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Radiocommunications Act 1989

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Business, Innovation, and Employment.

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An Act to provide for the management of the radio frequency spectrum

1 Short Title

This Act may be cited as the Radiocommunications Act 1989.

2 Interpretation

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

adjacent frequencies emission limit, in relation to a record of management rights, means a limit specifying the maximum power of emissions permitted on a range of frequencies, being—

(a) frequencies other than frequencies within the range of frequencies to which the record relates; and

(b) frequencies within a range that has as its upper or lower limit a frequency that constitutes a boundary of the range of frequencies to which the record of management rights relates

adjacent manager, in relation to any adjacent frequencies emission limit or any proposed adjacent frequencies emission limit, means a manager whose record of management rights relates to a range of frequencies that include frequencies to which the adjacent frequencies emission limit or proposed adjacent frequencies emission limit applies or is proposed to apply

advertising programme has the meaning given to that term by section 2 of the Broadcasting Act 1989

approved radio engineer means a person for the time being approved by the Secretary under section 130

auditor means a person who is qualified for appointment as auditor of a company under the Companies Act 1993

boundary, in relation to the range of frequencies to which a record of management rights relates, means a frequency specified in that record of management rights as the upper or lower limit of that range

broadcast has the meaning given to that term by section 2 of the Broadcasting Act 1989

co-channel emissions means emissions (other than unwanted emissions) produced by 2 or more radio transmitters transmitting, in part or in whole, on frequencies in the same frequency band

Convention on International Civil Aviation means the Convention on International Civil Aviation signed on behalf of the Government of New Zealand in Chicago on 7 December 1944; and includes—

(a) any amendment to the Convention which has entered into force under Article 94(a) of the Convention and has been ratified by New Zealand; and

(b) any Annex or amendment to the Convention accepted under Article 90 of the Convention to the extent adopted by New Zealand; and

(c) the international standards and recommended practices from time to time accepted and amended by the International Civil Aviation organisation

under Article 37 of the Convention, to the extent adopted by New Zealand

court Registrar means the Registrar of a court; and includes any Deputy Registrar of a court

current management rights has the meaning given to it by section 47A(1)

e.i.r.p. means equivalent isotropically radiated power, being the power supplied to an antenna by a radio transmitter multiplied by the antenna gain of the antenna in a given direction relative to an isotropic antenna

emission means radiation produced, or the production of radiation, by a radio transmitter

financial year means the period of 12 months ending on 30 June

harmful interference means interference which endangers the functioning of a radionavigation service, or of other safety services, or seriously degrades, obstructs, or repeatedly interrupts radiocommunications

inappropriate receiver means a receiver prescribed as an inappropriate receiver by regulations made under section 134(1B)

induction means the process by which one electrical conductor having electrical or magnetic properties causes like properties in another electrical conductor, either with or without direct conduct with that other electrical conductor

infringement fee, in relation to an infringement offence, means the amount fixed by regulations made under section 134(1)(jb) as the infringement fee for the offence

infringement offence means—

(a) an offence under section 24A:

(b) an offence prescribed as an infringement offence in regulations made under section 134(1)(ja)

instrument means an instrument in any of the forms prescribed by regulations made under this Act for the purposes of any of the provisions of Parts 2 to 10

interference—

(a) means the effect of radio waves owing to 1 or more emissions, radiations, or inductions, or any combination of 1 or more of those things, on the reception of radiocommunications; but

(b) does not include any effect on the reception of radiocommunications by inappropriate receivers

interfering equipment means any electrical conductor, or electrical or electronic apparatus or equipment of any kind, that is reasonably likely to cause or causes interference to radiocommunications; and includes any radio transmitter other than a radio transmitter operating in accordance with a spectrum licence or a radio licence issued under this Act, or in accordance with regulations made

under this Act exempting radio transmitters from the need to obtain a radio licence

International Convention for the Safety of Life at Sea means the International Convention for the Safety of Life at Sea, done at London on 1 November 1974; and includes—

(a) the Annex to that Convention; and

(b) all amendments of that Convention; and

(c) all protocols to that Convention

International Radio Regulations means the Radio Regulations annexed to the International Telecommunications Convention, done at Geneva in 1992; and includes any revisions of, or any regulations made in amendment to, or substitution for, such regulations

ITU-R reports and recommendations means the reports and recommendations of the Radiocommunication Sector of the International Telecommunication Union as adopted from time to time by the study groups or assemblies of the Sector; and includes, to the extent adopted by New Zealand,—

(a) any amendments or additions to any such reports or recommendations; and

(b) any reports or recommendations adopted in substitution for any such reports or recommendations

manager—

(a) means a person named in a record of management rights as the manager of the range of frequencies to which the record of management rights relates; and

(b) includes,—

(i) in relation to the transfer of management rights, a mortgagee who, in right of a mortgage of management rights, is entitled to exercise the power referred to in section 78(a):

(ii) in relation to the granting of spectrum licences under section 48, a mortgagee who, in right of a mortgage of management rights, is entitled to exercise the power referred to in section 78(b)

Minister means 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 this Act

power floor means the minimum level of emissions, expressed in terms of e.i.r.p., specified in a record of management rights

programme has the meaning given to that term by section 2 of the Broadcasting Act 1989

protection area means the area or location described in a radio licence or a spectrum licence where the rightholder or holder of a radio licence has the right to have no harmful interference

protection limit, in relation to a record of management rights, means the limit specified in that record of management rights as the limit that no adjacent frequencies emission limit on any other record of management rights may exceed in relation to any frequency within the range of frequencies to which the first-mentioned record of management rights relates

radiation means the outward flow of radio waves from any source

radio apparatus means any apparatus intended for the purpose of radiocommunications, being a radio transmitter or a radio receiver, or any combination of them

radiocommunications means any transmission or reception of signs, signals, writing, images, sounds, or intelligence of any nature by radio waves

radio licence means a licence granted or deemed to have been granted under Part 13

Radio New Zealand means the public radio company within the meaning of section 2 of the Radio New Zealand Act 1995 to be known as Radio New Zealand Limited in accordance with section 19 of that Act; and includes any subsidiary of that company within the meaning of section 5 of the Companies Act 1993

radio receiver means apparatus designed to receive radio waves for the purpose of radiocommunications

radio transmitter means apparatus designed to produce radio waves for the purpose of radiocommunications

radio waves means electromagnetic waves of frequencies lower than 3 000 gigahertz, propagated in space without artificial guide

record of management rights—

(a) means a record of management rights constituted under section 10(2); and

(b) includes a record of management rights created under section 45, 47, or 47B

reference standard means a standard or specification issued under section 133

register—

(a) when used as a noun, means the Register of Radio Frequencies established under section 5:

(b) when used as a verb, means to record on the register

Registrar means the Registrar of Radio Frequencies appointed under section 4; and includes a Deputy Registrar of Radio Frequencies appointed under that section

rightholder—

(a) means the holder for the time being of a spectrum licence; and

(b) includes a mortgagee who, in right of a mortgage of a spectrum licence, is entitled to enjoy or exercise the rights of the rightholder

Secretary means the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

spectrum licence means a licence created under Part 6

successive management rights has the meaning given to it by section 47A(1)

supply means supply in the course of business; and includes supply (or resupply) by way of sale, exchange, lease, hire, or hire purchase

susceptible equipment means any electrical conductor, electrical or electronic apparatus, or equipment of any kind that is reasonably likely to malfunction in the presence of radio waves owing to 1 or more emissions, radiations, or inductions, or any combinations of 1 or more of those things

unwanted emission, in relation to a spectrum licence, means an emission outside the frequency band specified in the spectrum licence

unwanted emission limit, in relation to a spectrum licence, means a limit specified in the spectrum licence as the maximum power of emissions permitted on frequencies, being—

(a) frequencies that are within a range of frequencies—

(i) specified in the record of management rights to which a spectrum licence relates; or

(ii) subject to the adjacent frequencies emission limit specified in the record of management rights to which the spectrum licence relates; and

(b) frequencies that are not within the frequency band specified in the spectrum licence.

(2) For the purposes of this Act, information is deemed to be recorded in the register when it has been entered and recorded in the computer (including ancillary devices used for the purpose of recording information in electronic form) for the time being used for the purpose of keeping the register.

Section 2(1): substituted, on 12 October 2001, by section 3 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 2(1) **co-channel emissions**: amended, on 15 December 2005, by section 3 of the Radiocommunications Amendment Act (No 2) 2005 (2005 No 111).

Section 2(1) **current management rights**: inserted, on 31 October 2006, by section 5(1) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 2(1) **inappropriate receiver**: inserted, on 31 October 2006, by section 5(2) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 2(1) **infringement offence**: substituted, on 31 October 2006, by section 5(3) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 2(1) **interference**: substituted, on 31 October 2006, by section 5(4) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 2(1) **Radio New Zealand**: amended, on 5 December 2013, by section 14 of the Companies Amendment Act 2013 (2013 No 111).

Section 2(1) **record of management rights**: substituted, on 31 October 2006, by section 5(5) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 2(1) **Registrar**: amended, on 20 September 2007, by section 4 of the Radiocommunications Amendment Act 2007 (2007 No 75).

Section 2(1) **Secretary**: substituted, on 31 October 2006, by section 5(6) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 2(1) **successive management rights**: inserted, on 31 October 2006, by section 5(7) of the Radiocommunications Amendment Act 2006 (2006 No 54).

3 Act to bind the Crown

This Act binds the Crown.

Part 1
Administration

4 Appointment of Registrar and Deputy Registrars

(1) There must be—

(a) a Registrar of Radio Frequencies; and

(b) 1 or more Deputy Registrars of Radio Frequencies.

(2) Each Registrar and Deputy Registrar must be appointed under the Public Service Act 2020 by the Secretary.

(3) Subject to the control of the Registrar, a Deputy Registrar has and may exercise or perform all the powers, duties, and functions of the Registrar.

(4) The fact that a Deputy Registrar exercises or performs any of the powers, duties, or functions of the Registrar is conclusive evidence of the Deputy Registrar's authority to do so.

Section 4: substituted, on 20 September 2007, by section 5 of the Radiocommunications Amendment Act 2007 (2007 No 75).

