



**THE BROADCASTING STATIONS (LEVIES) REGULATIONS
1975**

DENIS BLUNDELL, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 17th day of March 1975

Present:

THE HON. R. J. TIZARD PRESIDING IN COUNCIL

PURSUANT to sections 21 and 102 of the Broadcasting Act 1973, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Broadcasting Stations (Levies) Regulations 1975.

(2) These regulations shall come into force on the 1st day of April 1975.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“The Act” means the Broadcasting Act 1973:

“Corporation” means Radio New Zealand or Television Service One or Television Service Two established by the Act:

“Council” means the Broadcasting Council of New Zealand established by the Act:

“Financial year” means—

(a) In relation to a broadcasting station operated by a corporation, the period of 12 months ending with the 31st day of March:

(b) In relation to a private broadcasting station, the period of 12 months ending with the 31st day of March or with such other date as may be adopted by the holder of the warrant for that station as the date on which its annual accounting period ends:

“Gross income”, in relation to a broadcasting station, means the gross earnings of the corporation or, as the case may be, of the holder of the warrant, received from all sources during a financial year in respect of the provision or disposal of programmes, advertisements, or other matter broadcast or intended to be broadcast from that station or any other station; and includes the money value of any consideration received otherwise than in cash; and also includes any amount treated as part of the gross income of the station in accordance with subclauses (3) and (4) of this regulation:

“Holder of a warrant” means a person holding a sound radio warrant under Part III of the Act or deemed pursuant to to section 73 (3) of the Act to be the holder of a sound radio warrant:

“Quarter” means—

(a) In relation to a corporation, the period of 3 months ending with the last day of each of the months of March, June, September, and December in each year:

(b) In relation to a private broadcasting station in respect of which a sound radio warrant is deemed to be held pursuant to section 73 (3) of the Act, the period of 3 months ending with the last day of each of the months of March, June, September, and December in each year:

(c) In relation to any other private broadcasting station, each period of 3 months within its annual accounting period.

(2) Except as otherwise provided in subclause (1) of this regulation and unless the context otherwise requires, expressions defined in the Act have, in these regulations, the meanings so defined.

(3) For the purposes of the definition of the term “gross income” in subclause (1) of this regulation, and without limiting its generality, the amount of any discount or commission paid or allowed or agreed to be paid or allowed by a corporation or the holder of a warrant to any person in respect of the provision of programmes, advertisements, or other matter broadcast or intended to be broadcast shall be treated as part of the gross earnings received by the corporation or the holder of the warrant.

(4) Where—

(a) An amount, or part of an amount, earned during any financial year by any person, other than a corporation or, as the case may be, the holder of a warrant for a broadcasting station, by reason of any contract, agreement, or arrangement between the corporation, or, as the case may be, the holder of the warrant, and that other person relating to the provision or disposal of programmes or advertisements or other matter broadcast or intended to be broadcast from a station, would for the purposes of these regulations, if the corporation or the holder of the warrant and that person were the same person, form part of the gross income of the broadcasting station in respect of that financial year; and

(b) A relationship exists between the corporation, or, as the case may be, the holder of the warrant, and the other person (whether by reason of any shareholding or of any contract, agreement, or arrangement, or for any other reason) of such

a kind that the amount or the part of the amount, as the case may be, should in the opinion of the Council be treated for the purposes of these regulations as part of the gross income of the station in respect of that financial year—

the amount or the part of the amount, as the case may be, shall be so treated.

(5) If any question arises whether any amount or part of any amount should under subclause (4) of this regulation be treated as part of the gross income of a station in respect of any financial year, the question shall be determined by the Minister. The decision of the Minister on the question, after he has given a reasonable opportunity to the parties to make representations or, if they or any of them so request, to be heard, shall be final.

3. Annual levy—(1) Every corporation, and every holder of a warrant, shall pay to the Council in respect of each financial year a levy in accordance with this regulation.

(2) The annual levy shall be calculated as follows:

- (a) In respect of each commercial radio station operated under a sound radio warrant—
 - (i) The sum of \$500; and
 - (ii) An amount equal to 1 percent of the gross income of the station:
- (b) In respect of commercial radio stations operated by Radio New Zealand under the Act,—
 - (i) The sum of \$500 for each such station; and
 - (ii) An amount equal to 1 percent of the total gross income of all such stations operated by the corporation:
- (c) In respect of each radio station (not being a commercial station or a station operated under an authorisation granted pursuant to section 87 of the Act), the sum of \$100:
- (d) In respect of television stations operated by Television Service One and Television Service Two respectively—
 - (i) The sum of \$1,750 from each of those corporations; and
 - (ii) From each of those corporations, an amount equal to 1 percent of the total gross income of all television stations which it operates.

