



ANALYSIS

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1976, No. 132

An Act to establish the Broadcasting Corporation of New Zealand and to define its structure, functions, and powers; to establish the Broadcasting Tribunal and to define its functions and powers; and to provide for the establishment and operation of private radio broadcasting stations; and to provide for matters incidental thereto

[9 December 1976]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Broadcasting Act 1976.

(2) This Act shall come into force on the 1st day of February 1977.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Advertising programme” means a programme or part of a programme intended to promote the interests of any person, or to promote any product or service for the commercial advantage of any person, and for which, in either case, payment is made, whether in money or otherwise:

“Association” means the Independent Broadcasters Association Incorporated (formerly known as the Federation of Independent Commercial Broadcasters N.Z. Limited); and, in the event of any change of name of that Association, includes the Association under the name by which it is known for the time being:

- “Broadcasting” means the dissemination of any form of communication by the wireless transmission of writing, signs, signals, pictures, images, and sounds of all kinds by means of Hertzian waves intended to be received by the public either directly or through the medium of relay stations; and “broadcast” has a corresponding meaning:
- “Broadcasting station” does not include a diffusion service:
- “Commercial station” means a broadcasting station from which advertising programmes are broadcast:
- “Corporation” means the Broadcasting Corporation of New Zealand established by this Act:
- “Diffusion service” means a service whereby sounds or visual images are transmitted by the person operating the service to subscribers of the service over wires or other material substance for reception by apparatus designed to receive the transmissions:
- “Director-General”, in relation to any Service, means the Director-General of that Service appointed under this Act:
- “Division” means an operational or administrative unit established by the Corporation to implement its policies:
- “Member”, in relation to the Corporation, means a member appointed under section 4 (2) of this Act:
- “Minister” means the Minister of Broadcasting:
- “Private broadcasting station” means a broadcasting station established or operated by some person other than the Corporation:
- “Programme” includes any signal, announcement, item, communication, picture, or other matter broadcast or intended to be broadcast from a broadcasting station for reception by the public:
- “Radio New Zealand” means the Service called Radio New Zealand established by this Act:
- “Radio station” means a broadcasting station from which sound radio programmes are broadcast:
- “Relay station” means a broadcasting station that receives broadcast programmes from another broadcasting station for the purpose of the transmission of those programmes direct to the public or to another relay station:

“Secretary” means the Secretary of the Broadcasting Corporation of New Zealand appointed under this Act:

“Service” means Radio New Zealand, Television One, or Television Two, or any other service established by the Corporation under this Act:

“Short-wave station” means a broadcasting station operating on high frequency and providing programmes for reception within or beyond New Zealand:

“Television One”, or “TV1”, means the Service called Television One established by this Act:

“Television Two”, or “TV2”, means the Service called Television Two established by this Act:

“Television station” means a broadcasting station from which television programmes are broadcast:

“Tribunal” means the Broadcasting Tribunal established by this Act:

“Warrant” means a warrant in respect of the establishment or operation of a broadcasting station issued under the Broadcasting Authority Act 1968 and in force at the commencement of this Act, or which may be issued by the Tribunal under this Act.

Cf. 1961, No. 117, s. 2; 1968, No. 33, s. 2; 1973, No. 116, s. 2

3. General purposes of Act—(1) In the performance or exercise of their powers, duties, and functions under this Act, the Corporation, each Service, the Tribunal, each Director-General, the Secretary, the Committee of Private Broadcasters, and the holders of warrants in respect of private broadcasting stations shall, so far as they are relevant to their respective powers, duties, and functions, be guided by the following general purposes of this Act:

- (a) To maintain and develop broadcasting, as a system of human communications, to serve the people of New Zealand:
- (b) To obtain, produce, commission, and broadcast a range of programmes which will inform, educate, and entertain:
- (c) To ensure that programmes reflect and develop New Zealand’s identity and culture; and that programmes are produced and presented with due regard to the need for good taste, balance, accuracy, and impartiality, and the privacy of individuals:

- (d) To provide for public broadcasting to be controlled by a corporation acting as a trustee of the national interest, and for each Service to have the maximum practicable independence:
- (e) To provide for the authorisation, control, and operation of private radio stations:
- (f) To provide for the ultimate accountability of the broadcasting system to Parliament through the Minister.

(2) Nothing in subsection (1) of this section shall be construed as affecting or limiting any specific criteria or considerations to which due regard is required to be had under any provision of this Act; and no exercise or performance by the Corporation or any Service or the Tribunal or any Director-General or the Secretary or the Committee of Private Broadcasters or the holder of a warrant in respect of a private broadcasting station of any power, duty, or function shall be liable to be challenged, reviewed, quashed, or called in question in any Court on the ground of alleged failure to be guided by the purposes specified in subsection (1) of this section.

PART I

BROADCASTING CORPORATION OF NEW ZEALAND

Constitution and Procedure

4. Broadcasting Corporation of New Zealand—(1) There is hereby established a corporation to be called the Broadcasting Corporation of New Zealand.

(2) The Corporation shall consist of not less than 7 nor more than 9 members, who shall be appointed by the Governor-General on the recommendation of the Minister, of whom one shall be appointed as Chairman, and one shall be appointed as Deputy Chairman.

(3) The Corporation shall be a body corporate with perpetual succession and a common seal, and shall be capable of acquiring, holding, and disposing of real and personal property, of suing and being sued, and of doing and suffering all such acts and things as bodies corporate may do and suffer.

Cf. 1968, No. 33, s. 3; 1973, No. 116, s. 3

5. Services and divisions of Corporation—The Corporation shall maintain the following Services and divisions—

- (a) A Service to be called Radio New Zealand:
- (b) A Service to be called Television One, which shall operate principally from Wellington and Dunedin:
- (c) A Service to be called Television Two, which shall operate principally from Auckland and Christchurch:
- (d) Such other services as the Corporation may from time to time establish under this Act:
- (e) Such divisions as the Corporation may from time to time establish to give effect to this Act.

6. Terms of office of members of Corporation—(1) Except as otherwise provided by this Act, every member of the Corporation shall be appointed for a term of 3 years, but shall be eligible for reappointment from time to time.

(2) Any one or more of the first appointed members of the Corporation may be appointed for any term of less than 3 years.

(3) Unless he vacates his office under section 8 of this Act, each member may at the request of the Minister continue in office for such period as the Minister determines or until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

Cf. 1968, No. 33, s. 4; 1973, No. 116, s. 4

7. Deputies of members of Corporation—(1) During the absence or incapacity from any cause of the Chairman of the Corporation, or during any vacancy in his office, the Deputy Chairman shall have and may exercise all the functions, duties, and powers of the Chairman.

(2) In any case in which the Minister is satisfied that any member other than the Chairman is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister may appoint a deputy to act for that member during his incapacity.

(3) In the case of the incapacity of the Deputy Chairman, the Minister may appoint another member as his deputy for the period of the incapacity, and that deputy shall have all the functions, duties, and powers of the Deputy Chairman.

(4) No appointment of any such deputy, and no act done by him as such, and no act done by the Corporation while

he is acting as such, shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

Cf. 1968, No. 33, s. 5; 1973, No. 116, s. 5

8. Extraordinary vacancies—(1) Any member of the Corporation may at any time be removed from office by the Governor-General, on the recommendation of the Minister, for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General.

(2) Any member may at any time resign his office by writing addressed to the Minister.

(3) If any member dies, or resigns, or is removed from office, his office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy.

(4) An extraordinary vacancy may be filled by the appointment of a person by the Governor-General on the recommendation of the Minister.

(5) Every person appointed to fill an extraordinary vacancy shall be appointed for the residue of the term for which the vacating member was appointed.

(6) The powers of the Corporation shall not be affected by any vacancy in its membership.

Cf. 1968, No. 33, s. 6; 1973, No. 116, s. 6

9. Meetings of Corporation—(1) The first meeting of the Corporation shall be held on a day to be appointed by the Minister.

(2) Subsequent meetings shall be held at such times and places as the Corporation shall from time to time appoint.

(3) The Chairman of the Corporation, or any 3 members, may at any time call a special meeting.

(4) At any meeting the quorum necessary for the transaction of business shall be 5 members.

(5) The Chairman shall preside at all meetings of the Corporation at which he is present. In the absence of the Chairman, the Deputy Chairman shall preside. In the absence of both the Chairman and Deputy Chairman, the members present shall elect one of their number to preside at that meeting.

(6) All questions arising at any such meeting shall be decided by a majority of the votes cast by the members present.

(7) At any such meeting the Chairman or other person presiding shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.

(8) A resolution in writing signed, or assented to by letter or telegram, by all members of the Corporation then in New Zealand (being not less than 5 members) shall be as valid and effectual as if it had been passed at a meeting of the Corporation duly called and constituted.

(9) Subject to this Act, the Corporation may regulate its procedure in such manner as it thinks fit.

Cf. 1968, No. 33, s. 7; 1973, No. 116, s. 7

10. Committees—(1) The Corporation shall appoint 3 standing committees of its members with a responsibility to the Corporation for Radio New Zealand, Television One, and Television Two, respectively.

(2) In appointing the members of the standing committees, the Corporation shall have regard to the desirability of changing their membership from time to time.

(3) The Corporation may from time to time appoint a committee or committees of its members to assist the Corporation in the transaction of its business or affairs.

(4) The Corporation shall from time to time appoint a committee or committees to advise the Corporation or its Services on matters relating to programmes, and may from time to time appoint other committees to advise the Corporation or its Services on such other matters relating to their functions and powers as are referred to them by the Corporation. Any person appointed to any committee established under this subsection may or may not be a member of the Corporation.

(5) Subject to this Act, to any regulations made under it, and to any general or special directions of the Corporation, any committee appointed under this section may regulate its procedure in such manner as it sees fit.

Cf. 1968, No. 33, s. 8; 1973, No. 116, ss. 8, 50

11. Remuneration and expenses of members of Corporation and committees—(1) The Corporation is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) There shall be paid to the members of the Corporation and to the members of any committee appointed by it (not being members of the Corporation) remuneration by way

of salary, fees, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and that Act shall apply accordingly.

(3) Any money payable under this section shall be paid from the Consolidated Revenue Account out of money appropriated by Parliament for the purpose; and the money so paid shall be repaid to that Account from the Broadcasting Account.

Cf. 1968, No. 33, s. 14; 1973, No. 116, s. 10

12. Directors-General and Secretary may attend or be represented at meetings—(1) Any Director-General or the Secretary or an officer of the Corporation appointed in that behalf by any Director-General or the Secretary may attend a meeting of the Corporation or any committee of its members at the invitation of the chairman of the meeting.

(2) Any person attending a meeting under the authority of this section may, at the invitation of the chairman of the meeting, take part in the deliberations but shall have no vote at the meeting, and shall, if the Corporation or the committee so directs, retire temporarily from the meeting.

Cf. 1973, No. 116, s. 9

General Provisions

13. Members of Corporation not personally liable—No member of the Corporation shall be personally liable for any act done or default made by the Corporation or by any of its members in good faith in the course of its operations.

Cf. 1961, No. 117, s. 52; 1968, No. 33, s. 44; 1973, No. 116, s. 93

14. Contracts of Corporation—(1) Any contract which, if made between private persons, must be by deed shall, if made by the Corporation, be in writing under its seal.

(2) Any contract which, if made between private persons, must be in writing signed by the parties to be charged therewith shall, if made by the Corporation, be in writing under its seal or signed by any person acting on its behalf and under its express or implied authority.

(3) Any contract which, if made between private persons, may be made orally may be similarly made by or on behalf of the Corporation by any person acting under its express or implied authority.

