



THE BROADCASTING REGULATIONS 1977, AMENDMENT NO. 9

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 23rd day of March 1987

Present:

THE HON. R. O. DOUGLAS PRESIDING IN COUNCIL

PURSUANT to section 98 of the Broadcasting Act 1976 (as amended by section 32 (1) of the State-Owned Enterprises Act 1986), His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Broadcasting Regulations 1977, Amendment No. 9, 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 1st day of April 1987.

2. New Part VIA inserted—The principal regulations are hereby amended by inserting, after Part VI, the following Part:

“PART VIA—PUBLIC BROADCASTING FEES

“28A. **Interpretation**—In this Part of these regulations, unless the context otherwise requires,—

“‘Collection agent’ means any person who may collect or assist in collecting public broadcasting fees under an agreement or arrangement that the Corporation has entered into with that person under section 51A (3) of the Act:

“‘Colour television set’ means any equipment capable of displaying in colour as well as in black and white television programme broadcasts:

“‘Licence fee’ means the fee prescribed by the Radio Regulations 1970 for any television licence:

“‘Monochrome television set’ means any set of equipment capable of displaying only in black and white television programme broadcasts:

“‘Premises’ means any building, site, vehicle, vessel, or structure, or any group of buildings within the same site or boundary and forming part of the same establishment, or any part of any building or site under separate occupation or tenancy; but any room, suite of rooms, flat, or apartment rented or engaged by guests, or occupied by members of the staff, in any hotel, motel, hostel, club, or lodginghouse, and any family or staff quarters or private residences at orphanages, hospitals, schools, or other institutions shall be regarded as separate premises:

“‘Public broadcasting fees’ means public broadcasting fees payable pursuant to these regulations:

“‘Television dealer’ means any person who, in the capacity of manufacturer, wholesaler, or retailer, sells, offers for sale, or has in that person’s possession for sale, in the way of that person’s business, any television set:

***S.R. 1977/11**

- Amendment No. 1: S.R. 1977/296
- 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. 1983/86
- Amendment No. 7: S.R. 1985/197
- Amendment No. 8: S.R. 1986/204

“Television hirer’ means any person who hires out, in the way of that person’s business, any television set:

“Television licence’ means any television broadcast receiving station licence issued under the Radio Regulations 1970.

“28B. Public broadcasting fees—Subject to these regulations, public broadcasting fees of the amounts specified in these regulations shall be payable to the Corporation in accordance with these regulations by persons who own, possess, hire, or use television sets.

“28C. Amounts of public broadcasting fees—(1) Subject to subclauses (2) and (3) of this regulation, the amounts of the public broadcasting fees payable in respect of television sets shall be as follows:

“(a) In the case of a colour television set, \$65 per annum:

“(b) In the case of a monochrome television set, \$35 per annum.

“(2) Where television sets are let out on hire, the amounts of the public broadcasting fees payable in respect of those sets shall be as follows:

“(a) In the case of a colour television set, \$5.42 a month:

“(b) In the case of a monochrome television set, \$2.92 a month.

“(3) Any public broadcasting fee prescribed by subclause (1) of this regulation may be paid in respect of a period of less than one year only with the consent of the Corporation but where it is so paid the amount payable in respect of each month of the period shall be as follows:

“(a) In the case of a colour television set, \$5.42 a month:

“(b) In the case of a monochrome television set, \$2.92 a month.

“(4) The fees prescribed by this regulation are exclusive of any goods and services tax that is payable under the Goods and Services Tax Act 1985.

“28D. Liability of owners and television hirers—(1) Subject to subclause (2) of this regulation, the owner of a television set shall be the person primarily liable for the payment of the public broadcasting fee payable in respect of that television set.

“(2) Where a television set is let out on hire, the person primarily liable for the payment of the public broadcasting fee payable in respect of that television set shall be the television hirer.