Section 4(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

5 Register of Radio Frequencies

The Registrar must establish and maintain a register for the purpose of maintaining records of interests or uses relating to radio frequencies.

Section 5: substituted, on 12 October 2001, by section 4 of the Radiocommunications Amendment Act 2000 (2000 No 8).

6 Form of register

(1) Subject to this Act, the register shall be kept in such form as the Registrar considers appropriate.

(2) The register may be in the form of information stored by means of a computer.

(3) The register shall contain—

(a) each record of management rights; and

(b) particulars of all transfers required by this Act to be registered affecting the frequencies to which each record of management rights relates; and

(c) particulars of all spectrum licences required by this Act to be registered affecting the frequencies to which each record of management rights relates; and

(ca) particulars of all radio licences granted by the Secretary under Part 13; and

(d) such other matters as are required or permitted by this Act to be registered.

Section 6(3)(c): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 6(3)(ca): inserted, on 12 October 2001, by section 5 of the Radiocommunications Amendment Act 2000 (2000 No 8).

6A Documents to be received in evidence

Every document purporting to be signed or issued by the Registrar, or by an employee employed to assist the Registrar in the exercise of the Registrar's functions under this Act, must be received in evidence, and must, in the absence of proof to the contrary, be deemed to be signed or issued by or under the direction of the Registrar.

Section 6A: inserted, on 31 October 2006, by section 6 of the Radiocommunications Amendment Act 2006 (2006 No 54).

7 Registrar to have and use seal of office

[Repealed]

Section 7: repealed, on 15 December 2005, by section 4 of the Radiocommunications Amendment Act (No 2) 2005 (2005 No 111).

8 Sealed documents to be received in evidence

[Repealed]

Section 8: repealed, on 15 December 2005, by section 5 of the Radiocommunications Amendment Act (No 2) 2005 (2005 No 111).

Part 2
Radio frequencies registered under this Act

9 Applications to register radio frequencies

(1) A record of management rights in relation to a radio frequency may be recorded in the register only on the application of the Secretary.

(2) Every application to record in the register a record of management rights in relation to a radio frequency shall be in the prescribed form.

10 Registration of management rights for radio frequencies

(1) The Registrar shall receive applications from the Secretary, in the prescribed form, for the recording of a record of management rights in relation to any radio frequencies.

(1A) The Secretary may make applications for successive management rights in respect of a radio frequency, but the commencement date specified in each successive application must not be earlier than the day after the expiry date of the preceding management right.

(2) Subject to section 38, on receipt of an application that complies with this section, the Registrar shall record the frequencies to which the application relates in the register, and every such entry shall constitute a record of management rights in relation to those frequencies.

Section 10 heading: amended, on 12 October 2001, by section 6(1) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 10(1A): inserted, on 12 October 2001, by section 6(2) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 10(2): amended, on 12 October 2001, by section 6(3) of the Radiocommunications Amendment Act 2000 (2000 No 8).

11 Record of management rights

(1) Every record of management rights constituted under section 10(2) shall, when recorded, name the Crown acting by and through the Secretary as the manager of the frequencies to which the record of management rights relates.

(2) Every record of management rights shall be given a reference number at the time that the radio frequencies to which it relates are registered.

(3) Part 3 (other than section 14(b)), so far as applicable and with all necessary modifications, shall apply to every application made under section 10 as if it were an application made under section 16.

11A Creation of successive records of management rights

A record of management rights may be created at any time and from time to time, but where more than 1 record of management rights is created for a frequency, the commencement date for the subsequent record of management

rights must not be earlier than the day after the date on which the previous management rights expire.

Section 11A: inserted, on 12 October 2001, by section 7 of the Radiocommunications Amendment Act 2000 (2000 No 8).

11B Variation of conditions in record of management rights

(1) The conditions that apply to spectrum licences created in relation to a record of management rights may be varied, added to, or removed at any time by mutual agreement between the manager and the Secretary.

(2) The Registrar must be notified of any agreement referred to in subsection (1) in the prescribed form.

(3) Nothing in this section affects the operation of sections 57, 57A, 57B, and 57C.

(4) No variation, addition, or removal of a condition made under subsection (1) applies to a spectrum licence that was registered before the date of that variation, addition, or removal.

Section 11B: inserted, on 19 December 2002, by section 3 of the Radiocommunications Amendment Act 2002 (2002 No 74).

Section 11B(1): amended, on 31 October 2006, by section 7(1) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 11B(4): amended, on 31 October 2006, by section 7(2) of the Radiocommunications Amendment Act 2006 (2006 No 54).

12 Part 13 to cease to apply to frequencies registered under this Act

[Repealed]

Section 12: repealed, on 12 October 2001, by section 8 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Part 3
Registration

13 When instruments deemed registered

Every instrument registered under this Act shall be deemed to be registered for the purposes of this Act at the time recorded in the register as the time at which the instrument was registered.

14 Instruments to be in duplicate and witnessed

[Repealed]

Section 14: repealed, on 15 December 2005, by section 6 of the Radiocommunications Amendment Act (No 2) 2005 (2005 No 111).

15 Priority according to time of registration

(1) Instruments presented for registration under this Act shall be registered in the chronological order in which they are received by the Registrar.

(2) Registered instruments that relate to or affect the same interest in the same radio frequencies shall have priority in the order in which they are registered.

16 Application for registration

(1) The Registrar shall receive applications to register particulars of all instruments required by this Act to be registered.

(2) Every application under subsection (1)—

(a) shall be made by presenting an instrument in the prescribed form; and

(b) shall contain such particulars as are specified in the form; and

(c) shall be executed in the manner specified in the form; and

(d) shall be accompanied by the prescribed fee (if any).

17 Registration procedure

On receipt of an application that complies with section 16, and is completed to the satisfaction of the Registrar, the Registrar shall—

(a) record in the register the particulars set out in the instrument required by this Act to be registered and the time at which the particulars are so recorded; and

(b) issue a certificate as to the particulars recorded in the register pursuant to paragraph (a); and

(c) retain a record of the instrument in the Registrar's office; and

(d) forward the certificate issued under paragraph (b) to the person who presented the instrument for registration.

(e) *[Repealed]*

Section 17(c): substituted, on 15 December 2005, by section 7 of the Radiocommunications Amendment Act (No 2) 2005 (2005 No 111).

Section 17(d): substituted, on 15 December 2005, by section 7 of the Radiocommunications Amendment Act (No 2) 2005 (2005 No 111).

Section 17(e): repealed, on 15 December 2005, by section 7 of the Radiocommunications Amendment Act (No 2) 2005 (2005 No 111).

18 Procedure in relation to defective applications for registration

Where any instrument lodged for registration with the Registrar is found not to be in order for registration, the Registrar may—

(a) return the instrument and all other instruments lodged in connection with that instrument, or such of them as the Registrar thinks fit, to the person by whom they were lodged or, where that person is not available, to such other person as may, in the opinion of the Registrar, be entitled to receive them; or

(b) retain the instrument pending rectification of any matter required by the Registrar to be rectified.

19 Failure to comply with requisition

If any requisition made by the Registrar in respect of any instrument retained for rectification under section 18 is not complied with within such time as the Registrar may specify in that behalf in a notice given by post, delivery, or electronic transmission (for example, by fax or email) to the person who lodged the instrument, or to the person entitled under the instrument, the Registrar—

(a) may refuse to complete or proceed with the registration of the instrument or to do any act or make any entry in relation to the instrument; and

(b) may return the instrument and all other instruments lodged in connection with the instrument, or such of those instruments as the Registrar thinks fit, to the person by whom they were lodged or, where that person is not available, to such other person as may, in the opinion of the Registrar, be entitled to receive them.

Section 19: amended, on 15 December 2005, by section 8 of the Radiocommunications Amendment Act (No 2) 2005 (2005 No 111).

20 Fees in relation to defective applications

(1) Where any instrument is returned as provided in section 18(a), any fees paid to the Registrar in respect of the instrument shall be forfeited, unless any matter required to be rectified to enable the instrument to be registered is so rectified and the instrument is again lodged with the Registrar within a period of 40 working days from the date of its return by the Registrar under section 18(a).

(2) Where any instrument is returned as provided in section 19(b), any fees paid to the Registrar in respect of that instrument shall be forfeited.

(3) Nothing in this section applies in respect of any spectrum licence that is returned under section 25(1) or to any modification of a spectrum licence that is returned under section 57C.

Section 20(3): substituted, on 12 October 2001, by section 9 of the Radiocommunications Amendment Act 2000 (2000 No 8).

21 Copies of documents and requisitions

Before returning any instrument in accordance with section 18 or section 19, the Registrar—

(a) shall make a copy of the instrument; and

(b) shall attach to the copy of the instrument a copy of the requisition specifying the matters required to be rectified, and, where applicable, of the notice forwarded under section 19; and

(c) shall file the copies made under paragraphs (a) and (b) in the Registrar's office as if the instrument had been registered.

22 Returned instrument deemed not to have been presented for registration

Where any instrument is returned pursuant to section 18 or section 19 or section 25, it shall be deemed not to have been presented for registration.

23 Application for correction of register

(1) Every person who presents an instrument for registration under section 16 may, after receiving the certificate issued under section 17(b), request that the Registrar correct the record on the register of the particulars set out in the instrument on the grounds that the register does not record accurately those particulars or is for any other reason incorrect.

(2) Every application made under subsection (1) shall be in the prescribed form, and shall be accompanied by a copy of the certificate issued under section 17(b) that relates to the record on the register to which the application relates.

Section 23(1): substituted, on 31 October 2006, by section 8 of the Radiocommunications Amendment Act 2006 (2006 No 54).

24 Correction of register

(1) Where, upon receipt of a request under section 23, the Registrar is satisfied that the register does not record accurately the particulars set out in the instrument to which the request relates or is for any other reason incorrect, the Registrar shall correct the register accordingly and record on the register the nature of the correction and the time at which the correction was made.

(2) The Registrar may, of the Registrar's own motion, correct the register (recording on the register the nature of the correction and the time at which the correction was made) if the Registrar is satisfied that the register—

(a) does not record accurately the particulars set out in an instrument to which an entry in the register relates; or

(b) requires updating because a rightholder or manager or holder of a radio licence has changed that person's name or address, or because a name or address is wrongly entered in the register; or

(c) is incorrect for any other reason.