(4) The Corporation may, by writing under its common seal, empower any person, either generally or in respect of any specified matter, to execute on its behalf, in any place in or beyond New Zealand, instruments under or for the purposes of this Act. An instrument executed by such an attorney on behalf of the Corporation shall bind the Corporation, and, if executed as a deed, shall have the same effect as if it were under the common seal.

(5) Notwithstanding anything in the foregoing provisions of this section, no contract made by or on behalf of the Corporation shall be invalid by reason only that it was not made in a manner provided by this section, if it was made pursuant to a resolution of the Corporation or to give effect to a resolution of the Corporation.

(6) The Corporation may from time to time enter into contracts with persons, on such terms and conditions as the Corporation thinks fit, to provide such specified services or perform such specified work as the Corporation may require.

Cf. 1961, No. 117, s. 47; 1968, No. 33, s. 43; 1973, No. 116, ss. 91, 92

15. No other corporation to be formed with similar name— No company or other body shall be incorporated or registered under any Act or otherwise with a name that is identical with the name of the Corporation or any of its Services established under this Act, or that in the opinion of the Registrar of Companies so resembles that name as to be misleading or to be calculated to deceive.

Cf. 1961, No. 117, s. 50; 1973, No. 116, s. 95

16. Application of Town and Country Planning Act 1953— The Corporation shall be deemed to be a local authority for the purposes of the Town and Country Planning Act 1953.

PART II

GENERAL FUNCTIONS, POWERS, AND OBLIGATIONS OF CORPORATION

17. General functions and powers of Corporation—(1) The general functions of the Corporation shall be—

(a) To carry on public broadcasting services, and to develop, extend, and improve those services in the public interest; and in particular—

(i) To ensure that Radio New Zealand provides a radio broadcasting service as far as practicable for the whole of New Zealand:

(ii) To ensure that TV1 and TV2 each provides a television broadcasting service as far as practicable for the whole of New Zealand:

- (b) To advise the Minister in respect of matters relating to broadcasting:
- (c) In consultation with the Association, prepare and promulgate rules prescribing standards and practices for the technical equipment and operation of broadcasting stations:
- (d) To exercise and perform such functions, powers, and duties in relation to broadcasting as are conferred or imposed on it by or under this Act or any other enactment.

(2) The Corporation shall have such powers, rights, and authorities as may reasonably be necessary or expedient to carry out its functions.

(3) Without limiting the generality of subsection (2) of this section, the Corporation may, for the purposes of this Act,—

- (a) Establish, install, erect, alter, reconstruct, operate, and maintain broadcasting studios, transmitters, relay stations, and micro-wave facilities:
- (b) Act in combination or association with any other person or body, whether incorporated or not, and whether in New Zealand or elsewhere, for any of the purposes authorised by this Act.

Cf. 1961, No. 117, s. 10 (1) (a), (d), (f); 1968, No. 33, s. 9 (1) (d); 1973, No. 116, ss. 11 (1) (a), (m), 13 (1), (2) (a), (o), 53 (2) (b)

18. Delegation of functions and powers of Corporation—

(1) The Corporation may from time to time, by resolution, delegate such of its functions and powers under this Act as it thinks fit to—

- (a) Any of its members; or
- (b) Any committee appointed by it under section 10 of this Act; or
- (c) Any Director-General, or to the Secretary, or to any other officer of the Corporation as the holder for the time being of any specified office.

(2) Any such delegation may include the power of delegation conferred by subsection (1) of this section.

(3) Any such delegation may be revoked at any time, and no such delegation shall prevent the exercise of any power by the Corporation.

(4) Any such delegation may be made subject to such conditions and restrictions (if any) as the Corporation thinks fit, and may be made either generally or in relation to any particular matter.

(5) If the Director-General or Secretary or other officer to whom such delegation has been made ceases to hold his office, it shall continue to have effect as if made to the person for the time being holding office as Director-General or Secretary or holding that office, as the case may be, or for the time being exercising the functions of the Director-General or Secretary or that officer.

(6) The fact that the Director-General or Secretary or other officer or any person lawfully acting for the Director-General or Secretary or other officer exercises any power of the Corporation shall, in the absence of proof to the contrary, be sufficient evidence of his authority to do so.

Cf. 1973, No. 116, s. 31

19. Corporation may co-opt specialist advice—The Corporation may invite any person (including any officer of the Post Office or of the Public Service or a representative of any body) who, in the opinion of the Corporation, has expert knowledge concerning any aspect of broadcasting that is likely to be of assistance to the Corporation, to attend any meeting held under this Act and take part in the proceedings.

Cf. 1968, No. 33, s. 39; 1973, No. 116, s. 32

20. Corporation to have regard to Government policy—(1) In the exercise of its functions and powers under this Act, the Corporation shall have regard to the general policy of the Government in relation to broadcasting, and shall comply with any directions given by the Minister to the Corporation by notice in writing pursuant to that policy:

Provided that nothing in this subsection shall be construed as authorising the Minister to give any such notice to the Corporation in respect of a particular programme or a particular complaint.

(2) The Corporation may, in its discretion, publicly announce or refrain from publicly announcing that such a notice has been given by the Minister under subsection (1) of this section.

(3) As soon as practicable after the date of the notice, the Minister shall publish in the *Gazette* and lay before Parliament a copy of every notice under subsection (1) of this section.

Cf. 1961, No. 117, s. 11; 1967, No. 146, s. 3; 1968, No. 33, s. 12

21. Reports of Corporation—(1) As soon as practicable after the 31st day of March in every year, the Corporation shall send to the Minister a report of its operations (including a summary of the activities of each of the Services), together with a copy of its audited accounts for that year and the report of the Audit Office on those accounts.

(2) A copy of the report and of the accounts of the Corporation, together with a copy of the report of the Audit Office on the accounts, shall be laid before Parliament as soon as practicable after their receipt by the Minister.

(3) The Corporation may from time to time send to the Minister such other reports relating to its proceedings and operations as it thinks fit.

Cf. 1968, No. 33, s. 40; 1973, No. 116, s. 33

PART III

FUNCTIONS AND POWERS IN RELATION TO PROGRAMMES, STANDARDS, AND COMPLAINTS

22. Programme functions and powers of Corporation—The programme functions and powers of the Corporation shall be—

- (a) To ensure that each Service operates as a public service to provide and produce, with the maximum practicable independence, programmes which inform, educate, and entertain:
- (b) To establish a system for the gathering of news for television, and a system for the gathering of news for radio; and to make such news available for the Services:

- (c) To negotiate for and purchase or otherwise acquire programmes, and rights or privileges in respect of sports fixtures and other events, occasions, meetings, functions, or incidents of public interest for broadcast by the Services, and to establish procedures for the allocation of such programmes, rights, or privileges to the Services:
- (d) To establish and maintain a library or libraries of such radio, television, and other materials as the Corporation thinks necessary:
- (e) To provide such other services as may be authorised under this Act:
- (f) From time to time to conduct or commission programme, audience research, market, or technical surveys, which may be released to such persons and in such manner and on such terms and conditions as the Corporation thinks fit.

Cf. 1973, No. 116, ss. 11 (1) (c), 13 (2) (c), (j), 37, 40 (1), 42 (1), 43

23. Educational broadcasts—There may from time to time be paid, out of money appropriated by Parliament for the purpose, expenditure incurred in the provision by the Corporation of specific educational broadcasts made for reception and use in educational institutions.

Cf. 1973, No. 116, s. 99 (1) (b)

24. Responsibility of Corporation for programme standards—(1) The Corporation shall be responsible for maintaining, in its programmes and their presentation, standards which will be generally acceptable in the community, and in particular it shall have regard to—

- (a) The provision of a range of programmes which will cater in a balanced way for the varied interests of different sections of the community:
- (b) The need to ensure that a New Zealand identity is developed and maintained in programmes:
- (c) The observance of standards of good taste and decency:
- (d) The accurate and impartial gathering and presentation of news, according to recognised standards of objective journalism:
- (e) The principle that when controversial issues of public importance are discussed, reasonable efforts are

made to present significant points of view either in the same programme or in other programmes within the period of current interest:

(f) The maintenance of law and order:

(g) The privacy of the individual.

(2) Where—

(a) Any cinematograph film has been submitted under the Cinematograph Films Act 1961 or any former Cinematograph Films Act for censorship and approval for exhibition; and

(b) Approval of the film for exhibition has been refused or has been given subject to excisions therefrom—

the Corporation—

(c) In the case of any film in respect of which such approval has been refused, shall not broadcast the film or any part thereof; or

(d) In the case of any film that has been approved for exhibition subject to excisions therefrom, shall not broadcast that film or any part thereof if the film or, as the case may be, that part thereof includes any part of the film required to be excised,—

except with the consent of the Censor of Cinematograph Films and subject to any conditions subject to which the Censor has given his consent.

(3) The Corporation shall ensure, so far as is practicable, that programmes of a like nature on TV1 and TV2 do not wholly or partly coincide.

(4) The Corporation shall be under no civil liability in respect of any failure to comply with any of the provisions of this section.

Cf. 1961, No. 117, s. 10 (2); 1968, No. 33, s. 10 (1); 1973, No. 116, s. 11 (1) (e)

25. Complaints about Corporation's programmes—(1) The Corporation shall receive and consider formal complaints about programmes broadcast by the Corporation where the complainant alleges that the Corporation has failed to comply with any of the provisions of paragraphs (c) to (g) of subsection (1) or with subsection (2) of section 24 of this Act or with any programme rules made under section 26 of this Act, and shall establish procedures for investigating any such complaint.

(2) Every such complaint shall be lodged in writing with the Secretary.

(3) If a complaint is found to be justified, in whole or in part, the Corporation shall take appropriate action and shall inform the complainant in writing of the action taken.

(4) If the complaint is found not to be justified, in whole or in part, the complainant shall be notified of the decision.

(5) If the complainant is dissatisfied with the decision or with the action taken by the Corporation, or if the Corporation has not within 14 days after receiving the complaint notified the complainant in writing of the date on which the complaint will be considered (being within a reasonable time after the lodging of the complaint), the complainant may refer the complaint to the Tribunal to be dealt with under section 67 of this Act.

(6) Where the Minister considers that any programme broadcast by the Corporation has infringed any of the provisions of paragraphs (c) to (g) of subsection (1) or of subsection (2) of section 24 of this Act or of any programme rules made under section 26 of this Act, or that any intended broadcast that has been recorded or filmed will be in breach of any of those provisions, and that in the special circumstances of the case it is in the public interest that the question be determined by the Tribunal, he may refer the matter to the Tribunal, which shall deal with it under section 67 of this Act as if it were a complaint referred to the Tribunal under subsection (5) of this section.

(7) As soon as practicable after referring any matter to the Tribunal under subsection (6) of this section, the Minister shall publish in the *Gazette* and lay before Parliament a notice that he has done so, giving a general outline of the substance of the matter.

(8) Where under subsection (6) of this section the Minister refers to the Tribunal a programme intended to be broadcast, he shall notify the Corporation, and the Corporation shall not broadcast the programme except in accordance with the decision of the Tribunal.

Cf. 1973, No. 116, s. 11 (1) (1)

26. Rules in relation to programme standards—(1) The Corporation shall, subject to regulations made under this Act, establish a standing committee whose principal function shall be to prepare and promulgate rules complying with section 24 of this Act in respect of programmes and advertising.

(2) The standing committee may co-opt any one or more persons whose qualifications or experience are likely, in the opinion of the committee, to be of assistance to the committee in dealing with any matter before the committee. Every such person shall be entitled to attend any meeting or hearing of the committee in respect of the matter and to take part in the proceedings, but shall not be entitled to vote thereon.

(3) The committee, when considering rules in respect of radio broadcasting, shall include one or more representatives of the Association.

(4) Any rules prepared by the committee may apply generally to all broadcasting stations, or may apply only to broadcasting stations of specified types or classes, and may from time to time be varied, amended, or revoked.

