (a) TVNZ will—
- (i) feature programming across all genres that informs, entertains, and educates New Zealand audiences; 15
 - (ii) strive always to set and maintain the highest standards of programme quality and editorial integrity;
 - (iii) provide shared experiences that contribute to a sense of citizenship and national identity;
 - (iv) ensure in its programmes and programme planning the participation of Māori and the presence of a significant Māori voice; 20
 - (v) feature programming that serves the varied interests and informational needs and age groups within New Zealand society, including tastes and interests not generally catered for by other national television broadcasters; 25
 - (vi) maintain a balance between programmes of general appeal and programmes of interest to smaller audiences;
 - (vii) seek to extend the range of ideas and experiences available to New Zealanders; 30
 - (viii) play a leading role in New Zealand television by setting standards of programme quality and encouraging creative risk-taking and experiment;
 - (ix) play a leading role in New Zealand television by complying with free-to-air codes of broadcasting practice, in particular any code with provisions on violence; 35
 - (x) support and promote the talents and creative resources of New Zealanders and of the independent New Zealand film and television industry. 40
- (b) In fulfilment of these objectives, TVNZ will—

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| (i) | provide independent, comprehensive, impartial, and in-depth coverage and analysis of news and current affairs in New Zealand and throughout the world and of the activities of public and private institutions; | |
| (ii) | feature programming that contributes towards intellectual, scientific, cultural, and spiritual and ethical development that reflects the diverse beliefs of New Zealanders, promotes informed and many-sided debate, and stimulates critical thought, thereby enhancing opportunities for citizens to participate in community, national, and international life; | 5 |
| (iii) | in its programming enable all New Zealanders to have access to material that promotes Māori language and culture; | 10 |
| (iv) | feature programmes that reflect the regions to the nation as a whole; | 15 |
| (v) | promote understanding of the diversity of cultures making up the New Zealand population; | |
| (vi) | feature New Zealand films, drama, comedy, and documentary programmes; | 20 |
| (vii) | feature programmes about New Zealand's history and heritage, and natural environment; | |
| (viii) | feature programmes that serve the interests and informational needs of Māori audiences, including programmes promoting the Māori language and programmes addressing Māori history, culture, and current issues; | 25 |
| (ix) | include in programming intended for a mass audience material that deals with minority interests; | |
| (x) | feature New Zealand and international programmes that provide for the informational, entertainment, and educational needs of children and young people and programmes that allow for the participation of children and young people; | 30 |
| (xi) | maintain and observe a code of ethics that addresses the level and nature of advertising to which children are exposed; | 35 |
| (xii) | feature programmes that encourage and support the arts, including programmes featuring New Zealand and international artists and arts companies; | 40 |
| (xiii) | reflect the role that sporting and other leisure interests play in New Zealand life and culture; and | |
| (xiv) | feature programming of an educational nature that supports learning and the personal development of New Zealanders. | 45 |
- (3) TVNZ also has the following further objectives in carrying out its functions:
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| <ul style="list-style-type: none"> (a) to be a good employer: (b) to develop and publish for itself an equal employment opportunities programme each year and to ensure that that programme is complied with: (c) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates and by endeavouring to accommodate or encourage those interests when able to do so. <p>(4) The Charter must be reviewed by the House of Representatives at least every 5 years.</p> | <p>5</p> <p>10</p> |
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11 ((TVNZG)) TVNZ board

A board member of ((TVNZG)) TVNZ is not entitled to any compensation or other payment or benefit relating to his or her removal or resignation from office or loss of office.

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| <p>12 Duties of TVNZG board</p> <p>In addition to their duties under the Companies Act 1993, the board of TVNZG must—</p> <ul style="list-style-type: none"> (a) ensure that TVNZG acts in a manner consistent with its current statement of intent; and (b) endeavour to ensure that each of the TVNZG subsidiaries acts in a manner consistent with its current statement of intent. | <p>15</p> <p>20</p> |
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| <p>12 Duties of TVNZ board</p> <p>In addition to their duties under the Companies Act 1993, the board of TVNZ must ensure that TVNZ acts in a manner consistent with its current statement of intent.</p> | <p>25</p> |
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13 Ministers to hold all shares in ((TVNZG)) TVNZ

