

**Reprint  
as at 1 October 2010**



## **Broadcasting Act 1989**

Public Act    1989 No 25  
Date of assent    27 May 1989  
Commencement    see section 1(2), (3)

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**This Act is administered by the Ministry for Culture and Heritage.**

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**An Act—**

- (a) to provide for the maintenance of programme standards in broadcasting in New Zealand; and
- (b) to establish the Broadcasting Standards Authority and to define its functions and powers; and
- (c) to establish the Broadcasting Commission and to define its functions and powers; and
- (d) to enable political parties to broadcast election programmes for Parliamentary elections free of charge; and
- (e) *[Repealed]*
- (f) to repeal the Broadcasting Act 1976; and
- (g) to provide for matters incidental thereto

Title paragraph (e): repealed, on 28 February 2003, by section 30 of the Television New Zealand Act 2003 (2003 No 1).

**1 Short Title and commencement**

- (1) This Act may be cited as the Broadcasting Act 1989.
- (2) Except as provided in subsection (3) and in section 84(3), this Act shall come into force on 1 July 1989.
- (3) Parts 3 and 4, sections 82 and 87, and Schedule 1 shall come into force on the day on which this Act receives the Royal assent.

**2 Interpretation**

- (1) In this Act, unless the context otherwise requires,—  
**advertising programme—**
  - (a) means a programme or part of a programme that—
    - (i) is primarily intended to promote—

- (A) the interest of any person; or
  - (B) any product or service for the commercial advantage of any person; and
- (ii) is a programme or a part of a programme for which payment is made, whether in money or otherwise; and
- (b) includes a credit in respect of a sponsorship or underwriting arrangement, being a credit that—
  - (i) is intended to promote any of the matters specified in paragraph (a)(i); and
  - (ii) is a credit for which payment is made, whether in money or otherwise; but
- (c) does not include programme material that is the subject of a credit to which paragraph (b) applies; and
- (d) does not include any programme or credit of the kind described in paragraph (a) or paragraph (b)—
  - (i) that promotes a scheduled programme on behalf of a broadcaster; or
  - (ii) that promotes only a station identity on behalf of a broadcaster; or
  - (iii) that constitutes an election programme

**approved code of broadcasting practice** means a code of broadcasting practice—

- (a) developed and issued under section 21(1)(f); or
- (b) approved for the purposes of this Act under section 21(1)(g)

**approved financial reporting standard** has the meaning given to that term by section 2(1) of the Financial Reporting Act 1993

**Authority** means the Broadcasting Standards Authority established by section 20

**broadcaster** means, subject to subsection (2), a person who broadcasts programmes

**broadcasting** means any transmission of programmes, whether or not encrypted, by radio waves or other means of telecommunication for reception by the public by means of



broadcasting receiving apparatus but does not include any such transmission of programmes—

- (a) made on the demand of a particular person for reception only by that person; or
- (b) made solely for performance or display in a public place

**Commission** means the Broadcasting Commission established by section 35

**content**, in relation to transmitting on demand, means—

- (a) programmes:
- (b) visual images that consist predominantly of alphanumeric text and software intended to—
  - (i) inform, enlighten, or entertain; or
  - (ii) promote the interests of any person; or
  - (iii) promote any product or service

**election programme**,—

- (a) in the definition of advertising programme and in sections 8 and 21, means a programme broadcast under Part 6; and
- (b) in Part 6, has the meaning given to it by section 69

**individual** has the same meaning as in section 2(1) of the Privacy Act 1993

**liquor** has the meaning given to that term by section 2 of the Sale of Liquor Act 1989

**Minister** means, in relation to a Part of this Act, the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the Part

**programme**—

- (a) means sounds or visual images, or a combination of sounds and visual images, intended—
  - (i) to inform, enlighten, or entertain; or
  - (ii) to promote the interests of any person; or
  - (iii) to promote any product or service; but
- (b) does not include visual images, whether or not combined with sounds, that consist predominantly of alphanumeric text

**publish** includes broadcast

**series—**

- (a) means 2 or more related sequential programmes; but
- (b) does not include any news or current affairs programme

**total revenue** means all income classified as revenue by the applicable financial reporting standard approved under section 24 of the Financial Reporting Act 1993

**transmit on demand** means the transmission of content, by any means, made on the demand of a particular person for reception by that person

**working day** means any day of the week other than—

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and
- (b) a day in the period commencing with 25 December in any year and ending with 15 January in the following year.

- (2) For the purposes of this Act, a person who supplies transmission services to a person who broadcasts programmes is not, by reason only of the provision of those services, a broadcaster within the meaning of this Act unless the person who provides the transmission services is, where the person who broadcasts programmes is a company, in a position to exercise control, either alone or in association with any other person, of—
  - (a) the operations of that company; or
  - (b) the management of any broadcasting station operated by that company; or
  - (c) the management of programmes broadcast by that company; or
  - (d) the selection or provision of programmes to be broadcast by that company.

Compare: 1976 No 132 s 2(1); 1982 No 178 s 2(1)

Section 2(1) **advertising programme**: substituted, on 8 July 1993, by section 2 of the Broadcasting Amendment Act 1993 (1993 No 69).

Section 2(1) **approved financial reporting standard**: inserted, on 1 July 1996, by section 2 of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 2(1) **broadcaster**: substituted, on 28 August 1990, by section 3(1) of the Broadcasting Amendment Act (No 2) 1990 (1990 No 103).

Section 2(1) **content**: inserted, on 14 March 2008, by section 4 of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 2(1) **election programme**: inserted, on 20 December 2007, by section 4 of the Broadcasting Amendment Act (No 2) 2007 (2007 No 112).

Section 2(1) **individual**: inserted, on 1 July 2000, by section 3(1) of the Broadcasting Amendment Act 2000 (2000 No 3).

Section 2 **liquor**: amended, on 1 April 1990, pursuant to section 230(2) of the Sale of Liquor Act 1989 (1989 No 63).

Section 2(1) **Minister**: substituted, on 1 July 2000, by section 3(2) of the Broadcasting Amendment Act 2000 (2000 No 3).

Section 2(1) **series**: inserted, on 1 July 1996, by section 2 of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 2(1) **total operating revenue**: repealed, on 20 September 2007, by section 4(1) of the Broadcasting Amendment Act 2007 (2007 No 42).

Section 2(1) **total revenue**: inserted, on 20 September 2007, by section 4(2) of the Broadcasting Amendment Act 2007 (2007 No 42).

Section 2(1) **transmit on demand**: inserted, on 14 March 2008, by section 4 of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 2(2): added, on 28 August 1990, by section 3(3) of the Broadcasting Amendment Act (No 2) 1990 (1990 No 103).

### **3 Act to bind the Crown**

This Act shall bind the Crown.

## **Part 1**

### **Programme standards**

#### **4 Responsibility of broadcasters for programme standards**

- (1) Every broadcaster is responsible for maintaining in its programmes and their presentation, standards that are consistent with—
- (a) the observance of good taste and decency; and
  - (b) the maintenance of law and order; and
  - (c) the privacy of the individual; and
  - (d) the principle that when controversial issues of public importance are discussed, reasonable efforts are made, or reasonable opportunities are given, to present significant points of view either in the same programme or in other programmes within the period of current interest; and
  - (e) any approved code of broadcasting practice applying to the programmes.

- (2) Where, in respect of any film within the meaning of the Films, Videos, and Publications Classification Act 1993,—
- (a) there is in force under that Act a decision classifying that film as objectionable; or
  - (b) there is in force under that Act a decision classifying that film as if certain excisions had been made,—
- no broadcaster,—
- (c) in the case of a film to which paragraph (a) applies, shall broadcast that film or any part of that film; or
  - (d) in the case of a film to which paragraph (b) applies, shall broadcast the film, or any part of the film, if the film or, as the case may be, that part includes any part of the film required to be excised,—
- except with the consent of the Chief Censor of Film and Literature and subject to any conditions subject to which the Chief Censor has given the consent.
- (3) No broadcaster shall be under any civil liability in respect of any failure to comply with any of the provisions of this section.
- Compare: 1976 No 132 ss 24(1)(c), (e), (f), (g), (2), (4), 95(1)(c), (e), (f), (g), (2), (5); 1982 No 178 ss 5, 19; 1983 No 130 s 76(2), (3)
- Section 4(1): amended, on 14 March 2008, by section 14 of the Broadcasting Amendment Act 2008 (2008 No 3).
- Section 4(2): substituted, on 1 October 1994, by section 150(1) of the Films, Videos, and Publications Classification Act 1993 (1993 No 94).

## **Part 2**

### **Complaints**

#### **5 Principles**

This Part is based on the following principles:

- (a) broadcasters have a responsibility to deal with complaints relating to broadcasts and must establish a proper procedure to deal with them:
- (b) a body other than the broadcaster must be available to complainants to ensure that broadcasters discharge their responsibilities in relation to programme standards:
- (c) complaints based merely on a complainant's preferences are not, in general, capable of being resolved by a complaints procedure:

- (d) an independent complaints procedure is not a substitute for proper consideration of complaints by the broadcaster:
- (e) complaints should be made promptly to the broadcaster:
- (f) formal complaints must be made in writing:
- (g) most complaints that are capable of being resolved by an independent complaints procedure should not be required to be resolved by that procedure but should be capable of being resolved by proper consideration and proper response on the part of the broadcaster:
- (h) the first consideration of a complaint should be prompt and without undue formality:
- (i) further consideration of a complaint calls for greater formality.

Compare: 1976 No 132 s 95A(b)–(j); 1982 No 6 s 11

## **6 Formal complaints about programmes**

- (1) Subject to subsection (2), it is the duty of every broadcaster—
  - (a) to receive and consider formal complaints about any programme broadcast by it where the complaint constitutes, in respect of that programme, an allegation that the broadcaster has failed to comply with section 4; and
  - (b) to publicise the procedures for making such complaints; and
  - (ba) to broadcast on each channel or broadcasting station operated by the broadcaster notices (each of which shall be of at least 15 seconds' duration) publicising the procedure for making such complaints,—
    - (i) with the equivalent in each year of 1 notice per day for each day of broadcasting on the channel or broadcasting station; and
    - (ii) with the notices being broadcast at different programming times but in such a manner that the notices are broadcast in the course of a year at all programming times, including prime time and children's programming times; and
  - (c) to establish procedures for investigating such complaints.

- (2) Nothing in this section requires a broadcaster to receive and consider any complaint that is not lodged in writing with the broadcaster within 20 working days after the date on which the programme to which the complaint relates was broadcast by the broadcaster.
- (3) Notwithstanding subsection (2), a broadcaster must consider a complaint if—
  - (a) the complainant has resubmitted the complaint in writing within 30 working days after the date on which the programme to which the complaint relates was broadcast by the broadcaster; and
  - (b) the complainant offers reasonable proof that the original complaint was lodged in accordance with subsection (2).

Compare: 1976 No 132 ss 95B(1)(a)(ii), (iv)–(vii), (b), 95C(1)(a)(ii), (iv)–(vii), (b); 1982 No 6 s 11; 1982 No 178 s 20

Section 6(1)(ba): inserted, on 1 July 1996, by section 3 of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 6(1)(ba): amended, on 14 March 2008, by section 14 of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 6(3): added, on 1 July 1993, by section 3 of the Broadcasting Amendment Act 1993 (1993 No 69).

## **7 Decisions in respect of formal complaints**

- (1) If a complaint under section 6(1)(a) is found to be justified, in whole or in part, the broadcaster shall take appropriate action and shall notify the complainant in writing of the action taken.
- (2) If a complaint under section 6(1)(a) is found not to be justified, in whole or in part, the broadcaster shall notify the complainant in writing of the decision.
- (3) The broadcaster shall, in notifying a complainant pursuant to subsection (1) or subsection (2), give to the complainant information concerning the complainant's right, by way of referral to the Authority under section 8, to seek an investigation and review of the broadcaster's action or decision, as the case may be.

Compare: 1976 No 132 s 95D; 1982 No 6 s 11; 1982 No 178 s 22

**8 Right of complainant to refer formal complaint to Authority**

- (1) A complainant must refer the complaint directly to the Authority if the complaint is that an election programme did not meet 1 or more of the standards in section 4(1)(a) to (c) and (e).
- (1A) A complainant may refer the complaint directly to the Authority if—
  - (a) the complaint is that a broadcaster failed to comply with section 4(1)(c); and
  - (b) the complainant chooses to refer the complaint directly to the Authority.
- (1B) A complainant may refer the complaint to the Authority if the complainant—
  - (a) made the complaint under section 6(1)(a); and
  - (b) is dissatisfied with—
    - (i) the decision of the broadcaster; or
    - (ii) the action taken by the broadcaster.
- (1C) A complainant may refer the complaint to the Authority if—
  - (a) the complaint is about a programme other than an election programme; and
  - (b) at least 20 working days have passed since the broadcaster received the complaint; and
  - (c) the broadcaster has not notified the complainant of—
    - (i) the decision of the broadcaster; or
    - (ii) the action taken by the broadcaster; and
  - (d) the broadcaster—
    - (i) has not given the complainant a notice under subsection (1D); or
    - (ii) has given the complainant a notice under subsection (1D) but has not complied with the statement under subsection (1D)(c).
- (1D) A broadcaster that receives a complaint under section 6 may give the complainant a notice in writing or electronically within 20 working days after receiving the complaint—
  - (a) stating that the broadcaster will be unable to make a decision or take action on the complaint within 20 working days after receiving the complaint; and
  - (b) stating the reasons why the broadcaster will be unable to do so; and

- (c) stating that the broadcaster will tell the complainant about its decision or action on the complaint within 40 working days after the broadcaster received the complaint.
- (2) Subsections (1) to (1D) shall apply in respect of a complaint about an advertising programme only where neither the broadcaster nor the advertiser recognise, in relation to that complaint, the jurisdiction of the Advertising Standards Complaints Board (a board appointed by the Advertising Standards Authority Incorporated).
- (3) Except as provided in subsection (2), nothing in this section entitles a complainant to refer a complaint about an advertising programme to the Authority.