(5) In any case in which agreement between the Corporation and the Association cannot be reached in respect of rules relating to radio broadcasting, a further committee shall be appointed by the Corporation comprising an equal number of representatives of the Corporation and of representatives of the Association, with the Chairman of the Tribunal as Chairman of the committee, and the matter shall be reconsidered and determined by that committee. On that reconsideration the Chairman shall not have a deliberative vote, but shall have a casting vote.

(6) Subject to this Act and to any regulations thereunder, the committee may regulate its procedure as it thinks fit.

(7) Pending the making of rules under this section, all rules promulgated by the Broadcasting Council of New Zealand under section 14 of the Broadcasting Act 1973 shall continue in force and have effect as if they had been made under this Act and as if this Act had been in force when they were made.

Cf. 1968, No. 33, s. 10 (2); 1973, No. 116, s. 14

PART IV

NEW ZEALAND SYMPHONY ORCHESTRA

27. Symphony Orchestra—(1) Subject to this Act, the Corporation shall be charged with the control and administration of the New Zealand Symphony Orchestra (hereinafter referred to as the Symphony Orchestra).

(2) Without limiting its functions and powers under this Act, the Corporation shall organise and present concerts to

be given by the Symphony Orchestra for the general public or any section of the general public; and may make the services of the orchestra or of any section of it available, in such manner and on and subject to such terms and conditions as it thinks fit, to persons or bodies engaged in any of the performing arts, for the purposes of public performances.

(3) Without prejudice to its powers under any other provision of this Act, the Corporation may for the purposes of this section, and on such terms and conditions (whether as to salary scales, salaries, allowances, or otherwise) as may be determined by the Corporation, appoint persons to be managers, conductors, musical directors, or members of the Symphony Orchestra, and may, subject to any contract of service, at any time remove any such person from his office or employment.

(4) In any case in which agreement as to salary scales or terms and conditions of employment cannot be reached between the Corporation and such occupational classes as may be established for employees appointed under subsection (3) of this section, the matter shall be referred to the State Services Tribunal for determination under Part III of the State Services Remuneration and Conditions of Employment Act 1969.

(5) Without prejudice to subsection (3) of this section, every person who immediately before the commencement of this Act was employed by the Broadcasting Council of New Zealand as a member of the Symphony Orchestra shall on the commencement of this Act become for the purposes of this section, without further appointment, an employee of the Corporation as a member of that orchestra.

(6) Until the terms and conditions of employment of any person to whom subsection (5) of this section applies are determined under or by virtue of this section, that person shall remain subject to the same terms and conditions of employment (including those applicable to salaries and allowances) as applied to him immediately before the commencement of this Act.

Cf. 1973, No. 116, s. 12

28. Cost of carrying on and maintaining Symphony Orchestra—There may from time to time be paid out of money appropriated by Parliament for the purpose a sum not exceeding two-thirds of the net annual cost of carrying

on and maintaining the Symphony Orchestra, after taking into account all payments made by any persons for the use by them of the services of the orchestra or any section of it and all revenue derived from concerts and public performances of the orchestra or any section of it.

Cf. 1973, No. 116, s. 99 (2) (a)

PART V

POWERS OF CORPORATION IN RESPECT OF NEW ZEALAND LISTENER AND PUBLISHING

29. New Zealand Listener—(1) Subject to this Act, the Corporation shall take over and continue the publication of the *New Zealand Listener*, heretofore published by the Broadcasting Council of New Zealand.

(2) Notwithstanding anything in the Copyright Act 1962, no person shall publish or cause to be published any written information or other written material relating to particulars of programmes, including times of broadcast, intended to be broadcast by the Corporation, except with the consent of the Corporation and on such terms and conditions as the Corporation may impose.

Cf. 1973, No. 116, s. 11 (1) (f)

30. Powers of Corporation in relation to publishing—Without limiting the generality of section 17 (2) of this Act, the Corporation may, for the purposes of this Act, publish or arrange for the publication of such periodicals, pamphlets, or other publications as it may consider of benefit to any persons engaged in broadcasting, or to the Corporation, or to any Service.

Cf. 1973, No. 116, s. 13 (2) (d)

PART VI

MISCELLANEOUS PROGRAMME PROVISIONS

31. Overseas radio services—(1) The Corporation may operate short-wave radio stations within New Zealand, and provide related radio programmes recorded for overseas distribution.

(2) There may from time to time be paid, out of money appropriated by Parliament for the purpose, expenditure incurred in the operation of short-wave services and other overseas programme services established under this section.

Cf. 1961, No. 117, s. 13; 1973, No. 116, ss. 38, 99 (1)

(a)

32. Powers in relation to cultural and educational activities—Without limiting the generality of section 17 (2) of this Act, the Corporation may, for the purposes of this Act—

- (a) Use its facilities and equipment in such manner as it sees fit for the purpose of promoting and assisting in the development and carrying on of those arts and educational and cultural pursuits with which broadcasting may be associated:
- (b) Make grants or pay subsidies to any person or body or educational or cultural organisation engaged in pursuits that contribute to the purposes and development of broadcasting:
- (c) Organise and present concerts and entertainments and engage in promotional activities for the general public or any section of the general public, and for that purpose use its facilities in such manner as it thinks fit:
- (d) In combination or association with any organisation, or on its own account, promote and encourage policies and standards of training and undertake training for persons engaged in or intending to engage in the arts or educational or other activities with which broadcasting is concerned:
- (e) Do all such things as the Corporation considers to be in the interests of the community for the purpose of developing and improving broadcasting talent.

Cf. 1973, No. 116, ss. 13 (2) (m), (n), 53 (2) (i), (j), (k), (m)

33. Use of Corporation's facilities by certain organisations—The Corporation may from time to time enter into such contracts and make such arrangements as it thinks fit to lease or let on hire, for such time or times as it thinks fit, any of its studios, facilities, and equipment to any organisation desiring to engage in broadcasts or to prepare material for the purposes of broadcasting:

Provided that in any case in which any such contract or arrangement would result in a significant departure from the terms and conditions of the warrant for any station from which programmes may be broadcast, the prior approval of the Tribunal shall be obtained.

Cf. 1973, No. 116, s. 54

34. Contracts for provision of services and programmes—The Corporation may from time to time—

- (a) Enter into such contracts and make such arrangements as it thinks fit with any person who, subject to the terms and conditions of any such contract or arrangement, will produce programmes or parts of programmes to be broadcast by the Corporation:
- (b) Negotiate with organisations representing persons who are not officers or employees of the Corporation in respect of terms and conditions of contracts for the provision of services or the performance of work by those persons in programmes.

Cf. 1961, No. 117, s. 14; 1973, No. 116, ss. 13 (2) (k), 56

35. Copyright—(1) The ownership by the Corporation of the copyright in any recorded or written information or other written material relating to a programme contributed under a contract with any person for the provision by him of that programme shall, unless it is otherwise expressly provided in the contract, expire at the end of 30 days after the broadcast of the programme; and on such expiry that person shall be the owner of the copyright.

(2) Subsection (1) of this section shall not be construed to apply to the copyright of the Corporation in respect of a programme contributed by any person in the course of his employment as an officer or employee of the Corporation.

Cf. 1973, No. 116, s. 15 (3), (4)

36. Broadcasts in cases of emergency—(1) In the case of any national, regional, or local emergency, the Corporation shall, if directed to do so by the Minister and in accordance with his directions, broadcast any announcement that he requires to be broadcast.

(2) In broadcasting the announcement the Corporation shall announce that such a requirement has been made.

(3) Nothing in this section shall be construed to limit or affect the Civil Defence Act 1962 or any civil defence plan prepared and approved under that Act, or to relieve the Corporation from any obligation thereunder to announce that any matter is broadcast on the requirement or at the request of any person having authority in that behalf under that Act, or at the request of any other properly constituted authority when life or property is endangered.

Cf. 1961, No. 117, s. 13 (4); 1973, No. 116, s. 86

PART VII

PERSONNEL PROVISIONS

37. Directors-General and Secretary—(1) The Corporation shall from time to time appoint a Director-General of each Service, who shall be the chief executive officer of that Service, and shall also appoint a Secretary of the Corporation.

(2) Each Director-General and the Secretary shall be appointed under a contract of service for such term of office and, subject to any determination of the Higher Salaries Commission, on such terms and conditions as to salary, allowances, and otherwise as the Corporation thinks fit. Any person appointed as a Director-General or the Secretary shall be eligible for reappointment from time to time.

(3) Notwithstanding anything in subsection (2) of this section or in any contract of service, any person appointed as a Director-General or the Secretary—

- (a) Shall retire from office on attaining the age of 65 years:
- (b) May be removed from office by the Corporation for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Corporation.

(4) On the occurrence from any cause of a vacancy in the office of a Director-General or the Secretary (whether by reason of death or resignation or otherwise), and in the case of his absence from duty (from whatever cause arising), the powers, duties, and functions of the Director-General or the Secretary may be exercised and performed by any person authorised in that behalf by the Corporation.

(5) The fact that any person exercises or performs any power, duty, or function of a Director-General or the Secretary with the concurrence of the Corporation shall be conclusive evidence of his authority to do so.

Cf. 1961, No. 117, ss. 16, 16A; 1967, No. 146, s. 4; 1970, No. 49, s. 3; 1971, No. 19, s. 2; 1973, No. 116, s. 57

38. Appointment and dismissal of other officers and employees of Corporation—The Corporation may from time to time appoint such officers and employees (other than a Director-General or the Secretary), including acting or temporary or casual officers or employees, as it thinks necessary for the efficient exercise of its functions and powers, and may, subject to the Corporation's terms and conditions of employment, at any time remove any such officer or employee from his office or employment.

Cf. 1968, No. 33, s. 13; 1973, No. 116, s. 30 (1)

39. Salaries and conditions of employment—(1) Officers and employees of the Corporation, other than those appointed under section 27 (3) or section 37 of this Act or engaged under subsection (3) of this section, shall be paid such salaries and allowances and employed on such terms and conditions of service as may from time to time be prescribed pursuant to section 40 of this Act.

(2) Notwithstanding anything in any other enactment, instruments (as defined in the Wage Adjustment Regulations 1974) in force immediately before the commencement of this Act covering remuneration and allowances and terms and conditions of employment of officers and employees of the Broadcasting Council of New Zealand, Television Service One, Television Service Two, and Radio New Zealand shall, without further authority than this subsection, continue in force and have effect after the commencement of this Act as instruments applying to the officers and employees of the Corporation.

(3) Notwithstanding subsection (1) of this section, officers and employees may, in such circumstances as may be determined by the Corporation, be engaged under individual contracts for such terms of office or appointment, and on such terms and conditions of service, as the Corporation may decide.

Cf. 1961, No. 117, s. 17; 1973, No. 116, s. 58 (2), (4)

40. Application of State Services Remuneration and Conditions of Employment Act 1969—(1) The State Services Remuneration and Conditions of Employment Act 1969 shall, with any necessary modifications and subject to this section, apply to the remuneration and conditions of employment of employees of the Corporation in the same manner as they apply to the remuneration and conditions of employment of employees in the State Services.

(2) For the purposes of the application of the State Services Remuneration and Conditions of Employment Act 1969,—

(a) The State Services Tribunal shall have jurisdiction in relation to the employees of the Corporation, as if that Tribunal were a Single Service Tribunal:

(b) The Corporation shall be the employing authority.

(3) Except as otherwise provided under this Act, this section shall not apply to employees appointed under section 27 (3) or section 37 of this Act or engaged under section 39 (3) of this Act.

41. Industrial Relations Act 1973 not to apply—Nothing in the Industrial Relations Act 1973 shall apply to the Corporation or employees of the Corporation.

