



## ANALYSIS

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1995, No. 52

## An Act to facilitate the restructuring of Radio New Zealand Limited

[25 September 1995]

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Radio New Zealand Act 1995.

(2) This Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

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

“Charter” means the Charter of the public radio company as expressed in section 7 of this Act:

“Constitution” means the articles of association and the memorandum of association of the public radio company while the public radio company is registered under the Companies Act 1955, and the constitution of the public radio company when the public radio company is registered under the Companies Act 1993:

“Existing company” means the company that, at the commencement of this Act, is the State enterprise known as “Radio New Zealand Limited”:

“Governor” means any person who is appointed as a director of the public radio company in accordance with section 14 of this Act:

“Public radio company” means the company that, at the commencement of this Act, is known as “New Zealand Public Radio Limited”:

“Registrar” means the Registrar of Companies appointed in accordance with section 357 (1) of the Companies Act 1993:

“Responsible Minister” means, subject to any enactment, 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 Radio New Zealand:

“Shareholding Ministers” means the responsible Minister and the Minister of Finance:

“Subsidiary” has the same meaning as in sections 158 and 158A of the Companies Act 1955 or sections 5 and 6 of the Companies Act 1993, as the case may be.

### **3. Act to bind the Crown**—This Act binds the Crown.

#### *Shareholding in Public Radio Company*

**4. Authorising Crown shareholding in public radio company**—(1) The shareholding Ministers may from time to time,—

- (a) On behalf of Her Majesty the Queen, subscribe for or otherwise acquire shares in the public radio company pursuant to any appropriation by Parliament for this purpose:
- (b) On behalf of Her Majesty, exercise all or any of Her Majesty’s rights as the holder of any shares in the public radio company.

(2) Each Minister shall hold the same number of shares in the public radio company.

Cf. 1987, No. 200, s. 3

**5. Further provisions relating to Ministers' shareholding**—(1) Shares in the capital of the public radio company held in the name of a person described as the Minister of Finance or the responsible Minister shall be held by the person for the time being holding the office of Minister of Finance or responsible Minister, as the case may be.

(2) Notwithstanding any other enactment or rule of law, it shall not be necessary to complete or register a transfer of shares in the public radio company consequent upon a change in the person holding the office of Minister of Finance or responsible Minister, as the case may be.

(3) Each shareholding Minister may exercise all the rights and powers attaching to the shares in the public radio company held by that Minister.

(4) A shareholding Minister may at any time or times, by written notice to the directors of the public radio company, authorise (on such terms and conditions as are specified in the notice) such person as the Minister thinks fit to act as the Minister's representative at any or all of the meetings of shareholders of the company, and any person so authorised shall be entitled to exercise the same powers on behalf of the Minister as the Minister could exercise if present in person at the meeting or meetings.

Cf. 1986, No. 124, s. 22; 1992, No. 47, s. 14

**6. Ministers to hold all shares**—No Minister who is a shareholder in the public radio company shall—

- (a) Sell or otherwise dispose of any shares in the public radio company held in the Minister's name; or
- (b) Permit shares in the public radio company to be allotted or issued to any person other than a shareholding Minister.

Cf. 1986, No. 124, s. 11

#### *Charter and Principles of Public Radio Company*

**7. Charter**—(1) The functions of the public radio company shall be to provide innovative, comprehensive, and independent broadcasting services of a high standard and, without limiting the generality of the foregoing, to provide—

