



**THE BROADCASTING REGULATIONS 1977,
AMENDMENT NO. 5**

DAVID BEATTIE, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 27th day of October 1981

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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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Broadcasting Regulations 1977, Amendment No. 5, and shall be read together with and deemed part of the Broadcasting Regulations 1977* (hereinafter referred to as the principal regulations).

*S.R. 1977/11

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

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

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

Amendment No. 4: S.R. 1981/33

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

2. New regulations inserted—The principal regulations are hereby amended by inserting, after regulation 7, the following regulations:

“7A. Power of Tribunal to seek applications for sound-radio warrants for F.M. broadcasting stations—(1) The Tribunal may—

“(a) Set provisional coverage objectives for frequency modulation broadcasting stations:

“(b) From time to time call applications for sound-radio warrants in respect of frequency modulation broadcasting stations and, in so doing, specify—

“(i) The number of warrants in respect of which applications are sought; and

“(ii) The provisional coverage objectives of the stations.

“(2) In setting provisional coverage objectives under subclause (1) (a) of this regulation, the Tribunal may consult with interested parties and shall consult with the Post Office, the Corporation, and the Association.

“(3) The Tribunal may provide forms for the purposes of applications for sound-radio warrants in respect of frequency modulation broadcasting stations.

“7B. Power of Tribunal to defer applications for sound-radio warrants—The Tribunal may defer any application for a sound-radio warrant in respect of a broadcasting station for up to 3 years from the date of the filing of the application or of any supplementary information requested by the Tribunal.”

3. Conditions of warrants—Regulation 14 (1) of the principal regulations is hereby amended by adding the words “or to ensure the best use of broadcasting frequencies”.

4. Warrants for frequency modulation broadcasting stations—The principal regulations are hereby amended by inserting, after regulation 14, the following regulation:

“14A. (1) A single sound-radio warrant may be issued in respect of—

“(a) A frequency modulation broadcasting station; or

“(b) Both a frequency modulation broadcasting station and an amplitude modulation broadcasting station.

“(2) Notwithstanding section 72 of the Act, but subject to the proviso to that section and to regulation 16A of these regulations, every sound-radio warrant issued in respect of a frequency modulation broadcasting station shall, unless sooner revoked, continue in force for a period to be specified in the warrant, which period shall not exceed 5 years after the date of the issue of the warrant.

“(3) Where—

“(a) An applicant for a sound-radio warrant in respect of a commercial frequency modulation broadcasting station or in respect of both a commercial frequency modulation broadcasting station and a commercial amplitude modulation broadcasting station is the holder of a sound-radio warrant in respect of a commercial amplitude modulation broadcasting station; and

“(b) The Tribunal is satisfied that the frequency modulation station serves or will serve a significant proportion of the same area as the amplitude modulation broadcasting station,—

it shall, unless the Tribunal determines that there are special circumstances, be a condition of any warrant granted that the applicant surrender the warrant previously held in respect of the commercial amplitude modulation broadcasting station (whether or not the warrant granted authorises the operation of the commercial amplitude modulation broadcasting station).

“(4) Notwithstanding subclause (3) of this regulation, where the Tribunal grants a sound-radio warrant that authorises the operation of a commercial frequency modulation broadcasting station and of a commercial amplitude modulation broadcasting station, the Tribunal may make it a condition of the warrant that the holder of the warrant shall surrender the warrant, to the extent that the warrant authorises the operation of a commercial amplitude modulation broadcasting station, at the expiration of a period to be specified in the warrant, which period shall not exceed 4 years from the date on which the commercial frequency modulation broadcasting station begins broadcasting.

“(5) The Tribunal shall specify in every sound-radio warrant issued in respect of a frequency modulation broadcasting station or in respect of both a frequency modulation broadcasting station and an amplitude modulation broadcasting station, the coverage objectives of the frequency modulation broadcasting station to which the warrant relates.

“(6) It shall be a condition of every sound-radio warrant issued in respect of a frequency modulation broadcasting station that the holder of the warrant observe in respect of that station the coverage objectives specified in the warrant in respect of that station.

“(7) For the avoidance of doubt it is hereby declared that nothing in these regulations excepts sound-radio warrants issued in respect of frequency modulation broadcasting stations from the application of subsections (3) to (5) of section 71 of the Act.”

5. Additional matter to be considered in relation to applications for sound-radio warrants—(1) The principal regulations are hereby amended by revoking regulation 15A (as inserted by regulation 2 of the Broadcasting Regulations 1977, Amendment No. 4), and substituting the following regulation:

“15A. (1) In considering any application for a sound-radio warrant in respect of an A.M. broadcasting station or an F.M. broadcasting station, the Tribunal, before determining whether or not to grant the application, shall have regard to the policy of the Government under which a frequency modulation (F.M.) broadcasting service is to be developed as an integral part of sound-radio broadcasting in New Zealand.

“(2) Nothing in this regulation limits the provisions of paragraphs (a) to (n) of section 80 of the Act.”

(2) The Broadcasting Regulations 1977, Amendment No. 4 are hereby consequentially revoked.

6. Renewal and amendment of conditions of warrants—Regulation 16 of the principal regulations is hereby amended by adding the following subclauses:

“(5) Notwithstanding section 81 (2) of the Act, where the original term of a frequency modulation broadcasting station warrant is less than 5 years that warrant may, if the Tribunal so authorises, be renewed for a period longer than the original term (but not exceeding 5 years).