Cf. 1973, No. 116, s. 98 (1)

42. Officers and employees of abolished Council and corporations—Subject to this Act, and except as provided by section 27 of this Act, every person who immediately before the commencement of this Act was an officer or employee of the Broadcasting Council of New Zealand, or of Television Service One or Television Service Two or Radio New Zealand established by the Broadcasting Act 1973 (including for the purposes of this section the Secretary of that Council and the Directors-General of those corporations) shall, at the commencement of this Act become, without further appointment than this section, an officer or employee of the Corporation on and subject to the same terms and conditions of employment (including those applicable to salaries and allowances) as applied to him immediately before the commencement of this Act.

Cf. 1973, No. 116, s. 71 (1)

43. Appointment to Public Service of employees of abolished Council and corporations—(1) In this section the term “broadcasting service” means service in the employment of the Broadcasting Council of New Zealand, or of Television Service One or Television Service Two or Radio New Zealand (established by the Broadcasting Act 1973), or the New Zealand Broadcasting Corporation, or the Broadcasting Authority of New Zealand, or any 2 or more of those bodies.

(2) This section shall apply to any person who immediately before the commencement of this Act was an officer or employee of the Broadcasting Council of New Zealand or of Television Service One or Television Service Two or Radio New Zealand (established by the Broadcasting Act 1973), otherwise than as a member of the Symphony Orchestra.

(3) Any person to whom this section applies who is employed and has then been employed continuously for an immediately preceding period of not less than 2 years in the broadcasting service may, at any time within 1 year after the commencement of this Act, be appointed to any vacancy in the Public Service under the State Services Act 1962 as if he were an officer thereof, and section 27 (1) of that Act shall not apply to his appointment; but he shall not have any right of appeal under section 64 of that Act nor, except as provided in subsection (4) of this section, be deemed to be an officer of the Public Service for any other purpose until he has been so appointed:

Provided that any person to whom this section applies may be so appointed if he has then been employed in the broadcasting service continuously for an immediately preceding period of less than 2 years, if that period has been immediately preceded by a continuous period of employment as a probationer or officer of the Public Service and the combined length of those periods of employment has been not less than 2 years.

(4) Where any person to whom this section applies is appointed to any office or position specified in the Third Schedule to the State Services Act 1962, section 64 (2) of that Act shall apply as if he were an officer immediately before that appointment.

(5) Subject to subsection (4) of this section, where pursuant to this section any person employed in the broadcasting service is appointed to any position on the permanent staff of the Public Service as if he were an officer thereof, every officer of the Public Service shall, if the appointment of that officer to the position would have involved his promotion, have the same right of appeal against the person's appointment as if it were one to which section 64 (1) (a) of the State Services Act 1962 applies; and the said section 64, as far as it is applicable and with the necessary modifications, shall apply accordingly.

Cf. 1973, No. 116, s. 97

44. Corporation may provide superannuation subsidy— Subject to section 45 of this Act, the Corporation may, for the purpose of providing a superannuation fund or retiring allowance for any of its officers or employees, subsidise out of its funds any scheme under the National Provident Fund Act 1950 containing provision for employer subsidy or any other employer-subsidised scheme approved by the Minister of Finance.

Cf. 1973, No. 116, s. 30 (2)

45. Superannuation service of officers and employees— (1) This section shall apply for the purposes of any fund or scheme for providing superannuation or retiring allowances.

(2) This section shall apply to any person who, immediately before the commencement of this Act, was an officer or employee of the Broadcasting Council of New Zealand, or of Television Service One or Television Service Two or Radio New Zealand (established by the Broadcasting Act 1973), and who at the commencement of this Act becomes an officer or employee of the Corporation (including for the purposes of this section any Director-General and the Secretary).

(3) The service of any such person as an officer or employee of any of the bodies referred to in subsection (2) of this section shall, for the purposes of this section, be deemed to have been service as an officer or employee of the Corporation.

(4) Notwithstanding anything in this Act, any person who immediately before the commencement of this Act was an officer or employee of any of the bodies referred to in subsection (2) of this section and was a contributor to the Government Superannuation Fund under Part II of the Government Superannuation Fund Act 1956 shall, if at the commencement of this Act he becomes an officer or employee of the Corporation, be deemed to be, for the purposes of the Government Superannuation Fund Act 1956, employed in the Government service so long as he continues in the service of the Corporation; and that Act shall apply to him in all respects as if his service with the Corporation were Government service.

(5) Subject to the Government Superannuation Fund Act 1956, nothing in subsection (4) of this section shall entitle any such person to become a contributor to the Government Superannuation Fund after he has once ceased to be a contributor.

(6) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with subsection (4) of this section, to a person who is in the service of the Corporation and is a contributor to the Government Superannuation Fund, the term "controlling authority", in relation to that person, means the Corporation.

Cf. 1973, No. 116, s. 96

PART VIII

PROPERTY

46. Powers of Corporation in relation to property—Without limiting the generality of section 17 (2) of this Act, the Corporation may, for the purposes of this Act,—

- (a) Erect, alter, or reconstruct any building or structure (including any studio or office building), or any part thereof, for use in connection with broadcasting or in connection with the exercise of its functions and powers:
- (b) Acquire by purchase, lease, sublease, or otherwise any land or interest in land, with or without any building, or any building or structure or any part of any building or structure, or any interest therein:
- (c) With the prior approval of the Minister, dispose of by sale, lease, sublease, or otherwise any land or interest in land, or any building or structure or any part of any building or structure, or any interest therein:

Provided that the Minister may authorise the Corporation to exercise the powers conferred by this paragraph either generally or in such cases, and subject to such conditions, as the Minister specifies:

- (d) Acquire by purchase, bailment, licence, franchise, or otherwise any personal property, rights, or privileges that it thinks of benefit to the Corporation:
- (e) Dispose of by sale, bailment, or otherwise, or turn to account, develop, license, franchise, or otherwise deal with, any personal property, rights, or privileges of the Corporation:

- (f) Make and dispose of recordings and tapes of performances by the Symphony Orchestra or otherwise, either alone or by arrangement with other persons.

Cf. 1961, No. 117, s. 12 (1); 1973, No. 116, ss. 13 (2) (b), (e)-(h), 53 (2) (b)-(e)

47. Use of Corporation's property—(1) Without limiting any other of its powers under this Act, but subject to section 46 (c) of this Act, the Corporation may from time to time make with any person such contracts or arrangements as it thinks fit for that person to have the possession or use, for any purpose which in its opinion will contribute to the purposes of broadcasting, and whether alone or jointly or in common with any other person, of any real property in the possession of the Corporation, or any of its personal property.

(2) Any such contract or arrangement may be by way of lease, sublease, licence, or otherwise howsoever.

(3) Any such contract or arrangement may be entered into on and subject to such terms and conditions (if any) as the Corporation thinks fit (including terms as to the payment of rent or hire or fees or other payments), and may be general or limited to any specified time or period.

Cf. 1961, No. 117, s. 14; 1973, No. 116, s. 55

48. Government Departments may provide services or supplies for Corporation—The Crown, acting through any Government Department, may from time to time, at the request of the Corporation, enter into contracts or arrangements for the execution or provision by the Department for the Corporation of any work or service, or for the supply to the Corporation of any goods, stores, or equipment, on or subject to such terms and conditions as may be agreed upon.

Cf. 1973, No. 116, s. 94

PART IX

FINANCIAL PROVISIONS

49. Functions and powers of Corporation in relation to finance—(1) The Corporation shall from time to time advise the Government as to the rates of fees that should be payable in respect of broadcast receiving-station licences pur-

suant to regulations made under the Post Office Act 1959, whether the licences are issued in respect of television broadcasting or otherwise.

(2) Without limiting the generality of section 17 (2) of this Act, the Corporation may, for the purposes of this Act,—

(a) Advance money to any person or body of persons, whether incorporated or not, carrying on or intending to carry on the business of producing programmes for broadcasting, whether in conjunction with any other business or not, or give, in respect of any advances made to any such person or body as aforesaid by any other person, any guarantee, indemnity, or security:

(b) With the prior approval of the Minister of Finance, subscribe for, purchase, acquire, and hold, and dispose of or otherwise deal with, shares or stock in any company, whether incorporated within or outside New Zealand, carrying on or intending to carry on the business of broadcasting or of providing programmes for broadcasting, whether in conjunction with any other business or not.

Cf. 1961, No. 117, ss. 10 (1) (e), 12 (1) (g), (h); 1973, No. 116, ss. 11 (1) (h), 13 (2) (i), 53 (2) (f), (h)

50. Bank accounts of Corporation—(1) For the purposes of this Act there shall be established at the Bank of New Zealand an account to be known as the Broadcasting Account.

(2) The Corporation may from time to time open at the Bank of New Zealand or at any branch or agency of that Bank such imprest or subsidiary accounts as the Corporation thinks necessary for the exercise of its functions and powers.

(3) Every account under this section shall be operated upon only by cheque or other instrument (not being a promissory note or bill) signed by such person or persons as may from time to time be authorised by the Corporation for that purpose.

Cf. 1973, No. 116, s. 17

51. Money payable into and out of Broadcasting Account—

(1) There shall from time to time be paid into the Broadcasting Account—

- (a) All licence fees payable into the Account pursuant to section 52 of this Act:
 - (b) All other money derived from the operations of the Corporation or otherwise payable into the Account.
- (2) There shall from time to time be paid out of the Broadcasting Account—
- (a) All money required to be expended for the purposes of the exercise of the functions and powers of the Corporation:
 - (b) All other money required to be expended from the Account.

Cf. 1973, No. 116, s. 18

52. Receiving-station licence fees to be paid to Corporation—(1) All fees paid into the Post Office Account in respect of broadcast and television receiving-station licences paid to the Post Office pursuant to regulations under the Post Office Act 1959 shall, without further appropriation than this section, be paid into the Broadcasting Account.

(2) There shall be paid out of the Broadcasting Account to the Post Office the costs incurred by the Post Office in respect of services rendered in connection with the issue of broadcast and television receiving-station licences, and the investigation of complaints of interference by electromagnetic energy affecting broadcasting services within New Zealand.

(3) The amount of the costs payable to the Post Office under subsection (2) of this section shall be determined on a basis agreed upon by the Post Office and the Corporation.

(4) If no agreement is reached under subsection (3) of this section, the Controller and Auditor-General shall appoint an officer of the Audit Department to hold an enquiry and make an award as to the basis upon which the costs are to be determined; and any such award shall be binding on the Post Office and the Corporation.

(5) No person appointed to hold an enquiry and make an award under this section shall be deemed to be an arbitrator within the meaning of the Arbitration Act 1908, and nothing in that Act shall apply to any such enquiry or award.

Cf. 1961, No. 117, s. 23A; 1965, No. 40, s. 6; 1973, No. 116, s. 19

53. Borrowing powers of Corporation—(1) The Corporation may, from to time, borrow money from its bankers by way of overdraft.

(2) Without prejudice to subsection (1) of this section, the Corporation may, from time to time, with the consent of the Minister of Finance and on and subject to such terms and conditions as he thinks fit, borrow money and issue debentures or mortgage or charge any of its real or personal property.

Cf. 1961, No. 117, s. 24; 1973, No. 116, s. 22

54. Advances to Corporation—(1) The Minister of Finance may, from time to time, on behalf of the Crown,—

- (a) Advance money to the Corporation; or
- (b) Give in respect of any advance made to the Corporation by any other person any guarantee, indemnity, or security—

on and subject to such terms and conditions as that Minister thinks fit.

(2) All money required to be paid by the Minister of Finance under this section shall, without further appropriation than this section, be paid out of the Consolidated Revenue Account or out of the National Development Loans Account.

(3) Where any payment under this section is made out of the National Development Loans Account, the authority of the Minister of Finance to borrow money under section 11 of the New Zealand Loans Act 1953 shall be deemed to be extended as if the money so paid had been duly authorised to be transferred from the National Development Loans Account to another fund or account as mentioned in that section.