Section 8: substituted, on 1 July 1993, by section 4(1) of the Broadcasting Amendment Act 1993 (1993 No 69).

Section 8(1): substituted, on 20 December 2007, by section 5(1) of the Broadcasting Amendment Act (No 2) 2007 (2007 No 112).

Section 8(1A): substituted, on 20 December 2007, by section 5(1) of the Broadcasting Amendment Act (No 2) 2007 (2007 No 112).

Section 8(1B): inserted, on 20 December 2007, by section 5(1) of the Broadcasting Amendment Act (No 2) 2007 (2007 No 112).

Section 8(1C): inserted, on 20 December 2007, by section 5(1) of the Broadcasting Amendment Act (No 2) 2007 (2007 No 112).

Section 8(1D): inserted, on 20 December 2007, by section 5(1) of the Broadcasting Amendment Act (No 2) 2007 (2007 No 112).

Section 8(2): amended, on 20 December 2007, by section 5(2) of the Broadcasting Amendment Act (No 2) 2007 (2007 No 112).

## **9 Time limits**

- (1) The Authority must not accept a complaint made outside the period specified for the complaint in this section.
- (2) A complaint under section 8(1) must be made to the Authority in the period—
  - (a) starting on the first working day after the broadcast of the programme that the complaint is about; and
  - (b) ending 60 working days later.
- (3) A complaint under section 8(1A) must be made to the Authority in the period—
  - (a) starting on the first working day after the broadcast of the programme that the complaint is about; and



- (b) ending 20 working days later.
- (4) A complaint under section 8(1B) must be made to the Authority in the period—
  - (a) starting on the first working day after the day on which the complainant received notice of the broadcaster's decision or action on the complaint; and
  - (b) ending 20 working days later.
- (5) A complaint under section 8(1C) must be made to the Authority in the period—
  - (a) starting on the first working day after the broadcast of the programme that the complaint is about; and
  - (b) ending 60 working days later.

Section 9: substituted, on 20 December 2007, by section 6 of the Broadcasting Amendment Act (No 2) 2007 (2007 No 112).

## **10 Consideration and determination of complaints by Authority**

- (1) The Authority may, if it thinks fit, consider and determine any complaint referred to it under section 8 without a formal hearing, but, in that case,—
  - (a) shall give the complainant and the broadcaster a reasonable opportunity to make submissions to it in writing in relation to the complaint; and
  - (b) shall have regard to all relevant submissions made to it in writing in relation to the complaint.
- (2) In considering every complaint referred to it under section 8, the Authority shall provide for as little formality and technicality as is permitted by—
  - (a) the requirements of this Act; and
  - (b) a proper consideration of the complaint; and
  - (c) the principles of natural justice.

Compare: 1976 No 132 s 95V(1); 1982 No 6 s 11; 1982 No 178 s 22

## **11 Power of Authority to decline to determine complaint**

The Authority may decline to determine a complaint referred to it under section 8 if it considers—

- (a) that the complaint is frivolous, vexatious, or trivial; or
- (b) that, in all the circumstances of the complaint, it should not be determined by the Authority.

**12 Application of Commissions of Inquiry Act 1908**

Sections 4B, 4C, 4D, 5, 6, 7, 8, and 9 of the Commissions of Inquiry Act 1908 shall, for the purposes of the Authority's consideration of any complaint referred to it under section 8, apply to the Authority—

- (a) as if the Authority were a Commission of Inquiry established under the Commissions of Inquiry Act 1908; and
- (b) as if the Authority's consideration of the complaint were an inquiry for the purposes of the Commissions of Inquiry Act 1908.

**13 Decisions on complaints**

- (1) If, in the case of a complaint referred to the Authority under section 8, the Authority decides that the complaint is justified, in whole or in part, the Authority may make any 1 or more of the following orders:

- (a) an order directing the broadcaster to publish, in such manner as shall be specified in the order, and within such period as shall be so specified, a statement that relates to the complaint and that is approved by the Authority for the purpose:
- (b) an order to direct the broadcaster to refrain—
  - (i) from broadcasting; or
  - (ii) from broadcasting advertising programmes (including any credit in respect of a sponsorship or underwriting arrangement entered into in relation to a programme),—for such period, not exceeding 24 hours, in respect of each programme in respect of which the Authority has decided the complaint is justified, and at such time as shall be specified in the order:
- (c) an order referring the complaint back to the broadcaster for consideration and determination by the broadcaster in accordance with such directions or guidelines as the Authority thinks fit:
- (d) if the Authority finds that the broadcaster has failed to maintain, in relation to any individual, standards that are consistent with the privacy of that individual, an order

directing the broadcaster to pay to that individual, as compensation, a sum not exceeding \$5,000.

- (2) If, in the case of a complaint referred to the Authority under section 8, the Authority decides that the complaint is justified, in whole or in part, or is not justified, in whole or in part, the Authority shall give notice in writing of the decision—
  - (a) to the broadcaster by which the programme was broadcast; and
  - (b) to the complainant.
- (3) If a complaint is found to be justified, in whole or in part, the broadcaster by which the programme was broadcast shall—
  - (a) comply with any order made under subsection (1); and
  - (b) give notice in writing to the Authority and the complainant of the manner in which the order has been complied with.
- (4) Every statement published pursuant to an order made under subsection (1) shall be deemed for the purposes of clause 13 of Part 2 of Schedule 1 of the Defamation Act 1992 to be a notice published on the authority of a court.

Compare: 1976 No 132 s 95X; 1982 No 6 s 11

Section 13(1)(a): amended, on 14 March 2008, by section 14 of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 13(4): substituted, on 1 February 1993, by section 56(1) of the Defamation Act 1992 (1992 No 105).

### **13A Additional powers to make orders in respect of series**

- (1) Notwithstanding section 13, if, in the case of a complaint referred to the Authority under section 8, the Authority considers that, in relation to a particular programme within a series, a broadcaster has failed to comply with section 4 because that programme contains material that—
  - (a) describes, depicts, or otherwise deals with—
    - (i) acts of torture, the infliction of serious physical harm, or acts of significant cruelty; or
    - (ii) sexual violence or sexual coercion or violence or coercion in association with sexual conduct; or
    - (iii) other sexual or physical contact of a degrading, dehumanising, or demeaning nature; or
    - (iv) sexual conduct with or by children or both; or

- (v) physical conduct in which sexual satisfaction is derived from inflicting or suffering cruelty or pain; or
  - (b) exploits the nudity of young children; or
  - (c) promotes or encourages criminal acts or acts of terrorism,—

in a manner that is likely to be injurious to the public good, the Authority may make an order directing the broadcaster to make available to the Authority—

  - (d) a copy of any visual recordings; or
  - (e) a copy of any transcript; or
  - (f) any other material,—

related to further programmes within the series.
- (2) In determining whether or not the broadcasting of any programme within a series is likely to be injurious to the public good, the Authority shall, in addition to the matters specified in subsection (1), have regard to—
  - (a) the dominant effect of the programme as a whole; and
  - (b) the impact of the programme given the medium in which the programme is presented; and
  - (c) the character of the programme, including any merit, value, or importance the programme has in relation to artistic, social, cultural, educational, scientific, or other matters; and
  - (d) the persons, class of persons, or age of persons by whom the programme was intended, or is likely, to be viewed; and
  - (e) the purpose of the programme; and
  - (f) any other relevant matter relating to the broadcasting of the programme.
- (3) If, after viewing the material referred to in paragraphs (d) to (f) of subsection (1), the Authority is satisfied that the broadcasting of any programme within the series is likely to be injurious to the public good, the Authority may make 1 or both of the following orders:
  - (a) an order directing that the broadcaster withdraw that programme;
  - (b) an order specifying the conditions that must be complied with by any broadcaster who broadcasts the series

that is the subject of the complaint or any programme in that series.

- (4) If, after viewing the material referred to in paragraphs (d) to (f) of subsection (1), the Authority is satisfied that the broadcasting of each and every further programme within the series is likely to be injurious to the public good, the Authority may make—
- (a) an order directing that the broadcaster withdraw the series that is the subject of the complaint; or
  - (b) an order directing that the broadcaster withdraw 1 or more specified programmes; or
  - (c) an order (which may be made in conjunction with an order made under paragraph (b)) specifying the conditions that must be complied with by any broadcaster who broadcasts the series that is the subject of the complaint or any programme in that series.
- (5) Where the Authority makes, under subsection (3)(a) or subsection (4)(b), an order in relation to any programme, no broadcaster shall broadcast that programme.
- (6) Where the Authority makes, under subsection (3)(b) or subsection (4)(c), an order in relation to any series or programmes in a series, no broadcaster shall broadcast, otherwise than in accordance with the conditions specified in the order, that series or any programme in that series.
- (7) Where the Authority makes, under subsection (4)(a), an order in relation to any series, no broadcaster shall broadcast that series or any programme in that series.

Section 13A: inserted, on 1 July 1996, by section 6 of the Broadcasting Amendment Act 1996 (1996 No 53).

## **14 Offences**

Every broadcaster commits an offence and is liable on summary conviction to a fine not exceeding \$100,000—

- (a) who fails to comply with an order made in respect of that broadcaster under section 13(1); or
- (b) who contravenes an order made under section 13A.

Section 14: substituted, on 1 July 1996, by section 7 of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 14(b): amended, on 3 June 1998, by section 2 of the Broadcasting Amendment Act 1998 (1998 No 28).

## **15 Notice of decisions**

- (1) The Authority shall give public notice of the decision of the Authority on each complaint referred to it under section 8.
- (2) Copies of the decision of the Authority on each complaint referred to it under section 8, which copies shall include in each case the Authority's reasons for its decision, shall be procurable by purchase from the Authority at a reasonable price.
- (3) Every notice published under subsection (1) shall be deemed for the purposes of clause 6 of Part 1 of Schedule 1 of the Defamation Act 1992 to be a fair and accurate report of the proceedings of a court in New Zealand.

Compare: 1976 No 132 s 67B; 1982 No 6 s 9

Section 15(3): substituted, on 1 February 1993, by section 56(1) of the Defamation Act 1992 (1992 No 105).

## **16 Power to award costs**

- (1) Subject to subsection (2), the Authority may, in any proceedings, order any party to pay to any other party such costs and expenses (including expenses of witnesses) as are reasonable, and may apportion any such costs between the parties in such manner as it thinks fit.
- (2) No award of costs shall be made under subsection (1) against the complainant unless,—
  - (a) in the opinion of the Authority, the complaint is frivolous or vexatious or one that ought not to have been made; or
  - (b) the Authority considers it proper to do so by reason of the failure of the complainant to prosecute any proceedings related to the complaint at the time fixed for its hearing or to give adequate notice of the abandonment of any proceeding related to the complaint.
- (3) Where, through failure to prosecute any proceeding at the time fixed for its hearing or to give adequate notice of the abandonment of any proceeding, the Authority considers it proper to do so, the Authority may order the party in default to pay to the Crown such sums for costs as it considers reasonable.

- (4) Without limiting subsections (1) to (3), where the Authority finds a complaint against a broadcaster to be justified, in whole or in part, the Authority may order the broadcaster to pay to the Crown by way of costs, within 1 month after the date on which notice in writing of the decision is given to the broadcaster under section 13(2), such sum not exceeding \$5,000, as the Authority thinks fit.

Compare: 1976 No 132 s 67C; 1982 No 6 s 9

Section 16(2): amended, on 14 March 2008, by section 14 of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 16(4): added, on 1 July 1996, by section 8 of the Broadcasting Amendment Act 1996 (1996 No 53).

#### **17 Enforcement of orders for costs**

- (1) For the purpose of enforcing any order of the Authority for the payment of costs, a duplicate of such order may be filed by the person to whom the costs are payable in the office of the court named in the order and shall thereupon be enforceable in all respects as a final judgment of that court in its civil jurisdiction.
- (2) In every case where an order for costs is made, the order shall name the court in which the order may, if necessary, be enforced.
- (3) The court so named shall, where the amount recoverable under the order—
- (a) exceeds \$12,000, be the High Court; and
  - (b) does not exceed \$12,000, be the District Court.

Compare: 1976 No 132 s 67D; 1982 No 6 s 9

### *Appeals*

#### **18 Appeal against decision of Authority**

- (1) Where the Authority makes—
- (a) a decision under section 11; or
  - (b) a decision or order under section 13 or section 13A,—
- the broadcaster or the complainant may appeal to the High Court against the whole or any part of the decision or order.
- (2) *[Repealed]*
- (3) Every appeal under this section shall be made by giving notice of appeal within 1 month after the date on which the appellant

was notified of the decision or order appealed against or within such further time as the High Court may allow.

- (4) The court shall hear and determine the appeal as if the decision or order appealed against had been made in the exercise of a discretion.
- (5) In its determination of any appeal, the court may—
  - (a) confirm, modify, or reverse the decision or order appealed against, or any part of that decision or order;
  - (b) exercise any of the powers that could have been exercised by the Authority in the proceedings to which the appeal relates.
- (6) *[Repealed]*
- (7) Subject to the provisions of this section, the procedure in respect of any appeal under this section shall be in accordance with rules of court.