“(6) No renewal of a sound-radio warrant issued in relation to both a frequency modulation broadcasting station and an amplitude modulation broadcasting station shall affect any condition imposed under subclause (3) or subclause (4) of regulation 14A of these regulations.

“(7) Upon hearing every application for the renewal of a warrant the Tribunal shall be entitled publicly to review the general conduct of the station, and shall not be confined to considering whether or not breaches of conditions have occurred.

“(8) Nothing in subclause (7) of this regulation affects the grounds on which the term for which a warrant may be renewed may be shortened under section 81 (2) of the Act.”

7. Review of sound-radio warrants for F.M. broadcasting stations—The principal regulations are hereby amended by inserting, after regulation 16, the following regulation:

“16A. (1) On every third renewal of a sound-radio warrant issued in relation to a frequency modulation broadcasting station, the Tribunal shall review the use of the frequency by the holder of the warrant.

“(2) At the conclusion of a review under subclause (1) of this regulation, the Tribunal shall renew the warrant only if it is satisfied that the continued use of the frequency by that holder is in the public interest.

“(3) If the Tribunal is not so satisfied, the warrant shall lapse one year after the date to which it was last renewed.

“(4) This regulation shall have effect notwithstanding anything in section 81 (3) of the Act.”

8. Fees payable in respect of warrants—Regulation 17 of the principal regulations is hereby amended by revoking paragraph (f), and substituting the following paragraph:

“(f) On an application for or on the granting of a short term broadcasting authorisation under section 76 of the Act, \$50 if the station to which the authorisation relates is a station in respect of which a warrant is in force under the Act and \$100 in any other case.”

9. “Prescribed interest” defined—(1) Regulation 18 (b) of the principal regulations is hereby amended by omitting the expression “25”, and substituting the expression “15”.

(2) Regulation 18 (c) of the principal regulations is hereby amended by revoking subparagraph (iii), and substituting the following subparagraph:

“(iii) The selection or provision of programmes to be broadcast by that station, other than programmes provided under a network arrangement approved by the Tribunal; or”.

(3) Regulation 18 (d) of the principal regulations is hereby amended by omitting the expression “25”, and substituting the expression “15”.

10. Shareholding interests—Regulation 19 (4) of the principal regulations is hereby amended by omitting from paragraph (a), and also from paragraph (b), the expression “25”, and substituting in each case the expression “15”.

11. Restrictions on interests in warrants—The principal regulations are hereby amended by revoking regulation 20, and substituting the following regulation:

“20. (1) Except as provided in subclause (2) of this regulation, and subject to subclause (3) of this regulation, no person shall have a prescribed interest in more than 2 warrants for private broadcasting stations in New Zealand.

“(2) A person may, with the consent of the Tribunal, have a prescribed interest in 5, but not more than 5, private broadcasting stations in New Zealand.

“(3) Notwithstanding subclauses (1) and (2) of this regulation, no person shall have a prescribed interest—

“(a) In more than one commercial frequency modulation private broadcasting station serving substantially the same area as another commercial frequency modulation private broadcasting station; or

“(b) In more than one commercial amplitude modulation private broadcasting station serving substantially the same area as another commercial amplitude modulation private broadcasting station,—

without the consent of the Tribunal, which consent shall be given only in special circumstances.”

12. Saving in respect of “prescribed interests”—(1) Subject to subclause (2) of this regulation, where, immediately before the commencement of these regulations, a person—

(a) Was entitled to exercise or control the exercise of voting power exceeding 15 percent but not exceeding 25 percent of the total voting powers exercisable by all members of a company holding a warrant; or

(b) Had a shareholding interest or interests, as defined by regulation 19 of the principal regulations (as that regulation stood immediately before the commencement of these regulations), which, when aggregated, exceeded 15 percent but did not exceed 25 percent of the total voting powers exercisable by all members of a company holding a warrant,—

that person shall, while he continues to exercise or control the exercise of such voting power or to have that shareholding interest or those shareholding interests, be deemed, notwithstanding anything in regulations 18 to 20 of the principal regulations (as amended by these regulations), not to have a prescribed interest in any warrant held by the company.

(2) Where a person to whom subclause (1) of this regulation applies wishes to increase the number of warrants in which he has a prescribed interest (as defined in regulations 18 and 19 of the principal regulations as amended by regulations 9 and 10 of these regulations) he may, notwithstanding subclause (1) of this regulation, increase that number only in accordance with regulation 20 of the principal regulations (as enacted by regulation 11 of these regulations).

P. G. MILLEN,
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 make a number of important amendments to the Broadcasting Regulations 1977.

In particular these regulations—

- (a) Make provision for the introduction of FM broadcasting;
- (b) Make provision for the alteration of frequencies to ensure the best use of frequencies;
- (c) Reduce, subject to a savings provision, what constitutes a “prescribed interest” in respect of a private broadcasting station;
- (d) Increase the number of private broadcasting stations in respect of which a person may have a “prescribed interest”;
- (e) Alter the fees payable in respect of short-term broadcasting authorisations.

Issued under the authority of the Regulations Act 1936.
Date of notification in *Gazette*: 28 October 1981.