(4) The Minister of Finance may from time to time, on behalf of the Crown, enter into agreements with the Corporation for the purposes of giving full effect to this section.

Cf. 1961, No. 117, s. 25; 1973, No. 116, s. 23

55. Investment of funds of Corporation—Any money belonging to the Corporation may from time to time be invested—

- (a) In New Zealand Government securities:
- (b) On deposit in any bank or banks approved by the Minister of Finance, or in the Post Office Savings Bank, or with the National Provident Fund Board:
- (c) In any manner, or in any securities, that may from time to time be authorised by the Minister of Finance.

Cf. 1961, No. 117, s. 26; 1973, No. 116, s. 25

56. Estimates of receipts and expenditure—(1) The Corporation shall, for each financial year, prepare an estimate, in a form approved by the Minister of the amount of expenditure for all purposes and the receipts of the Corporation.

(2) The estimate shall be forwarded to the Minister on or before the 1st day of May in the financial year to which it relates.

Cf. 1961, No. 117, s. 29

57. Capital works expenditure programme—(1) The Corporation shall, before the 1st day of May in each financial year, submit to the Minister for his approval a programme of capital works proposed to be undertaken by the Corporation during that financial year.

(2) In the exercise of its functions and powers, the Corporation shall have regard to any directions in writing by the Minister in respect of capital expenditure generally, and shall not undertake capital expenditure in excess of \$200,000 for any particular purpose without the consent of the Minister.

Cf. 1961, No. 117, s. 12 (2), (3); 1970, No. 49, s. 2

58. Unauthorised expenditure—The Corporation may, in any financial year, expend for purposes not authorised by this or any other Act for the time being in force any sum or sums not amounting in the aggregate to more than \$5,000.

Cf. 1968, No. 33, s. 37; 1973, No. 116, s. 26

59. Accounts of Corporation—(1) The Corporation shall cause to be kept true and regular accounts properly recording its financial operations, and shall cause the accounts to be kept in such manner as may be required or approved by the Minister of Finance.

(2) The Corporation shall, as soon as practicable after the 31st day of March in every year, cause the accounts of the Corporation for the financial year ending with that date to be balanced, and a balance sheet, an income and expenditure account, and a statement of the sources and application of funds of the Corporation as at that date to be prepared, together with such other statements of account as may be necessary to show fully the financial position of the Corporation and the financial results of its operations during that financial year.

(3) The Corporation's accounts shall be audited by the Audit Office, which for that purpose shall have all such powers as it has under the Public Revenues Act 1953 in respect of public money and stores, and persons dealing therewith.

Cf. 1973, No. 116, ss. 27, 28

60. Taxation—(1) The income of the Corporation shall be exempt from income tax, except so far as it is derived from—

- (a) The operation of television stations and commercial radio stations:
 - (b) The publication of the *New Zealand Listener*;
 - (c) The carrying on of the Symphony Orchestra.
- (2) The Corporation shall be liable for the payment of land tax.

Cf. 1973, No. 116, s. 101

PART X

BROADCASTING TRIBUNAL

61. Broadcasting Tribunal—(1) There is hereby established a Tribunal to be called the Broadcasting Tribunal.

(2) The Tribunal shall consist of 3 members, who shall be appointed by the Governor-General on the recommendation of the Minister, and of whom one shall be appointed as Chairman.

(3) The person appointed to be Chairman of the Tribunal shall be a barrister or solicitor of not less than 7 years' practice of the Supreme Court, whether or not he holds or has held any judicial office. Any person appointed as Chairman may hold that office concurrently with any other office held by him.

(4) The Tribunal shall have a seal which shall be judicially noticed by all courts for all purposes.

(5) The Tribunal shall be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and, subject to this Act, sections 3, 4, 4A, and 5 to 10 of that Act shall apply accordingly:

Provided that any disputed point of law referred to the Supreme Court under section 10 of that Act shall be heard and determined by the Administrative Division of the Supreme Court.

(6) Except as otherwise provided by this Act, every member of the Tribunal shall be appointed for a term of 3 years, but shall be eligible for reappointment from time to time.

(7) Of the first members of the Tribunal other than the Chairman, one shall be appointed for a term of 1 year and the other shall be appointed for a term of 2 years. In any case a member may be reappointed for a term of 3 years.

(8) Every member of the Tribunal shall, unless he sooner vacates his office under section 63 of this Act, continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

(9) For the purposes of any particular application or other proceeding (not being a complaint) made to or before the Tribunal, the Tribunal may co-opt any one or more persons whose qualifications or experience are likely, in the opinion of the Tribunal, to be of assistance to the Tribunal in dealing with that application or other proceeding.

(10) For the purposes of any particular complaint referred to the Tribunal, the Tribunal shall co-opt 2 persons whose qualifications or experience are likely, in the opinion of the Tribunal, to be of assistance to the Tribunal in dealing with that complaint.

(11) Every person co-opted under this section shall be entitled to attend any meeting or hearing of the Tribunal in respect of that application, complaint, or other proceeding and to take part in the proceedings, but shall not be entitled to vote thereon.

Cf. 1968, No. 33, ss. 3, 4, 15 (1)

62. Deputies of members—(1) In any case in which the Minister is satisfied that any member of the Tribunal is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister may appoint a deputy to act for that member during his incapacity.

(2) In the case of the incapacity of the Chairman of the Tribunal, his deputy may or may not be one of the other members, but shall in any case be a person qualified for appointment as Chairman under section 61 (3) of this Act: and, if the deputy of the Chairman is one of the other members, some other person may be appointed to act as the deputy of that member.

(3) Any deputy appointed under this section shall, while he acts as such, be deemed to be a member of the Tribunal,

and the deputy of the Chairman shall have all the powers of the Chairman.

(4) No appointment of any such deputy and no act done by him as such, and no act done by the Tribunal while any deputy is acting as such, shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

Cf. 1968, No. 33, s. 5

63. Extraordinary vacancies—(1) Any member of the Tribunal may at any time be removed from office by the Governor-General on the recommendation of the Minister for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by written notice given to the Minister.

(2) If any member of the Tribunal dies, or resigns, or is removed from office, his office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy.

(3) An extraordinary vacancy shall be filled by the appointment of a person in the same manner as the appointment of the vacating member.

(4) Every person appointed to fill an extraordinary vacancy shall be appointed for the residue of the term for which the vacating member was appointed.

(5) The powers of the Tribunal shall not be affected by any vacancy in the membership thereof.

Cf. 1968, No. 33, s. 6

64. Members of Tribunal not personally liable—No member of the Tribunal shall be personally liable for any act or default done or made by the Tribunal or by any member thereof in good faith in the course of the operations of the Tribunal.

Cf. 1968, No. 33, s. 44

65. Services for Tribunal—(1) The Department of Justice shall furnish such secretarial, recording, and clerical services as may be necessary to enable the Tribunal to discharge its functions, and the Secretary for Justice shall designate an officer of the Department of Justice to be Registrar of the Tribunal.

(2) The cost of any services provided by the Department of Justice pursuant to this section shall be paid from the Consolidated Revenue Account out of money appropriated by Parliament for the purpose.

(3) A record of the levies collected under section 66 of this Act and the cost of any services provided by the Department of Justice for the Tribunal under this section and for the Committee under section 89 of this Act shall be maintained by that Department and be available in its annual report or otherwise.

66. Levy—(1) For the purpose of providing funds to enable the Tribunal to exercise its functions and powers (including the cost of any services provided by the Department of Justice for the Tribunal under section 65 of this Act) the Governor-General in Council may from time to time impose, by and in accordance with regulations under this Act, a levy on broadcasting stations operating in New Zealand at a rate not exceeding that authorised in the regulations.

(2) For the purpose of providing funds to enable the Committee of Private Broadcasters to exercise its functions and powers (including the cost of any services provided by the Department of Justice for the Committee under section 89 of this Act) the Governor-General in Council may from time to time impose, by and in accordance with regulations under this Act, a levy on private broadcasting stations operating in New Zealand at a rate not exceeding that authorised in the regulations.

(3) The proceeds of any levy imposed by regulations made pursuant to this section shall be paid into the Public Account.

Cf. 1968, No. 33, s. 34

67. Functions and powers of Tribunal—(1) The general functions of the Tribunal shall be—

- (a) To consider and adjudicate upon applications for warrants to establish and operate broadcasting stations and other applications relating to warrants:
- (b) To receive and determine complaints from persons who are dissatisfied with the outcome of complaints made under sections 25 and 91 of this Act:

Provided that the Tribunal may, if it considers that in all the circumstances of the complaint it should not be determined by the Tribunal, decline to determine it:

- (c) To advise the Minister in respect of such matters relating to broadcasting as may be referred to it by the Minister:

- (d) To exercise and perform such other functions, powers, and duties in relation to broadcasting as are conferred or imposed on it by or under this Act or any other enactment.
- (2) The Tribunal may, if it thinks fit, consider and determine any complaint without a formal hearing, but in that case shall have regard to all relevant submissions made to it in writing in relation to the complaint.
- (3) The Tribunal may commission programme, audience research, market, or technical surveys for the purpose of obtaining information necessary for the performance of its functions and not available to the Tribunal from other sources.
- (4) The Tribunal shall not hear or determine any complaint unless and until the complainant signs and lodges with the Registrar of the Tribunal a declaration that legal action will not be taken in respect of the subject-matter of the complaint or the investigation of the complaint by the Corporation or the Tribunal.
- (5) Notice of every decision of the Tribunal on any complaint shall be given to the complainant, and shall be published by the Registrar of the Tribunal in the *Gazette*, and copies of the decision (including its reasons therefor) shall be made available by the Registrar on payment of the prescribed fee.
- (6) In considering and determining any complaint or any application for the grant, renewal, transfer, amendment, revocation, or suspension of any warrant or short-term authorisation, or the imposition of any monetary penalty, it shall be the duty of the Tribunal to act judicially.
- (7) Subject to this section, the procedure of the Tribunal shall be as prescribed by regulations under this Act, or, where there are no such regulations or so far as the regulations do not extend, shall be determined by the Tribunal.
- (8) The Tribunal may from time to time give to the Committee of Private Broadcasters such directions relating to the Committee's functions, powers, and duties as it thinks necessary.
- (9) The Tribunal shall have such powers, rights, and authorities as may reasonably be necessary or expedient to carry out its functions.
- (10) The Tribunal shall not exercise any function or power under this Act in respect of any short-wave station within the meaning of this Act.

68. Tribunal to have regard to Government policy—(1) In the exercise of its functions and powers under this Act, the Tribunal shall have regard to the general policy of the Government in relation to broadcasting, and shall comply with any directions given by the Minister to the Tribunal by notice in writing pursuant to that policy:

Provided that nothing in this subsection shall be construed as authorising the Minister to give any direction in respect of any particular complaint or that would derogate from the duty of the Tribunal to act judicially.

(2) As soon as practicable after the date of the notice, the Minister shall publish in the *Gazette* and lay before Parliament a copy of every notice under subsection (1) of this section.

Cf. 1968, No. 33, s. 12

69. Annual report—(1) The Tribunal shall furnish to the Minister a report of its activities for each year ending with the 31st day of March, as soon as practicable after the end of that year.

(2) A copy of the report shall be laid before Parliament as soon as practicable after its receipt by the Minister.

Cf. 1968, No. 33, s. 40

PART XI

WARRANTS FOR BROADCASTING STATIONS

Requirement for Warrants

70. Warrants required—(1) Before a person (including the Corporation) is granted a licence under the Post Office Act 1959 to establish and operate a broadcasting station (not being a short-wave station or a relay station), he shall obtain a warrant or authorisation under this Part of this Act.