(2A) Subsection (2) applies whether or not a person has requested that the Registrar correct the register under section 23.

(3) As soon as practicable after correcting the register under subsection (1), the Registrar shall notify the person who made the application under section 16 of the correction.

(4) *[Repealed]*

Section 24(2): substituted, on 31 October 2006, by section 9(1) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 24(2A): inserted, on 31 October 2006, by section 9(1) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 24(4): repealed, on 31 October 2006, by section 9(2) of the Radiocommunications Amendment Act 2006 (2006 No 54).

24A Duty to notify change of name or address

(1) If a rightholder or manager or holder of a radio licence changes that person's name or address, that person must, within 1 month after the change, notify the Registrar of the person's new name or address.

(2) A breach of subsection (1) is an infringement offence.

Section 24A: inserted, on 31 October 2006, by section 10 of the Radiocommunications Amendment Act 2006 (2006 No 54).

25 Registrar's duties in relation to registration of spectrum licences

(1) Where an instrument received by the Registrar for registration under section 16(1) is a spectrum licence in a form prescribed for the purposes of section 48, and any frequency within the frequency band specified in the spectrum licence is not within the range of frequencies on the record of management rights to which the spectrum licence relates, the Registrar must decline to register the particulars set out in the spectrum licence and return the spectrum licence in accordance with section 18(a).

(2) The Registrar must not register any spectrum licence unless an instrument received by the Registrar for registration under section 16(1) is a spectrum licence in a form prescribed for the purposes of section 48.

(3) The Registrar must not register any spectrum licence where that spectrum licence specifies unwanted emission limits applying to that spectrum licence, and the maximum power of emissions on any frequency to which the unwanted emissions limit applies exceeds any adjacent frequencies emission limit on the management right to which the spectrum licence relates.

(4) The Registrar must not register any spectrum licence unless the Registrar receives, from or on behalf of the applicant for registration, a certificate from an approved radio engineer dated not more than 3 months before the receipt of that certificate by the Registrar.

(5) The radio engineer's certificate must certify that, in the opinion of that engineer, the exercise of rights to which the spectrum licence relates—

(a) will not endanger the functioning of any radio navigation service; and

(b) will not endanger the functioning of any radio service essential to the protection of life and property; and

(c) will not cause harmful interference to rights conferred by registered spectrum or radio licences; and

(d) is technically compatible with services authorised to be operated under existing spectrum licences and radio licences; and

(e) will sufficiently define the protection area and the nature and characteristics of the proposed transmissions to enable subsequent spectrum licen-

ces and radio licences to be co-ordinated with the exercise of rights to which the spectrum licence relates for the purpose of avoiding harmful interference.

(6) Where an instrument received by the Registrar for registration under section 16(1) is a spectrum licence in a form prescribed for the purposes of section 48,—

(a) the Registrar may require the Secretary to provide to the Registrar a certificate stating whether or not the exercise of the rights to which the spectrum licence relates will cause harmful interference to the exercise of any rights conferred by any spectrum licence or radio licence that is not available for search by virtue of section 28; and

(b) if any such certificate states that harmful interference will, or is likely to, occur, the Registrar must decline to register the spectrum licence, and must return the spectrum licence in accordance with section 18(a).

(7) Except as provided in subsections (1) to (6), it is not the duty of the Registrar to determine whether or not the exercise of any or all of the rights to which a spectrum licence received for registration under section 16(1) relates is technically compatible with the exercise of any rights by any other person under a spectrum licence or radio licence.

Section 25: substituted, on 12 October 2001, by section 10 of the Radiocommunications Amendment Act 2000 (2000 No 8).

25A Matters relevant to radio engineer's certificate under section 25

A radio engineer issuing a certificate under section 25—

(a) must, before issuing the certificate, have regard to—

(i) the nature and characteristics of the rights described in the spectrum licence; and

(ii) the International Radio Regulations; and

(iii) the ITU-R reports and recommendations; and

(iv) Annex 10 of the Convention on International Civil Aviation; and

(v) the International Convention for the Safety of Life at Sea; and

(vi) the nature of the service proposed to be operated under the spectrum licence; and

(vii) any relevant reference standards issued by the Secretary; but

(b) must not, in considering whether to issue the certificate, have regard to the reception of radio waves by inappropriate receivers.

Section 25A: inserted, on 31 October 2006, by section 11 of the Radiocommunications Amendment Act 2006 (2006 No 54).

26 Registration of spectrum licences and modifications where management rights mortgaged

(1) Where—

(a) an instrument received by the Registrar for registration under section 16(1) is a spectrum licence in the form prescribed for the purposes of section 48 or a modification in the form prescribed for the purposes of sections 57, 57A, 57B, or 57C; and

(b) a mortgage of the management rights pursuant to which the spectrum licence is granted is registered under this Act,—

the Registrar shall not register that spectrum licence or that modification unless the Registrar receives from the applicant for registration an acknowledgment from the mortgagee that the mortgagee has consented to the grant of that spectrum licence or the making of that modification.

(2) Every such acknowledgment shall be in the prescribed form and shall be signed by the mortgagee.

Section 26: substituted, on 28 August 1990, by section 3 of the Radiocommunications Amendment Act (No 2) 1990 (1990 No 104).

Section 26 heading: amended, on 12 October 2001, by section 11 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 26(1): amended, on 12 October 2001, by section 11(a) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 26(1)(a): amended, on 12 October 2001, by section 11(a) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 26(1)(a): amended, on 12 October 2001, by section 11(b) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 26(1)(b): amended, on 12 October 2001, by section 11(a) of the Radiocommunications Amendment Act 2000 (2000 No 8).

27 Instruments not effectual until registered

(1) No instrument that purports—

(a) to transfer or mortgage management rights in relation to radio frequencies in respect of which a record of management rights has been recorded under this Act; or

(b) to grant or transfer or mortgage any spectrum licence—

shall have effect until it is registered in accordance with this Part.

(2) If 2 or more instruments executed by the same manager or rightholder, and purporting to transfer management rights in relation to the same radio frequencies, or to transfer the same spectrum licence, are presented at the same time to the Registrar for registration, the Registrar shall not register any of the transfers to which the instruments relate until the Registrar is satisfied that one of the instruments has priority in time over the other instrument or instruments and shall, in that case, accept for registration the instrument having priority.

Section 27(1)(b): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 27(2): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

28 Register to be open for search

(1) Any person may, upon payment of the prescribed fee (if any), have access to the register for the purpose of determining whether or not any radio frequency is subject to a record of management rights, a spectrum licence, or a radio licence and determining the identity of the owner of a management right, a rightholder, or the holder of a radio licence.

(2) The register must be so arranged that it may be searched by—

(a) reference number; or

(b) frequency band or frequency within a frequency band; or

(c) any other search reference specified in regulations made under this Act.

(3) The Registrar must not disclose, otherwise than in accordance with this section,—

(a) any information that will identify, or assist a person to identify, the residential address of any manager, rightholder, or holder of a radio licence where that manager, rightholder, or holder of a radio licence is a natural person and that manager, rightholder, or holder of a radio licence has advised the Registrar in writing that that person does not authorise the disclosure of such information; or

(b) any record where the Secretary has advised the Registrar in writing that the record contains information that would be likely to prejudice the security or defence of New Zealand.

(4) Information protected in accordance with this section may be disclosed to the persons or class of persons prescribed in regulations made under this Act for the purposes prescribed in those regulations.

Section 28: substituted, on 12 October 2001, by section 12 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 28(1): amended, on 27 November 2025, by section 134 of the Statutes Amendment Act 2025 (2025 No 74).

29 Registrar to issue search copies

(1) The Registrar shall, upon application and payment of the prescribed fee (if any), furnish to any person a copy of any record in the register.

(2) Nothing in subsection (1) requires the Registrar to furnish to any person a copy of any record if permission to search that record has been or could be declined to that person pursuant to section 28(3).

Section 29(1): amended, on 27 November 2025, by section 135 of the Statutes Amendment Act 2025 (2025 No 74).

Section 29(2): amended, on 12 October 2001, by section 13 of the Radiocommunications Amendment Act 2000 (2000 No 8).

30 Certified copies of register to be evidence

(1) The Registrar shall, upon application and payment of the prescribed fee (if any), furnish to any person a certified copy of any record in the register.

(2) Every such certified copy signed by the Registrar shall be received in evidence for all purposes as conclusive evidence that the particulars shown on the certified copy have been duly registered.

(3) Nothing in subsection (1) requires the Registrar to furnish to any person a certified copy of any record if permission to search that record has been or could be declined to that person pursuant to section 28(3).

(4) This section does not apply to records of radio licences.

Section 30(1): amended, on 27 November 2025, by section 136 of the Statutes Amendment Act 2025 (2025 No 74).

Section 30(2): amended, on 15 December 2005, by section 9 of the Radiocommunications Amendment Act (No 2) 2005 (2005 No 111).

Section 30(3): amended, on 12 October 2001, by section 14(1) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 30(4): added, on 12 October 2001, by section 14(2) of the Radiocommunications Amendment Act 2000 (2000 No 8).

31 High Court may investigate cases of lost instruments

Where any instrument executed for the purpose of transferring or mortgaging management rights in relation to any radio frequencies, or granting or transferring or mortgaging any spectrum licence, is lost or destroyed before it is registered, the person claiming to be entitled to the interest by virtue of the lost instrument may make application to the High Court to have the person's claim investigated and declared.

Section 31: amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

32 Court may order registration of interest

(1) Upon proof to the satisfaction of the court—

(a) that an instrument to which section 31 applies has been lost or destroyed; and

(b) that the applicant is entitled to have the interest to which the application relates registered; and

(c) that due notice of the application has been given—

(i) to the manager intended to be affected; and

(ii) to all other parties having an interest in the application,—

the court may make an order defining and declaring the interest of the applicant under the instrument, and requiring the Registrar to amend the register accordingly.

(2) The Registrar shall comply with any order made under subsection (1).

(3) Every registration effected pursuant to an order made under subsection (1) shall have effect from the date on which the Registrar amends the register in compliance with the order as if the original instrument had been duly registered, and that instrument shall for the purposes of this Act be deemed to have been in the terms or to the effect specified in the order.