Section 18(1)(b): amended, on 1 July 1996, by section 9 of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 18(2): repealed, on 15 August 1991, by section 3(4) of the Judicature Amendment Act 1991 (1991 No 60).

Section 18(3): amended, on 15 August 1991, by section 3(4) of the Judicature Amendment Act 1991 (1991 No 60).

Section 18(6): repealed, on 27 September 2001, by section 3 of the Broadcasting Amendment Act 2001 (2001 No 57).

## **19 Decision of High Court to be final**

The determination of the High Court on any appeal under section 18 shall be final.

### *Evidence*

Heading: inserted, on 28 August 1990, by section 4 of the Broadcasting Amendment Act (No 2) 1990 (1990 No 103).

## **19A Admissibility of evidence**

Except in any proceedings for perjury within the meaning of the Crimes Act 1961 in respect of sworn testimony given before the Authority or in any proceedings for the enforcement of an order made under this Part,—

- (a) no response made by a broadcaster to any complaint made under this Part; and



- (b) no statement made or answer given by any person—
  - (i) in the course of the consideration of any complaint made under this Part; or
  - (ii) in the course of any proceedings before the Authority in relation to any complaint made under this Part; and
- (c) no decision of the Authority on any complaint made under this Part; and
- (d) no determination of the High Court on any appeal made under section 18,—

shall be admissible in evidence against any person in any court or in any inquiry or other proceedings.

Section 19A: inserted, on 28 August 1990, by section 4 of the Broadcasting Amendment Act (No 2) 1990 (1990 No 103).

### **Part 3**

#### **Broadcasting Standards Authority**

#### **20 Establishment of Authority**

- (1) There is hereby established an Authority to be called the Broadcasting Standards Authority.
- (2) The Authority is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- (3) The Crown Entities Act 2004 applies to the Authority except to the extent that this Act expressly provides otherwise.

Section 20(2): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 20(3): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **21 Functions of Authority**

- (1) The functions of the Authority shall be—
  - (a) to receive and determine complaints from persons who are dissatisfied with the outcome of complaints made to broadcasters under section 6(1)(a); and
  - (b) to receive and determine complaints that election programmes did not meet 1 or more of the standards in section 4(1)(a) to (c) and (e); and
  - (ba) to receive and determine complaints when—

- (i) the complaint is that a broadcaster failed to comply with section 4(1)(c); and
    - (ii) the complainant has chosen to refer the complaint directly to the Authority; and
  - (c) to publicise its procedures in relation to complaints; and
  - (d) to issue to any or all broadcasters, advisory opinions relating to broadcasting standards and ethical conduct in broadcasting; and
  - (e) to encourage the development and observance by broadcasters of codes of broadcasting practice appropriate to the type of broadcasting undertaken by such broadcasters, in relation to—
    - (i) the protection of children:
    - (ii) the portrayal of violence:
    - (iii) fair and accurate programmes and procedures for correcting factual errors and redressing unfairness:
    - (iv) safeguards against the portrayal of persons in programmes in a manner that encourages denigration of, or discrimination against, sections of the community on account of sex, race, age, disability, or occupational status or as a consequence of legitimate expression of religious, cultural, or political beliefs:
    - (v) restrictions on the promotion of liquor:
    - (vi) presentation of appropriate warnings in respect of programmes, including programmes that have been classified as suitable only for particular audiences:
    - (vii) the privacy of the individual:
  - (f) to develop and issue codes of broadcasting practice of the kinds described in paragraph (e) in any case where the Authority considers it appropriate:
  - (g) to approve, for the purposes of this Act, codes of practice of the kinds described in paragraph (e):
  - (h) to conduct research and publish findings on matters relating to standards in broadcasting.
- (2) The Authority shall, in encouraging, under subsection (1)(e), the development by broadcasters of codes of broadcasting

practice, encourage broadcasters to consult with persons having an interest in the subject matter of those codes.

- (3) Nothing in subsection (1) shall relate to advertising programmes or any credit in respect of a sponsorship or underwriting arrangement entered into in relation to a programme except where neither the broadcaster nor the advertiser recognise, in relation to a specific complaint, the jurisdiction of the Advertising Standards Complaints Board (a board appointed by the Advertising Standards Authority Incorporated).
- (4) When performing its functions under subsection (1)(e), (f), or (g) in relation to a code of practice of the kind described in subsection (1)(e)(vii), the Authority must consult with the Privacy Commissioner appointed under the Privacy Act 1993.
- (5) Except as expressly provided otherwise in this or any other Act, the Authority must act independently in performing its statutory functions and duties, and exercising its statutory powers, under—
  - (a) this Act; and
  - (b) any other Act that expressly provides for the functions, powers, or duties of the Authority (other than the Crown Entities Act 2004).

Section 21(1)(b): substituted, on 20 December 2007, by section 7 of the Broadcasting Amendment Act (No 2) 2007 (2007 No 112).

Section 21(1)(ba): inserted, on 20 December 2007, by section 7 of the Broadcasting Amendment Act (No 2) 2007 (2007 No 112).

Section 21(1)(e)(vii): added, on 1 July 2000, by section 4(1) of the Broadcasting Amendment Act 2000 (2000 No 3).

Section 21(2): amended, on 14 March 2008, by section 14 of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 21(3): added, on 1 July 1993, by section 5 of the Broadcasting Amendment Act 1993 (1993 No 69).

Section 21(4): added, on 1 July 2000, by section 4(2) of the Broadcasting Amendment Act 2000 (2000 No 3).

Section 21(5): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**22 Notification and publication of approved codes of broadcasting practice**

- (1) Where a code of broadcasting practice is issued under section 21(1)(f) or approved under section 21(1)(g), the Authority shall publish in the *Gazette* as soon as practicable a notice—
  - (a) stating that the code of broadcasting practice has been so issued or approved; and
  - (b) indicating where copies of the approved code of broadcasting practice can be purchased.
- (2) The Authority shall publish each approved code of broadcasting practice.
- (3) Copies of all approved codes of broadcasting practice that are for the time being in force shall be procurable by purchase from the Authority at a reasonable price.

**23 Power of Minister to request Authority to consider matter involving broadcasting standards**

- (1) Where the Minister considers it is desirable in the public interest to do so, the Minister may refer any matter relating to broadcasting standards to the Authority and require the Authority to consider whether or not it is appropriate to issue an advisory opinion on the matter under section 21(1)(d).
- (2) As soon as practicable after referring any matter to the Authority under subsection (1), the Minister shall publish in the *Gazette* and lay before the House of Representatives a copy of the reference.

**24 Powers of Authority***[Repealed]*

Section 24: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**25 Power of Authority to commission surveys***[Repealed]*

Section 25: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**26 Membership of Authority**

- (1) The board of the Authority consists of 4 members, 1 of whom must be appointed as Chairperson.
- (1A) One of the members appointed under subsection (1) shall be appointed after consultation by the Minister with such representatives of the broadcasting industry as the Minister thinks fit.
- (1B) One of the members appointed under subsection (1) shall be appointed after consultation by the Minister with such representatives of public interest groups in relation to broadcasting as the Minister thinks fit.
- (2) The person appointed to be Chairperson of the Authority shall be a barrister or solicitor of not less than 7 years' practice of the High Court, whether or not the person holds or has held judicial office.
- (3) Despite clause 9 of Schedule 5 of the Crown Entities Act 2004, a quorum for a meeting of the board of the Authority is 3 members.
- (4) For the purposes of any matter before the Authority, the Authority may co-opt any 1 or more persons whose qualifications or experience are likely, in the opinion of the Authority, to be of assistance to the Authority in dealing with that matter.
- (5) Every person co-opted under this section for the purposes of any matter shall be entitled to take part in the Authority's proceedings in relation to that matter, but shall not be entitled to vote thereon.
- (6) Where any person co-opted under this section fails to exercise, in relation to any matter, any right conferred on that person by subsection (5), that failure shall not affect the validity of any meeting, hearing, or other proceeding of the Authority in respect of that matter.
- (7) *[Repealed]*

Compare: 1976 No 132 s 61(1), (2), (3), (9), (10), (11), (12); 1982 No 6 s 7(2)

Section 26(1): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 26(1A): inserted, on 1 July 1996, by section 10(1) of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 26(1B): inserted, on 1 July 1996, by section 10(1) of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 26(3): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 26(7): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## **27 Term of office of members of Authority**

*[Repealed]*

Section 27: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## **28 Continuation of membership**

- (1) Where the term of office of a person who is a member of the Authority expires or where a person who is a member of the Authority resigns his or her office, the Minister may request any such person to continue to act as if he or she were a member of the Authority for the purpose of any proceeding in which that person took part and that was commenced before the expiration of his or her term of office or before his or her resignation took effect, as the case may be, and, if any such person agrees to any such request and so acts, he or she shall be deemed, for that purpose and for such period as the Minister determines from time to time, to continue to be a member of the Authority.

- (2) This section applies despite section 45 of the Crown Entities Act 2004.

Compare: 1976 No 132 s 63(6); 1982 No 6 s 8(1)

Section 28(1): amended, on 14 March 2008, by section 14 of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 28(2): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## **29 Delegation of functions or powers by Authority**

*[Repealed]*

Section 29: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## **30 Rules in relation to retention of recordings of programmes**

- (1) The Authority may from time to time make and promulgate rules in relation to broadcasters to ensure that recordings of programmes broadcast by them are retained by the broadcaster

or some other person, and are able to be obtained by the broadcaster when required to do so by the Authority.

- (2) Any such rules may apply generally to all broadcasters, or may apply only to broadcasters of specified types or classes, and may from time to time be varied, amended, or revoked.
- (3) Any rules made under this section may require a broadcaster, when requested to do so by the Authority, to obtain recordings of programmes broadcast by that broadcaster and to make suitable arrangements to enable the Authority to view or hear any recordings held or obtained by the broadcaster.
- (4) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 who fails to comply with any rules made under this section.
- (5) Rules made under this section shall be deemed to be regulations for the purposes of the Regulations (Disallowance) Act 1989.

Section 30(1): substituted, on 1 July 2000, by section 5(1) of the Broadcasting Amendment Act 2000 (2000 No 3).

Section 30(3): substituted, on 1 July 2000, by section 5(2) of the Broadcasting Amendment Act 2000 (2000 No 3).

Section 30(5): amended, on 19 December 1989, pursuant to section 11 of the Regulations (Disallowance) Act 1989 (1989 No 143).

### **30A Return on total revenue**

- (1) Every broadcaster shall, not later than 31 July in each year, give to the Authority a return, for the broadcaster's immediately preceding financial year, of the total revenue derived by that broadcaster in that financial year from broadcasting within New Zealand.
- (2) The return—
  - (a) shall be in such form and contain such particulars as the Authority may require; and
  - (b) shall be accompanied by a certificate signed by an auditor and stating whether or not, in that auditor's opinion, the return represents a true and fair statement of the total revenue derived by the broadcaster in the financial year of the broadcaster to which the return relates from broadcasting within New Zealand.

- (3) Notwithstanding subsection (2), a broadcaster may in any year satisfy the requirements of subsection (1) by giving to the Authority, not later than 31 July in that year, a copy of the broadcaster's financial statement for the financial year of the broadcaster to which the return relates, being a financial statement that contains a statement of the broadcaster's total revenue for that financial year.
- (4) Where a broadcaster gives to the Authority in accordance with subsection (3) the broadcaster's financial statement for any financial year, the broadcaster's total revenue for that financial year, as stated in that financial statement, will, for the purposes of subsection (1), be deemed to be the total revenue derived by that broadcaster in that financial year from broadcasting within New Zealand.

Section 30A: inserted, on 1 July 1996, by section 13 of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 30A heading: amended, on 20 September 2007, by section 5(1) of the Broadcasting Amendment Act 2007 (2007 No 42).

Section 30A(1): amended, on 20 September 2007, by section 5(2) of the Broadcasting Amendment Act 2007 (2007 No 42).

Section 30A(2)(b): amended, on 20 September 2007, by section 5(3) of the Broadcasting Amendment Act 2007 (2007 No 42).

Section 30A(3): amended, on 20 September 2007, by section 5(4) of the Broadcasting Amendment Act 2007 (2007 No 42).

Section 30A(4): amended, on 20 September 2007, by section 5(5) of the Broadcasting Amendment Act 2007 (2007 No 42).

### **30B Payment of annual levy**

- (1) Where a return given to the Authority under section 30A by a broadcaster shows that, in the financial year of the broadcaster to which the return relates, the broadcaster had a total revenue of more than \$500,000, that return shall be accompanied by an annual levy calculated in accordance with section 30C.
- (2) The annual levy shall be payable in respect of each financial year of the broadcaster during which programmes are broadcast within New Zealand by the broadcaster.
- (3) Where a broadcaster commences broadcasting within New Zealand during the financial year of the broadcaster to which the return under section 30A relates, no annual levy shall be payable by the broadcaster in respect of that financial year.



- (4) The annual levy payable under subsection (1) shall be payable by the broadcaster not later than 31 July of the year in which the return is required to be given to the Authority.

Section 30B: inserted, on 1 July 1996, by section 13 of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 30B(1): amended, on 20 September 2007, by section 6 of the Broadcasting Amendment Act 2007 (2007 No 42).