(2) Subject to this Act, no person shall establish or operate a broadcasting station otherwise than in conformity with the terms and conditions of a warrant or authorisation issued by the Tribunal under this Act and for the time being in force.

(3) Notwithstanding subsections (1) and (2) of this section, no warrants shall be issued without the express permission of the Minister in respect of any television station other than for stations of TV1 and TV2 operated by the Corporation.

(4) Any person who, contrary to subsection (1) or subsection (2) of this section, operates a broadcasting station commits an offence, and shall be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$2,000, and where the offence is a continuing one, to a further fine not exceeding \$100 for every day during which the offence has continued or to both imprisonment and fine.

(5) If any company or body corporate operates a private broadcasting station contrary to subsection (1) or subsection (2) of this section, every director and other person acting in the management of the company or body corporate shall, in addition to any penalty to which the company or body corporate may be liable, be liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$400, or to both.

Cf. 1968, No. 33, ss. 16, 19

71. Classification and conditions of warrants—(1) Every warrant under this Part of this Act shall be either—

- (a) A television warrant, meaning thereby a warrant in relation to the operation of a television station; or
- (b) A sound-radio warrant, meaning thereby a warrant in relation to the operation of a broadcasting station other than a television station; and including a shared-frequency warrant as defined in section 75 of this Act.

(2) Every warrant shall specify—

- (a) Whether or not advertising programmes may be broadcast from the station to which the warrant relates:
- (b) In the case of a warrant for a radio broadcasting station, whether or not relay stations may or shall be established or operated in respect of the broadcasting station and the terms or conditions (if any) applicable in respect of any relay station authorised:
- (c) Any undertaking given by the applicant at the hearing which is to constitute a condition of the warrant.
- (d) Such other conditions, including the locality, power, hours of transmission, frequency, and advertising hours accorded to the station to which the warrant relates, and such other matters or conditions as may from time to time be prescribed by or pursuant to any regulations or rules made under this Act.

(3) Every warrant issued in respect of a private broadcasting station shall specify (as a condition of the warrant), in accordance with regulations made under this Act, whether or not the holder may—

- (a) Form or join in forming, or enter or be or become a member of, any network of broadcasting stations, or any other association or organisation of broadcasting stations formed for the purpose of making arrangements for the provision of programmes or the broadcasting of advertisements; or
- (b) Subscribe for or acquire, by itself or any person or company or body corporate on its behalf, any shares or interest in any such network, association, or organisation.

(4) Notwithstanding anything in subsection (3) of this section, the holders of 2 or more warrants may, with the prior approval in writing of the Chairman of the Tribunal, join in a network in respect of a programme or series of programmes covering any specified event of special significance and major public interest.

(5) In this section, the term “network” means the provision of a programme by broadcast on 2 or more broadcasting stations linked for that purpose.

Cf. 1968, No. 33, ss. 22, 25; 1973, No. 116, s. 74

72. Duration of warrants—Subject to this Act, every warrant shall unless, sooner revoked, continue in force until a date 5 years after the date of its issue:

Provided that where application for the renewal of a warrant is duly made under this Act, the warrant shall, where the application for renewal is not disposed of before the date of the expiry of the warrant, continue in force until the application is disposed of, unless the Tribunal, with the approval of the Minister, otherwise directs.

Cf. 1968, No. 33, s. 26; 1973, No. 116, s. 77

73. Provisions as to advertising—Advertising programmes may, in accordance with this Act and any regulations made thereunder, and in compliance with rules made under section 26 of this Act, be broadcast from—

- (a) Any radio station or television station operated by the Corporation from which, in accordance with the warrant in force in respect of the station, advertising programmes may be broadcast:

- (b) Any private broadcasting station from which, in accordance with the warrant in force in respect of the station, advertising programmes may be broadcast.

Cf. 1961, No. 117, s. 46 (1); 1968, No. 33, s. 45; 1973, No. 116, s. 88 (1)

74. Warrants for existing stations—(1) Subject to this Act and any regulations thereunder, every sound-radio warrant or authorisation legally issued and in force at the commencement of this Act shall continue in force subject to the terms and conditions applicable to the warrant or authorisation at that date.

(2) As soon as practicable after the date of the commencement of this Act, the Corporation shall forward to the Tribunal a list of all broadcasting stations (other than television relay stations) established and operated by the Corporation at that date.

(3) Every such list shall contain such particulars as the Tribunal may require in order to give effect to section 71 of this Act and any regulations made under this Act.

(4) Upon receipt of the list referred to in subsection (2) of this section, the Tribunal shall issue to the Corporation a warrant for each broadcasting station referred to in the list.

(5) Every such warrant shall be subject to the conditions referred to in section 71 of this Act and any regulations made under this Act in accordance with the particulars supplied by the Corporation under subsection (3) of this section and certified by the Secretary.

(6) Pending the issue of a warrant under this section, the Corporation shall be deemed to be the holder of a warrant in respect of each broadcasting station operated by it at the commencement of this Act.

Cf. 1968, No. 33, s. 17; 1973, No. 116, s. 73

75. Shared-frequency warrants—(1) In this section—

“Non-profit making body” means any society, association, or organisation, whether incorporated or not, which is not carried on for the purposes of profit or gain to any proprietor, member, or shareholder and which is, by the terms of its memorandum, articles of association, rules, or other document constituting that society, association, or organisation or governing

its activities, prohibited from making any distribution, whether by way of money, property, or otherwise howsoever, to any such proprietor, member, or shareholder:

“Shared-frequency warrant” means a sound-radio warrant authorising the holder to use a frequency in a specified locality during specified times on specified days of the week.

(2) A shared-frequency warrant may be issued only to a non-profit making body which is—

- (a) A cultural organisation having as its principal purpose activities related to the arts or to a particular ethnic group; or
- (b) An educational institution or body offering non-sectarian courses of instruction; or
- (c) An established religious body proclaiming a recognised faith; or
- (d) A scientific establishment engaged in scientific research or teaching, being research or teaching in fields relating to communications.

(3) Subject to this Act and to the right of renewal conferred by section 81 of this Act, and notwithstanding anything in section 72 of this Act, every shared-frequency warrant shall, unless sooner revoked, continue in force for a period specified in the warrant, being not more than 1 year:

Provided that, if the Tribunal thinks fit, such a warrant may be issued for a probationary period subject to confirmation by the Tribunal for such period as the Tribunal thinks fit, not exceeding 1 year from the date of the issue of the warrant.

(4) Every shared-frequency warrant shall be deemed to be subject to a condition that—

- (a) The holder will not broadcast any programme pursuant to the warrant in a manner contrary to the programme rules made under this Act, and will comply with any other conditions specified by the Tribunal or by or pursuant to any regulations made under this Act; and
- (b) The holder will not broadcast any advertising programme.

(5) The Tribunal shall not grant an application for a shared-frequency warrant—

- (a) Until the Director-General of the Post Office has certified that the application complies with the technical

requirements of the Post Office under the Post Office Act 1959 and the Radio Regulations made under that Act; and

- (b) Unless the applicant has made arrangements to the satisfaction of the Tribunal with other holders of or applicants for shared-frequency warrants in respect of the same broadcasting station for the joint use of the transmission equipment and studio equipment of that broadcasting station.

(6) In considering any application for a shared-frequency warrant, and without limiting the matters that the Tribunal is required or authorised to consider, the Tribunal shall have regard to—

- (a) The public interest; and
- (b) The extent of community support; and
- (c) The ability of the applicant to carry on the proposed service; and
- (d) The type of programmes to be broadcast.

(7) Where the owner of the transmission equipment that is used to broadcast any programme pursuant to a shared-frequency warrant is not also the holder of the warrant, he shall not be under any liability, by reason only of his being the owner of that equipment, in respect of anything published in the course of that broadcast.

(8) Subject to this section, the provisions of this Act relating to warrants shall, with the necessary modifications, apply with respect to every shared-frequency warrant.

76. Short-term broadcasting authorisations—(1) The Tribunal may from time to time grant to any holder of a warrant, or any other person, on application in writing by him, an authorisation in writing permitting, subject to such terms and conditions as the Tribunal thinks fit, the operation of a broadcasting station for any period not exceeding 28 days.

(2) The Tribunal shall not grant an application under this section until the Director-General of the Post Office has certified that the application complies with the technical requirements of the Post Office under the Post Office Act 1959 and the Radio Regulations made under that Act.

(3) Subject to this section, the provisions of this Part of this Act relating to warrants shall, as far as they are

applicable and with the necessary modifications, apply with respect to applications for short-term broadcasting authorisations under this section and to authorisations granted.

Cf. 1968, No. 33, s. 16A; 1971, No. 18, s. 4 (1); 1973, No. 116, s. 87

77. Other Acts not affected—(1) Nothing in this Act shall be so construed as to relieve any person (including the Corporation) from any obligation to obtain and comply with a licence under the Post Office Act 1959 in respect of any broadcasting station or to affect the provisions of that Act or any regulations thereunder with respect to broadcasting stations.

(2) Where a warrant is revoked or suspended under this Act, any licence issued under the Post Office Act 1959 in respect of the broadcasting station to which the warrant relates shall, for the purposes of that Act, be deemed to be revoked or, as the case may require, suspended for the same period as the period of suspension of the warrant.

Cf. 1968, No. 33, s. 46; 1973, No. 116, s. 100

Issue and Control of Warrants

78. Applications and hearings—(1) Every application for a warrant shall be in the prescribed form and shall be forwarded to the Registrar of the Tribunal accompanied by the prescribed fee. A copy of each application shall be forwarded by the Registrar to the Director-General of the Post Office and the Secretary and to the holders of warrants for the time being in force in respect of broadcasting stations already serving the locality proposed to be served, all of whom shall be entitled to make submissions to the Tribunal in respect of the application.

(2) No application for a warrant shall be granted to any person, unless that person is a company or body corporate incorporated in New Zealand.

(3) No application for a warrant shall be granted until the Director-General of the Post Office certifies that the application complies with the technical requirements of the Post Office under the Post Office Act 1959 and the Radio Regulations made under that Act.

(4) Subject to any regulations made under this Act, the Tribunal shall hold a public hearing before it grants, amends, renews, or revokes a warrant, or consents to any transaction

requiring the consent of the Tribunal under section 82 of this Act, or suspends a warrant, or imposes a monetary penalty on a warrant holder under section 83 (4) of this Act.

(5) The Tribunal may, in its discretion, make such decision in relation to matters considered under subsection (4) of this section as it considers appropriate in the circumstances and, subject to section 84 of this Act, any decision shall be final and conclusive.

(6) In considering any matter under subsection (4) of this section, the Tribunal shall have all the powers, duties, and authorities conferred on it by this Act in respect of applications for new warrants, and the provisions of this Act and any regulations made thereunder shall, as far as they are applicable and with the necessary modifications, apply accordingly.

Cf. 1968, No. 33, ss. 20 (1), 23, 31

79. Reasons for decision of Tribunal—When the Tribunal makes any decision against which any person is entitled to appeal under section 84 of this Act, it shall state in writing its reasons for the decision.

Cf. 1968, No. 33, s. 24

80. Matters to be considered—In considering any application for a warrant, the Tribunal, before determining whether or not to grant the application, shall have regard to the following matters, so far as they are applicable:

- (a) The extent to which the proposed service is desirable in the public interest:
- (b) The economic effect which the establishment of the station to which the application relates is likely to have in respect of broadcasting stations already in operation:
- (c) The effect which the establishment of the station to which the application relates may have on broadcasting services provided by the Corporation in the public interest:
- (d) The needs of New Zealand or the locality or localities proposed to be served, in respect of broadcasting services:
- (e) The financial and commercial ability of the applicant to carry on the proposed service:
- (f) The likelihood of the applicant carrying on the proposed service satisfactorily:

- (g) The results of any survey available to the Tribunal:
- (h) The requirement that frequencies be best utilised in the public interest:
- (i) The desirability of avoiding monopolies in the ownership or control of news media:
- (j) The hours during which the applicant proposes to broadcast programmes:
- (k) The extent of advertising matter which the applicant proposes to broadcast:
- (l) The proposed rates and charges to be made in respect of advertising programmes:
- (m) Such matters as may be necessary for the purpose of imposing conditions under section 71 of this Act:
- (n) All relevant evidence or representations received by it at the hearing:
- (o) Such other matters as may be prescribed in regulations in that behalf.