- (a) Programmes which contribute towards intellectual, scientific, and cultural development, promote informed debate, and stimulate critical thought; and
  - (b) A range of New Zealand programmes, including information, special interest, and entertainment programmes, and programmes which reflect New Zealand's cultural diversity, including Maori language and culture; and
  - (c) Programmes which provide for varied interests within the community, including information, educational, special interest, and entertainment programmes; and
  - (d) Programmes which encourage and promote the musical, dramatic, and other performing arts, including programmes featuring New Zealand and international composers, performers, and artists; and
  - (e) A nationwide service providing programming of the highest quality to as many New Zealanders as possible, thereby engendering a sense of citizenship and national identity; and
  - (f) Comprehensive, independent, impartial, and balanced national news services and current affairs, including items with a regional perspective; and
  - (g) Comprehensive, independent, impartial, and balanced international news services and current affairs; and
  - (h) Archiving of programmes which are likely to be of historical interest in New Zealand.
- (2) In providing broadcasting services, the public radio company shall take account of—
- (a) Recognised standards of excellence; and
  - (b) Its responsibility as the provider of an independent national broadcasting service to provide a balance between programmes of wide appeal and programmes of interest to minority audiences; and
  - (c) The broadcasting services provided by other broadcasters; and
  - (d) Surveys which shall be commissioned from time to time to establish whether the audiences for the services provided by the public radio company consider that the quality and quantity of these services is being maintained.
- (3) Subsections (1) and (2) of this section constitute the Charter of the public radio company.
- (4) The Charter shall be reviewed by the House of Representatives at 5-yearly intervals.

**8. Principles of operation**—(1) The public radio company shall, in fulfilling its Charter, exhibit a sense of social responsibility by having regard to the interests of the community in which it operates and by endeavouring to accommodate or encourage those interests when able to do so.

(2) The public radio company shall, in fulfilling its Charter, operate in a financially responsible manner so that it maintains its financial viability.

(3) For the purposes of subsection (2) of this section, the public radio company is financially viable if—

- (a) The activities of the company generate, on the basis of generally accepted accounting principles, an adequate rate of return on shareholders' funds; and
- (b) The company is operating as a successful going concern.

Cf. 1992, No. 47, s. 5

**9. Personnel policy**—(1) The public radio company shall operate a personnel policy that complies with the principle of being a good employer.

(2) For the purposes of this section, a “good employer” is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—

- (a) Good and safe working conditions; and
- (b) The impartial selection of suitably qualified persons for appointment; and
- (c) Recognition of—
  - (i) The aims and aspirations of Maori; and
  - (ii) The employment requirements of Maori; and
  - (iii) The need for involvement of Maori as employees of the public radio company; and
- (d) Opportunities for the enhancement of the abilities of individual employees; and
- (e) Recognition of the aims and aspirations, and the cultural differences, of ethnic or minority groups; and
- (f) Recognition of the employment requirements of women; and
- (g) Recognition of the employment requirements of persons with disabilities.

Cf. 1988, No. 162, s. 4

**10. Equal employment opportunities**—(1) The public radio company shall—

- (a) Develop and publish in each year an equal employment opportunities programme:
- (b) Ensure in each year that the equal employment opportunities programme for that year is complied with.

(2) For the purposes of subsection (1) of this section, an equal employment opportunities programme means a programme that is aimed at the identification and elimination of all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality in respect of the employment of any persons or groups of persons.

Cf. 1988, No. 162, s.5

*Ministers and Editorial Independence of Public Radio Company*

**11. Ministers and their role**—(1) The shareholding Ministers shall be responsible to the House of Representatives for the exercise or performance of the powers, duties, and functions conferred or imposed on them by this Act or the constitution of the public radio company.

(2) The shareholding Ministers shall exercise or perform the powers, duties, and functions conferred or imposed on them with respect to the public radio company in a manner that is consistent with the Charter of the company and the principles of operation of the company (as expressed in section 8 of this Act).

Cf. 1992, No. 47, s. 6

**12. Information to be laid before House of Representatives**—The responsible Minister shall lay before the House of Representatives—

- (a) The constitution of the public radio company, within 12 sitting days after the date on which this Act comes into force; and
- (b) Any alteration to, or replacement of, the constitution of the public radio company, within 12 sitting days after—
  - (i) The date of any alteration to or revocation of the constitution of the public radio company;
  - (ii) The date of the reregistration of the public radio company pursuant to the Companies Reregistration Act 1993.

**13. Ministers of the Crown not to give certain directions**—(1) Nothing in this Act authorises any Minister of the Crown to give a direction to the public radio company, or any subsidiary of the company, or any director or officer or employee of the company or any such subsidiary, in respect of—

- (a) A particular programme or a particular allegation or a particular complaint; or
- (b) The gathering or presentation of news or the preparation or presentation of current affairs programmes; or
- (c) The responsibility of the company for programme standards.