“28E. Special provisions in relation to liability of television hirers—(1) A television hirer shall not be liable to pay a public broadcasting fee in respect of any colour television set let out on hire if that television hirer satisfies the Corporation that the person to whom the television set is let out on hire has paid, for a period that equals or includes the period of hire, a public broadcasting fee (no part of which has been refunded) for a colour television set situated on the same premises as the television set so let out on hire.

“(2) A television hirer shall not be liable to pay a public broadcasting fee in respect of any monochrome television set let out on hire if that television hirer satisfies the Corporation that the person to whom the television set is let out on hire has paid, for a period that equals or includes the period of hire, a public broadcasting fee (no part of which has been refunded) for either a colour television set or a monochrome television set situated on the same premises as the television set so let out on hire.

“(3) A television hirer shall not be liable to pay a public broadcasting fee in respect of any television set let out on hire if that television hirer

satisfies the Corporation that the person to whom the television set is let out on hire is a person who would not be liable to pay a public broadcasting fee in respect of that television set if that television set were owned by that person.

“28F. Liability of persons who use or possess television sets—(1) Where in any year, or, in the case of a television set let out on hire, in any month, any person uses or possesses a television set that person shall be liable to pay the public broadcasting fee payable in respect of that television set.

“(2) Notwithstanding anything in subclause (1) of this regulation, a person who uses or possesses a television set shall not be liable to pay a public broadcasting fee in respect of the use or possession of that television set if that person satisfies the Corporation either—

“(a) That a public broadcasting fee has been paid for the year or month in respect of that television set; or

“(b) That no public broadcasting fee is payable in respect of that television set.

“(3) Notwithstanding anything in subclause (1) of this regulation, a guest in a hotel, motel, hostel, club, guest house, or lodginghouse who uses a television set—

“(a) Situated in that hotel, motel, hostel, club, guest house, or lodginghouse; and

“(b) Provided by the management of that hotel, motel, hostel, club, guest house, or lodginghouse, either directly or under an arrangement with a television hirer,—

shall not be liable to pay a public broadcasting fee in respect of the use of that television set.

“28G. Time for payment—(1) Where any person who is not the owner of a television set in respect of which a public broadcasting fee is payable becomes the owner of such a television set, a public broadcasting fee shall become due and payable by that person in respect of that television set for the year beginning on the 1st day of the month next following the month in which that person becomes the owner of that television set and that person shall pay that fee on or before that day.

“(2) Where any television hirer lets a television set out on hire for a period not exceeding one month, the public broadcasting fee payable in respect of that television set for one month shall become due and payable by that television hirer in respect of that television set for that period and that television hirer shall pay that fee on or before the 10th working day of the month next following the beginning of that period.

“(3) Where any television hirer lets a television set out on hire for a period exceeding one month, a public broadcasting fee shall become due and payable by that television hirer in respect of that television set for the month beginning on the 1st day of the month next following the month in which the television hirer lets that television set out on hire and that television hirer shall pay that fee on or before the 10th working day of that month next following.

“(4) Where any person who is not liable to pay a public broadcasting fee becomes liable, under regulation 28F of these regulations, to pay a public broadcasting fee by reason of that person’s possession or use of a television set, that public broadcasting fee shall become due and payable in

respect of that television set for the month beginning on the 1st day of the month next following the month in which that person first takes possession of or first uses that television set and that person shall pay that fee on or before that day.

“(5) Where any person has paid a public broadcasting fee for any period in that person’s capacity as the owner of a television set and that person is, on the expiration of that period, still the owner of a television set in respect of which a public broadcasting fee is payable, that person shall, not later than the 1st day of the month next following the expiration of that period, pay a further public broadcasting fee to the Corporation for the year beginning on the day after the date on which that period expired.

“(6) Where a television set is let out on hire by a television hirer for a period exceeding one month, that television hirer shall, subject to subclause (3) of this regulation, pay to the Corporation, in each month of that period, a public broadcasting fee in respect of that television set for each such month, which fee shall be payable not later than the 10th working day of the month for which it is paid.

“(7) In any other case where a person becomes liable for the payment of a public broadcasting fee, that person shall pay the amount of the fee to the Corporation not later than the 1st day of the month next following the month in which that person becomes liable for the payment of that fee.