Cf. 1968, No. 33, s. 21

81. Renewal and amendment of conditions of warrants—

(1) Every application for the renewal of a warrant shall be made according to regulations made under this Act.

(2) The renewal of a warrant shall take effect for the same period as the original term of the warrant renewed, except that if the Tribunal is of the opinion that the holder of the warrant has been or is in breach of any condition of his warrant the Tribunal may grant a warrant to take effect for such shorter period as it thinks fit.

(3) Every application for the renewal of a warrant shall be granted by the Tribunal, unless it is of the opinion that sufficient grounds exist for the revocation of the warrant and the holder of the warrant has been notified accordingly.

(4) Subject to section 71 (2) of this Act, the Tribunal during the currency of a warrant may, of its own motion or on the application of the holder of the warrant, amend or revoke any of the terms and conditions of the warrant or add any new terms and conditions which in its opinion are necessary in the public interest:

Provided that no condition shall be amended or added or revoked under this section until the Director-General of the Post Office certifies that the amended or added condition complies with, or, as the case may be, the revocation will not effect, the technical requirements of the Post Office under

the Post Office Act 1959 and the Radio Regulations made under that Act.

Cf. 1968, No. 33, ss. 28, 29; 1973, No. 116, ss. 78, 79, 84 (2)

82. Transfer of warrant—(1) The holder of a warrant shall not assign, sublet, transfer, or otherwise dispose of to any other person, or permit any other person to participate in the benefit of, his warrant, unless—

- (a) That other person is a company or body corporate incorporated in New Zealand; and
- (b) The Tribunal has first consented in writing to the transaction.

(2) No person shall sell, transfer, or otherwise dispose of, or shall mortgage or charge, to any other person, the transmitting apparatus of any private broadcasting station, or any part of it, or any interest in any such apparatus or any part of it, unless—

- (a) That other person is a New Zealand citizen or a company or body corporate incorporated in New Zealand; and
- (b) The Tribunal has first consented in writing to the transaction:

Provided that the consent of the Tribunal shall not be required to any mortgage or charge given to any bank or company incorporated outside New Zealand or to any person who is not a New Zealand citizen, but forthwith after giving any such mortgage or charge the holder of the warrant shall give notice thereof in writing to the Tribunal.

(3) In considering any application for its consent under this section, the Tribunal shall have regard to such of the matters referred to in section 80 of this Act as are relevant to the application.

(4) If the holder of a warrant acts in contravention of this section, he shall be deemed to have committed a breach of the conditions subject to which his warrant was issued.

Cf. 1968, No. 33, s. 27; 1973, No. 116, s. 80

83. Infringements of requirements—(1) Where it appears to the Tribunal that any broadcasting station is being operated in a manner contrary to the programme rules made under this Act and notified to the holder of the warrant issued in respect of that station, the Tribunal, notwithstanding any action taken by the Committee of Private

Broadcasters in respect of private broadcasting stations, may give to the holder such directions in writing as the Tribunal thinks necessary to ensure that the rules are complied with.

(2) If the holder of the warrant fails, within such time as may be specified in the directions, to comply with any directions under this section, or if any matter is broadcast from a broadcasting station contrary to the provisions of any such directions, he shall be deemed to have committed a breach of the conditions of the warrant.

(3) The Tribunal may at any time notify the holder of a warrant that it proposes to impose a monetary penalty on him or to revoke or suspend the warrant on the ground that the broadcasting station to which the warrant relates has not been carried on in conformity with the terms and conditions of the warrant.

(4) If the Tribunal is of the opinion that the broadcasting station has not been carried on in conformity with the warrant, it may, after consideration in accordance with Part X and this Part of this Act, revoke or suspend the warrant for such period as it thinks fit or reduce the term of the warrant, or may impose on the holder a monetary penalty not exceeding \$500.

(5) Notwithstanding the provisions of this section, no warrant held by the Corporation in respect of any broadcasting station shall be suspended or revoked except on the request of the Corporation or with the approval of the Minister.

(6) The amount of any monetary penalty imposed on any holder of a warrant pursuant to this section shall constitute a debt owing by him to the Crown, and shall be recoverable accordingly in any Court of competent jurisdiction.

Cf. 1968, No. 33, ss. 11, 30; 1973, No. 116, s. 75

84. Appeals—(1) Where the Tribunal—

- (a) Refuses an application for a warrant; or
- (b) Refuses an application for the renewal of a warrant; or
- (c) Refuses an application for consent to any transaction requiring the consent of the Tribunal under section 82 of this Act; or
- (d) Amends a warrant; or
- (e) Refuses an application for amendment of a warrant; or
- or
- (f) Revokes a warrant; or
- (g) Suspends a warrant; or
- (h) Reduces the term of any warrant; or

- (i) Imposes a monetary penalty on the holder of a warrant; or
- (j) Grants an application for a warrant in any case where the application was objected to at the hearing by a person who at the time of the hearing was the holder of a warrant—

the applicant, or the warrant holder, or the objector, as the case may be, may appeal to the Supreme Court against the decision of the Tribunal.

(2) Every appeal under this section shall be heard and determined by the Administrative Division of the Supreme Court.

(3) Every such appeal shall be made by giving notice of appeal within 14 days after the date on which the appellant was notified of the decision appealed against.

(4) It shall not be necessary to state in the notice the grounds of the appeal.

(5) The Court shall hear and determine the appeal as if the decision appealed against had been made in the exercise of a discretion.

(6) Subject to subsection (7) of this section, in its determination of the appeal the Court may confirm, reverse, or modify the decision appealed against, and the Court's decision shall be final and conclusive.

(7) The operation of the decision appealed against shall be suspended until the final determination of the appeal. In the case of the revocation or suspension of a warrant by the Tribunal, the warrant shall, if the appeal is not finally determined on or before the expiry of the warrant by effluxion of time, be deemed to be extended until the final determination of the appeal.

(8) Subject to this section, the procedure in respect of the appeal shall be in accordance with the rules of the Court.

Cf. 1968, No. 33, s. 23

Committee of Private Broadcasters

85. Committee of Private Broadcasters—(1) There is hereby established a committee to be known as the Committee of Private Broadcasters (in this Part referred to as the Committee).

(2) The Committee shall consist of a chairman who shall be appointed by the Minister, and 2 members who shall be appointed by the Minister on the nomination of the Association.

(3) For each member of the Committee nominated by the Association there shall be an alternate member nominated by the Association, and appointed by the Minister to the Committee as an alternate member.

(4) In any case in which the Committee is considering matters relating to a broadcasting station in which a member of the Committee has any interest or connection, either financial or by way of employment or in any other way, his place shall be taken for the consideration of those matters by an alternate member, or, in the case of the Chairman, by a person appointed by the Minister under section 86 (1) of this Act.

(5) Except as otherwise provided by this Act, the Chairman of the Committee shall be appointed for a term of 3 years, but may from time to time be reappointed.

(6) Members and alternate members appointed on the nomination of the Association shall be appointed for a term of 1 year, but may from time to time be reappointed.

86. Deputies of members—(1) In the event of the incapacity of the Chairman of the Committee by reason of illness, absence, or any other cause from performing the duties of his office, or if he is incapable of acting in any particular case by section 85 (4) of this Act, the Minister may appoint a deputy to act for him during his incapacity or, as the case may be, for the purposes of that case.

(2) In the event of the incapacity of a member of the Committee (other than the Chairman) by reason of illness, absence, or other cause from performing the duties of his office, or if he is incapable of acting in any particular case by section 85 (4) of this Act, an alternate member shall act in his place; and if no alternate member is available to act by reason of incapacity, illness, absence, or other cause or if he is incapable of acting in any particular case by the said section 85 (4), the Association shall nominate another person whom the Minister may appoint for the period of that incapacity or, as the case may be, for the purposes of that case.

(3) Any deputy appointed under this section, while he acts as such, shall be deemed to be a member of the committee, and the deputy of the Chairman shall have all the powers of the Chairman.

(4) No appointment of a deputy and no act done by him as such, and no act done by the Committee while any deputy

is acting as such, shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

87. Extraordinary vacancies—(1) Any member or any alternate member of the Committee may at any time be removed from office by the Minister for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Minister, or may at any time resign his office by written notice given to the Minister.

(2) If any member or alternate member of the Committee dies or resigns, or is removed from office, his office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy.

(3) Any extraordinary vacancy shall be filled by the appointment of a person in the same manner as the appointment of the vacating member or alternate member.

(4) Every person appointed to fill an extraordinary vacancy shall be appointed for the residue of the term for which the vacating member or alternate member was appointed.

(5) The powers of the Committee shall not be affected by any vacancy in the membership thereof.

88. Members of Committee not personally liable—No member of the Committee shall be personally liable for any act or default done or made by the Committee or by any member thereof in good faith in the course of the operations of the Committee.

89. Services for Committee—(1) The Department of Justice shall furnish such secretarial, recording, and clerical services as may be necessary to enable the Committee to discharge its functions.

(2) The cost of any services provided by the Department of Justice pursuant to this section shall be paid from the Consolidated Revenue Account out of money appropriated by Parliament for the purpose.

90. Functions and duties of Committee—The functions and duties of the Committee shall be—

(a) To investigate allegations made to it of breaches by private broadcasting stations of the conditions of warrants imposed under section 71 or section 75 or

section 76 of this Act, or of the provisions of section 95 of this Act, or of rules made under section 26 of this Act:

- (b) To comply with any directions given to the Committee by the Tribunal.

91. Complaints about private broadcasting stations' programmes—(1) It shall be the duty of the Committee to receive and consider formal complaints about programmes broadcast by private broadcasting stations where a complainant alleges that a programme has failed to comply with the provisions of section 95 of this Act or with any programme rules made under section 26 of this Act.

(2) Every such complaint shall be lodged in writing with the Registrar of the Tribunal appointed under section 65 of this Act.

(3) If a complaint is found to be justified, in whole or in part, the Committee shall recommend appropriate action to the private broadcasting station concerned, and shall inform the complainant in writing of the action recommended.

(4) If the complaint is found not to be justified, in whole or in part, the private broadcasting station concerned and the complainant shall be notified of the decision.

(5) If the complainant is dissatisfied with the recommendation or with the action taken by the private broadcasting station concerned, or if the Committee has not within 14 days after receiving the complaint notified the complainant in writing of the date on which the complaint will be considered (being within a reasonable time after the lodging of the complaint), the complainant may refer the complaint to the Tribunal to be dealt with under section 67 of this Act.

(6) Where the Minister considers that any programme broadcast by a private broadcasting station has infringed any of the provisions of section 95 of this Act or of any programme rules made under section 26 of this Act, or that any intended broadcast that has been recorded will be in breach of any of those provisions, and that in the special circumstances of the case it is in the public interest that the question be determined by the Tribunal, he may refer the matter to the Tribunal, which shall deal with it under section 67 of this Act as if it were a complaint referred to the Tribunal under subsection (5) of this section.

(7) As soon as practicable after referring any matter to the Tribunal under subsection (6) of this section, the Minister

shall publish in the *Gazette* and lay before Parliament a notice that he has done so, giving a general outline of the substance of the matter.