**30C Annual levy**

The amount of the annual levy payable under section 30B by a broadcaster shall be an amount ascertained in accordance with the following formula:

$$a \times b$$

where—

a is the broadcaster's total revenue for the financial year of the broadcaster to which the return under section 30A relates; and

b is .00051.

Section 30C: inserted, on 1 July 1996, by section 13 of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 30C formula item a: amended, on 20 September 2007, by section 7 of the Broadcasting Amendment Act 2007 (2007 No 42).

**30D Rebates**

- (1) The Authority may grant to a broadcaster a rebate in respect of the whole or any part of the annual levy paid by that broadcaster under section 30B.
- (2) In deciding whether or not to grant a rebate, the Authority shall have regard to—
- (a) whether or not the broadcaster ceased broadcasting during the financial year of the broadcaster in respect of which the levy was paid; and
  - (b) the levy paid by the broadcaster.

Section 30D: inserted, on 1 July 1996, by section 13 of the Broadcasting Amendment Act 1996 (1996 No 53).

**30E Recovery of levies**

Any annual levy that is not paid in accordance with this Act may be recovered from the broadcaster liable at the suit, and

in the name, of the Authority in any court of competent jurisdiction.

Section 30E: inserted, on 1 July 1996, by section 13 of the Broadcasting Amendment Act 1996 (1996 No 53).

**30F Goods and services tax**

The amount of the levy calculated under section 30B is exclusive of any goods and services tax payable under the Goods and Services Tax Act 1985.

Section 30F: inserted, on 1 July 1996, by section 13 of the Broadcasting Amendment Act 1996 (1996 No 53).

**30G Offence**

Every broadcaster commits an offence and is liable on summary conviction to a fine not exceeding \$100,000 who contravenes section 30A.

Section 30G: inserted, on 1 July 1996, by section 13 of the Broadcasting Amendment Act 1996 (1996 No 53).

**31 Funds of Authority**

The funds of the Authority include all annual levies paid by broadcasters under section 30B.

Section 31: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**32 Seal**

*[Repealed]*

Section 32: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**33 Exemption from income tax**

The income of the Authority shall be exempt from income tax.

**34 Further provisions applying in respect of Authority**

The provisions set out in Schedule 1 shall apply in respect of the Authority.

## **Part 4**

### **Broadcasting Commission**

#### **35 Establishment of Commission**

- (1) There is hereby established a Commission to be called the Broadcasting Commission.
- (2) The Commission is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- (3) The Crown Entities Act 2004 applies to the Commission except to the extent that this Act expressly provides otherwise.

Section 35(2): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 35(3): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **36 Functions of Commission**

- (1) The primary functions of the Commission are—
  - (a) to reflect and develop New Zealand identity and culture by—
    - (i) promoting programmes about New Zealand and New Zealand interests; and
    - (ii) promoting Maori language and Maori culture; and
  - (b) to maintain and, where the Commission considers that it is appropriate, extend the coverage of television and sound radio broadcasting to New Zealand communities that would otherwise not receive a commercially viable signal; and
  - (c) to ensure that a range of broadcasts is available to provide for the interests of—
    - (i) women; and
    - (ii) youth; and
    - (iii) children; and
    - (iv) persons with disabilities; and
    - (v) minorities in the community including ethnic minorities; and
  - (ca) to encourage a range of broadcasts that reflects the diverse religious and ethical beliefs of New Zealanders; and

- (d) to encourage the establishment and operation of archives of programmes that are likely to be of historical interest in New Zealand—  
by making funds available, on such terms and conditions as the Commission thinks fit, for—
  - (e) broadcasting; and
  - (f) the production of programmes to be broadcast; and
  - (g) the archiving of programmes.
- (2) The Commission may also make funds available (on the terms and conditions that it thinks fit and, as far as practicable, in a manner consistent with its primary functions) for—
  - (a) transmitting on demand; and
  - (b) producing content for transmitting on demand; and
  - (c) archiving content.

Section 36(1): amended, on 14 March 2008, by section 5(1) of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 36(1)(c): substituted, on 1 July 2000, by section 6(1) of the Broadcasting Amendment Act 2000 (2000 No 3).

Section 36(1)(ca): inserted, on 1 July 2000, by section 6(2) of the Broadcasting Amendment Act 2000 (2000 No 3).

Section 36(2): added, on 14 March 2008, by section 5(2) of the Broadcasting Amendment Act 2008 (2008 No 3).

### **37 Promotion of New Zealand content in programming**

The Commission shall, in the exercise of its functions under sections 36(1)(a) and 36(2)(a) and (b),—

- (a) consult from time to time with—
  - (i) persons who have an interest in New Zealand broadcasting and the production of programmes in New Zealand; and
  - (ia) persons who have an interest in transmitting on demand in New Zealand and the production of content in New Zealand; and
  - (ii) representatives of consumer interests in relation to broadcasting and transmitting on demand; and
  - (iii) representatives of Maori interests,—  
being in each case persons or representatives who can, in the opinion of the Commission, assist in the development of the Commission's funding policies; and

- (b) promote, in its funding of the production of programmes and content, a sustained commitment by—
  - (i) television and radio broadcasters to programming reflecting New Zealand identity and culture; and
  - (ii) persons who transmit on demand to content reflecting New Zealand identity and culture; and
- (c) ensure that, in its funding of the production of television programmes, reasonable provision is made to assist in the production of drama and documentary programmes; and
- (d) ensure that, in its funding of sound radio broadcasting, reasonable provision is made to assist in the production and broadcasting of drama programmes and in the broadcasting of New Zealand music.

Section 37: amended, on 14 March 2008, by section 6(1) of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 37(a)(ia): inserted, on 14 March 2008, by section 6(2) of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 37(a)(ii): amended, on 14 March 2008, by section 6(3) of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 37(b): substituted, on 14 March 2008, by section 6(4) of the Broadcasting Amendment Act 2008 (2008 No 3).

### **38 Powers of Commission**

*[Repealed]*

Section 38: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### **39 Matters to be taken into account in relation to funding proposals**

The Commission, in assessing any proposal for the Commission to make funds available for broadcasting or transmitting on demand, or for the production of any programme to be broadcast or content to be transmitted on demand, must have regard to—

- (a) the extent to which the persons seeking the funding for the project to which the proposal relates have sought and secured funding or other resources for the project from sources other than the Commission; and

- (b) the potential size of the audience likely to benefit from the project to which the proposal relates; and
- (c) in the case of a project to maintain or extend the coverage of television broadcasting or sound radio broadcasting, the extent of the likely benefit to the consumers of broadcasting services affected by the project in relation to the cost of the project; and
- (d) in the case of a proposal for the production of any programme or content, the extent to which the proposed programme or content would contribute to—
  - (i) the Commission meeting its objectives under more than 1 of the categories specified in section 36(1)(a) and (c) and (2)(b); and
  - (ii) the availability of a balanced range of programmes and content providing for varied interests in the community; and
- (e) in the case of a proposal for the production of any programme or content, the likelihood that the proposed programme or content, if produced, would be broadcast or transmitted on demand.

Section 39: amended, on 14 March 2008, by section 7(1) of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 39(d): amended, on 14 March 2008, by section 7(2) of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 39(d): amended, on 14 March 2008, by section 7(3) of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 39(d)(i): amended, on 14 March 2008, by section 7(4) of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 39(d)(ii): amended, on 14 March 2008, by section 7(5) of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 39(e): substituted, on 14 March 2008, by section 7(6) of the Broadcasting Amendment Act 2008 (2008 No 3).

### **39A Funding policies**

The Commission and Te Reo Whakapuaki Irirangi shall, in carrying out their respective functions under this Act, each have regard to the funding policies adopted by the other.

Section 39A: inserted, on 1 July 1993, by section 7 of the Broadcasting Amendment Act 1993 (1993 No 69).

**40 Requirements in relation to standards**

The Commission shall require from recipients of funding from the Commission in relation to the production of any programme or content for broadcast, in such form as the Commission shall determine, undertakings that the programme or content will be consistent with the standards specified in section 4(1).

Section 40: amended, on 14 March 2008, by section 8(1) of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 40: amended, on 14 March 2008, by section 8(2) of the Broadcasting Amendment Act 2008 (2008 No 3).

**41 Requirements in relation to equal employment opportunities**

The Commission may decline to make funds available under section 36, where it considers that the prospective recipient is not operating an appropriate equal employment opportunities plan in circumstances where it would be practicable for the prospective recipient to do so.

**42 Prohibition in relation to certain directions**

Nothing in this Act or the Crown Entities Act 2004 authorises the Commission to give a direction to any person to whom the Commission has made funds available under section 36, in respect of the editorial content of a particular programme.

Section 42: amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**43 Contracts in relation to use of funds**

In making funds available under section 36, the Commission shall, to the extent that, in the opinion of the Commission, it is practicable to do so,—

- (a) invite competitive proposals for the use of funds made available by the Commission; and
- (b) ensure by the terms of contracts that the recipients of the funds are obliged both to attain specified standards of performance and to account for the use of the funds; and

- (c) adopt measures to ensure that recipients of funds comply with the terms referred to in paragraph (b).

#### **44 Commission to have regard to Government policy**

- (1) The Minister may not give a direction to the Commission in relation to cultural matters.
- (1A) The Minister shall ensure that at all material times the Minister has notified the Commission of the Government's policies, and provided the Commission with an appropriate direction, in respect of the funding of Radio New Zealand Limited.
- (2) No responsible Minister or any other Minister, and no person acting by or on behalf of or at the direction of a responsible Minister or any other Minister, may give a direction in respect of—
  - (a) any programme or content; or
  - (b) the gathering or presentation of news or the preparation or presentation of any current affairs programme or content.
- (3) *[Repealed]*

Compare: 1976 No 132 s 20(1), (2)(a), (b), (c), (4), (5); 1982 No 6 s 4(1)

Section 44(1): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 44(1A): inserted, on 1 December 1995, by section 20 of the Radio New Zealand Act 1995 (1995 No 52).

Section 44(1A): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 44(2): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 44(2)(a): substituted, on 14 March 2008, by section 9(1) of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 44(2)(b): amended, on 14 March 2008, by section 9(2) of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 44(3): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **45 Membership of Commission**

The board of the Commission consists of not less than 3, and not more than 6, members.

Section 45: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).



**46 Term of office of members of Commission**

*[Repealed]*

Section 46: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**47 Public broadcasting fees**

*[Repealed]*

Section 47: repealed, on 1 July 2000, by section 11(a) of the Broadcasting Amendment Act 1999 (1999 No 63).

**48 Funds of Commission**

*[Repealed]*

Section 48: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**49 Administrative expenses**

*[Repealed]*

Section 49: repealed, on 1 July 2000, by section 11(c) of the Broadcasting Amendment Act 1999 (1999 No 63).

**50 Refund of amount of administrative expenses**

*[Repealed]*

Section 50: repealed, on 1 July 2000, by section 11(d) of the Broadcasting Amendment Act 1999 (1999 No 63).

**51 Exemption from income tax**

The income of the Commission shall be exempt from income tax.

**52 Seal**

*[Repealed]*

Section 52: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**53 Further provisions applying in respect of Commission**

The provisions set out in Schedule 1 shall apply in respect of the Commission.

## **Part 4A**

### **Te Reo Whakapuaki Irirangi**

Part 4A: inserted, on 1 July 1993, by section 8 of the Broadcasting Amendment Act 1993 (1993 No 69).

#### **53A Establishment of Te Reo Whakapuaki Irirangi**

- (1) There is hereby established an agency to be called Te Reo Whakapuaki Irirangi.
- (2) The Agency is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- (3) The Crown Entities Act 2004 applies to the Agency except to the extent that this Act expressly provides otherwise.

Section 53A: inserted, on 1 July 1993, by section 8 of the Broadcasting Amendment Act 1993 (1993 No 69).

Section 53A(2): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 53A(3): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

#### **53B Functions of Te Reo Whakapuaki Irirangi**

- (1) The primary function of Te Reo Whakapuaki Irirangi is to promote Māori language and Māori culture by making funds available, on the terms and conditions that it thinks fit, for—
  - (a) broadcasting; and
  - (b) producing programmes for broadcasting; and
  - (c) archiving programmes.
- (2) Te Reo Whakapuaki Irirangi may also make funds available (on the terms and conditions that it thinks fit and, as far as practicable, in a manner consistent with its primary function) for—
  - (a) transmitting on demand; and
  - (b) producing content for transmitting on demand; and
  - (c) archiving content.

Section 53B: substituted, on 14 March 2008, by section 10 of the Broadcasting Amendment Act 2008 (2008 No 3).

#### **53C Consultation**

Te Reo Whakapuaki Irirangi shall, in the exercise of its functions under section 53B, consult from time to time with repre-

sentatives of Maori interests, broadcasters, persons who transmit on demand, and others, being in each case persons or representatives who can, in the opinion of Te Reo Whakapuaki Irirangi, assist in the development of Te Reo Whakapuaki Irirangi's funding policies.

Section 53C: inserted, on 1 July 1993, by section 8 of the Broadcasting Amendment Act 1993 (1993 No 69).

Section 53C: amended, on 14 March 2008, by section 11(1) of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 53C: amended, on 14 March 2008, by section 11(2) of the Broadcasting Amendment Act 2008 (2008 No 3).