- (1) A shareholding Minister (~~of TVNZG~~) may not—

- (a) sell or otherwise dispose of any shares in **((TVNZG)) TVNZ** held in the Minister's name; or
- (b) permit shares in **((TVNZG)) TVNZ** to be allotted or issued to any person other than a shareholding Minister.
- (2) Nothing in **subsection (1)** applies to redeemable preference shares that—
- (a) are not convertible into shares of any other class; and
- (b) do not confer any rights to vote at any general meeting of **((TVNZG)) TVNZ**.
- 14 Authorising Crown shareholding in **((TVNZG)) TVNZ**** 10
- (1) The shareholding Ministers may, from time to time, on behalf of the Crown,—
- (a) subscribe for, or otherwise acquire shares in, **((TVNZG)) TVNZ**; and
- (b) exercise any or all of the Crown's rights as the holder of any shares in **((TVNZG)) TVNZ**. 15
- (2) Each shareholding Minister must hold the same number of shares in **((TVNZG)) TVNZ**.
- 15 Further provisions relating to Ministers' shareholding in **((TVNZG)) TVNZ**** 20
- (1) Shares in **((TVNZG)) TVNZ** held in the name of the person described as the Minister of Finance or the **((Minister of Broadcasting)) Minister responsible for TVNZ** must be held by the person for the time being holding the office of Minister of Finance or **((Minister of Broadcasting)) Minister responsible for TVNZ**. 25
- (2) It is not necessary to complete or register a transfer of shares in **((TVNZG)) TVNZ** as a result of a change in the person holding the office of Minister of Finance or **((Minister of Broadcasting)) Minister responsible for TVNZ**. 30
- (3) Each shareholding Minister may exercise all the rights and powers attaching to the shares in **((TVNZG)) TVNZ** held by that Minister.
- (4) A shareholding Minister may, at any time or times, by written notice to the directors of **((TVNZG)) TVNZ**, authorise (on the terms and conditions that are specified in the notice) a person to act as the Minister's representative at any or all of the meetings of shareholders of **((TVNZG)) TVNZ**, and any person 35

so authorised is entitled to exercise the same powers on behalf of the Minister as the Minister could exercise if present in person at the meeting.

- (5) **Subsections (2) and (4)** apply despite any other enactment or rule of law.

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16 Functions and objectives of TVNZ

- (1) *<The constitution of TVNZ must provide that>* TVNZ's principal function is to provide the television and other services that may be specified from time to time in its current statement of intent.
- (2) In carrying out its functions, TVNZ's principal objective is to give effect to its Charter (set out below) while maintaining its commercial performance.

10

The following Charter shall apply to all those parts of TVNZ's operations that contribute to its broadcast content. It shall be predominantly fulfilled through free-to-air broadcasting. *<In programming for particular audiences, TVNZ is to consider all relevant provisions of the Charter.>*

15

- (a) TVNZ will—
- (i) feature programming across all genres that informs, entertains, and educates New Zealand audiences; 20
 - (ii) strive always to set and maintain the highest standards of programme quality and editorial integrity;
 - (iii) provide shared experiences that contribute to a sense of citizenship and national identity; 25
 - (iv) ensure in its programmes and programme planning the participation of Māori and the presence of a significant Māori voice;
 - (v) feature programming that serves the varied interests and informational needs and age groups within New Zealand society, including tastes and interests not generally catered for by other national television broadcasters; 30
 - (vi) maintain a balance between programmes of general appeal and programmes of interest to smaller audiences; 35
 - (vii) seek to extend the range of ideas and experiences available to New Zealanders;
 - (viii) play a leading role in New Zealand television by setting standards of programme quality and encouraging creative risk-taking and experiment; 40

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New (majority)