(2) No director of the public radio company, or of any subsidiary of the company, may be removed for any reason relating to—

- (a) A particular programme or a particular allegation or a particular complaint; or
- (b) The gathering or presentation of news or the preparation or presentation of current affairs programmes; or
- (c) The responsibility of the company for programme standards.

Cf. 1988, No. 162, s. 7; 1989, No. 25, s. 87

#### *Governors of Public Radio Company*

**14. Appointment of governors**—(1) The directors of the public radio company shall be known as governors.

(2) The governors of the public radio company, and the chairperson of the board of governors of that company, shall be appointed by the Governor-General on the recommendation of the shareholding Ministers, in accordance with the constitution of the company.

(3) The governors of the public radio company shall be persons who, in the opinion of the shareholding Ministers, will bring (either individually or collectively) a wide range of skills to the board of the company, including—

- (a) The skills necessary to ensure the sound management of the company, both financially and generally;
- (b) Knowledge of, or experience in, the provision of high quality public radio services;
- (c) Ability to reflect a diverse range of community views.

(4) No governor of the public radio company shall be appointed to represent, or promote the views of, a particular interest group.

**15. Role of governors**—(1) The governors of the public radio company shall be accountable to the shareholding

Ministers in the manner set out in the constitution of the company.

(2) The governors of the public radio company shall exercise or perform the powers, duties, and functions conferred or imposed on them with respect to the company in a manner that is consistent with the Charter of the company and the principles of operation of the company (as expressed in section 8 of this Act).

Cf. 1992, No. 47, s. 7

#### *Crown Entity*

**16. Crown entity**—The public radio company shall be a Crown entity for the purposes of the Public Finance Act 1989.

#### *Audit of Public Radio Company*

**17. Audit**—(1) Subject to subsection (2) of this section, the Audit Office shall, notwithstanding sections 163 and 165 of the Companies Act 1955, or sections 196 to 201 of the Companies Act 1993, be the auditor of the public radio company and of every subsidiary of that company, and for that purpose shall have and may exercise—

- (a) All of the functions, duties, and powers of an auditor appointed under the Companies Act 1955 or the Companies Act 1993, as the case may be; and
- (b) All of the functions, duties, and powers that the Audit Office has under the Public Finance Act 1977 in respect of public money and public stores.

(2) Without limiting the provisions of this section, the governors of the public radio company may, after consultation with the Audit Office, appoint a person or firm that is qualified for appointment as an auditor of a company to be an additional auditor of the public radio company or any subsidiary of it.

Cf. 1992, No. 56, s. 45 (1), (3)

#### *Protection of Name "Radio New Zealand News"*

**18. Protection of name**—(1) No body shall be incorporated or registered under any enactment, or in any other manner, under the name "Radio New Zealand News".

(2) No person other than the public radio company shall, either alone or with any other person or persons,—

- (a) Trade or carry on business, or provide radio news services, under the name "Radio New Zealand News" without the prior consent of the public radio company; or

(b) Trade or carry on business, or provide radio news services, under any other name, knowing that the name so resembles the name "Radio New Zealand News" as to be likely to mislead any person.

(3) Every person who contravenes subsection (2) of this section commits an offence, and is liable on summary conviction to a fine not exceeding \$2,500.

*Provisions Relating to Separation*

**19. Change of name of companies**—(1) The Registrar shall—

(a) Change the name of the existing company to "The Radio Company Limited" on the New Zealand register; and

(b) Change the name of the public radio company to "Radio New Zealand Limited" on the New Zealand register; and

(c) Issue new certificates of incorporation for each of the companies recording the change of names.

(2) The change of names—

(a) Takes effect from the date of the certificate issued under subsection (1) of this section; and

(b) Subject to sections 20 and 21 of this Act, does not affect rights or obligations of either of the companies or legal proceedings by or against either of the companies, and legal proceedings that have or might have been commenced against either company under its former name may be continued or commenced against it under its new name.

(3) Nothing in this section prevents the name of either company being changed in accordance with the provisions of the Companies Act 1955 or the Companies Act 1993.