(8) Where under subsection (6) of this section the Minister refers to the Tribunal a programme intended to be broadcast, he shall notify the private broadcasting station concerned, and that station shall not broadcast the programme except in accordance with the decision of the Tribunal.

Cf. 1973, No. 116, s. 11 (1) (1)

92. Information for Committee—(1) Each holder of a warrant in respect of a private broadcasting station or of an authorisation shall furnish to the Committee such information as may be necessary for it to carry out the duties imposed on it by section 90 or section 91 of this Act.

(2) If the holder of a warrant fails to comply with subsection (1) of this section, he shall be deemed to have committed a breach of the conditions subject to which his warrant was issued.

93. Committee to report to Tribunal—(1) Where in the opinion of the Committee a breach of the conditions of a warrant or authorisation by a private broadcasting station has occurred, it shall report the breach and the action taken to remedy it to the Tribunal, except that in the case of a breach of the programme rules it may use its discretion according to the seriousness of the breach.

(2) The Committee shall supply to the Tribunal at such notice and in such terms as the Tribunal may require a report on the Committee's proceedings in respect of any private broadcasting station in regard to which the Tribunal intends to conduct a hearing, or at such other time as the Tribunal may require.

94. Independent Broadcasters Association Incorporated—Nothing in the constitution of the Independent Broadcasters Association Incorporated shall bar or be construed to bar membership of that Association by holders of warrants in respect of private broadcasting stations.

95. Responsibility of private broadcasting stations for programme standards—(1) Private broadcasting stations shall be responsible for maintaining in their programmes and their presentation standards which will be generally acceptable in the community, and in particular shall have regard to—

- (a) The need to ensure that a New Zealand identity is developed and maintained in programmes:
 - (b) The observance of standards of good taste and decency:
 - (c) The accurate and impartial gathering and presentation of news, according to recognised standards of objective journalism:
 - (d) The principle that when controversial issues of public importance are discussed, reasonable efforts are made to present significant points of view, either in the same programme or in other programmes within the period of current interest:
 - (e) The maintenance of law and order:
 - (f) The privacy of the individual.
- (2) Private broadcasting stations shall be under no civil liability in respect of any failure to comply with any of the provisions of this section.

PART XII

MISCELLANEOUS PROVISIONS

96. Remuneration and expenses of members of Tribunal, co-opted persons, and members of Committee—(1) The Tribunal and the Committee of Private Broadcasters are hereby declared to be statutory Boards within the meaning of the Fees and Travelling Allowances Act 1951.

(2) There shall be paid to the members of the Tribunal, to persons co-opted pursuant to section 26 (2) or to subsection (9) or subsection (10) of section 61 of this Act, and to the members of the Committee of Private Broadcasters remuneration by way of salary, fees, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and that Act shall apply accordingly.

(3) Any money payable under this section shall be paid from the Consolidated Revenue Account out of money appropriated by Parliament for the purpose.

Cf. 1968, No. 33, s. 14

97. Abolition of Broadcasting Council of New Zealand, Radio New Zealand, Television Service One, and Television Service Two—(1) The Broadcasting Council of New Zealand, Television Service One, and Television Service Two, and Radio New Zealand established (in each case) by the Broadcasting Act 1973, are hereby abolished.

(2) The Broadcasting Council of New Zealand Account, the Television Service One Main Account, the Television Service Two Account, and the Radio New Zealand Account, each established at the Bank of New Zealand, are hereby abolished, and—

(a) All money standing to the credit of those accounts at the commencement of this Act shall, without further appropriation than this section, be transferred to and form part of the Broadcasting Account established under section 50 of this Act:

(b) All money which, if this section had not been passed, would have been payable into or out of the Broadcasting Council of New Zealand Account, the Television Service One Main Account, the Television Service Two Account, or the Radio New Zealand Account, shall be paid into or out of the Broadcasting Account.

(3) All property, rights, obligations, and liabilities which immediately before the commencement of this Act were vested in or imposed on the Broadcasting Council of New Zealand, or Television Service One, or Television Service Two, or Radio New Zealand (established, in each case, by the Broadcasting Act 1973) shall at the commencement of this Act be deemed to be the property, rights, obligations, and liabilities of the Corporation.

(4) Without prejudice to the foregoing provisions of this section, the Corporation may do all such things as are necessary to complete the winding up of the bodies abolished by subsection (1) of this section in order to give full effect to the provisions of this section.

(5) A District Land Registrar shall, on written application under the seal of the Corporation, register it as the proprietor of any estate or interest in land that is registered in his land registration district and is vested in the Corporation by this section, and shall make such entries in his register and on any outstanding documents of title and generally do all such things as may be necessary to give effect to this section.

(6) No member of any body abolished by this section shall be entitled to compensation for loss of office resulting from the abolition of that body.

Cf. 1973, No. 116, s. 35

98. Regulations—The Governor-General may, from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Regulating the procedures of committees appointed or established by the Corporation or any of them:
- (b) Prescribing forms of application and other forms required under this Act or authorising the Corporation to provide such forms:
- (c) Prescribing any matter relating to the conditions of employment of employees of the Corporation, being any matter not dealt with by any determination or order of the State Services Tribunal under Part VII of this Act:
- (d) Regulating meetings and procedures of the Tribunal and the Committee of Private Broadcasters, including the procedure at hearings conducted by the Tribunal under this Act and the quorum and voting rights at such meetings:
- (e) Prescribing fees payable under Parts X and XI of this Act:
- (f) Prescribing requirements as to the authentication of documents by the Tribunal, the furnishing by it of evidence as to its proceedings, and the issue by it of certificates relating to warrants, authorisations, or consents:
- (g) Prescribing procedures to be followed in respect of applications relating to the granting, renewal, revocation, and amendment of warrants and short-term authorisations and the requirements of the Tribunal as to information to be furnished, necessary to enable it to exercise its functions in relation to such applications, and prescribing or authorising the Tribunal to prescribe such requirements as may be necessary for those purposes:
- (h) Prescribing conditions relating to warrants and authorisations in respect of advertising and other matters:
- (i) Limiting or regulating the ownership or control, or changes in the ownership or control, whether direct or indirect, of private broadcasting stations or their operation or management, and of companies operating or controlling such stations, and the holding, acquisition, or disposal of shares of and stock, debentures, rights, or interests of any kind

in such companies, and prescribing, or authorising the Tribunal to prescribe, such conditions and requirements as may be necessary for any such purposes as aforesaid:

- (j) Regulating the establishment of relay stations:
- (k) Providing for such matters as are contemplated by or necessary for giving effect to the provisions of this Act and for its due administration.

Cf. 1961, No. 117, s. 54; 1968, No. 33, s. 47; 1973, No. 116, s. 102

99. Members of Corporation, etc., not in service of Crown and Corporation not an instrument of Executive Government—(1) No person shall be deemed to be employed in the Government Service for the purposes of the Government Superannuation Fund Act 1956 or in the State Services for the purposes of the State Services Act 1962 or of the State Services Remuneration and Conditions of Employment Act 1969, by reason only of his being a member of or employed by the Corporation or being a member of any committee established by the Corporation or being a member of or co-opted by the Tribunal or being a member of the Committee of Private Broadcasters.

(2) The Corporation is not an instrument of the Executive Government of New Zealand.

100. Transitional provisions—(1) The accounts of the Corporation to be prepared and audited, pursuant to section 59 of this Act, for the financial year ending with the 31st day of March 1977 shall include the financial operations of the Broadcasting Council of New Zealand, Television Service One, Television Service Two, and Radio New Zealand (established in each case by the Broadcasting Act 1973) for the period that commenced on the 1st day of April 1976 and ended with the 31st day of January 1977, as if the Corporation had been established on the 1st day of April 1976 and those operations were operations of the Corporation.

(2) The report of the Corporation for the year ending with the 31st day of March 1977 required by section 21 of this Act to be sent to the Minister shall include a summary of the activities for the period that commenced on the 1st day of April 1976 and ended with the 31st day of January 1977 of each of the bodies specified in subsection (1) of this section.

101. Repeal and consequential amendments—(1) The Broadcasting Act 1973 is hereby repealed.

(2) The enactments specified in the Schedule to this Act are hereby amended in the manner indicated in that Schedule.

(3) Every reference in any enactment or instrument to the Broadcasting Council of New Zealand or Television Service One or Television Service Two or Radio New Zealand (established in each case by the Broadcasting Act 1973) shall after the commencement of this Act be read as a reference to the Broadcasting Corporation of New Zealand.

(4) Every reference in any enactment or instrument to the Broadcasting Council of New Zealand Account or the Television Service One Main Account or the Television Service Two Account or the Radio New Zealand Account, each established at the Bank of New Zealand, shall after the commencement of this Act be read as a reference to the Broadcasting Account.

Section 101 (2)

SCHEDULE

ENACTMENTS AMENDED

Enactment	Amendment
1954, No. 46—The Defamation Act 1954 (1957 Reprint, Vol. 3, p. 861)	<p>By repealing the definition of the term “broadcasting station” in section 2 (1) (as substituted by section 103 (4) of the Broadcasting Act 1973), and substituting the following definition:</p> <p>“‘Broadcasting station’ means any broadcasting station operated by the Broadcasting Corporation of New Zealand under the Broadcasting Act 1976, or any private broadcasting station operated pursuant to a warrant or authorisation for the time being in force under that Act.”.</p>
1959, No. 30—The Post Office Act 1959 (Reprinted, 1970, Vol. 3, p. 2155)	<p>By omitting from the definition of the terms “broadcasting” and “to broadcast” in subsection (1) of section 164A (as inserted by section 3 of the Post Office Amendment Act 1968 and amended by section 103 (4) of the Broadcasting Act 1973) the words “the Broadcasting Act 1973”, and substituting the words “the Broadcasting Act 1976”.</p>
1962, No. 33—The Copyright Act 1962	<p>By repealing the definition of the term “broadcasting corporation” (as substituted by section 103 (4) of the Broadcasting Act 1973), and substituting the following definition:</p> <p>“‘Broadcasting Corporation’ means the Broadcasting Corporation of New Zealand established by the Broadcasting Act 1976.”.</p> <p>By omitting from sections 15, 16, 41, 49, and 60 (as amended by section 103 (4) of the Broadcasting Act 1973) the words “a broadcasting corporation”, and substituting in each case the words “the Broadcasting Corporation”.</p> <p>By omitting from sections 15 (8) and 60 (2) (as amended by section 103 (4) of the Broadcasting Act 1973) the words “the Broadcasting Act 1973”, and substituting in each case the words “the Broadcasting Act 1976”.</p>

SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1962, No. 36—The Civil Defence Act 1962 (Reprinted, 1968, Vol. 2, p. 1499)	By repealing paragraph (k) of section 10 (2), and substituting the following paragraph: “(k) The Secretary of the Broadcasting Corporation of New Zealand.”
1968, No. 147—The Local Authorities (Members' Interests) Act 1968 (Reprinted, 1974, Vol. 3, p. 2399)	By omitting from Part II of the First Schedule the item relating to the Broadcasting Council of New Zealand (as inserted by section 103 (1) of the Broadcasting Act 1973), and substituting the following item: “The Broadcasting Corporation of New Zealand 1976, No. 132—The Broadcasting Act 1976.”
1971, No. 147—The Hire Purchase Act 1971	By omitting from Part II of the First Schedule (as amended by section 103 (1) of the Broadcasting Act 1973) so much of that Part as relates to Radio New Zealand, Television Service One, and Television Service Two. By omitting from Part II of the First Schedule so much of that Part as relates to the New Zealand Broadcasting Corporation. By omitting from section 41 (4) (as amended by section 103 (4) of the Broadcasting Act 1973) the words “the Broadcasting Act 1973”, and substituting the words “the Broadcasting Act 1976”.

This Act is administered by the Broadcasting Corporation of New Zealand.