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| (ix) | comply with free-to-air codes of broadcasting practice, in particular any code with provisions on violence; | |
| (x) | support and promote the talents and creative resources of New Zealanders and of the New Zealand film and television industry. | 5 |
| (b) | In fulfilment of these objectives, TVNZ will— | |
| (i) | provide independent, comprehensive, impartial, and in-depth coverage and analysis of news and current affairs in New Zealand and throughout the world and of the activities of public and private institutions; | 10 |
| (ii) | feature programming that contributes towards intellectual, scientific, <i><and></i> cultural, and spiritual and ethical development <i><that reflects the diverse beliefs of New Zealanders></i> , promotes informed and many-sided debate, and stimulates critical thought, thereby enhancing opportunities for citizens to participate in community, national, and international life; | 15 |
| (iii) | in its programming enable all New Zealanders to have access to material that promotes Māori language and culture; | 20 |
| (iv) | feature programmes that reflect the regions to the nation as a whole; | |
| (v) | promote understanding of the diversity of cultures making up the New Zealand population; | 25 |
| (vi) | feature New Zealand films, drama, comedy, and documentary programmes; | |
| (vii) | feature programmes about New Zealand's history and heritage, and natural environment; | |
| (viii) | feature programmes that serve the interests and informational needs of Māori audiences, including programmes promoting the Māori language and programmes addressing Māori history, culture, and current issues; | 30 |
| (ix) | include in programming intended for a mass audience material that deals with minority interests; | 35 |
| (x) | feature <i><New Zealand and international></i> programmes that provide for the informational, <i><and></i> entertainment, and educational needs of children and young people and <i><programmes that></i> allow for the participation of children and young people; | 40 |
| (xi) | maintain and observe a code of ethics that addresses the level and nature of advertising to which children are exposed; | |
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| <ul style="list-style-type: none"> (xii) feature programmes that encourage and support the arts, including programmes featuring New Zealand and international artists and arts companies; (xiii) reflect the role that sporting and other leisure interests play in New Zealand life and culture; and (xiv) feature programming of an educational nature that supports learning and the personal development of New Zealanders. | 5 |
| <p>(3) TVNZ also has the following further objectives in carrying out its functions:</p> <p>(a) to be a good employer, as defined in section 4:</p> | 10 |

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| <p>(b) to develop and publish for itself an equal employment opportunities programme each year and to ensure that that programme is complied with:</p> | |
| <p>(c) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates and by endeavouring to accommodate or encourage those interests when able to do so.</p> | 15 |

New (majority)

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| <p>(4) The Charter must be reviewed by the House of Representatives at least every 5 years.</p> | 20 |
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17 Functions and objectives of THL

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| <p>(1) <i><The constitution of THL must provide that></i> THL's principal function is to provide the services that may be specified from time to time in its current statement of intent.</p> | |
| <p>(2) In carrying out its functions, THL's objective is to operate as a successful business and, to this end,—</p> <p>(a) to be as profitable and efficient as comparable businesses that are not owned by the Crown:</p> <p>(b) to be a good employer, as defined in section 4:</p> | 25 |

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(c) to develop and publish for itself an equal employment opportunities programme each year and to ensure that that programme is complied with:

(d) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates and by endeavouring to accommodate or encourage those interests when able to do so. 5

18 TVNZG subsidiaries boards

(1) TVNZG must consult with the shareholding Ministers before appointing members to the boards of the TVNZG subsidiaries. 10

(2) The chairperson of the TVNZG board may be a member and may also be the chairperson of either or both of the TVNZG subsidiaries boards.

(3) At least 2 members of each TVNZG subsidiary board must be non-executive directors who are not members of the TVNZG board. 15

(4) The TVNZG board may, after consultation with the chief executive of the relevant TVNZG subsidiary, appoint executive directors to each of the TVNZG subsidiaries boards. 20

(5) A board member of a TVNZG subsidiary is not entitled to any compensation or other payment or benefit relating to his or her removal or resignation from office or loss of office.

19 Duties of TVNZG subsidiaries boards

In addition to the duties under the Companies Act 1993, *<every director>* *<the board>* of a TVNZG subsidiary must ensure that the subsidiary acts in a manner consistent with its current statement of intent. 25