**20. Amendments to other enactments**—The enactments specified in the Schedule to this Act are hereby amended in the manner indicated in that Schedule.

**21. References to Radio New Zealand Limited in other legislation**—Every reference in any Act other than this Act to "Radio New Zealand Limited" shall be read and construed as a reference to the public radio company.

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## SCHEDULE

## ENACTMENTS AMENDED

## Section 20

Act	Amendment
1975, No. 9—The Ombudsmen Act 1975 (R.S. Vol. 21, p. 657)	By omitting from Part II of the First Schedule the item relating to Radio New Zealand Limited (as inserted by section 9 of the State-Owned Enterprises Amendment Act (No. 4) 1988), and substituting the following items: “Radio New Zealand Limited.” “The Radio Company Limited.”
1982, No. 156—The Official Information Act 1982 (R.S. Vol. 21, p. 579)	By omitting from the First Schedule the item relating to Radio New Zealand Limited (as inserted by section 9 of the State-Owned Enterprises Amendment Act (No. 4) 1988), and substituting the following items: “Radio New Zealand Limited.” “The Radio Company Limited.”
1986, No. 124—The State-Owned Enterprises Act 1986 (R.S. Vol. 33, p. 813)	By omitting from the First Schedule the item relating to Radio New Zealand Limited (as inserted by section 2 (1) of the State-Owned Enterprises Amendment Act (No. 4) 1988), and substituting the following item: “The Radio Company Limited.”
1988, No. 162—The State-Owned Enterprises Amendment Act (No. 4) 1988 (R.S. Vol. 33, p. 877)	By omitting from the Second Schedule the item relating to Radio New Zealand Limited (as inserted by section 3 (1) of the State-Owned Enterprises Amendment Act (No. 4) 1988), and substituting the following item: “The Radio Company Limited.”
	By repealing sections 2 (1) and 3 (1). By omitting from section 4 (1) the words “Radio New Zealand Limited and”, and substituting the words “The Radio Company Limited and”.
	By omitting from section 4 (3) the words “Radio New Zealand Limited or”, and substituting the words “The Radio Company Limited or”.
	By omitting from section 5 (1) the words “Radio New Zealand Limited and”, and substituting the words “The Radio Company Limited and”.
	By omitting from section 6 (as substituted by section 145 of the Human Rights Act 1993) the words “Radio New Zealand Limited or”, and substituting the words “The Radio Company Limited or”.

SCHEDULE—*continued*  
ENACTMENTS AMENDED—*continued*

Act	Amendment
<p>1988, No. 162—The State-Owned Enterprises Amendment Act (No. 4) 1988 (R.S. Vol. 33, p. 877)—<i>continued</i></p>	<p>By repealing section 7 (as substituted by section 87 of the Broadcasting Act 1989), and substituting the following section:</p> <p><b>“7. Ministers of the Crown not to give certain directions—</b>(1) Nothing in this Act or the principal Act authorises any Minister of the Crown to give a direction to The Radio Company Limited, or Television New Zealand Limited, or any subsidiary of The Radio Company Limited or Television New Zealand Limited, or any director or officer or employee of The Radio Company Limited or Television New Zealand Limited or any such subsidiary, in respect of—</p> <p>“(a) A particular programme or a particular allegation or a particular complaint; or</p> <p>“(b) The gathering or presentation of news or the preparation or presentation of current affairs programmes; or</p> <p>“(c) The responsibility of The Radio Company Limited or Television New Zealand Limited for programme standards.</p> <p>“(2) No director of The Radio Company Limited or Television New Zealand Limited or of any subsidiary of The Radio Company Limited or Television New Zealand Limited, may be removed for any reason relating to—</p> <p>“(a) A particular programme or a particular allegation or a particular complaint; or</p> <p>“(b) The gathering or presentation of news or the preparation or presentation of current affairs programmes; or</p> <p>“(c) The responsibility of The Radio Company Limited or Television</p>

