

## POST OFFICE AMENDMENT (NO. 2) BILL

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### EXPLANATORY NOTE

THIS Bill amends the Post Office Act 1959. Its main purpose is to prevent the establishment and operation of broadcasting stations which are unlicensed and which operate on the high seas.

Regulations made by the International Telecommunication Union (an international body to which New Zealand and all major countries of the world belong) prohibit the operation of any such station in regulations 422 and 962 which read as follows:

“422. (1) The establishment and use of broadcasting stations (sound broadcasting and television broadcasting stations) on board ships, aircraft, or any floating or airborne objects outside national territories is prohibited.”

“962. The operation of a broadcasting service by mobile stations at sea or over the sea is prohibited.”

It was also recommended by the Union that individual members ask their Governments to take such action as may be necessary to prevent or suspend operations carried on contrary to the provisions of regulation 422.

*Clause 2* amends section 164 of the principal Act which relates to the licensing of radio stations. That section now requires the licensing of radio apparatus on New Zealand ships within the meaning of the Shipping and Seamen Act 1952. For the purposes of the section it is proposed to insert a new definition of the term “New Zealand ship”.

The clause also increases the penalties for the operation of unlicensed transmitting stations and permits the Postmaster-General to prohibit the use of Post Office radio apparatus for the transmission of communications from or to unlicensed broadcasting stations.

*Clause 3* relates to unlawful broadcasting stations. An unlawful broadcasting station is defined as one which is operated without a licence contrary to the provisions of section 164 of the principal Act or which is operated unlawfully under *subclause (3)*.

*Subclause (1)* defines terms used in the section. These include a definition of the term “unregistered vessel” which includes any ship, vessel, or structure not registered as a ship in any country and for the time being located on the high seas, whether the vessel is floating or fixed to the bed of the sea.

*Subclause (2)* defines those persons in respect of whom the Courts of New Zealand will have jurisdiction under the section. These are—

- (a) Persons within the ordinary jurisdiction of the Courts;
- (b) Persons (whether or not New Zealand citizens or ordinarily resident in New Zealand) on board a New Zealand ship on the high seas;
- (c) New Zealand citizens on board any ship or unregistered vessel on the high seas.

The jurisdiction is similar to that contained in legislation in the United Kingdom.

*Subclause (3)* provides that it shall be unlawful to establish or operate a broadcasting station on any ship, vessel, or structure on the high seas, notwithstanding that persons operating the station may not be subject to New Zealand jurisdiction.

*Subclause (4)* prescribes offences in relation to supplying, operating, or assisting in the operation of unlawful broadcasting stations.

*Subclause (5)* prescribes penalties for offences.

*Subclause (6)* provides that officers of corporations committing offences, shall themselves be liable to prosecution.

*Subclause (7)* provides that persons procuring the commission of an offence by a person not subject to the jurisdiction of the Courts shall be liable to prosecution.

*Subclause (8)* provides that prosecutions shall not be commenced without the leave of the Attorney-General.

*Subclauses (9) and (10)* prescribe defences to prosecutions.

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*Hon. Mr Scott*

**POST OFFICE AMENDMENT (NO. 2)**

ANALYSIS	
Title	2. Licensing of radio stations
1. Short Title	3. Unlawful broadcasting stations

**A BILL INTITULED**

**An Act to amend the Post Office Act 1959**

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

**1. Short Title**—This Act may be cited as the Post Office Amendment (No. 2) Act 1967, and shall be read together with and deemed part of the Post Office Act 1959\* (hereinafter referred to as the principal Act).

**2. Licensing of radio stations**—(1) Section 164 of the principal Act is hereby amended by omitting from subsection (1) the words “within New Zealand, or on any New Zealand ship within the meaning of the Shipping and Seamen Act 1952”, and substituting the words “within the territorial limits of New Zealand, or on any New Zealand ship”.

\*1959, No. 30

Amendments: 1961, No. 94; 1962, No. 27; 1963, No. 107; 1964, No. 105; 1965, No. 9

(2) Section 164 of the principal Act (as amended by subsection (1) of section 7 of the Decimal Currency Act 1964) is hereby further amended by omitting from subsection (3) the words “a fine not exceeding two hundred dollars or, if the offence is committed during the time of any war in which Her Majesty is engaged, to a fine not exceeding one thousand dollars”, and substituting the words “imprisonment for a term not exceeding three months or to a fine not exceeding one thousand dollars”. 5

(3) Section 164 of the principal Act is hereby further amended by adding the following subsection: 10

“(9) For the purposes of this section, the term ‘New Zealand ship’ includes—

“(a) Any New Zealand ship within the meaning of the Crimes Act 1961; and 15

“(b) Any vessel for the time being registered in New Zealand as a ship under the Shipping and Seamen Act 1952.”

