



**THE BROADCASTING REGULATIONS 1977,
AMENDMENT NO. 10**

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 5th day of October 1987

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Broadcasting Act 1976, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

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| <ul style="list-style-type: none"> 1. Title and commencement 2. Shareholding interests 3. New regulations inserted <ul style="list-style-type: none"> 20A. Restriction on overseas ownership of sound-radio warrants and sound-radio programme warrants 20B. Special provisions in respect of ownership by overseas person of shareholding interest in company holding | <ul style="list-style-type: none"> a sound-radio warrant or sound-radio programme warrant 20c. Special provision in respect of ownership by life insurance company of shareholding interest in company holding a sound-radio warrant or sound-radio programme warrant |
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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Broadcasting Regulations 1977, Amendment No. 10, and shall be read

together with and deemed part of the Broadcasting Regulations 1977* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the day after the date of their notification in the *Gazette*.

2. Shareholding interests—Regulation 19 of the principal regulations (as substituted by regulation 2 of the Broadcasting Regulations 1977, Amendment No. 7) is hereby amended by omitting the expression “regulation 21A (4)” wherever it appears, and substituting in each case the words “regulations 20A (4) and 21A (4)”.

3. New regulations inserted—The principal regulations are hereby amended by inserting, after regulation 20 (as substituted by regulation 2 of the Broadcasting Regulations 1977, Amendment No. 7), the following regulations:

“20A. Restriction on overseas ownership of sound-radio warrants and sound-radio programme warrants—(1) No overseas person shall be a holder of—

“(a) A sound-radio warrant in respect of a private broadcasting station;
or

“(b) A sound-radio programme warrant.

“(2) No overseas person shall, either alone or in association with any other person, be in a position to exercise control of—

“(a) The operations conducted under or by virtue of—

“(i) A sound-radio warrant in respect of a private broadcasting station; or

“(ii) A sound-radio programme warrant; or

“(b) In the case of a sound-radio warrant held in respect of a private broadcasting station, the management of the private broadcasting station in respect of which the warrant is in force;
or

“(c) In the case of a sound-radio programme warrant, the management of the programmes broadcast under the authority of the warrant; or

“(d) In the case of a sound-radio warrant held in respect of a private broadcasting station or in the case of a sound-radio programme warrant, the selection or provision of programmes to be broadcast under the authority of the warrant.

“(3) No overseas person shall be entitled to exercise or control the exercise of voting power exceeding 5 percent of the total voting powers exercisable by all members of a company that holds—

“(a) A sound-radio warrant in respect of a private broadcasting station;
or

“(b) A sound-radio programme warrant; or

“(c) Both.

*S.R. 1977/11

Amendment No. 1: S.R. 1977/236

Amendment No. 2: S.R. 1977/287

Amendment No. 3: S.R. (Revoked by S.R. 1980/120)

Amendment No. 4: S.R. (Revoked by S.R. 1981/295)

Amendment No. 5: S.R. 1981/295

Amendment No. 6: S.R. 1983/36

Amendment No. 7: S.R. 1985/197

Amendment No. 8: S.R. 1986/204

Amendment No. 9: S.R. 1987/76

“(4) No overseas person shall have, in any company that holds a sound-radio warrant in respect of a private broadcasting station or a sound-radio programme warrant, a shareholding interest or interests (as defined by regulation 19 of these regulations) which, when aggregated with all other shareholding interests that any other overseas person or overseas persons have in that company, exceeds 5 percent of the total voting powers exercisable by all members of that company.

“20B. Special provisions in respect of ownership by overseas person of shareholding interest in company holding a sound-radio warrant or sound-radio programme warrant—(1) Notwithstanding anything in regulation 20A of these regulations, but subject to subclauses (5) and (6) of this regulation, an overseas person may, with the approval of the Tribunal, have, in any company that holds a sound-radio warrant in respect of a private broadcasting station or a sound-radio programme warrant, a shareholding interest or interests (as defined by subclauses (1) to (3) of regulation 19 of these regulations) which, when aggregated with all other shareholding interests that any other overseas person or overseas persons have in that company, exceeds 5 percent but does not exceed 25 percent of the total voting powers exercisable by all members of that company.

“(2) The Tribunal may give its approval under subclause (1) of this regulation only if it is satisfied, on the application of the applicant for, or the holder of, the warrant, that—

“(a) The overseas person would not, if it had such a shareholding interest or such shareholding interests in the company, be a person who would, either alone or in association with any other person, exercise control of—

“(i) The operations conducted under or by virtue of the warrant; or

“(ii) In the case of a sound-radio warrant held in respect of a private broadcasting station, the management of the private broadcasting station in respect of which the warrant is in force; or

“(iii) In the case of a sound-radio programme warrant, the management of the programmes broadcast under the authority of the warrant; or

“(iv) The selection or provision of programmes to be broadcast under the authority of the warrant; and

“(b) The holding of such a shareholding interest or such shareholding interests by the overseas person would not, in all the circumstances, be contrary to the public interest.

“(3) Notwithstanding anything in regulation 20A of these regulations, but subject to subclauses (5) and (6) of this regulation, an overseas person may, with the approval of the Tribunal, have, in any company that holds a sound-radio warrant in respect of a private broadcasting station or a sound-radio programme warrant, a shareholding interest or interests (as defined by subclauses (1) to (3) of regulation 19 of these regulations) which, when aggregated with all other shareholding interests that any other overseas person or overseas persons have in that company, exceeds 5 percent of the total voting powers exercisable by all members of that company if the Tribunal is satisfied, on the application of the holder of the warrant, that the overseas person proposes to dispose of the shareholding

interest or shareholding interests of the overseas person in the company or to reduce that interest or those interests and needs time within which to effect the disposition or reduction.