SCHEDULE—*continued*  
ENACTMENTS AMENDED—*continued*

Act	Amendment
1988, No. 162—The State-Owned Enterprises Amendment Act (No. 4) 1988 (R.S. Vol. 33, p. 877)— <i>continued</i>	New Zealand Limited for programme standards.” By repealing section 11.
1989, No. 25—The Broadcasting Act 1989	By inserting in section 44, after subsection (1), the following subsection: “(1A) The Minister shall ensure that at all material times the Minister has, pursuant to subsection (1) of this section, 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.” By omitting from section 44 (2) the words “subsection (1) of”. By omitting from section 44 (3) the words “subsection (1) of”.
1989, No. 44—The Public Finance Act 1989 (R.S. Vol. 33, p. 419)	By inserting in the Fourth Schedule (as added by section 41 of the Public Finance Amendment Act 1992) in its appropriate alphabetical order, the following item: “Radio New Zealand Limited.” By inserting in the Fifth Schedule (as so added) in its appropriate alphabetical order, the following item: “Radio New Zealand Limited.” By inserting in the Sixth Schedule (as so added) in its appropriate alphabetical order, the following item: “Radio New Zealand Limited.”
1989, No. 148—The Radio Communications Act 1989	By repealing the definition of the term “Radio New Zealand” in section 2, and substituting the following definition: “Radio New Zealand” means the public radio company within the meaning of section 2 of the Radio New Zealand Act 1995 and to be known as Radio New Zealand Limited and includes any subsidiary of that company within the meaning of sections 158 and 158A

SCHEDULE—*continued*  
ENACTMENTS AMENDED—*continued*

Act	Amendment
<p>1989, No. 148—The Radio Communications Act 1989—<i>continued</i></p>	<p>of the Companies Act 1955, or sections 5 and 6 of the Companies Act 1993, as the case may be.”.</p> <p>By repealing section 176, and substituting the following section:</p> <p>“176. <b>Conditions to lapse if public funding ceases</b>—(1) If public funds cease to be made available for the purpose of the service known as the FM Concert Programme or the service known as National Radio, then as from the specified date,—</p> <p>“(a) The conditions deemed by section 175 of this Act to be incorporated in every radio apparatus licence or licence that relates to any frequency used for the purpose of the operation of the service shall lapse; and</p> <p>“(b) There shall be payable to the Secretary, in respect of each such licence (being a licence granted pursuant to section 174 of this Act), by the holder of the licence, the annual levy referred to in section 149 (1) (a) of this Act, and the provisions of sections 149, 150, and 153 of this Act shall apply, as if the licence had been granted to the rightholder pursuant to section 145 of this Act.</p> <p>“(2) For the purposes of subsection (1) of this section, the specified date shall be either—</p> <p>“(a) The date specified in any contract by which public funds are made available for the purposes of the service known as the FM Concert Programme or the service known as National Radio as the date on which public funds shall cease to be made available; or</p>

SCHEDULE—*continued*  
ENACTMENTS AMENDED—*continued*

Act	Amendment
1989, No. 148—The Radio Communications Act 1989— <i>continued</i>	<p>“(b) Where there is no contract of the kind referred to in paragraph (a) of this subsection, the last day of the financial year during which public funds were made available for the purposes of the service known as the FM Concert Programme or the service known as National Radio during that financial year.”</p> <p>By repealing section 177 (2) (b). By omitting from section 177 (3) (b) the words “or paragraph (b)”.</p> <p>By repealing section 178 (2) (b). By omitting from section 178 (3) (b) the words “or paragraph (b)”.</p>
1993, No. 28—The Privacy Act 1993	<p>By omitting from the definition of the term “news medium” in section 2 (1) the words “Radio New Zealand Limited or”, and substituting the words “Radio New Zealand Limited, The Radio Company Limited, or”.</p> <p>By omitting from section 29 (1) (g) the words “Radio New Zealand Limited or”, and substituting the words “Radio New Zealand Limited, The Radio Company Limited, or”.</p>
1994, No. 164—The Income Tax Act 1994	<p>By omitting from the Eighteenth Schedule the item relating to Radio New Zealand Limited, and substituting the following items:</p> <p>“Radio New Zealand Limited.” “The Radio Company Limited.”</p>

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This Act is administered in the Treasury.

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