20 TVNZG must hold all shares in TVNZG subsidiaries

(1) TVNZG may not— 30

(a) sell or otherwise dispose of any shares in the TVNZG subsidiaries; or

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- (b) permit shares in the TVNZG subsidiaries to be allotted or issued to any person other than TVNZG.
- (2) Nothing in **subsection (1)** applies to redeemable preference shares that—
- (a) are not convertible into shares of any other class; and 5
- (b) do not confer any rights to vote at any general meeting of the relevant TVNZG subsidiary.
- 21 Changes in names of companies**
- (1) The Governor-General may, from time to time, by Order in Council made on the recommendation of the shareholding Ministers, change the name of TVNZG or either of the TVNZG subsidiaries. 10
- (2) The shareholding Ministers must not recommend the making of an order in respect of a change of name of TVNZG or the TVNZG subsidiaries unless satisfied that,— 15
- (a) in the case of a TVNZG subsidiary, the board of TVNZG has given its consent; and
- (b) the change of name has been registered at the Companies Office in accordance with section 23 of the Companies Act 1993. 20
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- 21 Change in name of TVNZ**
- (1) The Governor-General may, by Order in Council made on the recommendation of the shareholding Ministers, amend any enactment by omitting from it the name of TVNZ and substituting some other name. 25
- (2) The shareholding Ministers must not recommend the making of an order in respect of a change of name of TVNZ unless satisfied that the change of name has been registered at the Companies Office in accordance with section 23 of the Companies Act 1993. 30
- Compare: 1986 No 124 s 30A
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- 22 Shares or interests of ((TVNZG or TVNZG subsidiaries)) TVNZ in bodies corporate or interests in associations**
((TVNZG or a TVNZG subsidiary)) TVNZ must, if it forms or acquires or holds any equity interest in a body corporate, partnership, joint venture, or other association of persons, or settles or is appointed a trustee of a trust, use its best endeavours to ensure that the body corporate, partnership, joint venture, trust, or other association of persons—
- (a) does not carry on or undertake any business or activity, do any act, or enter into any transaction that ((TVNZG or the TVNZG subsidiary)) TVNZ itself has no capacity or power to carry on, undertake, do, or enter into; and
- (b) exercises its powers for the purpose of performing, or assisting ((TVNZG or the TVNZG subsidiary)) TVNZ to perform, their functions; and
- (c) in carrying on or undertaking a business or activity, doing an act, or entering into a transaction, is subject to the same obligations and restrictions as would apply to ((TVNZG or the TVNZG subsidiary)) TVNZ in relation to that matter; and
- (d) does not authorise remuneration or allowances for <its> <any> members <that are also members of ((TVNZG or a TVNZG subsidiary)) TVNZ or a subsidiary of TVNZ that could not be authorised for the directors of ((TVNZG or the TVNZG subsidiary)) TVNZ.

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New (majority)

- 22A Equal employment opportunities**
 TVNZG, TVNZ, and THL must each develop and publish an equal employment opportunities programme and ensure that it is complied with.

Part 3 Reporting

- 23 Application of Public Finance Act 1989**
((TVNZG and the TVNZG subsidiaries are each Crown entities)) TVNZ is a Crown entity for the purpose of the Public Finance Act 1989. 5

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- 24 Auditor-General is auditor of TVNZG** *<Crown entity group>*
 TVNZG and the TVNZG subsidiaries are each public entities as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is their auditor. 10

New

- 24 Auditor-General is auditor of TVNZ**
 TVNZ is a public entity as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor. 15

- 25 Information required in annual report for ((TVNZG and TVNZG subsidiaries)) TVNZ**
- (1) Without limiting section 411 of the Public Finance Act 1989, every annual report of *((TVNZG and the TVNZG subsidiaries))* TVNZ must contain— 20
- (a) a statement of any fees (including consultancy fees) received by board members in any capacity from *((TVNZG and any of its subsidiaries))* TVNZ and any of its subsidiaries; and
- (b) a statement of the number of employees or former employees of *((TVNZG and any of its subsidiaries))* TVNZ and any of its subsidiaries who, during the accounting period, received remuneration and any other benefits in their capacity as employees, the value of which was or exceeded \$100,000 per annum, and showing the number of those employees or former employees in brackets of \$10,000. 25 30

Struck out

- (2) In addition to the information required to be contained in the annual report under section 41I of the Public Finance Act 1989,—
- (a) TVNZG's annual report must include a statement of how it ensured that, in the event that the functions or objectives of the TVNZG subsidiaries were or may have been in conflict or competition, it gave those functions or objectives the appropriate weight; and 5
 - (b) TVNZ's annual report must include a statement of its performance against its Charter, using the performance measures set out in its statement of intent. 10

New

- (2) In addition to the information required to be contained in the annual report under section 41I of the Public Finance Act 1989, TVNZ's annual report must include a statement of its performance against its Charter, using the performance measures set out in its statement of intent. 15

Struck out

- 26 Additional information requirements for statement of intent**
- In addition to the information required to be contained in the statement of intent under section 41D of the Public Finance Act 1989,— 20
- (a) TVNZG's statement of intent must include a statement of the methods to be used and the principles to be taken into account to ensure that, in the event that the functions or objectives of the TVNZG subsidiaries are or may be in conflict or competition, it will give those functions or objectives the appropriate weight; 25
 - (b) TVNZ's statement of intent must include the following information: 30
 - (i) its functions; and