### **53D Powers of Te Reo Whakapuaki Irirangi**

*[Repealed]*

Section 53D: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### **53E Matters to be taken into account in relation to funding proposals**

Te Reo Whakapuaki Irirangi, in assessing any proposal for Te Reo Whakapuaki Irirangi to make funds available for broadcasting or transmitting on demand, or the production of any programme to be broadcast or content to be transmitted on demand, must have regard to—

- (a) the extent to which the persons seeking the funding for the project to which the proposal relates have sought and secured funding or other resources for the project from sources other than Te Reo Whakapuaki Irirangi; and
- (b) the potential size of the audience likely to benefit from the project to which the proposal relates; and
- (c) the extent to which the intended audience involved has access to services that have as their primary aim the promotion of Maori language and Maori culture; and
- (d) in the case of a proposal for the production of any programme or content, the extent to which the proposed programme or content would contribute to Te Reo Whakapuaki Irirangi fulfilling its functions under section 53B; and

- (e) in the case of a proposal for the production of any programme or content, the likelihood that the proposed programme or content, if produced, would be broadcast or transmitted on demand; and
- (f) the needs and preferences of—
  - (i) children participating in te reo Māori immersion education; and
  - (ii) all persons learning te reo Māori.

Section 53E: inserted, on 1 July 1993, by section 8 of the Broadcasting Amendment Act 1993 (1993 No 69).

Section 53E: amended, on 14 March 2008, by section 12(1) of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 53E(d): substituted, on 14 March 2008, by section 12(2) of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 53E(e): substituted, on 14 March 2008, by section 12(3) of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 53E(f): added, on 8 May 2003, by section 59 of the Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Act 2003 (2003 No 21).

### **53F Requirements in relation to standards**

Te Reo Whakapuaki Irirangi shall require from recipients of funding from Te Reo Whakapuaki Irirangi in relation to the production of a programme or programmes, in such form as Te Reo Whakapuaki Irirangi shall determine, undertakings that the programme or programmes will be consistent with the standards specified in section 4(1).

Section 53F: inserted, on 1 July 1993, by section 8 of the Broadcasting Amendment Act 1993 (1993 No 69).

### **53G Requirements in relation to equal employment opportunities**

Te Reo Whakapuaki Irirangi may decline to make funds available under section 53B, where it considers that the prospective recipient is not operating an appropriate equal employment opportunities plan in circumstances where it would be practicable for the prospective recipient to do so.

Section 53G: inserted, on 1 July 1993, by section 8 of the Broadcasting Amendment Act 1993 (1993 No 69).

**53H Contracts in relation to use of funds**

In making funds available under section 53B, Te Reo Whakapuaki Irirangi shall, to the extent that, in the opinion of Te Reo Whakapuaki Irirangi, it is practicable to do so,—

- (a) invite competitive proposals for the use of funds made available by Te Reo Whakapuaki Irirangi; and
- (b) ensure by the terms of contracts that the recipients of the funds are obliged both to attain specified standards of performance and to account for the use of the funds; and
- (c) adopt measures to ensure that recipients of funds comply with the terms referred to in paragraph (b).

Section 53H: inserted, on 1 July 1993, by section 8 of the Broadcasting Amendment Act 1993 (1993 No 69).

**53I Membership of Te Reo Whakapuaki Irirangi**

The board of Te Reo Whakapuaki Irirangi consists of not more than 7 members.

Section 53I: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**53J Term of office of members of Te Reo Whakapuaki Irirangi**  
*[Repealed]*

Section 53J: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**53K Funds of Te Reo Whakapuaki Irirangi**  
*[Repealed]*

Section 53K: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**53L Payment of funds to Te Reo Whakapuaki Irirangi by Commission**  
*[Repealed]*

Section 53L: repealed, on 1 July 2000, by section 11(f) of the Broadcasting Amendment Act 1999 (1999 No 63).

**53M Administrative expenses***[Repealed]*

Section 53M: repealed, on 1 July 2000, by section 11(g) of the Broadcasting Amendment Act 1999 (1999 No 63).

**53N Refund of amount of administrative expenses***[Repealed]*

Section 53N: repealed, on 1 July 2000, by section 11(h) of the Broadcasting Amendment Act 1999 (1999 No 63).

**53O Exemption from income tax**

The income of Te Reo Whakapuaki Irirangi shall be exempt from income tax.

Section 53O: inserted, on 1 July 1993, by section 8 of the Broadcasting Amendment Act 1993 (1993 No 69).

**53P Seal***[Repealed]*

Section 53P: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**53Q Crown entity***[Repealed]*

Section 53Q: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**53R Further provisions applying in respect of Te Reo Whakapuaki Irirangi**

- (1) The provisions set out in Schedule 1 shall apply in respect of Te Reo Whakapuaki Irirangi as if every reference to the Commission were a reference to Te Reo Whakapuaki Irirangi.

- (2) *[Repealed]*

Section 53R: inserted, on 1 July 1993, by section 8 of the Broadcasting Amendment Act 1993 (1993 No 69).

Section 53R(2): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**53S Te Reo Whakapuaki Irirangi to have regard to Government policy**

- (1) *[Repealed]*
- (2) The Minister may not give a direction in respect of—
- (a) any programme or content; or
  - (b) the gathering or presentation of news or the preparation or presentation of any current affairs programme or content.
- (3) Subsection (2) applies despite subpart 1 of Part 3 of the Crown Entities Act 2004.

Section 53S: inserted, on 1 July 2000, by section 8 of the Broadcasting Amendment Act 2000 (2000 No 3).

Section 53S(1): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 53S(2): amended, on 10 April 2003, by section 4(2) of the Broadcasting Amendment Act 2003 (2003 No 14).

Section 53S(2)(a): substituted, on 14 March 2008, by section 13(1) of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 53S(2)(b): amended, on 14 March 2008, by section 13(2) of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 53S(3): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**Part 5**  
**Restrictions on broadcasting by overseas persons**

*[Repealed]*

Part 5: repealed, on 7 May 1991, by section 2(1) of the Broadcasting Amendment Act 1991 (1991 No 21).

**54 Interpretation**

*[Repealed]*

Section 54: repealed, on 7 May 1991, by section 2(1) of the Broadcasting Amendment Act 1991 (1991 No 21).

**55 Shareholding interests**

*[Repealed]*

Section 55: repealed, on 7 May 1991, by section 2(1) of the Broadcasting Amendment Act 1991 (1991 No 21).

**56 Control of voting rights***[Repealed]*

Section 56: repealed, on 7 May 1991, by section 2(1) of the Broadcasting Amendment Act 1991 (1991 No 21).

**57 Shareholding interests derived through other companies***[Repealed]*

Section 57: repealed, on 7 May 1991, by section 2(1) of the Broadcasting Amendment Act 1991 (1991 No 21).

**58 Shareholding interests derived by overseas persons through other companies***[Repealed]*

Section 58: repealed, on 7 May 1991, by section 2(1) of the Broadcasting Amendment Act 1991 (1991 No 21).

**59 Aggregation of shareholding interests***[Repealed]*

Section 59: repealed, on 7 May 1991, by section 2(1) of the Broadcasting Amendment Act 1991 (1991 No 21).

**60 Exemption in respect of life insurance companies***[Repealed]*

Section 60: repealed, on 7 May 1991, by section 2(1) of the Broadcasting Amendment Act 1991 (1991 No 21).

**61 Restriction on broadcasting by overseas person***[Repealed]*

Section 61: repealed, on 7 May 1991, by section 2(1) of the Broadcasting Amendment Act 1991 (1991 No 21).

**62 Restriction on overseas ownership of broadcaster***[Repealed]*

Section 62: repealed, on 7 May 1991, by section 2(1) of the Broadcasting Amendment Act 1991 (1991 No 21).



**63 Special provisions in respect of ownership by overseas person of shareholding interest in company broadcasting sound radio programmes only**

*[Repealed]*

Section 63: repealed, on 7 May 1991, by section 2(1) of the Broadcasting Amendment Act 1991 (1991 No 21).

**64 Special provision in respect of incidental acquisition of shares**

*[Repealed]*

Section 64: repealed, on 7 May 1991, by section 2(1) of the Broadcasting Amendment Act 1991 (1991 No 21).

**65 Special provision in respect of ownership by life insurance company of shareholding interest in company that broadcasts programmes**

*[Repealed]*

Section 65: repealed, on 7 May 1991, by section 2(1) of the Broadcasting Amendment Act 1991 (1991 No 21).

**66 Offence**

*[Repealed]*

Section 66: repealed, on 7 May 1991, by section 2(1) of the Broadcasting Amendment Act 1991 (1991 No 21).

**67 Exception in relation to broadcasting outside New Zealand**

*[Repealed]*

Section 67: repealed, on 7 May 1991, by section 2(1) of the Broadcasting Amendment Act 1991 (1991 No 21).

**68 Exception in respect of shareholding interests held immediately before 17 May 1989**

*[Repealed]*

Section 68: repealed, on 7 May 1991, by section 2(1) of the Broadcasting Amendment Act 1991 (1991 No 21).

## Part 6

### Parliamentary election programmes

Part 6: substituted, on 28 August 1990, by section 8 of the Broadcasting Amendment Act (No 2) 1990 (1990 No 103).

#### 69 Interpretation

(1) In this Part, unless the context otherwise requires,—

**by-election** means a by-election within the meaning of section 3(1) of the Electoral Act 1993

**candidate** has the meaning given to that term by section 3 of the Electoral Act 1993

**constituency candidate** has the meaning given to that term by section 3 of the Electoral Act 1993

**election**—

- (a) means a general election; and
- (b) includes, in sections 70, 79, 79A, 79C, and 80, a by-election

**election period**, in relation to an election, means the period—

- (a) beginning with writ day; and
- (b) ending with the close of the day preceding polling day

**election programme** means, subject to subsection (2), a programme that—

- (a) encourages or persuades or appears to encourage or persuade voters to vote for a political party or the election of any person at an election; or
- (b) encourages or persuades or appears to encourage or persuade voters not to vote for a political party or the election of any person at an election; or
- (c) advocates support for a candidate or for a political party; or
- (d) opposes a candidate or a political party; or
- (e) notifies meetings held or to be held in connection with an election

**Electoral Commission** means the Electoral Commission established under section 4 of the Electoral Act 1993

**free-to-air television broadcasting** means broadcasting of television programmes by means of radio waves propagated

in space without artificial guide, where persons wishing to view programmes are not required to pay to do so

**general election** means a general election within the meaning of the Electoral Act 1993

**production costs**, in relation to an opening address or a closing address, includes the costs of linking between venues and broadcasting studios

**Register** and **Register of Political Parties** means the Register of Political Parties established under section 62(2) of the Electoral Act 1993

**RNZ** means Radio New Zealand Limited

**TVNZ** means Television New Zealand Limited.

- (2) Notwithstanding section 2, for the purposes of the definition of the term election programme, the term **programme** includes visual images, whether or not combined with sounds, that consist predominantly of alphanumeric text.

Section 69: substituted, on 1 July 1996, by section 17 of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 69(1) **by-election**: inserted, on 7 December 2004, by section 4(1) of the Broadcasting Amendment Act 2004 (2004 No 100).

Section 69(1) **election**: substituted, on 7 December 2004, by section 4(2) of the Broadcasting Amendment Act 2004 (2004 No 100).

Section 69(1) **RNZ**: added, on 7 December 2004, by section 4(1) of the Broadcasting Amendment Act 2004 (2004 No 100).

Section 69(1) **TVNZ**: added, on 7 December 2004, by section 4(1) of the Broadcasting Amendment Act 2004 (2004 No 100).

#### **69A Limited application of this Part to by-elections**

- (1) Sections 70A to 77A do not apply in respect of by-elections.
- (2) If there is any inconsistency between subsection (1) and any other provision in this Part, subsection (1) prevails.

Section 69A: inserted, on 7 December 2004, by section 5 of the Broadcasting Amendment Act 2004 (2004 No 100).

#### **70 Prohibition on paid election programmes**

- (1) Except as provided in subsections (2) and (2A), no broadcaster shall permit the broadcasting, within or outside an election period, of an election programme.
- (2) Nothing in subsection (1) applies in respect of—

- (a) an opening address or closing address that is broadcast—
    - (i) for a political party or group of related political parties; and
    - (ii) by TVNZ or RNZ during time allocated to that political party or group of related political parties under section 73(1); or
  - (b) an election programme broadcast for a political party or group of related political parties and paid for with money allocated to that political party or group of related political parties under section 74A; or
  - (c) an election programme—
    - (i) broadcast for a fee or other consideration; and
    - (ii) relating solely to 1 named constituency candidate at an election; and
    - (iii) used or appearing to be used to promote or procure the election of the candidate; and
    - (iv) broadcast by the candidate or with the candidate's authority within the election period; or
  - (d) any advertisement placed by the Electoral Commission or by the Chief Registrar of Electors, a Registrar of Electors, a Returning Officer, or other official for the purposes of the Electoral Act 1993; or
  - (e) any non-partisan advertisement broadcast, as a community service, by the broadcaster.
- (2A) Nothing in subsection (1) restricts the amount of money that a political party or group of related political parties may spend on the production costs of an election programme.
- (2B) Nothing in this Act derogates from section 214B of the Electoral Act 1993.
- (3) Nothing in subsection (1) restricts the broadcasting, in relation to an election, of news or of comments or of current affairs programmes.
- (4) For the purposes of subsection (2)(c)(ii), the term **constituency candidate** includes a person who has declared his or her intention of becoming a constituency candidate.

Section 70: substituted, on 8 July 1993, by section 9 of the Broadcasting Amendment Act 1993 (1993 No 69).

Section 70(1): amended, on 1 July 1996, by section 18(1) of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 70(2)(a): substituted, on 7 December 2004, by section 6(1) of the Broadcasting Amendment Act 2004 (2004 No 100).