“(4) Any approval given under subclause (1) or subclause (3) of this regulation may be given either unconditionally or subject to such conditions as the Tribunal thinks fit.

“(5) For the purposes of subclauses (1) to (3) of this regulation, where any overseas person has a shareholding interest (as defined by subclauses (1) to (3) of regulation 19 of these regulations) in a company that has a shareholding interest (as so defined) in another company, that overseas person shall be deemed to have a shareholding interest (as so defined) in that other company (in addition to any other shareholding interests (as so defined) but not to the exclusion of any other person) to the following extent:

“(a) Where the shareholding interest of the overseas person exceeds 25 percent of the total voting power of the first-mentioned company, to the full extent of the shareholding interest of that company in the other company:

“(b) Where the shareholding interest of the overseas person exceeds 5 percent, but does not exceed 25 percent of the total voting power of the first-mentioned company, to the extent of such proportion of the shareholding interest of the first-mentioned company in the other company as the shareholding interest of the overseas person bears to the total voting power of the first-mentioned company.

“(6) Subclause (5) of this regulation shall extend and apply to all shareholding interests (as defined by subclauses (1) to (3) of regulation 19 of these regulations) of an overseas person whether in a single company or in a number of companies, and whether at one remove or through a series of companies (whether subsidiary companies or not) to the intent that the total shareholding interests of an overseas person shall be the aggregate of all that overseas person's shareholding interests (as defined by subclauses (1) to (3) of regulation 19 of these regulations and by this regulation) direct or indirect.

“(7) Any approval given under subclause (1) or subclause (3) of this regulation may at any time be withdrawn by the Tribunal; and any condition subject to which any such approval is given may from time to time be revoked, varied, or added to by the Tribunal.

“20c. **Special provision in respect of ownership by life insurance company of shareholding interest in company holding a sound-radio warrant or sound-radio programme warrant**—(1) Notwithstanding anything in regulation 20A of these regulations, but subject to subclauses (4) and (5) of this regulation, a company within the meaning of the Life Insurance Act 1908, which is carrying on in New Zealand the business of life insurance (in this regulation referred to as the insurance company) shall not, while it continues to carry on such business in New Zealand, be deemed, for the purposes of regulation 20A (4) of these regulations, to have a shareholding interest (as defined by subclauses (1) to (3) of regulation 19 of these regulations) in a company holding a sound-radio warrant in respect of a private broadcasting station or a sound-radio programme warrant if that shareholding interest is held with the approval of the Tribunal.

“(2) The Tribunal may give its approval under subclause (1) of this regulation only if it is satisfied, on the application of the applicant for, or the holder of, the warrant, that—

“(a) The shareholding interest was acquired or is to be acquired by the insurance company out of funds usually held by the insurance company for investment in New Zealand; and

“(b) The insurance company will not, either alone or in association with any other person, exercise control of—

“(i) The operations conducted under or by virtue of the warrant; or

“(ii) In the case of a sound-radio warrant held in respect of a private broadcasting station, the management of the private broadcasting station in respect of which the warrant is in force; or

“(iii) In the case of a sound-radio programme warrant, the management of the programmes broadcast under the authority of the warrant; or

“(iv) The selection or provision of programmes to be broadcast under the authority of the warrant; and

“(b) The holding of the shareholding interest by the insurance company would not, in all the circumstances, be contrary to the public interest.

“(3) Any approval given under subclause (1) of this regulation may be given either unconditionally or subject to such conditions as the Tribunal thinks fit.

“(4) For the purposes of subclauses (1) and (2) of this regulation, where the insurance company has a shareholding interest (as defined by subclauses (1) to (3) of regulation 19 of these regulations) in a company that has a shareholding interest (as so defined) in another company, the insurance company shall be deemed to have a shareholding interest (as so defined) in that other company (in addition to any other shareholding interests (as so defined) but not to the exclusion of any other person) to the full extent of the shareholding interest of that company in the other company.

“(5) Subclause (4) of this regulation shall extend and apply to all shareholding interests (as defined by subclauses (1) to (3) of regulation 19 of these regulations) of the insurance company whether in a single company or in a number of companies, and whether at one remove or through a series of companies (whether subsidiary companies or not) to the intent that the total shareholding interests of the insurance company shall be the aggregate of all the insurance company's shareholding interests (as defined by subclauses (1) to (3) of regulation 19 of these regulations and by this regulation) direct or indirect.

“(6) Any approval given under subclause (1) of this regulation may at any time be withdrawn by the Tribunal; and any condition subject to which any such approval is given may from time to time be revoked, varied, or added to by the Tribunal.”

C. J. HILL,
Acting for Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which implement recommendations of the Broadcasting Tribunal, are designed to ensure that the ownership and control of radio broadcasting in New Zealand stays in New Zealand hands. In many respects the provisions of these regulations parallel provisions that already apply in respect of television broadcasting.

Issued under the authority of the Regulations Act 1936.
Date of notification in *Gazette*: 8 October 1987.
These regulations are administered in the Department of Justice.