

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 12 September 1989

LAW REFORM (MISCELLANEOUS PROVISIONS) BILL
Proposed Amendments

Hon. W. P. JEFFRIES, in Committee, to move the following amendments:

New clauses 22A to 22D: To insert, after line 31 on page 12, the following clauses:

Broadcasting

22A. Sections to be read with Broadcasting Act 1989—
This section and the next 4 succeeding sections shall be read together with and deemed part of the Broadcasting Act 1989* (in those sections referred to as the principal Act).

22B. Interpretation—Section 54 of the principal Act is hereby amended by inserting, before the definition of the term "overseas person", the following definition:

"Company"—

"(a) Has the meaning given to it by section 2 of the Companies Act 1955; and

"(b) Includes a company incorporated outside New Zealand."

22C. Restriction on broadcasting by overseas person—
The principal Act is hereby further amended by repealing section 61, and substituting the following section:

"61. (1) Subject to subsection (2) of this section, no overseas person shall broadcast programmes in New Zealand.

"(2) Nothing in subsection (1) of this section applies to any company."

22D. Restriction on overseas ownership of broadcaster—Section 62 of the principal Act is hereby amended by adding the following subsections:

"(4) An overseas person shall not be prevented by subsections (1) to (3) of this section—

"(a) From holding any note, debenture, mortgage, or other security under which a company that broadcasts programmes is a debtor or the debtor; or

"(b) From exercising any of the rights or remedies under any note, debenture, mortgage, or other security under

which a company that broadcasts programmes is a debtor or the debtor.

“(5) Where voting rights in a company that broadcasts programmes are conferred by any note, debenture, mortgage, or other security, being rights exercisable in one or more of the following circumstances:

“(a) During a period in which any payment on the note or the debt secured by the debenture, mortgage, or other security is in default:

“(b) On a proposal to reduce the capital of the company:

“(c) On a proposal that affects rights attached to the note, debenture, mortgage, or other security:

“(d) On a proposal to wind the company up:

“(e) On a proposal for the disposal of the whole of the property, business, and undertaking of the company:

“(f) During the winding-up of the company,—
an overseas person shall not be prevented by subsections (1) to (3) of this section from holding those voting rights or from exercising those voting rights.

“(6) The holding of—

“(a) Any note, debenture, mortgage, or other security under which a company that broadcasts programmes is a debtor or the debtor; or

“(b) The holding of any voting rights specified in subsection (5) of this section,—

shall not be, for the purposes of subsection (2) of this section, the control of the exercise of voting power and shall not be, for the purposes of subsection (3) of this section, the holding of a shareholding interest.”

22E. Special provision in respect of ownership by insurance company of shareholding interest in company that broadcasts programmes—Section 65 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) In this section, ‘insurance company’ means a company that is carrying on in New Zealand the business of insurance.”

EXPLANATORY NOTE

Broadcasting

The new clauses 22B to 22D amend Part V of the Broadcasting Act 1989 (which imposes restrictions on broadcasting by overseas persons).

The new clause 22B defines the term “company” for the purposes of Part V of the Broadcasting Act 1989.

The new clause 22c repeals section 61 of the Broadcasting Act 1989, and substitutes a new section. Subsection (2) is new. It provides that the prohibition on overseas persons broadcasting programmes in New Zealand does not apply to companies. Restrictions in relation to companies are contained in sections 62 to 65 of the Broadcasting Act 1989.

The new clause 22d provides that an overseas person—

- (a) May hold any note, debenture, mortgage, or other security under which a company that broadcasts programmes is a debtor or the debtor; and
- (b) May exercise, in relation to certain specified matters, voting rights conferred by any such note, debenture, mortgage, or other security.

The new clause provides, in addition, that the holding of any such note, debenture, mortgage, or other security or the holding of any such voting rights does not, in either case, constitute the control of the exercise of voting power or the holding of a shareholding interest.

The new *clause 22E* amends section 65 of the Broadcasting Act 1989. That section makes special provision in respect of ownership by life insurance companies of shareholding interests in companies that broadcast programmes. The section is no longer to be limited to life insurance companies. The amendment extends the scope of the section so that it will apply in relation to any company that is carrying on in New Zealand the business of insurance.