33 Expiry of registration

At the close of the day specified in a record of management rights as the expiry date of the record of management rights,—

(a) all rights conferred by this Act on the manager in relation to the frequencies in the management right, every rightholder in relation to those frequencies, and every other person recorded on the register as having an interest in those frequencies, expire; and

(b) the management rights expire and the provisions of Part 13 apply to each frequency until a further record of management rights is created for that frequency.

Section 33: substituted, on 12 October 2001, by section 15 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Part 4
Record of management rights

Content of record of management rights

34 Content of record of management rights

Every record of management rights shall specify—

(a) the name and address of the manager; and

(b) the range of frequencies to which the record of management rights relates; and

(c) the adjacent frequencies emission limits applying to the frequencies to which the record of management rights relates; and

(d) the protection limit applying to the frequencies to which the record of management rights relates; and

(da) the power floor applying to the frequencies to which the record of management rights relates; and

(e) any conditions applying to the spectrum licences created in relation to the record of management rights, being,—

(i) in the case of a record of management rights entered on the register pursuant to section 10(2), any conditions specified in the application pursuant to which the record of management rights was recorded on the register; or

(ii) in the case of a record of management rights that is created pursuant to section 45(1) upon the cancellation of a record of management rights pursuant to section 44, any conditions specified on the cancelled record of management rights; or

(iii) in the case of a record of management rights that is created under section 47(1) on the cancellation of 2 or more records of management rights under section 46, any conditions specified on the cancelled records of management rights; or

(iv) in the case of a record of management rights that is created under section 47B(1) on the cancellation of 2 records of management rights under section 47A, any conditions specified on the cancelled records of management rights; and

(ea) any variation, addition, or removal of a condition that applies to the spectrum licences created in relation to the record of management rights; and

(f) the commencement date of the record of management rights, being,—

(i) in the case of a record of management rights constituted under section 10(2), the commencement date specified on the application pursuant to which the record of management rights was recorded on the register; or

(ii) in the case of a record of management rights that is created pursuant to section 45(1) upon the cancellation of a record of management rights pursuant to section 44, the commencement date specified on the notice of transfer pursuant to which the new record of management rights was created; or

(iii) in the case of a record of management rights that is created under section 47(1) on the cancellation of 2 or more records of management rights under section 46, the date on which the Registrar creates that new record of management rights; or

(iv) in the case of a record of management rights that is created under section 47B(1) on the cancellation of 2 records of management rights under section 47A, the date on which the Registrar creates that new record of management rights; and

(g) the expiry date applying to the record of management rights, being,—

(i) in the case of a record of management rights constituted under section 10(2), the expiry date specified on the application pursuant to which the record of management rights was recorded on the

register, which expiry date shall in no case be later than the date of the expiry of the period of 20 years from the commencement date of the record of management rights; or

(ii) in the case of a record of management rights that is created pursuant to section 45(1) upon the cancellation of a record of management rights pursuant to section 44, the expiry date specified on the cancelled record of management rights; or

(iii) in the case of a record of management rights that is created under section 47(1) on the cancellation of 2 or more records of management rights under section 46, the expiry date specified on the cancelled records of management rights; or

(iv) in the case of a record of management rights that is created under section 47B(1) on the cancellation of 2 records of management rights under section 47A, the expiry date specified on the record of management rights for the successive management rights; and

(h) the reference number of every spectrum licence, where any of the frequencies within the frequency band to which that spectrum licence relates is within the range of frequencies to which the management right relates.

Section 34(a): substituted, on 12 October 2001, by section 16(1)(a) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 34(da): inserted, on 12 October 2001, by section 16(1)(b) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 34(e): amended, on 12 October 2001, by section 16(1)(c) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 34(e)(iii): substituted, on 31 October 2006, by section 12(1) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 34(e)(iv): added, on 31 October 2006, by section 12(1) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 34(ea): inserted, on 19 December 2002, by section 4 of the Radiocommunications Amendment Act 2002 (2002 No 74).

Section 34(ea): amended, on 31 October 2006, by section 12(2) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 34(f)(iii): substituted, on 31 October 2006, by section 12(3) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 34(f)(iv): added, on 31 October 2006, by section 12(3) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 34(g)(i): amended, on 31 October 2006, by section 12(4) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 34(g)(iii): substituted, on 31 October 2006, by section 12(5) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 34(g)(iv): added, on 31 October 2006, by section 12(5) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 34(h): substituted, on 12 October 2001, by section 16(2) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Power floors

Heading: inserted, on 12 October 2001, by section 17 of the Radiocommunications Amendment Act 2000 (2000 No 8).

34A Power floors applying when radio frequencies registered under Act

(1) Unless section 34B or section 34C applies, the power floor relating to each frequency to which each record of management rights relates is the power floor specified on the application under which the record of management rights is recorded on the register.

(2) Where no power floor is specified in an application for management rights for a frequency, the power floor is –50dBW.

Section 34A: inserted, on 12 October 2001, by section 17 of the Radiocommunications Amendment Act 2000 (2000 No 8).

34B Modification of power floors

Where the Secretary and any manager agree to modify the power floor applying to any 1 or more frequencies to which the manager's record of management rights relates, they may present to the Registrar for the purposes of registration a notice in the prescribed form specifying—

(a) the power floor that is to apply, under the agreement, to any 1 or more frequencies to which that record of management rights relates; and

(b) the date from which the modified power floor or floors apply.

Section 34B: inserted, on 12 October 2001, by section 17 of the Radiocommunications Amendment Act 2000 (2000 No 8).

34C Power floors applying after creation of records of management rights under section 45(1), 47(1), or 47B(1)

(1) Where, under section 44(1), the Registrar cancels a record of management rights and, under section 45(1), creates new records of management rights in relation to the frequencies to which the cancelled record of management rights relates, the power floor applying to each frequency in each record of management rights so created is the power floor for that frequency specified in the cancelled record of management rights.

(2) If, under section 46(1) or section 47A(3), the Registrar cancels any records of management rights and, under section 47(1) or section 47B(1), creates a new record of management rights in relation to the frequencies to which the cancelled records of management rights relate, the power floor for each frequency specified in the cancelled records of management rights continues to apply to those frequencies.

Section 34C: inserted, on 12 October 2001, by section 17 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 34C heading: amended, on 31 October 2006, by section 13(1) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 34C(2): substituted, on 31 October 2006, by section 13(2) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Management rights ceiling

Heading: inserted, on 12 October 2001, by section 17 of the Radiocommunications Amendment Act 2000 (2000 No 8).

34D Ceiling for management rights

Nothing in Parts 3 to 12 or Part 16 applies to any emissions transmitted from any point that is more than 50 kilometres above the surface of the earth.

Section 34D: inserted, on 12 October 2001, by section 17 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Protection limits

35 Protection limit applying when radio frequencies registered under Act

(1) Subject to sections 36 and 37, the protection limit relating to the range of frequencies to which each record of management rights relates shall be the protection limit specified on the application pursuant to which the record of management rights was recorded on the register.

(2) The Registrar must not register a protection limit in relation to a record of management rights where the protection limit is lower than the power floor specified for any frequency within the range of frequencies to which the record relates.

Section 35(2): substituted, on 12 October 2001, by section 18 of the Radiocommunications Amendment Act 2000 (2000 No 8).

36 Modification of protection limit

Where the Secretary and any manager agree to modify the protection limit applying to that manager's record of management rights, they may present to the Registrar for the purposes of registration a notice in the prescribed form specifying—

(a) the protection limit that is to apply, pursuant to the agreement, to that record of management rights; and

(b) the date from which the modified protection limit is to apply.

37 Protection limit applying after creation of records of management rights under section 45(1), 47(1), or 47B(1)

(1) Where, pursuant to section 44(1), the Registrar cancels a record of management rights and, pursuant to section 45(1), creates new records of management rights in relation to the frequencies to which the cancelled record of management rights relates, the protection limit applying to each record of management rights so created shall be the protection limit specified in the cancelled record of management rights.

(2) If, under section 46(1) or section 47A(3), the Registrar cancels any records of management rights and, under section 47(1) or section 47B(1), creates a new record of management rights in relation to the ranges of frequencies to which the cancelled records of management rights relate, the protection limits specified in the cancelled records of management rights continue to apply to those ranges of frequencies.

Section 37 heading: amended, on 31 October 2006, by section 14(1) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 37(2): substituted, on 31 October 2006, by section 14(2) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Adjacent frequencies emission limits

38 Restriction on registration of adjacent frequencies emission limits

Where an application is made to the Registrar under section 10 in relation to any radio frequencies, the Registrar shall not register those frequencies under that section if any adjacent frequencies emission limit specified in that application in relation to any frequency exceeds the protection limit specified in relation to that frequency in any record of management rights constituted under subsection (2) of that section.

39 Adjacent frequencies emission limits applying when radio frequencies registered under Act

(1) The adjacent frequencies emission limits relating to the range of frequencies to which each record of management rights relates shall be the adjacent frequencies emission limits specified in the application pursuant to which the record of management rights was recorded on the register.

(2) *[Repealed]*

Section 39(2): repealed, on 12 October 2001, by section 19 of the Radiocommunications Amendment Act 2000 (2000 No 8).

40 Modification of adjacent frequencies emission limits

(1) Where any manager and any adjacent manager agree to modify the adjacent frequencies emission limit applying to any frequency or frequencies falling within the range of frequencies specified in the adjacent manager's record of management rights, they may present to the Registrar for the purposes of registration a notice in the prescribed form specifying—

(a) the adjacent frequencies emission limit or adjacent frequencies emission limits that is or are to apply pursuant to the agreement; and

(b) the date from which the modified adjacent frequencies emission limit or limits is or are to apply.

(2) No modification of any adjacent frequencies emission limit or limits shall affect any unwanted emission limit applying to any spectrum licence created before the date specified in the notice given under subsection (1) as the date

from which the modified adjacent frequencies emission limit or limits is or are to apply.

(3) *[Repealed]*

Section 40(2): amended, on 12 October 2001, by section 20(1) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 40(3): repealed, on 12 October 2001, by section 20(2) of the Radiocommunications Amendment Act 2000 (2000 No 8).