Struck out

- | | |
|---|---|
| <ul style="list-style-type: none"> (ii) ⟨qualitative and quantitative⟩ performance measures for measuring performance against its Charter; and (iii) a statement of how it will involve the public in measuring performance against its Charter: | 5 |
| <ul style="list-style-type: none"> (c) THL's statement of intent must include a statement of its functions. | |

New**26 Additional information requirements for statement of intent**

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|---|-------------------------------|
| <ul style="list-style-type: none"> (1) In addition to the information required to be contained in the statement of intent under section 41D of the Public Finance Act 1989, TVNZ's statement of intent must include the following information: <ul style="list-style-type: none"> (a) its functions; and (b) qualitative and quantitative performance measures for measuring performance against its Charter; and (c) a statement of how it will involve the public in measuring performance against its Charter. (2) TVNZ's first statement of intent is for the period beginning 1 July 2003. (3) From the commencement of this Act to 30 June 2003 TVNZ must continue to operate under its statement of corporate intent. | <p>10</p> <p>15</p> <p>20</p> |
|---|-------------------------------|

27 Half-year financial statements

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|---|---------------------|
| <p>In addition to the annual financial statements required to be prepared under section 41 of the Public Finance Act 1989, ((TVNZG and the TVNZG subsidiaries)) TVNZ must, within 2 months after the end of the first 6 months of each financial year, ((each prepare)) <u>prepare</u> financial statements for that half-year in accordance with GAAP.</p> | <p>25</p> <p>30</p> |
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Struck out

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| 28 | Preparation of statements of intent, annual reports, and half-year financial statements
The statements of intent, annual reports, and financial statements of TVNZG and the TVNZG subsidiaries must be prepared separately by each company, but the separate statements or reports, as the case may be, may be presented in a single document. | 5 |
| 29 | Protection from disclosure of sensitive information
Nothing in this Act must be construed as requiring in any statement of intent, annual report, or financial statement any information that could be properly withheld if a request for that information were made under the Official Information Act 1982. | 10 |
| 30 | Responsible Minister
For the purposes of section 45B of the Public Finance Act 1989, responsible Minister means either shareholding Minister. | 15 |

Part 4

Ministers and editorial independence

- | | | |
|-----------|--|----|
| 31 | Powers of shareholding Ministers (<i>in relation to TVNZG</i>) | 20 |
| (1) | The shareholding Ministers may, by written notice to the (TVNZG) TVNZ board,— | |
| (a) | direct the board to include in, or omit from, its statement of intent any provision or provisions of a kind referred to in section 26 ; and | 25 |
| (b) | determine the amount of dividend payable by (TVNZG) TVNZ to the Crown in respect of any financial year or years. | |
| (2) | (TVNZG) TVNZ must comply with the directions set out in a notice given under subsection (1) . | 30 |
| (3) | Before giving any notice under subsection (1) , the shareholding Ministers must have regard to the objectives and functions of | |

~~((TVNZG))~~ TVNZ and consult with the board of ~~((TVNZG))~~ TVNZ as to the matters to be referred to in the notice.

Struck out (majority)

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|-----------|--|--------------|
| 32 | Powers of shareholding Ministers in relation to TVNZG subsidiaries | |
| (1) | The shareholding Ministers may, by written notice to the boards of TVNZG and the relevant TVNZG subsidiary,— | 5 |
| | (a) direct the board of that TVNZG subsidiary to include in, or omit from, its statement of intent any provision or provisions of a kind referred to in section 26 ; and | |
| | (b) determine the amount of dividend payable to TVNZG in respect of any financial year or years. | 10 |
| (2) | The TVNZG subsidiary must comply with the directions set out in a notice given under subsection (1) . | |
| (3) | Before giving any notice under subsection (1) , the shareholding Ministers must have regard to the functions and objectives of TVNZG and the TVNZG subsidiary and consult with the board of TVNZG and the TVNZG subsidiary as to the matters to be referred to in the notice. | 15 |
| <hr/> | | |
| 33 | Shareholding Ministers must not give certain directions | |
| (1) | <i>(Nothing in this Act authorises any shareholding Minister to)</i>
<u>No shareholding Minister or any other Minister, and no person acting by or on behalf of or at the direction of a shareholding Minister or any other Minister, may give a direction to</u>
<u>((TVNZG)) <u>TVNZ</u> or to any of its subsidiaries, or to any director or officer or employee of ((TVNZG)) <u>TVNZ</u> or of any</u>
of its subsidiaries, in respect of— | 20