Section 70(2)(c)(ii): substituted, on 7 December 2004, by section 6(2) of the Broadcasting Amendment Act 2004 (2004 No 100).

Section 70(2)(c)(iv): amended, on 20 December 2007, by section 8 of the Broadcasting Amendment Act (No 2) 2007 (2007 No 112).

Section 70(2)(d): substituted, on 1 July 1996, by section 18(2) of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 70(2)(d): amended, on 1 October 2010, by section 32(2)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

Section 70(2A): inserted, on 1 July 1996, by section 18(3) of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 70(2B): inserted, on 1 July 1996, by section 18(3) of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 70(4): added, on 7 December 2004, by section 6(3) of the Broadcasting Amendment Act 2004 (2004 No 100).

#### **70A Obligation of political parties to give notice to Electoral Commission**

- (1) In every year in which a Parliament is due to expire, the Electoral Commission shall specify, by notice in the *Gazette*, a date by which any political party that considers that it will qualify for an allocation of time under section 73 or of money under section 74A, in respect of the election period that will apply in relation to the general election to be held in that year, must notify the Electoral Commission in writing that it considers itself to be so qualified.
- (2) The date specified under subsection (1) may be a date before the beginning of the election period.
- (3) Each political party that considers that it will qualify for an allocation of time under section 73 or of money under section 74A in respect of an election period shall notify the Electoral Commission in writing that it considers itself to be so qualified.

Section 70A: substituted, on 1 July 1996, by section 19 of the Broadcasting Amendment Act 1996 (1996 No 53).

#### **70B Time by which notice must be given**

Every notice given under section 70A(3) must be given not later than the date specified under section 70A(1).

Section 70B: substituted, on 7 December 2004, by section 7 of the Broadcasting Amendment Act 2004 (2004 No 100).

### **70C Particulars of notice**

Every notice given under section 70A(3) shall state, among other things,—

- (a) the full name of the political party; and
- (b) the name and address of the person providing the notice and the capacity in which he or she provides the notice; and
- (c) where the person providing the notice is not the Secretary of the political party, the name and address of the Secretary of the political party; and
- (d) *[Repealed]*
- (e) details of any relationships that may exist between that political party and any other political parties in New Zealand that the Electoral Commission may need to take into account in allocating time or money to political parties; and
- (f) either—
  - (i) that the party is registered on the Register of Political Parties; or
  - (ii) that the party is intending to apply for registration on the Register of Political Parties in order to be registered at the date of dissolution or expiry of Parliament; and
- (g) whether or not the political party intends to submit a list under section 127 of the Electoral Act 1993 for the general election to be held in that year.

Section 70C: substituted, on 1 July 1996, by section 19 of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 70C heading: amended, on 14 March 2008, by section 14 of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 70C(d): repealed, on 7 December 2004, by section 8(1) of the Broadcasting Amendment Act 2004 (2004 No 100).

Section 70C(e): amended, on 14 March 2008, by section 14 of the Broadcasting Amendment Act 2008 (2008 No 3).

Section 70C(f)(ii): substituted, on 7 December 2004, by section 8(2) of the Broadcasting Amendment Act 2004 (2004 No 100).

Section 70C(g): substituted, on 7 December 2004, by section 8(3) of the Broadcasting Amendment Act 2004 (2004 No 100).

**70D Persons deemed to be candidates**

*[Repealed]*

Section 70D: repealed, on 7 December 2004, by section 9 of the Broadcasting Amendment Act 2004 (2004 No 100).

**71 Opening addresses and closing addresses to be broadcast free**

- (1) TVNZ and RNZ must each provide time, free of charge, for the broadcasting, in an election period, of the opening addresses and closing addresses of political parties.
- (2) TVNZ must broadcast opening addresses and closing addresses on 1 free-to-air channel with national coverage.
- (3) RNZ must broadcast opening addresses and closing addresses on the service known as National Radio.
- (4) Opening addresses and closing addresses must be broadcast in accordance with section 77A (which sets out when, and at what time, opening addresses and closing addresses are to be broadcast, and certain other provisions relating to the broadcasting of opening addresses and closing addresses).

Section 71: substituted, on 7 December 2004, by section 10 of the Broadcasting Amendment Act 2004 (2004 No 100).

Section 71(4): amended, on 14 March 2008, by section 14 of the Broadcasting Amendment Act 2008 (2008 No 3).

**71A Electoral Commission to ascertain time available for opening addresses and closing addresses**

- (1) During the term of each Parliament, or as soon as practicable after a Parliament is dissolved or expires, the Electoral Commission must require TVNZ and RNZ to supply a statement of the amount of time that each of them will provide, free of charge, for the broadcasting of the opening addresses and closing addresses of political parties at the next election.
- (2) The statement must be supplied to the Electoral Commission within such reasonable time as the Electoral Commission specifies. The Electoral Commission may at any time shorten or extend that deadline, whether before or after it has expired.
- (3) A statement provided in accordance with this section—

- (a) may include proposals for the allocation, to political parties, of the time that will be provided for the broadcasting of opening addresses and closing addresses; and
  - (b) must state any conditions proposed in relation to the scheduling and duration of opening addresses and closing addresses within the time that the broadcaster will provide.
- (4) In making proposals under subsection (3)(a), TVNZ or RNZ, as the case requires, must have regard to the provisions of section 75.

Section 71A: substituted, on 7 December 2004, by section 10 of the Broadcasting Amendment Act 2004 (2004 No 100).

## **72 Electoral Commission to refer statements to political parties**

- (1) As soon as practicable after receiving statements from TVNZ and RNZ in accordance with section 71A, the Electoral Commission must give a copy of those statements to—
  - (a) each political party that has given a notice to the Electoral Commission under section 70A(3); and
  - (b) the Minister of Justice.
- (2) The Electoral Commission must ensure, as far as practicable, that each of the intended recipients receives copies of the statements on the same day.

Section 72: substituted, on 7 December 2004, by section 10 of the Broadcasting Amendment Act 2004 (2004 No 100).

## **72A Limits on amount of time**

*[Repealed]*

Section 72A: repealed, on 28 August 1990, by section 8 of the Broadcasting Amendment Act (No 2) 1990 (1990 No 103).

## **72B Radio election programmes confined to broadcasting stations that broadcast advertising programmes**

*[Repealed]*

Section 72B: repealed, on 28 August 1990, by section 8 of the Broadcasting Amendment Act (No 2) 1990 (1990 No 103).



**73 Allocation of time to political parties**

- (1) In respect of each election period, the Electoral Commission must allocate to political parties, in such proportions as the Electoral Commission considers appropriate, the time that TVNZ and RNZ have made available for opening addresses and closing addresses in accordance with section 71A.
- (2) In allocating time to political parties under subsection (1), the Electoral Commission—
  - (a) must consider whether any proposals made under section 71A(3)(a) for the allocation of broadcasting time can be adopted either in full or with modifications specified by the Electoral Commission; and
  - (b) must modify proposals made under section 71A(3)(a) if, in the opinion of the Electoral Commission, the proposals are not consistent with the provisions of section 75.
- (3) The Electoral Commission must not allocate any time to an individual political party under this section if that political party has received an allocation of time under this section as part of a group of related political parties.
- (4) This section is subject to sections 75, 75A, and 76.

Section 73: substituted, on 7 December 2004, by section 10 of the Broadcasting Amendment Act 2004 (2004 No 100).

**73A Obligation of political parties to give notice to Authority**

*[Repealed]*

Section 73A: repealed, on 28 August 1990, by section 8 of the Broadcasting Amendment Act (No 2) 1990 (1990 No 103).

**74 Amount of public money to be allocated to political parties**

- (1) The Minister of Justice shall notify the Electoral Commission, in respect of each election period, of the amount of money appropriated by Parliament for the purpose of enabling political parties to meet all or part of the costs of broadcasting election programmes.
- (2) Where a general election takes place after the year 1990, an amount of money equal to the amount of public money allocated under section 74A or section 77A in respect of the broadcasting of election programmes at the immediately preceding

general election shall, unless an Act of Parliament expressly provides otherwise, be deemed to have been appropriated by Parliament for the purpose of enabling political parties to meet all or part of the costs of broadcasting election programmes at the first-mentioned general election.

- (3) Where an amount of money is deemed by subsection (2) to have been appropriated by Parliament for the purpose specified in that subsection, that amount shall be payable out of public money for that purpose without further appropriation than this subsection.

Section 74: substituted, on 1 July 1996, by section 19 of the Broadcasting Amendment Act 1996 (1996 No 53).

#### **74A Allocation of money to political parties**

- (1) The Electoral Commission shall, in respect of each election period, decide the allocation to political parties of the amount of any money appropriated by Parliament, or deemed to have been appropriated by Parliament, for the purpose of enabling political parties to meet all or part of the costs of broadcasting election programmes during that election period.
- (2) The decision made under subsection (1)—
- (a) shall set out the allocations (which shall be in such proportions as the Electoral Commission thinks fit); and
  - (b) may include conditions concerning the manner in which any political party is to expend its allocation.
- (3) Conditions included in a decision pursuant to subsection (2)(b) may include conditions requiring the political party or group of related political parties to advise the Electoral Commission of the value of election programme bookings made by the political party or group of related political parties.
- (4) Where the Electoral Commission decides under subsection (1) to allocate a sum of money to a political party, the Electoral Commission shall supply a copy of its decision to—
- (a) that political party; and
  - (b) the Secretary for Justice.
- (5) The Electoral Commission shall not under this section allocate any money to an individual political party if that political party has received an allocation of money under this section as part of a group of related political parties.

Section 74A: substituted, on 1 July 1996, by section 19 of the Broadcasting Amendment Act 1996 (1996 No 53).

**74B Application and payment of allocation**

- (1) Every political party to which an amount of money is allocated under section 74A—
  - (a) shall expend that money only for the purpose of meeting—
    - (i) the production costs of any election programme broadcast by the political party during the election period; or
    - (ii) the cost of the broadcasting time of any election programme broadcast by the political party during the election period; and
  - (b) shall, in expending that money for the purpose specified in paragraph (a), observe any conditions imposed by the Electoral Commission under section 74A.
- (2) Every political party to which an amount of money is allocated under section 74A must ensure that the Electoral Commission receives, no later than 50 working days after the end of the month in which the election was held,—
  - (a) all accounts issued to the political party in respect of the expenditure by that political party of its allocation; and
  - (b) any information in relation to those accounts that the Electoral Commission requires.
- (2A) No account that is received by the Electoral Commission from a political party after the end of the period specified in subsection (2) may be paid by the Electoral Commission, either in part or in full, from the amount of money allocated to that party under section 74A.
- (3) Any account submitted to the Electoral Commission under subsection (2) may be in respect of—
  - (a) the production costs of any election programme broadcast by the political party during the election period; or
  - (b) the cost of the broadcasting time of any election programme broadcast by the political party during the election period; or
  - (c) both.

- (4) When the Electoral Commission is satisfied in relation to any account that the account or any part of the account should be paid, the Electoral Commission shall, out of money appropriated by Parliament, or deemed to have been appropriated by Parliament, for the purpose of enabling political parties to meet all or part of the costs of broadcasting election programmes during the election period, pay to the person who issued the account the amount approved by the Electoral Commission for payment.
- (5) An amount of money that has been allocated to a political party under section 74A on or after the commencement of the Broadcasting Amendment Act 2004 and that is not paid out under subsection (4) must be repaid by the Electoral Commission to the Crown.

Section 74B: substituted, on 1 July 1996, by section 19 of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 74B(2): substituted, on 7 December 2004, by section 11(1) of the Broadcasting Amendment Act 2004 (2004 No 100).

Section 74B(2A): inserted, on 7 December 2004, by section 11(1) of the Broadcasting Amendment Act 2004 (2004 No 100).

Section 74B(5): added, on 7 December 2004, by section 11(2) of the Broadcasting Amendment Act 2004 (2004 No 100).

## **75 Criteria in relation to allocation of time and money to political parties**

- (1) The Electoral Commission must not allocate any time to a political party under section 73, or make an allocation of money to a political party under section 74A, in respect of an election unless—
  - (a) that party was registered on the Register of Political Parties at the time of the dissolution of Parliament for the election or, as the case requires, at the time that Parliament expired; and
  - (b) that party has given to the Electoral Commission, in relation to that election, a notice that complies with the requirements of sections 70A(3), 70B, and 70C.
- (2) The Electoral Commission shall, in allocating time to a political party under section 73 or in making under section 74A an allocation of money to a political party, have regard to—

- (a) the number of persons who voted at the immediately preceding general election for that party and for candidates belonging to that political party; and
  - (b) the number of persons who voted at any by-election held since the immediately preceding general election for any candidate belonging to that political party; and
  - (c) the number of members of Parliament who were members of that political party immediately before the dissolution or expiration of Parliament; and
  - (d) any relationships that exist between a political party and any other political party; and
  - (e) any other indications of public support for that political party such as the results of public opinion polls and the number of persons who are members of that political party; and
  - (f) the need to provide a fair opportunity for each political party to which subsection (1) applies to convey its policies to the public by the broadcasting of election programmes on television.
- (3) Despite anything in subsection (1) or subsection (2), an allocation of time to a political party made under section 73 in respect of an election period, or a decision made under section 74A in respect of an election period, may be made before the beginning of the election period.

Section 75: substituted, on 1 July 1996, by section 19 of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 75(1): substituted, on 7 December 2004, by section 12(1) of the Broadcasting Amendment Act 2004 (2004 No 100).