41 Adjacent frequencies emission limits applying after creation of records of management rights under section 45(1), 47(1), or 47B(1)

(1) Where, pursuant to section 44(1), the Registrar cancels a record of management rights and, pursuant to section 45(1), creates new records of management rights in relation to the frequencies to which the cancelled record of management rights relates, the adjacent frequencies emission limits applying to each record of management rights so created shall be,—

(a) in relation to the frequencies adjacent to the boundaries of the range of frequencies to which the cancelled record of management rights relates, the adjacent frequencies emission limits specified in the cancelled record of management rights as relating to those frequencies; and

(b) in relation to the frequencies adjacent to the boundaries created as a result of the creation of the records of management rights, the adjacent frequencies emission limits specified in the notice of transfer pursuant to which the records of management rights are created.

(2) If, under section 46(1) or section 47A(3), the Registrar cancels any records of management rights and, under section 47(1) or section 47B(1), creates a new record of management rights in relation to the ranges of frequencies to which the cancelled records of management rights relate, the adjacent frequencies emission limits applying to the frequencies adjacent to the boundaries of the range of frequencies to which the new record of management rights relates are the adjacent frequencies emission limits specified in the cancelled records of management rights as relating to those frequencies.

Section 41 heading: amended, on 31 October 2006, by section 15(1) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 41(2): substituted, on 31 October 2006, by section 15(2) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Part 5
Transfers and aggregations of management rights

Part 5 heading: amended, on 31 October 2006, by section 16 of the Radiocommunications Amendment Act 2006 (2006 No 54).

42 Transfer by manager

(1) Where a manager intends to transfer the manager's management rights, or such of the management rights as relate to part of the range of frequencies to which the manager's record of management rights relates, the manager may execute for the purpose of registration a notice of transfer in the prescribed form.

(2) The manager must obtain the consent of the rightholder to a transfer of management rights proposed in accordance with this section, if—

(a) a spectrum licence is in force at the time of the transfer; and

(b) that spectrum licence provides that the spectrum licence may be modified by the rightholder alone; and

(c) that spectrum licence applies to a frequency band of which some of the frequencies are in the part of the management right proposed to be transferred and some of the frequencies are in the part of the management right proposed to be retained by the manager.

Section 42(2): added, on 12 October 2001, by section 21 of the Radiocommunications Amendment Act 2000 (2000 No 8).

43 New record of management rights unnecessary if management rights in respect of all frequencies transferred

If any notice of transfer purports to transfer management rights in respect of all radio frequencies to which a record of management rights relates, it shall not be necessary for the Registrar to cancel that record of management rights, and the record of the transfer endorsed on the record of management rights shall be sufficient evidence that the transferee named in that record is the manager in relation to the range of frequencies to which the notice relates, as if a record of management rights had been created in the name of the transferee.

44 Record of management rights to be cancelled on transfer of part of range of frequencies

(1) If a notice of transfer purports to transfer the management rights in respect of part only of the range of frequencies specified in a record of management rights, the Registrar must record on the record of management rights that the record of management rights is cancelled.

(2) The recording of the cancellation under subsection (1) has the effect of cancelling the record of management rights.

Section 44: substituted, on 31 October 2006, by section 17 of the Radiocommunications Amendment Act 2006 (2006 No 54).

45 New records of management rights to be created for portion transferred and for balance

(1) The Registrar, upon cancelling any record of management rights under section 44, shall create—

(a) a record of management rights in relation to the radio frequencies transferred; and

(b) a record of management rights in relation to the radio frequencies retained by the manager.

(2) The Registrar must record on every record of management rights created under subsection (1)—

(a) the reference number of every spectrum licence that was recorded on the cancelled record of management rights, where any frequency within the frequency band to which that spectrum licence relates is within the range of frequencies to which the record of management rights relates:

(b) any conditions recorded on the cancelled record of management rights, where those conditions applied to the whole of the cancelled management right or to any frequency within the frequency band to which the record of management rights created under subsection (1) relates.

Section 45 heading: substituted, on 12 October 2001, by section 22(1) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 45(2): substituted, on 12 October 2001, by section 22(2) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 45(2)(b): amended, on 31 October 2006, by section 18 of the Radiocommunications Amendment Act 2006 (2006 No 54).

46 Aggregation of management rights with common boundary

(1) Subject to subsection (3), where a manager has the management rights in respect of ranges of frequencies that share a common boundary, the manager may request that the Registrar cancel the records of management rights relating to those ranges of frequencies, and create 1 record of management rights relating to all of those ranges of frequencies.

(2) If, upon receipt of a request under subsection (1), the Registrar is satisfied—

(a) that the request relates to ranges of frequencies that share a common boundary; and

(b) that the person making the request, or on whose behalf the request is made, has the management rights in respect of the radio frequencies to which the request relates,—

the Registrar shall record on the records of management rights to which the request relates that the records of management rights are cancelled, and such record shall have the effect of cancelling the records of management rights.

(3) No request may be made under this section for the cancellation of any records of management rights relating to any ranges of frequencies unless the records

of management rights to which the request relates all have the same expiry date applying to them.

Section 46 heading: amended, on 31 October 2006, by section 19 of the Radiocommunications Amendment Act 2006 (2006 No 54).

47 New record of management rights to be created for all rights to which request under section 46 relates

(1) The Registrar, upon cancelling any records of management rights under section 46, shall create a record of management rights in respect of the radio frequencies to which the cancelled records of management rights relate.

(2) The Registrar shall record on every record of management rights created under subsection (1) the reference number of every spectrum licence that was recorded on any of the cancelled records of management rights.

Section 47 heading: amended, on 31 October 2006, by section 20 of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 47(2): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

47A Aggregation of current and successive management rights

(1) This section applies to a manager if—

(a) the manager has management rights that expire in less than 5 years' time (the **current management rights**); and

(b) the manager is also the manager of subsequent management rights created in relation to the same range of frequencies as the current management rights (the **successive management rights**); and

(c) the records of management rights of both the current management rights and the successive management rights have—

(i) the same power floors; and

(ii) the same protection limits; and

(iii) the same adjacent frequencies emission limits; and

(iv) the same conditions applying to spectrum licences created in relation to those records; and

(d) the commencement date of the record of management rights relating to the successive management rights is no more than 1 day after the expiry date applying to the record of management rights relating to the current management rights.

(2) A manager to whom this section applies may request that the Registrar cancel the records of management rights of both the current management rights and the successive management rights, and create 1 record of management rights relating to the range of frequencies concerned.

(3) If, upon receipt of a request under subsection (2), the Registrar is satisfied that subsection (1) applies, the Registrar must record on the records of management

rights to which the request relates that the records of management rights are cancelled, and that recording of the cancellation has the effect of cancelling the records of management rights.

Section 47A: inserted, on 31 October 2006, by section 21 of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 47A(1)(c)(iv): substituted, on 27 March 2008, by section 4 of the Radiocommunications Amendment Act 2008 (2008 No 16).

47B New record of management rights to be created for all rights to which request under section 47A relates

(1) The Registrar, upon cancelling any records of management rights under section 47A, must create a record of management rights in respect of the radio frequencies to which the cancelled records of management rights relate.

(2) The Registrar must record on every record of management rights created under subsection (1) the reference number of every spectrum licence that was recorded on the cancelled records of management rights.

Section 47B: inserted, on 31 October 2006, by section 21 of the Radiocommunications Amendment Act 2006 (2006 No 54).

Part 6
Registration of rightholders

48 Creation of spectrum licence by manager

(1) Where a manager intends to reserve to himself or herself or to grant to any other person—

(a) the right to transmit on a frequency band, and the right to have no harmful interference from co-channel emissions in the protection area on the frequency band within the range of frequencies specified in the manager's record of management rights; or

(b) the right to transmit on a frequency band within the range of frequencies specified in the manager's record of management rights; or

(c) the right to have no harmful interference from co-channel emissions in the protection area on a frequency band within the range of frequencies specified in the manager's record of management rights,—

that manager may execute for the purposes of registration a spectrum licence in a form prescribed for spectrum licences granted or reserved under this section.

(2) A spectrum licence is not valid until that licence is registered.

(3) Any spectrum licence created under subsection (1)(b) may be specified as a general user spectrum licence for the purposes of section 55A.

Section 48: substituted, on 12 October 2001, by section 23 of the Radiocommunications Amendment Act 2000 (2000 No 8).

49 Contents of spectrum licence

(1) Every spectrum licence must specify—

(a) the name and address of the rightholder; and

(b) the frequency band within which radio waves may be transmitted; and

(c) except for licences granted or reserved under section 48(1)(b), the protection area; and

(d) except for licences granted or reserved under section 48(1)(c), any unwanted emission limits applying to emissions from a radio transmitter or transmitters; and

(e) the commencement date of the spectrum licence, being a date not earlier than the commencement date of the record of management rights to which the spectrum licence relates; and

(f) the expiry date of the spectrum licence, being a date not later than the expiry date of the record of management rights to which the spectrum licence relates; and

(g) whether the spectrum licence may be transferred to another person by the rightholder with or without the consent of the manager; and

(h) whether the spectrum licence may be cancelled by 1 or more of the rightholder, the manager, or the rightholder and manager together; and

(i) whether the spectrum licence may be modified by 1 or more of the rightholder, the manager, or the rightholder and manager together; and

(j) any conditions on the exercise of the right to transmit radio waves or the right to have no harmful interference under the spectrum licence, being conditions that do not contravene the conditions specified in the record of management rights to which the spectrum licence relates; and

(k) any other matters that may be specified by regulations made under this Act.

(2) A spectrum licence may specify that the spectrum licence is a general user spectrum licence for the purposes of section 55A.

Section 49: substituted, on 12 October 2001, by section 23 of the Radiocommunications Amendment Act 2000 (2000 No 8).

50 Contents of licence to transmit unwanted emissions

[Repealed]

Section 50: repealed, on 12 October 2001, by section 23 of the Radiocommunications Amendment Act 2000 (2000 No 8).

51 Contents of licence conferring right to have no interference

[Repealed]

Section 51: repealed, on 12 October 2001, by section 23 of the Radiocommunications Amendment Act 2000 (2000 No 8).