“(8) It shall not be necessary for the Corporation to issue a demand for payment of any public broadcasting fee.

“28H. **Provisions relating to liability for public broadcasting fees**—(1) With respect to payment of the public broadcasting fees, the following provisions shall apply:

“(a) Where a public broadcasting fee is paid for any period in respect of a television set situated in a family residence, that fee shall, for that period, be sufficient to cover all television sets in that residence other than sets owned, possessed, or used by tenants or lodgers occupying part of that residence or living in that residence:

“(b) Where a public broadcasting fee is paid for any period in respect of a television set situated at a person’s family residence, that fee shall, in addition, be sufficient, for that period, to cover—

“(i) Any sets operated by that person at any holiday residence (not being a hotel, motel, hostel, club, guest house, or lodginghouse) which that person occupies; and

“(ii) Any sets installed in any vehicle or craft (not being a vehicle or craft that carries passengers for hire or reward or is let on hire) owned by that person:

“(c) Where the occupier of a shop, office, or factory pays for any period a public broadcasting fee in respect of a television set situated in that shop, office, or factory, that fee shall be sufficient, for that period, to cover all television sets situated in that shop, office, or factory:

“(d) Where a public broadcasting fee is paid for any period in respect of a television set situated in a school, college, university, technical institute, or teachers’ college, that fee shall, for that period, be sufficient to cover all television sets situated in that school, college, university, technical institute, or teachers’ college:

“(e) Where a public broadcasting fee is paid for any period in respect of a television set in a ship, that fee shall, for that period, be sufficient to cover all television sets in that ship:

“(f) Where a hotel, motel, hostel, club, guest house, or lodginghouse is under one management,—

“(i) The payment of one public broadcasting fee in respect of a television set installed on the premises for the use of the proprietor or manager in the family quarters or a private residence shall be sufficient, for the period to which that fee relates, to cover all television sets installed in the family quarters or private residence for the use of the proprietor or manager; and

“(ii) The payment of one public broadcasting fee in respect of a television set installed on the premises in a bar, common room, or staff room shall be sufficient, for the period to which that fee relates, to cover all television sets installed on the premises in bars, common rooms, and staff rooms; and

“(iii) One public broadcasting fee shall be payable in respect of each television set installed on the premises in a private room of a staff member; and

“(iv) The public broadcasting fees payable in respect of television sets installed in private rooms or units of guests or lodgers shall be calculated as follows:

“(A) Where the number of such television sets does not exceed 2, one public broadcasting fee in respect of each such television set:

“(B) Where the number of such television sets is 3 or more, two public broadcasting fees in respect of each 3 such television sets plus, where 3 is not a divisor of the number of such television sets, one public broadcasting fee in respect of each of the television sets that make up the remainder.

“(2) For the purposes of this regulation, the term ‘public broadcasting fee’ means,—

“(a) In any case where all the television sets are monochrome, the appropriate public broadcasting fee payable in respect of a monochrome television set:

“(b) In all other cases, the appropriate public broadcasting fee payable in respect of a colour television set.

“28i. **Collection agents**—Any public broadcasting fee may be paid to a collection agent, whose receipt shall be a sufficient discharge of liability for the fee.

“28j. **Refund of public broadcasting fee**—(1) Where—

“(a) The circumstances of a person who is the owner of, or a person having the use or possession of, a television set (being a television set for which a public broadcasting fee that is payable annually has been paid) change in such a way as to render the payment of a public broadcasting fee in respect of that television set unnecessary; or

“(b) A person, being the owner of, or a person having the use or possession of, any television set (being a television set for which a public broadcasting fee that is payable annually has been paid)

disposes, or suffers the loss, of the television set, or renders it inoperative,—

the Corporation may, upon request and upon production of a receipt or other proof of payment of the public broadcasting fee, make a refund to that person or that person's personal representative of part of the public broadcasting fee.

“(2) The part to be refunded shall be calculated from the date of the request.