25 |
| | (a) a particular programme <or programmes> or a particular allegation or a particular complaint; or | |
| | (b) the gathering or presentation of news or the preparation or presentation of current affairs programmes; or | 30 |
| | (c) programme standards. | |
| (2) | No director of ((TVNZG)) <u>TVNZ</u> or of any of its subsidiaries may be removed for any reason relating to— | |
| | (a) a particular programme or a particular allegation or a particular complaint relating to a particular programme;
or | 35 |

- (b) the gathering or presentation of news or the preparation or presentation of current affairs programmes; or
- (c) the responsibility of ~~((TVNZG))~~ TVNZ or any of its subsidiaries for programme standards.

Compare: 1988 No 162 s 7

5

34 Directions and compliance costs

- (1) Every direction given under **section 31** (~~or section 32~~) <of this Act or section 41G of the Public Finance Act 1989> must be accompanied by a statement of the estimated expenditure to be incurred and revenue to be forgone by ~~((TVNZG))~~ TVNZ or any of its subsidiaries. 10
- (2) Every direction and its accompanying statement of the estimated expenditure and revenue forgone must be presented by either of the shareholding Ministers to the House of Representatives and notified in the *Gazette* within 12 sitting days. 15

Part 5 Miscellaneous

35 Consequential amendments to enactments

The enactments listed in **Schedule 1** are amended in the manner indicated in that schedule. 20

36 Consequential repeal

The State-Owned Enterprises Amendment Act (No 4) 1988 is repealed.

37 Superannuation or retiring allowances

For the purposes of providing a superannuation fund or retiring allowances for its employees, ~~((TVNZG, the TVNZG subsidiaries, or any subsidiary of the TVNZG subsidiaries))~~ TVNZ or any subsidiary of TVNZ 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. 25
30

39 Transfer of land from TVNZ to THL

- (1) Despite any other enactment or rule of law, on any day on or after the commencement of this Act, TVNZ may transfer to THL or to any of its subsidiaries the areas of land listed in **Schedule 2** for the consideration that is determined between TVNZ and THL. 5
- (2) Nothing in sections 40 to 42 of the Public Works Act 1981 applies to the transfer of land from TVNZ to THL or to any of its subsidiaries under this Act, but sections 40 to 42 of that Act will, after that transfer, apply to the land as if THL or any of its subsidiaries were the Crown and the land had not been transferred under this Act. 10
- (3) The Governor-General may, from time to time, by Order in Council,—
- (a) amend **Schedule 2** by including additional areas of land ~~(to)~~ in the list in that schedule: 15
- (b) otherwise amend **Schedule 2**, or revoke that schedule, and substitute a new schedule.

Struck out**New (majority)**

- 40 Shareholder continuity** 20
The transfer of shares from the Crown to TVNZG does not constitute a breach in shareholder continuity for the purposes of the Income Tax Act 1994.
- 41 Savings of certain transactions** 25
A failure by TVNZG, TVNZ, or THL to comply with **sections 10, 12, 16 to 19, or 22** or any statement of corporate intent does not affect the validity or enforceability of any deed, agreement, right, or obligation entered into, obtained, or incurred by TVNZG, TVNZ, or THL or any of their subsidiaries.

New

40 Shareholder continuity

The structural changes to TVNZ and the transmission business set out in **sections 7 to 9** do not constitute a breach in shareholder continuity for the purposes of the Income Tax Act 1994.

5

41 Savings of certain transactions

A failure by TVNZ to comply with **section 10, section 12, or section 22** or any statement of corporate intent or statement of intent does not affect the validity or enforceability of any deed, agreement, right, or obligation entered into, obtained, or incurred by TVNZ or any of its subsidiaries.

10

Schedule 1 Consequential amendments

Broadcasting Act 1989 (1989 No 25)

Repeal paragraph (e) of the Preamble.

Struck out

Income Tax Act 1994 (1994 No 164)

Insert in Schedule 18, in their appropriate alphabetical order, the words “Television New Zealand Group Limited” *<and “Transmission Holdings Limited”>*.

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New (majority)

Omit from Schedule 18 the words “Television New Zealand Limited”.