52 Reference number of spectrum licence

Every spectrum licence to which section 48 applies shall be given a reference number at the time that it is registered, which number shall consist of—

(a) the reference number of the record of management rights to which it relates; and

(b) a further reference number that uniquely identifies the spectrum licence.

Section 52 heading: amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 52: amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 52(b): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

53 Unwanted emission limits applying to licence

[Repealed]

Section 53: repealed, on 12 October 2001, by section 24 of the Radiocommunications Amendment Act 2000 (2000 No 8).

54 Modification of unwanted emission limits

[Repealed]

Section 54: repealed, on 12 October 2001, by section 24 of the Radiocommunications Amendment Act 2000 (2000 No 8).

54A Modification of frequencies on a licence

[Repealed]

Section 54A: repealed, on 12 October 2001, by section 24 of the Radiocommunications Amendment Act 2000 (2000 No 8).

55 Transmissions by persons with agreement of rightholder

(1) The rightholder in relation to a spectrum licence may enter into agreements with persons wishing to transmit on the frequency specified in the spectrum licence.

(2) The terms of every agreement are deemed to include a condition that the person who has entered into the agreement with the rightholder will transmit only in accordance with—

(a) the rightholder's spectrum licence:

(b) conditions in the record of management rights in relation to which the rightholder's spectrum licence is registered:

(c) the provisions of section 102 as applied to the rightholder's spectrum licence:

(d) Schedule 1.

(3) Every transmission by a person who—

(a) has entered into an agreement with a rightholder under this section; and

(b) is transmitting in accordance with that agreement—

is a transmission by the rightholder.

Section 55: substituted, on 12 October 2001, by section 25 of the Radiocommunications Amendment Act 2000 (2000 No 8).

55A Transmissions in accordance with general user spectrum licences

(1) This section applies to every spectrum licence created under section 48(1)(b) that is specified as a general user spectrum licence in accordance with section 48(3).

(2) A general user spectrum licence grants to every person permission to transmit radio waves on the frequency band specified in the general user spectrum licence if that person complies with—

(a) any conditions specified in the record of management rights in relation to which the general user spectrum licence is registered; and

(b) any conditions specified in the spectrum licence under section 49(1)(j); and

(c) Schedule 1.

(3) No person transmitting radio waves in accordance with a general user spectrum licence may transmit unwanted emissions on any frequency within the range of frequencies to which the unwanted emission limit specified in the general user spectrum licence applies, at a level greater than is specified in that general user spectrum licence as the unwanted emission limit applying to that frequency.

(4) No person transmitting radio waves in accordance with a general user spectrum licence may transmit unwanted emissions on any frequency that is not within the frequency band or the range of frequencies to which any unwanted emission limit specified in the general user spectrum licence applies, at a level greater than the power floor applying to that frequency in accordance with the record of management rights relating to that frequency at the time the general user spectrum licence was registered.

(5) Every person who transmits radio waves on a frequency specified in a general user spectrum licence and who fails to comply with subsections (2), (3), or (4) commits an offence against this Act.

(6) A person transmitting in accordance with a general user spectrum licence is not a rightholder and that person does not, by transmitting in accordance with a general user spectrum licence, acquire rights or obligations under sections 99, 101, or 102.

Section 55A: inserted, on 12 October 2001, by section 25 of the Radiocommunications Amendment Act 2000 (2000 No 8).

56 Transfer of spectrum licence

(1) If a rightholder intends to transfer the rightholder's spectrum licence, the rightholder may, for the purpose of registration, execute a notice of transfer in the prescribed form.

(2) If a spectrum licence provides that the spectrum licence cannot be transferred without the consent of the manager, the Registrar must not register a transfer of that spectrum licence unless the Registrar receives written consent from the manager to the transfer of that spectrum licence.

(3) If a part of the management rights to which a frequency band in a spectrum licence relates has been transferred to another person and the spectrum licence provides that the spectrum licence cannot be transferred without the consent of the manager, the Registrar must not register a transfer of that spectrum licence unless the Registrar receives written consent from all managers holding management rights to which the frequency band in that spectrum licence relates.

(4) The transfer of a spectrum licence is not valid until the transfer is registered.

Section 56: substituted, on 12 October 2001, by section 25 of the Radiocommunications Amendment Act 2000 (2000 No 8).

57 Modification or cancellation of spectrum licence by rightholder alone

(1) Where a spectrum licence provides that the spectrum licence may be modified or cancelled by the rightholder alone and the rightholder wishes to modify any matter specified on the rightholder's spectrum licence or cancel the rightholder's spectrum licence, the rightholder may send to the Registrar, by electronic or other means and for the purposes of registration, a notice in the prescribed form.

(2) *[Repealed]*

(3) The notice must specify—

(a) the modification to the spectrum licence; and

(b) the date from which the modification or cancellation is to apply.

(4) As soon as practicable after receiving a notice under subsection (1), the Registrar must ensure that the details specified in the notice are sent, by electronic or other means, to the manager who has the management rights in relation to the frequency band or frequency bands within which it is permitted to transmit under the spectrum licence.

Section 57: substituted, on 12 October 2001, by section 25 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 57(1): amended, on 31 August 2012, by section 4(1) of the Radiocommunications Amendment Act 2012 (2012 No 65).

Section 57(2): repealed, on 31 August 2012, by section 4(2) of the Radiocommunications Amendment Act 2012 (2012 No 65).

Section 57(4): inserted, on 31 August 2012, by section 4(3) of the Radiocommunications Amendment Act 2012 (2012 No 65).

57A Modification or cancellation of spectrum licence by manager alone

(1) If a spectrum licence provides that the spectrum licence may be modified or cancelled by the manager alone and the manager in relation to that spectrum licence wishes to modify any matter specified on the spectrum licence or cancel the rightholder's spectrum licence, the manager may send to the Registrar, by electronic or other means and for the purposes of registration, a notice in the prescribed form.

(2) *[Repealed]*

(3) The notice must specify—

(a) the modification to the licence; and

(b) the date from which the modification or cancellation is to apply.

(4) As soon as practicable after receiving a notice under subsection (1), the Registrar must ensure that the details specified in the notice are sent, by electronic or other means, to the rightholder.

Section 57A: inserted, on 12 October 2001, by section 25 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 57A(1): amended, on 31 August 2012, by section 5(1) of the Radiocommunications Amendment Act 2012 (2012 No 65).

Section 57A(2): repealed, on 31 August 2012, by section 5(2) of the Radiocommunications Amendment Act 2012 (2012 No 65).

Section 57A(4): inserted, on 31 August 2012, by section 5(3) of the Radiocommunications Amendment Act 2012 (2012 No 65).

57B Modification or cancellation of spectrum licence by rightholder and manager

(1) If a spectrum licence provides that the spectrum licence may be modified or cancelled by the manager and the rightholder together and the manager and the rightholder in relation to that spectrum licence agree to modify any matter specified on the spectrum licence or to cancel the spectrum licence, the manager or the rightholder may present to the Registrar for the purposes of registration a notice in the prescribed form.

(2) Every notice presented under subsection (1) must be signed by both the manager and the rightholder.

(3) The notice must specify—

(a) the modification to the licence; and

(b) the date from which the modification or cancellation is to apply.

Section 57B: inserted, on 12 October 2001, by section 25 of the Radiocommunications Amendment Act 2000 (2000 No 8).

57C Modification of spectrum licence where 2 or more managers

If the reference number of a spectrum licence is recorded in accordance with section 45(2) on more than 1 record of management rights, then, despite any

provision to the contrary in that spectrum licence, the spectrum licence may be modified only with the consent of all the managers who hold a record of management rights relating to a frequency within the frequency band specified in the spectrum licence.

Section 57C: inserted, on 12 October 2001, by section 25 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 57C: amended, on 19 December 2002, by section 5 of the Radiocommunications Amendment Act 2002 (2002 No 74).

57D Registrar's duties in relation to registration of modification or cancellation of spectrum licence

(1) Where an instrument received by the Registrar for registration under section 16(1) is a modification to a spectrum licence or the cancellation of a spectrum licence, the Registrar must not register that modification or cancellation unless that modification or cancellation is in the prescribed form.

(2) Where an instrument is a modification to the spectrum licence that proposes to modify the frequency band specified in the spectrum licence by including any frequency not within the range of frequencies on the record of management rights to which the spectrum licence relates, the Registrar must decline to register that modification to the spectrum licence and must return the modification to the spectrum licence in accordance with section 18(a).

(3) Where—

(a) an instrument is a modification to the spectrum licence that proposes to modify the unwanted emission limits specified in the spectrum licence or include unwanted emission limits in the spectrum licence; and

(b) any frequency to which the unwanted emission limits specified in the modification to the spectrum licence apply is a frequency subject to the adjacent frequencies emission limit specified in the record of management rights to which the spectrum licence relates; and

(c) the maximum power of emissions specified as being permitted on that frequency exceeds the adjacent frequencies emission limit for that frequency in the record of management rights,—

the Registrar must decline to register that modification to the spectrum licence and must return the modification to the spectrum licence in accordance with section 18(a).

(4) The Registrar must not register any modification to a spectrum licence, other than a modification to any of the matters referred to in paragraphs (a), (g), (h), or (i) of section 49(1), unless the Registrar receives, from or on behalf of the applicant for registration, a certificate from an approved radio engineer dated not more than 3 months before the receipt of that certificate by the Registrar.

(5) The radio engineer's certificate must certify that, in the opinion of that engineer, the exercise of rights to which the spectrum licence, as modified, relates—

(a) will not endanger the functioning of any radionavigation service; and

(b) will not endanger the functioning of any radio service essential to the protection of life and property; and

(c) will not cause harmful interference to rights conferred by registered spectrum or radio licences; and

(d) is technically compatible with services authorised to be operated under existing spectrum licences and radio licences; and

(e) will sufficiently define the protection area and the nature and characteristics of the proposed transmissions to enable subsequent spectrum licences and radio licences to be co-ordinated with the exercise of rights to which the spectrum licence relates for the purpose of avoiding harmful interference.

(6) Where a modification to a spectrum licence is received by the Registrar,—

(a) the Registrar may require the Secretary to provide to the Registrar a certificate stating whether or not the exercise of the rights to which the spectrum licence, as modified, relates will cause harmful interference to the exercise of any rights conferred by any spectrum licence or radio licence that is not available for search under section 28(3); and

(b) if any such certificate states that harmful interference will, or is likely to, occur, the Registrar must decline to register the modification to the spectrum licence, and must return the modification to the spectrum licence in accordance with section 18(a).