**3. Unlawful broadcasting stations**—The principal Act is hereby further amended by inserting, after section 164, the following section: 20

“164A. (1) In this section, unless the context otherwise requires,—

“‘Broadcasting’ and ‘to broadcast’ have the same meaning as in the Broadcasting Corporation Act 1961: 25

“‘Broadcasting station’ means any radio apparatus capable and intended for the purpose of broadcasting telecommunications; and includes any premises, ship, vessel, or structure in which any such radio apparatus is situated: 30

“‘High seas’ means all parts of the sea that are not included in the territorial sea or the internal waters of any country:

“‘New Zealand ship’ has the same meaning as in section 164 of this Act: 35

“‘Unlawful broadcasting station’ means—

“(a) Any broadcasting station required to be licensed as such under section 164 of this Act and not so licensed; or

“(b) Any broadcasting station the establishment or operation of which is unlawful under subsection (3) of this section. 40

“‘Unregistered vessel’ means any ship, vessel, or structure of any kind not registered as a ship in New Zealand or elsewhere and for the time being located on the high seas, whether or not the ship, vessel, or structure is floating or fixed to the bed of the sea. 45

“(2) For the purpose of jurisdiction in respect of offences against this section, this section applies to all acts or omissions—

5 “(a) By any person (whether or not a New Zealand citizen or ordinarily resident in New Zealand) within the territorial limits of New Zealand; or

“(b) By any person (whether or not a New Zealand citizen or ordinarily resident in New Zealand) on board a New Zealand ship on the high seas; or

10 “(c) By a New Zealand citizen or a person ordinarily resident in New Zealand on board any ship or on any unregistered vessel on the high seas.

“(3) Notwithstanding that, by reason of the provisions of subsection (2) of this section or of any other enactment or  
15 rule of law, the Courts of New Zealand may not have jurisdiction in respect of any person concerned, and without limiting the provisions of any other enactment, it shall be unlawful to establish or operate a broadcasting station on or over the high seas, whether on a ship or on an unregistered  
20 vessel.

“(4) Subject to the provisions of this section, any person who knows or has reasonable cause to believe that an unlawful broadcasting station is situated within the territorial limits of New Zealand or on or over the high seas, and who—

25 “(a) Operates or assists in the operation of that broadcasting station; or

“(b) Furnishes or agrees to furnish that broadcasting station with provisions, water, radio apparatus, electrical apparatus, records, tapes, or any goods or materials  
30 whatever used or likely to be used in connection with the operation or maintenance of the station or the maintenance of persons operating the station; or

35 “(c) Carries or agrees to carry to that broadcasting station any person or any goods or materials of any kind whatsoever; or

40 “(d) Operates or takes part in the operation of any ship, vessel, or aircraft travelling between any place within the territorial limits of New Zealand and that broadcasting station; or

- “(e) Enters, directly or indirectly, into any agreement for the transmission of any advertisement, lecture, speech, address, image, or any matter whatever from that broadcasting station, whether for consideration or otherwise; or 5
- “(f) Communicates, whether directly or indirectly, with that broadcasting station by means of any radio apparatus or by any other means except for the purpose of preserving any vessel in distress or the lives or safety of any person; or 10
- “(g) Publishes any advertisement relating to that broadcasting station—  
 commits an offence against this section.
- “(5) Any person who commits an offence against this section shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one thousand dollars. 15
- “(6) Where an offence against this section which has been committed by a body corporate is proved to have been committed with the consent or connivance of a director, manager, secretary, or other similar officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable accordingly. 20
- “(7) A person who, in New Zealand, procures another person to do, outside New Zealand, anything which if it had been done in New Zealand by the last-mentioned person, would have constituted an offence under this section, shall be guilty of that offence. 25
- “(8) Notwithstanding anything in any other enactment, proceedings for the trial and punishment of any person charged with having committed an offence against this section shall not be instituted in any Court except with the consent of the Attorney-General and on his certificate that it is expedient that the proceedings should be instituted. 30
- “(9) In any proceedings against a person for an offence against this section consisting of the carriage of goods or persons to or from a ship, vessel, or structure at sea, it shall be a defence for him to prove— 35
- “(a) That the ship, vessel, or structure was, or was believed to be wrecked, stranded, or in distress, and that the goods or persons carried were carried for the purpose of preserving the ship, vessel, or structure, or saving the lives of persons on board it; or 40

5 “(b) That any person on board the ship, vessel, or structure was or was believed to be suffering from injury or illness, and that the goods or persons were carried for the purpose of securing that the necessary surgical or medical advice and attendance were rendered to him.

10 “(10) In any proceedings against a person for an offence against subsection (4) of this section consisting in the carriage of a person to or from an unlawful broadcasting station, it shall be a defence for him to prove that the person carried was visiting the broadcasting station for the purpose of exercising or performing any power or duty conferred or imposed on him by law.

15 “(11) The Postmaster-General, if he knows or has reasonable cause to believe that an unlawful broadcasting station is situated within the territorial limits of New Zealand or on or over the high seas, may prohibit the use of any radio apparatus under his control for the transmission of any communication from or to that broadcasting station except for the purpose of  
20 preserving any vessel in distress or the lives or safety of any person.

25 “(12) The provisions of this section are in addition to and not in substitution for the provisions of any other enactment and nothing in this section shall derogate from the provisions of any other enactment.”