“(3) Where the request is made not more than 3 months after the beginning of the period for which the fee was paid, the refund shall be equivalent to three-quarters of the fee.

“(4) Where the request is made more than 3 months but not more than 6 months after the beginning of the period for which the fee was paid, the refund shall be equivalent to one-half of the fee.

“(5) Where the request is made more than 6 months but not more than 9 months after the beginning of the period for which the fee was paid, the refund shall be equivalent to one-quarter of the fee.

“28K. Power to reduce public broadcasting fee where colour television set substituted for, or used in addition to, monochrome television set—

(1) Where a person who has paid a public broadcasting fee in respect of a monochrome television set subsequently becomes liable to pay a public broadcasting fee in respect of a colour television set situated at the same premises as the monochrome television set, the Corporation may, if the period for which the fee was paid in respect of a monochrome television set ends more than one month after the beginning of the period for which the fee in respect of the colour television set is payable, reduce the fee payable in respect of the colour television set by giving credit, at the rate of \$2.92 a month, for each complete month of the unexpired portion of the period for which the public broadcasting fee in respect of the monochrome television set was paid.

“(2) Notwithstanding anything in subclause (1) of this regulation, where credit is given under that subclause in respect of each complete month of the unexpired portion of the period for which a monochrome television broadcast receiving station licence was issued before the 1st day of November 1986, that credit shall be given under that subclause at the rate of \$2.29 a month.

“28L. Exemptions—(1) The following classes of person shall be exempt from payment of public broadcasting fees, namely:

“(a) Any holder of a warrant under the Act in respect of a television station:

“(b) Any person operating—

(i) A hospital; or

(ii) An orphanage; or

(iii) An institution supported mainly from charitable funds.

“(2) No public broadcasting fee shall be payable in respect of a demonstration television set, being a television set that—

“(a) Is situated at the place of business of a television dealer or television hirer; or

“(b) Is owned by a television dealer or television hirer and is situated at premises (other than the place of business of the television

dealer or television hirer) for demonstration purposes for a period not exceeding 14 days.

“28M. Records to be kept—(1) Every person, being a television dealer or television hirer, shall keep at the person’s place of business a true record of all television sets sold or hired by that person and that record shall set out—

“(a) The date of each sale or hire; and

“(b) Whether the television set is a colour television set or a monochrome television set; and

“(c) Where the television set is sold,—

“(i) The full name, full address, and occupation of the purchaser; and

“(ii) A description of the television set, which description shall include the name of the manufacturer and the manufacturer’s identification number in respect of the television set; and

“(d) Where the television set is hired, the full name and full address of the person to whom the television set is let out on hire.

“(2) Every person, being a television dealer or television hirer, shall at all reasonable times permit any person authorised in that behalf by the Corporation to inspect and make copies of any entries in the record so kept.

“28N. Failure to keep records—Every person commits an offence against these regulations and shall be liable on summary conviction to a fine not exceeding \$500 who, being a television dealer or a television hirer, fails to comply with regulation 28M (1) of these regulations.

“28O. Returns and declarations by television hirers and television dealers—(1) Every person, being a television hirer, shall, within a period of 10 working days after the beginning of each month, forward to the Corporation a return in writing setting out in respect of that month the total number of television sets let out on hire by that person on the 1st day of that month, which return shall be accompanied by such other information relevant to the calculation of the public broadcasting fees payable by that television hirer as may be required by the Corporation.

“(2) Every person, being a television hirer, shall, in addition to the return required by subclause (1) of this regulation, forward to the Corporation a return in writing setting out, in respect of every television set which that person has currently let out on hire,—

“(a) Whether the television set is a colour television set or a monochrome television set; and

“(b) The name and address of the person to whom the television set is let out on hire; and

“(c) The date on which the period of hire commenced.

“(3) The return referred to in subclause (2) of this regulation shall be made within such period (being not less than one month), and at such intervals (being not less than 6-monthly intervals in the case of any individual television hirer), as the Corporation may require.