10

Official Information Act 1982 (1982 No 156)

Insert in Part II of the First Schedule, in their appropriate alphabetical order, the words “Television New Zealand Group Limited” and “Transmission Holdings Limited”.

Ombudsmen Act 1975 (1975 No 9)

Insert in the First Schedule, in their appropriate alphabetical order, the words “Television New Zealand Limited”, “Television New Zealand Group Limited”, and “Transmission Holdings Limited”.

15

Public Finance Act 1989 (1989 No 44)

Insert in the Fourth and Sixth Schedules, in their appropriate alphabetical order, the words “Television New Zealand Limited” (*“Television New Zealand Group Limited”, and “Transmission Holdings Limited”*).

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State-Owned Enterprises Act 1986 (1986 No 124)

Omit from the First Schedule the words “Television New Zealand Limited”.

25

Omit from the Second Schedule the words “Television New Zealand Limited”.

Schedule 2 s 39(1), (3)(a) and (b)
Land to be transferred from TVNZ to THL

Description	Area (more or less)	Title document	
<i>North Auckland Land District</i>			
Lot 1, Deposited Plan 113371 and Sections 1, 2, and 3 on Survey Office Plan 45895	9.4906 hectares	Certificate of Title 63D/289	5
Section 14, Block III Tangihua Survey District	98.685 hectares	Certificate of Title 241/300	10
Part Lots 3 and 4, Deposited Plan 8837, allotment 566, Parish of Waipareira	1.6890 hectares	Certificate of Title 9B/564	
Allotment 550, Parish of Waipareira	440 square metres	Certificate of Title 3A/1104	15
<i>South Auckland Land District</i>			
Part Rotomahana Parekarangi 3A 3B 5A block	1184 square metres	Certificate of Title 12D/123	20
<i>Hawkes Bay Land District</i>			
Blocks VII and XI, Te Mata Survey District, being Part Lot 24, Deeds Plan 107, more particularly described on Survey Office Plan 6486	2.3435 hectares	Certificate of Title F2/719	25
Block XI, Te Mata Survey District being Part Lot 4 and Parts of Lot 5, Deeds Plan 713, being part Block 12, Te Mata Crown Grant, District Part Te Wharau, and part Kohinurakau Blocks	3.9337 hectares	Certificate of Title E4/1121	30
<i>Wellington Land District</i>			
Lot 1, Deposited Plan 61858	3350 square metres	Certificate of Title 31A/317	35
Situated partly in the City of Wellington and partly in Blocks III Port Nicholson Survey District and Block XI Belmont Survey District, being part section 135 Ohariu District and being also Lot 2 Deposited Plan 27542	29.29 hectares	Certificate of Title 10A/838	40
Situated in the City of Wellington, being Part Section 94, Ohariu District	6.0275 hectares	Certificate of Title 13C/999	45
City of Wanganui, Section 351, Right Bank Wanganui River	2.2763 hectares	Certificate of Title 12C/965	50
County of Masterton, Lot 1 Deposited Plan 59378	6999 square metres	Certificate of Title 32A/765	

Description	Area (more or less)	Title document	
<i>Nelson Land District</i>			
City of Nelson, Section 31 Block 'D', Wakatu District	1801 square metres	Certificate of Title 3C/881	5
<i>Westland Land District</i>			
Rural Section 5640, Block I, Cobden Survey District	600 square metres	Lease 5C/829	
<i>Canterbury Land District</i>			
Block VIII Part Run 284, Waihao Survey District	11.5158 hectares	Certificate of Title 8F/956	10
<i>Otago Land District</i>			
Section 68 Block II, Cairnhill Survey District	2.2210 hectares	Lease 10A/399	
Section 48, Block IX, Tarras Survey District	4800 square metres	Lease 9A/222	15
Section 1, Block IV, Naseby Survey District	6650 square metres	Lease 8D/701	
Sections 31 and 32, Block I and Section 31 Block IV, Kuriwao District	51.3154 hectares	Certificate of Title 3B/435	20
<i>Southland Land District</i>			
Lot 2, Deposited Plan 8310, being Part Section 65 Block VI Waimumu Hundred	13.0840 hectares	Certificate of Title 5A/398	25

Legislative history

11 December 2001	Introduction (Bill 185–1)
18 December 2001	First reading and referral to Commerce Committee
23 April 2002	Reported from Commerce Committee (Bill 185–2)
16 October 2002	Second reading
25, 26 February 2003	Committee of the whole House (Bill 185–3)