Section 75(2)(c): substituted, on 7 December 2004, by section 12(2) of the Broadcasting Amendment Act 2004 (2004 No 100).

Section 75(2)(f): amended, on 7 December 2004, by section 12(3) of the Broadcasting Amendment Act 2004 (2004 No 100).

Section 75(3): substituted, on 7 December 2004, by section 12(4) of the Broadcasting Amendment Act 2004 (2004 No 100).

### **75A Consultation with broadcasters**

- (1) The Electoral Commission must not allocate time under section 73 or make an allocation of money under section 74A, or make a determination under section 77A(5)(a), unless—
- (a) the Electoral Commission has—

- (i) consulted with those broadcasters that are likely to be affected by the allocation or determination; and
  - (ii) provided those broadcasters with the opportunity to give the Electoral Commission their comments on the proposed allocation or determination; and
- (b) the Electoral Commission has considered those comments (if any).
- (2) If the Electoral Commission adopts in full, under section 73, a proposal made by TVNZ or RNZ under section 71A(3)(a), the Electoral Commission is not required by subsection (1) to consult with that broadcaster.
- (3) If, after complying with subsection (1), the Electoral Commission later modifies an allocation or a determination, the Electoral Commission does not have to provide any broadcaster with a further opportunity to comment on the modified allocation or determination.
- (4) The failure of any broadcaster to make use of the opportunity to consult with, or to give comments to, the Electoral Commission under subsection (1), or to comply with any other request of the Electoral Commission,—
  - (a) does not prevent the Commission making—
    - (i) an allocation of time under section 73; or
    - (ii) an allocation of money under section 74A; or
    - (iii) a determination under section 77A(5)(a); and
  - (b) does not affect the validity of any allocation or determination made under any of those sections.

Section 75A: substituted, on 7 December 2004, by section 13 of the Broadcasting Amendment Act 2004 (2004 No 100).

## **76 Consultation with political parties**

- (1) The Electoral Commission must comply with subsection (2)—
  - (a) before allocating time to a political party under section 73; and
  - (b) before allocating any money under section 74A; and
  - (c) before making any determination under section 77A(5)(a).
- (2) Before doing any of the things referred to in subsection (1), the Electoral Commission must grant to every political party

that has given a notice to the Electoral Commission under section 70A(3) the opportunity to meet with and be heard by the Electoral Commission.

- (3) If, after complying with subsection (2), the Electoral Commission later modifies an allocation or a determination, the Electoral Commission does not have to provide any political party with any further opportunity to meet with and be heard by the Electoral Commission.
- (4) The failure of any political party to make use of the opportunity to meet with and be heard by the Electoral Commission under subsection (2), or to comply with any other request of the Electoral Commission,—
  - (a) does not prevent the Commission making—
    - (i) an allocation of time under section 73; or
    - (ii) an allocation of money under section 74A; or
    - (iii) a determination under section 77A(5)(a); and
  - (b) does not affect the validity of any allocation or determination made under any of those sections.

Section 76: substituted, on 7 December 2004, by section 13 of the Broadcasting Amendment Act 2004 (2004 No 100).

#### **76A Power of Electoral Commission to vary allocations**

- (1) If, after any allocation is made under section 73 or section 74A,—
  - (a) a broadcaster in respect of which an allocation of time has been made ceases to be a broadcaster; or
  - (b) a political party does not accept any allocation of time under section 73 or any allocation of money under section 74A; or
  - (c) the party ceases to be registered; or
  - (d) the party fails to submit a list of candidates for election to the seats reserved for those members of Parliament elected from lists pursuant to section 127 of the Electoral Act 1993; or
  - (da) the party fails to comply with any conditions imposed by the Electoral Commission under section 74A(2)(b) requiring the political party or group of related political parties to advise the Electoral Commission of the value

- of election programme bookings made by the political party or group of related parties; or
- (e) the relationship of the party with any other political party has changed to a significant extent; or
- (f) *[Repealed]*
- the Electoral Commission may, subject to subsection (4), vary the allocation under section 73 or section 74A, as the case may require.
- (2) The varying of any allocation pursuant to this section shall not require the Electoral Commission to grant to any political party the opportunity to meet with and be heard by the Electoral Commission.
- (3) The Electoral Commission shall, in varying any allocation pursuant to this section, have regard to—
- (a) the views of political parties received by the Electoral Commission in the course of consultations undertaken in accordance with section 76; and
- (b) such of the matters referred to in sections 73, 74A, and 75, as the case may require.
- (4) Where effect has been given in whole or in part to an allocation made under section 73 or section 74A to a political party, the Electoral Commission shall not vary the allocation pursuant to this section unless—
- (a) the registration of that political party is cancelled under section 70 of the Electoral Act 1993; or
- (b) the secretary of a political party has failed to submit a list of candidates for election under section 127 of the Electoral Act 1993.
- (c) *[Repealed]*

Section 76A: substituted, on 1 July 1996, by section 19 of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 76A(1)(da): inserted, on 7 December 2004, by section 14(1) of the Broadcasting Amendment Act 2004 (2004 No 100).

Section 76A(1)(f): repealed, on 7 December 2004, by section 14(2) of the Broadcasting Amendment Act 2004 (2004 No 100).

Section 76A(4)(b): substituted, on 7 December 2004, by section 14(3) of the Broadcasting Amendment Act 2004 (2004 No 100).

Section 76A(4)(c): repealed, on 7 December 2004, by section 14(3) of the Broadcasting Amendment Act 2004 (2004 No 100).



**76B Recovery of money from political party**

- (1) Where effect has been given in whole or in part to an allocation made under section 74A and the Electoral Commission, acting under section 76A, varies that allocation, the Electoral Commission may determine that the whole or part of the money paid by or on behalf of the political party or to the political party as a result of that allocation be repaid to the Crown by the political party.
- (2) Where the Electoral Commission makes a determination under subsection (1),—
  - (a) the Electoral Commission shall give a copy of that determination to both the political party and the Secretary for Justice; and
  - (b) the Secretary for Justice may recover from the political party as a debt due to the Crown the amount specified in the determination as being repayable to the Crown by the political party.

Section 76B: substituted, on 1 July 1996, by section 19 of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 76B(1): amended, on 14 March 2008, by section 14 of the Broadcasting Amendment Act 2008 (2008 No 3).

**76C Procedure in relation to early elections**

- (1) This section applies if, at the time Parliament is dissolved or expires, either—
  - (a) the Electoral Commission has not specified a date under section 70A(1) in respect of the election period that will apply in relation to the next general election; or
  - (b) the Electoral Commission has specified such a date, but that date has not yet passed.
- (2) If this section applies,—
  - (a) this Part applies subject to the modifications specified in section 76D; and
  - (b) any notice given by the Electoral Commission under section 70A(1) must be disregarded.

Section 76C: substituted, on 7 December 2004, by section 15 of the Broadcasting Amendment Act 2004 (2004 No 100).

**76D Modifications to application of this Part if section 76C applies**

- (1) At the earliest available opportunity, the Electoral Commission must specify, by notice in the *Gazette*, a date by which any political party that considers it will qualify for an allocation of time under section 73 or of money under section 74A, in respect of the election period that will apply in relation to the general election, must notify the Electoral Commission that it considers itself to be so qualified.
- (2) Each political party that considers it will qualify for an allocation of time under section 73 or of money under section 74A must notify the Electoral Commission, by any means that the party considers appropriate, that it considers itself to be so qualified.
- (3) For the purposes of subsection (2) and despite section 75(1), a party is eligible for an allocation of time under section 73 or of money under section 74A if—
  - (a) that party was registered on the Register of Political Parties at the time of the dissolution of Parliament for the election or, as the case requires, at the time that Parliament expired; and
  - (b) no later than the date specified under subsection (1), that party gives to the Electoral Commission, in relation to the election, a notice that complies with the requirements of subsection (4).
- (4) The requirements referred to in subsection (3)(b) are—
  - (a) the notice must comply with the requirements of subsection (2):
  - (b) the notice must comply with the requirements of paragraphs (a), (b), (c), (e), and (g) of section 70C.
- (5) The Electoral Commission may set, for the consultation required under section 75A(1)(a), any time period that is reasonable in the circumstances.
- (6) The Electoral Commission may require any political party that wishes to make use of the opportunity to meet with and be heard by the Electoral Commission under section 76(2) to make use of that opportunity within any reasonable period of time that the Electoral Commission specifies.

Section 76D: inserted, on 7 December 2004, by section 15 of the Broadcasting Amendment Act 2004 (2004 No 100).

**77 Broadcasting of opening addresses and closing addresses**

- (1) TVNZ and RNZ must act in accordance with the allocations of time under section 73 applying to them.
- (2) Subsection (3) applies if there is a dispute between any of the following concerning the time at which any election programme is to be broadcast free of charge:
  - (a) any broadcaster and any political party; or
  - (b) any broadcaster and any other broadcaster; or
  - (c) any political party and any other political party.
- (3) If there is a dispute,—
  - (a) the Electoral Commission is to decide the matter in dispute; and
  - (b) the Electoral Commission's decision is final.

Section 77: substituted, on 7 December 2004, by section 15 of the Broadcasting Amendment Act 2004 (2004 No 100).

**77A Opening addresses and closing addresses**

- (1) Opening addresses and closing addresses for which time has been allocated to political parties under section 73 must be broadcast between 7 pm and 9 pm.
- (2) All closing addresses must be broadcast on the same night in the last week of the election period.
- (3) An advertising programme must not be broadcast—
  - (a) during an opening address:
  - (b) during a closing address:
  - (c) between different closing addresses.
- (4) An election programme that is not an opening address or a closing address must not be broadcast—
  - (a) during an opening address:
  - (b) between different opening addresses that are broadcast on the same night:
  - (c) during a closing address:
  - (d) between different closing addresses.
- (5) The Electoral Commission must—
  - (a) determine each amount to be paid to TVNZ or RNZ on account of the production costs of every opening ad-

- dress and every closing address broadcast under section 71; and
- (b) pay that amount to the person who issued the account for the production costs of the opening address or closing address.
- (6) Each amount paid under subsection (5)(b) must be paid out of public money appropriated by Parliament (or deemed by section 74(2) to have been appropriated by Parliament) for the purpose specified in section 74(1).

Section 77A: substituted, on 7 December 2004, by section 15 of the Broadcasting Amendment Act 2004 (2004 No 100).

#### **77B Duration of television programmes**

*[Repealed]*

Section 77B: repealed, on 28 August 1990, by section 8 of the Broadcasting Amendment Act (No 2) 1990 (1990 No 103).

#### **78 Simulcasting of free-to-air television programmes**

*[Repealed]*

Section 78: repealed, on 10 March 1990, by section 13 of the Broadcasting Amendment Act 1990 (1990 No 2).

#### **79 Programme standards in relation to election programmes**

Nothing in section 4(1)(d) applies in relation to an election programme broadcast pursuant to this Part.

Section 79: substituted, on 1 July 1996, by section 19 of the Broadcasting Amendment Act 1996 (1996 No 53).

#### **79A Hours during which election programmes prohibited**

- (1) No broadcaster shall broadcast election programmes on television—
- (a) during the hours between 6 am and noon on—
- (i) Sunday; or
- (ii) Anzac Day; or
- (b) on—
- (i) Christmas Day; or
- (ii) Good Friday; or
- (iii) Easter Sunday.

- (2) No broadcaster shall broadcast election programmes on sound radio on—
- (a) Christmas Day; or
  - (b) Good Friday; or
  - (c) Easter Sunday.

Section 79A: substituted, on 1 July 1996, by section 19 of the Broadcasting Amendment Act 1996 (1996 No 53).

**79B Obligation to give identical terms to each political party or candidate**

- (1) No broadcaster shall offer or give to any political party terms for broadcasting time that are more favourable than those offered or given to any other political party that buys or expresses an interest in buying comparable time from that broadcaster.
- (2) No broadcaster shall offer or give to any candidate terms for broadcasting time that are more favourable than those offered or given to any other candidate who buys or expresses an interest in buying comparable time from that broadcaster.

Section 79B: substituted, on 1 July 1996, by section 19 of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 79B(1): amended, on 7 December 2004, by section 16 of the Broadcasting Amendment Act 2004 (2004 No 100).

**79C Returns in relation to broadcasting time**

- (1) After each election, every broadcaster must give the Electoral Commission a complete and accurate written statement of the election programmes broadcast by that broadcaster during the 3-month period immediately preceding polling day for the election.
- (2) The statement must be given to the Electoral Commission no later than 10 working days after the end of the month in which the election was held.
- (3) The statement must set out the following information in relation to each election programme:
- (a) the candidate or political party for whom the election programme was broadcast:
  - (b) the length of the election programme and the time at which it was broadcast:

- (c) the date on which the election programme was broadcast:
  - (d) the amount paid for the broadcasting of the election programme, and the rate or rates by which that amount was fixed.
- (4) The statement must be signed by or on behalf of the broadcaster.

Section 79C: substituted, on 7 December 2004, by section 17 of the Broadcasting Amendment Act 2004 (2004 No 100).

#### **79D Returns to be available for public inspection**

The Electoral Commission must, not later than 3 working days after it receives a statement under section 79C, make the statement available for public inspection, without payment, at any time between 9 am and 5 pm, on any day on which the office of the Electoral Commission is open.

Section 79D: inserted, on 7 December 2004, by section 17 of the Broadcasting Amendment Act 2004 (2004 No 100).