“(4) Every person, being a television dealer, shall, within a period of 10 working days after the end of each month, forward to the Corporation a return in writing setting out in respect of that month details of the date of

each sale, the full name, full address, and occupation of the purchaser, and a description of the set purchased, which description shall—

“(a) Disclose whether the television set is a colour television set or a monochrome television set; and

“(b) Include—

“(i) The name of the manufacturer; and

“(ii) The manufacturer’s identification number in respect of the television set.

“(5) The returns referred to in subclauses (1), (2), and (4) of this regulation shall be made on forms provided by the Corporation for the purpose or in such other manner as is acceptable to the Corporation but each such return shall contain a declaration, signed by the television hirer or television dealer or by a person authorised by the television hirer or television dealer in that behalf, that the statements made in the return are true and correct.

“(6) A Post Office box number or other similar postal address shall not be a sufficient address for the purposes of any record or return required by these regulations.

“28p. **Failure to provide return**—Every person commits an offence against these regulations and shall be liable on summary conviction to a fine not exceeding \$500 who, being a television hirer or television dealer, fails to comply with any provision of regulation 28o of these regulations.”

3. Transitional provisions in respect of possession or use of television sets—Where any person, being a person—

(a) Who, on the coming into force of these regulations, uses or possesses a television set; and

(b) Who was not liable for a licence fee under the Radio Regulations 1970 in respect of that television set,—

becomes liable, on the coming into force of these regulations, to pay a public broadcasting fee under regulation 28f of these regulations, that fee shall become due and payable on the 1st day of May 1987 and that person shall pay that fee on or before that date.

4. Transitional provisions in relation to persons who hold television licences or who are liable to pay licence fees on the coming into force of these regulations—(1) A person who, on the coming into force of these regulations, is the holder in respect of a colour television set of a colour television broadcast receiving station licence in respect of which a licence fee has been paid shall, for the purposes of these regulations, be deemed to have paid, for the period for which that licence was issued, a public broadcasting fee in respect of that television set.

(2) A person who, on the coming into force of these regulations, is the holder in respect of a monochrome television set of a monochrome television broadcast receiving station licence in respect of which a licence fee has been paid shall, for the purposes of these regulations, be deemed to have paid, for the period for which that licence was issued, a public broadcasting fee in respect of that television set.

(3) Where any person is, immediately before the coming into force of these regulations, liable to pay a licence fee (being a licence fee that became due and payable not earlier than the 1st day of March 1987) or would, but for the revocation of regulation 22 (1) (c) (ii) of the Radio Regulations 1970, become liable on the 1st day of April 1987 to pay a

licence fee, that person shall cease to be liable for the payment of that licence fee but shall become liable to pay to the Corporation on the 1st day of April 1987 a public broadcasting fee equal to the amount of that licence fee.

5. Transitional provision in relation to forms—Any forms used, immediately before the coming into force of these regulations, in the administration, collection, or recording of licence fees may, until the close of the 30th day of September 1987, continue to be used in the administration, collection, or recording of public broadcasting fees without the need to modify such forms.

6. Savings provision in respect of recovery of licence fees—Nothing in these regulations affects the right of the Director-General of the Post Office to recover any licence fee that became payable before the 1st day of March 1987.

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, which come into force on 1 April 1987, provide for the payment of public broadcasting fees to the Broadcasting Corporation of New Zealand. The fees are payable by persons who own, possess, hire, or use television sets.

Public broadcasting fees, which were provided for by the amendments made to the Broadcasting Act 1976 by the State-Owned Enterprises Act 1986, replace the licence fees payable in respect of television sets under the Radio Regulations 1970.

There are a number of differences between the provisions of the Radio Regulations 1970 and the provisions of these regulations, but the annual fees of \$65 per annum in respect of a colour television set and \$35 per annum in respect of a monochrome television set remain the same as those payable, immediately before the coming into force of these regulations, under the Radio Regulations 1970.

The fees prescribed by these regulations do not include the goods and services tax payable.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 26 March 1987.

These regulations are administered in the Broadcasting Corporation of New Zealand.