(7) The Registrar must not register a modification to a spectrum licence that purports to alter a provision of that spectrum licence relating to the cancellation of that licence.

(8) Except as provided in subsections (1) to (7), it is not the duty of the Registrar to determine whether or not the effect of any modification to a spectrum licence received for registration under section 16(1) is to make the exercise of all or any of the rights conferred by that spectrum licence technically compatible with the exercise of any rights by any person under any spectrum licence or any radio licence.

Section 57D: inserted, on 12 October 2001, by section 25 of the Radiocommunications Amendment Act 2000 (2000 No 8).

57E Matters relevant to radio engineer's certificate under section 57D

A radio engineer issuing a certificate under section 57D—

(a) must, before issuing the certificate, have regard to—

(i) the nature and characteristics of the rights described in the spectrum licence; and

(ii) the International Radio Regulations; and

(iii) the ITU-R reports and recommendations; and

(iv) Annex 10 of the Convention on International Civil Aviation; and

(v) the International Convention for the Safety of Life at Sea; and

(vi) the nature of the service proposed to be operated under the spectrum licence; and

(vii) any relevant reference standards issued by the Secretary; but

(b) must not, in considering whether to issue the certificate, have regard to the reception of radio waves by inappropriate receivers.

Section 57E: inserted, on 31 October 2006, by section 22 of the Radiocommunications Amendment Act 2006 (2006 No 54).

Part 7
Guarantee of management rights to registered managers

Guarantee of management rights

58 Guarantee of management rights

(1) Subject to subsection (3), the production of a certified copy of a record of management rights in the register shall, unless the contrary is proved by production of the register or a certified copy of the register, be held in every court of law or equity and for all purposes to be conclusive proof that the manager shown in the certified copy is entitled to the management rights in relation to the radio frequencies to which the certified copy relates.

(2) Subject to subsection (3), the production of a certified copy of a spectrum licence registered under this Act shall, unless the contrary is proved by production of the register or a certified copy of the register, be held in every court of law or equity and for all purposes to be conclusive proof that the rightholder shown in the certified copy is entitled to the rights of a rightholder in relation to the radio frequency to which the certified copy relates.

(3) Nothing in subsection (1) or subsection (2) shall apply in respect of any action brought by any person deprived of management rights in relation to any radio frequencies, or of any rights as rightholder in relation to any spectrum licence, or of any rights as mortgagee of any management rights or any spectrum licence, by fraud, as against—

(a) the person registered as manager or rightholder through fraud; or

(b) a person deriving otherwise than as a transferee bona fide for value from or through a person registered as manager or rightholder through fraud.

Section 58(2): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 58(3): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Protection of purchasers

59 Purchasers from registered manager or rightholder not affected by notice

Notwithstanding any rule of law or equity, except in the case of fraud, no person contracting or dealing with or taking or proposing to take a transfer from the manager in relation to any radio frequencies, or from a rightholder in relation to any spectrum licence,—

(a) shall be required—

(i) to inquire into or ascertain the circumstances in or the consideration for which that manager or any previous manager, or, as the case may require, that rightholder or any previous rightholder, is or was registered; or

(ii) to see to the application of the purchase money or of any part of it; or

(b) shall be affected by notice, direct or constructive, of any trust or unregistered interest, and the knowledge that any such trust or unregistered interest is in existence shall not of itself be imputed as fraud.

Section 59: amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

60 No liability on bona fide purchaser or mortgagee

(1) This section applies to—

(a) any person who has acquired management rights in relation to any radio frequencies, or any rights as rightholder in relation to any spectrum licence, as a bona fide purchaser for value, and is registered as manager or, as the case may require, rightholder under this Act; and

(b) any person to whom a mortgage of any management rights or spectrum licence has been granted under this Act, as a mortgagee bona fide for value, and who is registered as a mortgagee of the management rights or spectrum licence under this Act.

(2) No person to whom this section applies shall be subject to action for recovery of damages, or be deprived of the management rights or spectrum licence in respect of which the person is registered or, as the case may be, that person's interest as mortgagee, on the ground that the vendor from whom the registered manager or rightholder so acquired the management rights or spectrum licence or, as the case may require, the mortgagor of the management rights or spectrum licence—

(a) may have been registered as manager or rightholder through fraud or error, or under any void or voidable instrument; or

(b) may have derived from a person registered as manager or rightholder through fraud or error, or under any void or voidable instrument.

Section 60(1)(a): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 60(1)(b): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 60(2): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Compensation

61 Compensation for mistake or misfeasance of Registrar

Any person—

(a) who sustains loss or damage through any omission, mistake, or misfeasance of the Registrar, or of any employee employed to assist the Registrar in the exercise of the Registrar's functions under this Act, in the execution of their respective duties; or

(b) who is deprived of any management rights or spectrum licence in respect of which the person is registered as the manager or rightholder, or of any interest as mortgagee of any management rights or spectrum licence, by the registration of any other person as the manager or rightholder of those management rights or that spectrum licence or, as the case may require, as mortgagee of those management rights or that spectrum licence, or by any error, omission, or misdescription in any record of management rights, or in any entry or memorial in the register, or has sustained any loss or damage by the wrongful inclusion of management rights in any record of management rights, and who by virtue of section 58 is unable to bring an action in respect of those management rights or, as the case may require, that spectrum licence or that interest—

may bring an action against the Crown for recovery of damages.

Section 61(b): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

62 Compensation for loss occurring after search and before registration

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

first operative period, in relation to any transaction to which this section applies, means the period of 10 working days commencing with the ninth working day preceding the date on which the transaction is settled

purchase money includes, in relation to any mortgage, the amount to be advanced by the mortgagee in consideration of the grant of the mortgage

search copy, in relation to any record of management rights or any spectrum licence, means a search copy of that record or spectrum licence prepared and issued by the Registrar under and for the purposes of this section

second operative period, in relation to any transaction to which this section applies, means the period of 40 working days commencing with the first working day after the date on which the transaction is settled

transaction to which this section applies means any agreement or arrangement entered into in respect of any management rights or spectrum licence under this Act whereby one party (in this section referred to as the purchaser) is to acquire or has acquired from the other party (in this section referred to as the vendor) an interest in those management rights or that spectrum licence for valuable consideration.

(2) For the purposes of this section, except as the parties may expressly agree a transaction is settled when the purchaser pays, gives, or otherwise makes available to the vendor the purchase money or other consideration, either in full or to the extent necessary to entitle the purchaser, in terms of the agreement or arrangement relating to the transaction, to call upon the vendor to do everything required of the vendor under that agreement or arrangement to enable the purchaser to register the interest to which the transaction relates.

(3) Any purchaser under a transaction to which this section applies who obtains, at any time during the first operative period, a search copy in respect of the management rights or spectrum licence that is the subject of the transaction and who sustains any loss or damage through the registration or lodging under this Act of any instrument or other document relating to those management rights or that spectrum licence may bring an action against the Crown for the recovery of damages if—

(a) no entry or memorial in the register relating to that registration or lodging appears in the search copy; and

(b) the registration or lodging was effected at any time before the expiry of the second operative period or the sooner registration of all instruments and other documents necessary to give effect to the transaction.

(4) For the purposes of an action under this section, the court may, on application made to it in that behalf by the purchaser (whether before or after the expiry of the second operative period), extend the second operative period for such length of time as it thinks just where it is satisfied that the registration of all instruments and other documents giving effect to the transaction have not been registered within that period and that the delay in such registration is attributable otherwise than to the fault of the purchaser, or of the purchaser's solicitor or agents.

Section 62(1) **search copy**: amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 62(1) **transaction to which this section applies**: amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 62(3): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

63 Notice of action to be served on Attorney-General and Registrar

(1) Notice in writing of every action against the Crown under section 61 or section 62, and of the cause of the action, and of the amount claimed, shall be served upon the Attorney-General, and also upon the Registrar, at least 20 working days before the commencement of the action.

(2) If those officers concur that the claim ought to be admitted, as to the whole or any part of the claim, without suit or action, and jointly certify to that effect, the amount of the claim may, without further appropriation than this section, be paid, out of public money appropriated by Parliament, in whole or in part to the person entitled to that amount in accordance with the certificate.

(3) If, after notice of the admission has been served on the claimant, or the solicitor or agent of the claimant, the claimant proceeds with the action, and recovers no more than the amount admitted, the claimant—

(a) shall not be entitled to recover any costs as against the Crown; and

(b) shall be liable to the Crown for the costs of defending the action in the same manner as if judgment had been given for the defendant in the action.

64 Recovery of compensation paid and costs in case of fraud

(1) Where any sum of money has been lawfully paid out of public money as compensation for any loss occasioned by fraud on the part of any person causing or procuring that person to be registered as manager or rightholder, or as mortgagee of any management rights or spectrum licence, by virtue of any dealing with or transmission from a registered manager or rightholder, the amount of that compensation, together with all costs incurred in testing or defending any claim or action in relation to that compensation, shall be deemed a debt due to the Crown from the person legally responsible for that fraud and may be recovered from that person, or from that person's personal representatives, by action at law, in the name of the Registrar, or, in the case of bankruptcy, may be proved as a debt due from that person's estate.

(2) A certificate signed by the Minister of Finance, verifying the fact of the payment of compensation out of public money, shall be prima facie proof that such payment was made.

(3) All money recovered in any action pursuant to subsection (1) shall be paid to the credit of a Crown Bank Account.

Section 64(1): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 64(3): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

65 Recovery of compensation paid where loss caused by solicitor's negligence

(1) Without limiting section 64, where any sum of money is lawfully paid out of public money as compensation for any loss or damage sustained in any case to

which section 62 applies, and that loss or damage was caused wholly or partly by the negligence of the purchaser's solicitor, the amount of that compensation (together with all costs incurred in testing or defending any claim or action in relation to that compensation), to the extent that it may properly be attributed to that solicitor's negligence, shall be deemed a debt due to the Crown from that solicitor, and may be recovered from that solicitor or from that solicitor's personal representatives, by action of law, in the name of the Registrar, or, in the case of bankruptcy, may be proved as a debt due from that solicitor's estate.