Section 79D: amended, on 1 October 2010, by section 32(2)(b) of the Electoral (Administration) Amendment Act 2010 (2010 No 26).

#### **80 Offences**

Every person commits an offence and is liable on summary conviction to a fine not exceeding \$100,000 who—

- (a) fails to comply with section 70 or section 77(1) or section 79A or section 79B or section 79C; or
- (b) in an election period,—
  - (i) broadcasts an election programme for or on behalf of a political party; or
  - (ii) arranges for the broadcasting of an election programme for or on behalf of a political party—

other than pursuant to, and in conformity with, this Part.

Section 80: substituted, on 1 July 1996, by section 19 of the Broadcasting Amendment Act 1996 (1996 No 53).

Section 80(a): amended, on 7 December 2004, by section 18 of the Broadcasting Amendment Act 2004 (2004 No 100).

#### **80A Duty to report suspected offences**

Where the Electoral Commission believes that any person has committed an offence against section 80, the Electoral Com-

mission must report to the Police the facts upon which that belief is based.

Section 80A: inserted, on 7 December 2004, by section 19 of the Broadcasting Amendment Act 2004 (2004 No 100).

## **Part 7**

### **Miscellaneous provisions**

#### **81 Advertising hours**

- (1) Subject to subsection (4), no broadcaster shall broadcast advertising programmes on television—
  - (a) during the hours between 6 am and noon on—
    - (i) Sunday; or
    - (ii) Anzac Day; or
  - (b) on—
    - (i) Christmas Day; or
    - (ii) Good Friday; or
    - (iii) Easter Sunday.
- (2) Subject to subsection (4), no broadcaster shall broadcast advertising programmes on sound radio on—
  - (a) Christmas Day; or
  - (b) Good Friday; or
  - (c) Easter Sunday.
- (3) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$100,000 who contravenes subsection (1) or subsection (2).
- (4) Nothing in this section prevents the inclusion in any programme broadcast on television or sound radio of a credit in respect of a sponsorship or underwriting arrangement entered into in relation to that programme.
- (5) Nothing in this section applies to any programme broadcast on television, where the signal for that programme—
  - (a) originates outside New Zealand; and
  - (b) is produced and transmitted simultaneously to both New Zealand audiences and audiences outside New Zealand; and
  - (c) is targeted primarily at audiences outside New Zealand.
- (6) Nothing in this section prevents the broadcasting of advertising programmes on any broadcasting service that is primarily

directed at persons temporarily resident in holiday accommodation.

Compare: 1976 No 132 s 73A; 1985 No 61 s 6

Section 81(5): added, on 8 July 1993, by section 20 of the Broadcasting Amendment Act 1993 (1993 No 69).

Section 81(6): added, on 8 July 1993, by section 20 of the Broadcasting Amendment Act 1993 (1993 No 69).

## **82 Regulations**

*[Repealed]*

Section 82: repealed, on 1 July 2000, by section 11(i) of the Broadcasting Amendment Act 1999 (1999 No 63).

## **83 Amendment to Commerce Act 1986**

*[Repealed]*

Section 83: repealed, on 1 January 1991, by section 46 of the Commerce Amendment Act 1990 (1990 No 41).

## **84 Amendment to State-Owned Enterprises Amendment Act 1987**

(1)–(2) *Amendment(s) incorporated in the Act(s).*

(3) This section shall be deemed to have come into force on 1 December 1988.

## **85 Amendment to State-Owned Enterprises Act 1986**

*[Repealed]*

Section 85: repealed, on 21 December 1992, by section 42 of the Public Finance Amendment Act 1992 (1992 No 142).

## **86 Amendment to Telecommunications Act 1987**

*Amendment(s) incorporated in the Act(s).*

## **87 Amendment to State-Owned Enterprises Amendment Act (No 4) 1988**

*Amendment(s) incorporated in the Act(s).*

## **88 Consequential amendments**

The enactments specified in Schedule 2 are hereby amended in the manner indicated in that schedule.



**89 Repeals and savings**

- (1) The enactments specified in Schedule 3 are hereby repealed.
- (2) Without limiting the provisions of the Interpretation Act 1999, it is hereby declared that the repeal of the Broadcasting Amendment Act (No 2) 1988 does not affect the amendments made by section 15 of that Act to—
  - (a) *[Repealed]*
  - (b) the Local Authorities (Members' Interests) Act 1968; and
  - (c) the Queen Elizabeth the Second Arts Council of New Zealand Act 1974; and
  - (d) the Official Information Act 1982; and
  - (e) the Civil Defence Act 1983.

Section 89(2): amended, on 1 November 1999, pursuant to section 38(1) of the Interpretation Act 1999 (1999 No 85).

Section 89(2)(a): repealed, on 1 January 1995, by section 236(2) of the Copyright Act 1994 (1994 No 143).

**90 Revocations**

The regulations and order specified in Schedule 4 are hereby revoked.

**91 Savings and transitional provisions in relation to public broadcasting fee**

*[Repealed]*

Section 91: repealed, on 1 July 2000, by section 11(j) of the Broadcasting Amendment Act 1999 (1999 No 63).

**92 Transitional provision in relation to broadcasting station levies**

*[Repealed]*

Section 92: repealed, on 14 March 2008, by section 15(a) of the Broadcasting Amendment Act 2008 (2008 No 3).

**93 Transitional provisions in relation to Broadcasting Tribunal**

*[Repealed]*

Section 93: repealed, on 14 March 2008, by section 15(b) of the Broadcasting Amendment Act 2008 (2008 No 3).

**94 Transitional provisions in relation to appeals under  
Broadcasting Act 1976**

*[Repealed]*

Section 94: repealed, on 14 March 2008, by section 15(c) of the Broadcasting Amendment Act 2008 (2008 No 3).

**95 Transitional provision in relation to radio apparatus  
licences**

*[Repealed]*

Section 95: repealed, on 14 March 2008, by section 15(d) of the Broadcasting Amendment Act 2008 (2008 No 3).

**96 Final Report of Broadcasting Tribunal**

*[Repealed]*

Section 96: repealed, on 14 March 2008, by section 15(e) of the Broadcasting Amendment Act 2008 (2008 No 3).

**97 Transitional provision relating to funding of New Zealand  
Symphony Orchestra Limited**

*[Repealed]*

Section 97: repealed, on 6 April 2004, by section 36 of the New Zealand Symphony Orchestra Act 2004 (2004 No 20).

**98 Transitional provision in relation to restrictions on  
broadcasting by overseas persons**

- (1) Subject to subsection (2), any approval given by the Broadcasting Tribunal before 1 July 1989 under any provision of Part 5 of the Broadcasting Regulations 1977 so far as it is subsisting or in force at the time of the revocation of those regulations and could have been given by the Minister under Part 5 shall continue to have effect as if it had been given by the Minister under the corresponding provision of Part 5, and as if that provision had been in force when the approval was given.
- (2) Any approval that has effect by virtue of subsection (1) may at any time be withdrawn by the Minister; and any condition subject to which any such approval was given may from time to time be revoked, varied, or added to by the Minister.

**Schedule 1**

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**Provisions applying in respect of  
Broadcasting Standards Authority and  
Broadcasting Commission**

**1 Extraordinary vacancies**

*[Repealed]*

Schedule 1 clause 1: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**2 Meetings**

*[Repealed]*

Schedule 1 clause 2: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**3 Remuneration and travelling allowances**

*[Repealed]*

Schedule 1 clause 3: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**4 Employees**

*[Repealed]*

Schedule 1 clause 4: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**5 Personnel policy**

*[Repealed]*

Schedule 1 clause 5: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**6 Equal employment opportunities programme**

*[Repealed]*

Schedule 1 clause 6: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**7 Choice of procedure**

*[Repealed]*

Schedule 1 clause 7: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**8 Superannuation or retiring allowances**

For the purpose of providing a superannuation fund or retiring allowance for any members of the Authority or the Commission, sums by way of subsidy or contribution may from time to time be paid into any scheme under the National Provident Fund Act 1950 containing provision for employer subsidy, or into any other employer-subsidised scheme.

Schedule 1 clause 8: amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**9 Application of certain Acts to members and employees**

*[Repealed]*

Schedule 1 clause 9: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**10 Bank accounts**

*[Repealed]*

Schedule 1 clause 10: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**11 Investment of money**

*[Repealed]*

Schedule 1 clause 11: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**11A Crown entity**

*[Repealed]*

Schedule 1 clause 11A: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**12 Financial statements**

*[Repealed]*

Schedule 1 clause 12: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**13 Audit of accounts and financial statements**

*[Repealed]*

Schedule 1 clause 13: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**14 Annual report**

*[Repealed]*

Schedule 1 clause 14: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**15 Statement of Commission's goals**

*[Repealed]*

Schedule 1 clause 15: repealed, on 8 July 1993, by section 21(c) of the Broadcasting Amendment Act 1993 (1993 No 69).

**16 Members not personally liable**

*[Repealed]*

Schedule 1 clause 16: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

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**Schedule 2**  
**Enactments amended**  
*[Repealed]*

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Schedule 2: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

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**Schedule 3**  
**Repeals**

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**Broadcasting Act 1976 (1976 No 132) (RS Vol 13, p 1)**

**Broadcasting Amendment Act 1977 (1977 No 45) (RS Vol 13,  
p 87)**

**Broadcasting Amendment Act (No 2) 1977 (1977 No 184)  
(RS Vol 13, p 87)**

**Broadcasting Amendment Act 1979 (1979 No 49) (RS Vol 13,  
p 88)**

**Broadcasting Amendment Act 1981 (1981 No 109) (RS Vol 13,  
p 89)**

**Broadcasting Amendment Act 1982 (1982 No 6) (RS Vol 13,  
p 89)**

**Broadcasting Amendment Act (No 2) 1982 (1982 No 178)  
(RS Vol 13, p 92)**

**Broadcasting Amendment Act 1985 (1985 No 61)**

**Broadcasting Amendment Act (No 2) 1985 (1985 No 167)**

**Broadcasting Amendment Act (No 2) 1988 (1988 No 161)**

**State-Owned Enterprises Act 1986 (1986 No 124)**

*Amendment(s) incorporated in the Act(s).*

**State-Owned Enterprises Amendment Act 1987 (1987 No 117)**

*Amendment(s) incorporated in the Act(s).*

**Schedule 4**

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**Regulations and orders revoked****Broadcasting Regulations 1977 (SR 1977/11)****Broadcasting Regulations 1977, Amendment No 1 (SR 1977/236)****Broadcasting Regulations 1977, Amendment No 2 (SR 1977/287)****Broadcasting Regulations 1977, Amendment No 5 (SR 1981/295)****Broadcasting Regulations 1977, Amendment No 6 (SR 1983/36)****Broadcasting Regulations 1977, Amendment No 7 (SR 1985/197)****Broadcasting Regulations 1977, Amendment No 8 (SR 1986/204)****Broadcasting Regulations 1977, Amendment No 9 (SR 1987/76)****Broadcasting Regulations 1977, Amendment No 10  
(SR 1987/312)****Broadcasting Regulations 1977, Amendment No 11 (SR 1989/36)****Revocation of Broadcasting Amendment Regulations  
(SR 1980/120)**

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## **Contents**

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## **Notes**

### **1 *General***

This is a reprint of the Broadcasting Act 1989. The reprint incorporates all the amendments to the Act as at 1 October 2010, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/reprints/>.

### **2 *Status of reprints***

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

### **3 *How reprints are prepared***

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, *see* <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

#### **4     *Changes made under section 17C of the Acts and Regulations Publication Act 1989***

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5**     ***List of amendments incorporated in this reprint  
(most recent first)***

Electoral (Administration) Amendment Act 2010 (2010 No 26): section 32(2)(b)

Broadcasting Amendment Act 2008 (2008 No 3)

Broadcasting Amendment Act (No 2) 2007 (2007 No 112)

Broadcasting Amendment Act 2007 (2007 No 42)

Crown Entities Act 2004 (2004 No 115): section 200

Broadcasting Amendment Act 2004 (2004 No 100)

New Zealand Symphony Orchestra Act 2004 (2004 No 20): section 36

Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Act 2003 (2003 No 21): section 59

Broadcasting Amendment Act 2003 (2003 No 14)

Television New Zealand Act 2003 (2003 No 1): section 30

Broadcasting Amendment Act 2001 (2001 No 57)

Broadcasting Amendment Act 2000 (2000 No 3)  
Interpretation Act 1999 (1999 No 85): section 38(1)  
Broadcasting Amendment Act 1999 (1999 No 63)  
Broadcasting Amendment Act 1998 (1998 No 28)  
Broadcasting Amendment Act 1996 (1996 No 53)  
Radio New Zealand Act 1995 (1995 No 52): section 20  
Copyright Act 1994 (1994 No 143): section 236(2)  
Films, Videos, and Publications Classification Act 1993 (1993 No 94): section 150(1)  
Broadcasting Amendment Act 1993 (1993 No 69)  
Public Finance Amendment Act 1992 (1992 No 142): section 42  
Defamation Act 1992 (1992 No 105): section 56(1)  
Judicature Amendment Act 1991 (1991 No 60): section 3(4)  
Broadcasting Amendment Act 1991 (1991 No 21)  
Broadcasting Amendment Act (No 2) 1990 (1990 No 103)  
Commerce Amendment Act 1990 (1990 No 41): section 46  
Broadcasting Amendment Act 1990 (1990 No 2)  
Regulations (Disallowance) Act 1989 (1989 No 143): section 11  
Sale of Liquor Act 1989 (1989 No 63): section 230(2)

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