4. Payment of levy—(1) Subject to the provisions of these regulations, the annual levy shall be payable by equal quarterly instalments of which the first instalment shall be paid at or before the end of the first quarter that expires after the commencement of these regulations, and succeeding instalments shall be paid at or before the end of each quarter thereafter.

(2) In the case of that portion of an annual levy that is payable under regulation 3 (2) (a) or (b) or (d) hereof in respect of gross income, the following provisions shall apply for the purposes of subclause (1) of this regulation:

- (a) That portion of the levy shall in the first instance be calculated and paid in each year on the amount of the gross income for the previous financial year:
- (b) Where a station had no income for the previous financial year the holder of the warrant or the corporation, as the case may

require, shall make and send to the Council with the first quarterly instalment an estimate of the gross income of the station for the then current financial year. In default of such an estimate the Council may make an estimate of that gross income. The said portion of the levy shall in the first instance be calculated and paid on the amount so estimated by the holder of the warrant or the corporation, or by the Council, as the case may be:

- (c) In either case, the amount of the levy shall be adjusted subsequently in accordance with regulation 5 hereof.
- (3) Every sum due and payable to the Council by the holder of a warrant or by a corporation in respect of the annual levy under these regulations shall be recoverable as a debt due to the Council.

5. Adjustment of levy—(1) Within 6 months after the end of every financial year, the holder of a warrant for a private broadcasting station to which regulation 3 (2) (a) hereof applies shall send to the Council a return of the gross income for that financial year of each such station.

(2) Within 6 months after the end of every financial year, a corporation that operates a broadcasting station to which regulation 3 (2) (b) hereof applies or a television station to which regulation 3 (2) (d) hereof applies shall send to the Council a return of the gross income for that financial year of all such stations.

(3) The return shall be in such form and contain such particulars as may be specified in the rules of the Council under section 14 of the Act, and shall be audited in accordance with those rules.

(4) On receipt of the return the Council shall assess the levy payable under these regulations by the maker of the return in respect of the financial year to which the return relates. The Council shall credit to the maker of the return the total of the amounts paid by it in respect of that financial year in accordance with regulation 4 hereof; and any amount of levy overpaid by it shall forthwith be refunded to it by the Council, and any amount of levy remaining payable by it to the Council shall forthwith be paid by it to the Council.

6. Revocation of warrant—If a warrant for a private broadcasting station is revoked under the Act, the annual levy in respect of that station under these regulations shall be calculated and payable only up to the end of the quarter preceding the date of the revocation.

7. Revocation of regulations—The Broadcasting Stations (Levies) Regulations 1969* are hereby revoked.

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 1975, are made to give effect to section 21 of the Broadcasting Act 1973, under which regulations may be made imposing a levy on broadcasting stations for the purposes of the Act.

The regulations are in substitution for the Broadcasting Stations (Levies) Regulations 1969, and impose levies at rates that are, in most cases, higher than those imposed by the 1969 regulations.

Regulation 2 defines terms used in the regulations.

Regulation 3 imposes the following annual levy for broadcasting stations:

- (a) For each private commercial radio station operated under a sound radio warrant, \$500 plus 1 percent of the "gross income" of the station (as defined in regulation 2 (1), (3), and (4)):
- (b) For commercial radio stations operated by Radio New Zealand under the 1973 Act, \$500 for each such station plus 1 percent of the total gross income of all such stations operated by the corporation:
- (c) For each radio station (not being a commercial station or a station operated under an authorisation granted pursuant to section 87 of the Act), \$100:
- (d) For television stations operated by Television Service One and Television Service Two respectively—
 - (i) The sum of \$1,750 from each of those corporations; and
 - (ii) From each of those corporations, an amount equal to 1 percent of the total gross income of all television stations which it operates.

Regulation 4 sets out the procedure for payment of the levy, which is payable by quarterly instalments. Where part of the levy is based on gross income it is to be calculated and paid in the first instance on the gross income for the previous financial year or, where the station had no income for that year, on an estimate of the gross income for the current financial year. In either case, the levy is to be adjusted when the actual gross income for the current financial year is ascertained under regulation 5.

Regulation 5 provides for an annual return of gross income to be made to the Council within 6 months after the end of every financial year, where the levy is based partly on gross income. After giving credit for payments made in respect of that financial year, any amount overpaid is to be refunded by the Council and any amount remaining payable is to be paid to it.

Regulation 6 provides that if a warrant for a private station is revoked under the Act the annual levy is payable only up to the end of the quarter preceding the date of the revocation.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 20 March 1975.

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