(2) No solicitor shall be held for the purposes of subsection (1) to have acted negligently merely because that solicitor relied on a search copy issued under and for the purposes of section 62 without also searching any other record held by the Registrar unless, in the special circumstances of the case, a prudent and competent solicitor would have searched that record.

(3) A certificate signed by the Minister of Finance, verifying the fact of the payment of compensation out of public money, shall, for the purposes of this section, be prima facie proof that such payment was made.

(4) All money recovered in any action pursuant to subsection (1) shall be paid to the credit of a Crown Bank Account.

Section 65(4): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

Part 8
General provisions

Additional powers of Registrar

66 Registrar may require production of documents, etc

(1) The Registrar may require any person making or concurring in any application under this Act to produce any document in that person's possession or control relating to the radio frequencies the subject of the application, and, if necessary, give any further information or explanation concerning any such document.

(2) Where, pursuant to subsection (1), the Registrar requires, in respect of any application, the production of any document or the giving of any information or explanation, the Registrar may decline to do any act in relation to that application until that requirement is complied with.

(3) Every person commits an offence who, in purported compliance with any requirement made under subsection (1), furnishes information, or produces a document, knowing it to be false or misleading in a material respect.

(4) Every person who commits an offence against subsection (3) is liable on conviction to a fine not exceeding,—

(a) in the case of an individual, $10,000:

(b) in the case of a body corporate, $25,000.

Section 66(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Appeals

67 Appeals against decisions of Registrar

(1) Any person who is prejudicially affected by any decision of the Registrar under section 18 or section 24(1) or section 24(2) or section 27(2) or section 66(1) or section 88 or section 91(2) or section 91(3) may appeal to the High Court against the decision.

(2) An appeal under subsection (1) shall be brought within 28 days after the making of the decision appealed against, or within such further time as a Judge of the High Court may allow on application made before or after the expiration of that period.

(3) Subject to any order of the High Court, every decision of the Registrar against which an appeal is lodged shall continue in force and have effect according to its tenor pending the determination of the appeal.

68 Procedure on appeals

On the hearing of an appeal under section 67, the court may confirm, reverse, or modify the decision appealed against, or may give any decision that the Registrar could have given in respect of the matter.

69 Court may refer appeals back for reconsideration

(1) Notwithstanding anything in section 68, the High Court may, in any case, instead of determining any appeal under that section, direct the Registrar to reconsider, either generally or in respect of any specified matters, the whole or any part of the matter to which the appeal relates.

(2) In giving any direction under this section, the court shall—

(a) advise the Registrar of its reasons for doing so; and

(b) give to the Registrar such directions as it thinks just concerning the reconsideration or otherwise of the whole or any part of the matter that is referred back for reconsideration.

(3) In reconsidering the matter so referred back, the Registrar shall have regard to the court's reasons for giving a direction under subsection (1), and to the court's directions under subsection (2).

Offences

70 Fraudulently procuring registration

(1) Every person commits an offence against this Act who—

(a) fraudulently procures the registration of any instrument required by this Act to be registered; or

(b) fraudulently uses any form prescribed for the purposes of any of the provisions of Parts 2 to 10.

(2) The registration of any transfer procured by fraud shall be void as between all parties to the fraud.

Miscellaneous provisions

71 Registrar not bound to attend court or produce register without court order

The Registrar shall not be required to produce in any court of law or elsewhere than in the office of the Registrar any record of management rights or other document in the Registrar's custody as Registrar, or to attend before any court or elsewhere to give evidence, except by order of the High Court, which order shall not be made unless the court is satisfied that the Registrar's attendance or the production of the record of management rights or document is necessary, and that the required evidence cannot be given by certified copy of the record of management rights or document.

72 Liability of officers

(1) No criminal proceedings shall lie against the Registrar, or any employee employed to assist the Registrar in the exercise of the Registrar's functions under this Act, for anything the Registrar or employee may do or fail to do in the course of the exercise or intended exercise of the functions of the Registrar, unless it is shown that the Registrar or employee acted in bad faith.

(2) Nothing in subsection (1) applies in respect of proceedings for—

(a) an offence against section 78 or section 78AAA or section 78AAB or section 78AA or section 78A or section 105 or section 105A of the Crimes Act 1961; or

(b) the offence of conspiring to commit an offence against section 78 or section 78AAA or section 78AAB or section 78AA or section 78A or section 105 or section 105A of the Crimes Act 1961; or

(c) the offence of attempting to commit an offence against section 78 or section 78AAA or section 78AAB or section 78AA or section 78A or section 105 or section 105A of the Crimes Act 1961.

(3) Where any civil proceedings are brought against the Registrar, or any employee employed to assist the Registrar in the exercise of the Registrar's functions under this Act, in their personal capacities, for anything the Registrar or employee has done or failed to do in the course of the exercise or intended exercise of the functions of the Registrar, the Registrar or employee is entitled to be indemnified by the Crown in respect of all expenses incurred by him or her in connection with the proceedings, and in respect of any amount awarded against him or her in those proceedings, unless it is shown that the Registrar or employee acted, or failed to act, in bad faith.

Section 72(2)(a): amended, on 27 November 2025, by section 17 of the Crimes (Countering Foreign Interference) Amendment Act 2025 (2025 No 71).

Section 72(2)(b): amended, on 27 November 2025, by section 17 of the Crimes (Countering Foreign Interference) Amendment Act 2025 (2025 No 71).

Section 72(2)(c): amended, on 27 November 2025, by section 17 of the Crimes (Countering Foreign Interference) Amendment Act 2025 (2025 No 71).

72A Matters relevant to radio engineer's certificate

[Repealed]

Section 72A: repealed, on 31 October 2006, by section 23 of the Radiocommunications Amendment Act 2006 (2006 No 54).

Part 9
Mortgages

73 Mortgage to take effect as security only

A mortgage under this Act shall have effect as security, but shall not operate as a transfer of the management rights or spectrum licence charged.

Section 73: amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

74 Forms of mortgage

Whenever any management rights or spectrum licence under this Act are or is intended to be charged with or made security for payment of any money, the manager or rightholder shall execute for the purposes of registration a memorandum in the prescribed form.

Section 74: amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

75 Alteration of terms of mortgage by endorsement

(1) Subject to subsections (2) and (3), in the case of every mortgage under this Act,—

(a) the amount secured by the mortgage may be increased or reduced; and

(b) the rate of interest may be increased or reduced; and

(c) the term or currency of the mortgage may be shortened, extended, or renewed; and

(d) the covenants, conditions, and powers contained or implied in the mortgage may be varied, negatived, or added to—

by a memorandum in the prescribed form.

(2) The memorandum may include all or any of the matters specified in subsection (1), and in that case the prescribed forms shall be modified accordingly.

(3) It shall not be necessary for a mortgagor to execute a memorandum of reduction, or for a mortgagee to execute a memorandum of increase, of the mortgage debt or of the rate of interest payable under a mortgage.

76 Consent to variation of mortgage

A memorandum varying the terms or conditions of any mortgage of any management rights or spectrum licence subject to a subsequent mortgage shall not be binding on any mortgagee unless the mortgagee has consented to that variation in writing on that memorandum, but that consent shall render that memorandum binding on the mortgagee so consenting, and shall be deemed to be notice to and shall be binding on all persons who may subsequently derive from the mortgagee any interest in the mortgaged management rights or spectrum licence.

Section 76: amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

77 Variation of priority of mortgages

(1) Notwithstanding anything in section 15, the priority among themselves of the mortgages affecting any management rights or spectrum licence may from time to time be varied by a memorandum of priority in the prescribed form and registered under this Act.

(2) The memorandum of priority shall be executed by the mortgagor and also by the mortgagee under every mortgage that, by the memorandum, is postponed to any mortgage over which it previously had priority.

Section 77(1): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

78 Rights of mortgagee

Without limiting the covenants, conditions, and powers that may, by agreement between the mortgagor and the mortgagee, be contained in a mortgage of management rights, a mortgage of management rights may confer on the mortgagee any of the following powers in the event of default, by the mortgagor, in the performance or observance of any covenant contained or implied in the mortgage:

(a) the power to sell the management rights in respect of all or part of the range of frequencies to which the mortgaged management rights relate:

(b) the power to grant spectrum licences under section 48 in relation to the mortgaged management rights.

Section 78(b): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

79 Restriction on exercise of power of sale

(1) Subject to section 81, no power conferred by any mortgage to sell any management rights, or to sell or grant any spectrum licence, or to exercise the rights

of a rightholder under a spectrum licence, shall become or be deemed to have become exercisable, by reason of any default in the payment of any money secured by any mortgage of any management rights or any spectrum licence, or by reason of any default in the performance or observance of any other covenant expressed or implied in the mortgage, unless and until the mortgagee serves on the mortgagor a notice that complies with the requirements of this section, and (in any case where the default complained of is capable of remedy) the mortgagor fails to remedy the default before the date specified in the notice.

(2) Every such notice shall be in the prescribed form; but no notice shall be void merely because of any variation from the prescribed form unless—

(a) the notice does not adequately inform the mortgagor of—

(i) the nature and extent of the default complained of; and

(ii) the date by which the mortgagor is required to remedy the default (if it is capable of remedy); and

(iii) the rights that the mortgagee will be entitled to exercise if the default is not remedied within the specified period; and

(b) the variation materially prejudices the interests of the mortgagor.

(3) The date to be specified in the notice shall be not earlier than 1 month from the service of the notice.

Section 79(1): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

80 Notice to subsequent mortgagee

(1) Where any management rights or spectrum licence that are or is subject to a mortgage are or is subject to any subsequent mortgage, and the mortgagee has actual notice of the name and address of the subsequent mortgagee, the first-mentioned mortgagee shall forthwith after serving notice on the mortgagor under section 79 serve a copy of the notice on the subsequent mortgagee.

(2) Failure to comply with subsection (1) shall not of itself prevent any of the powers referred to in section 79 from becoming or being deemed to have become exercisable, or prevent any money secured by a mortgage from becoming or being deemed to have become payable.

Section 80(1): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

81 Court may permit mortgagee to exercise power before period expired

(1) Where any notice under section 79(1) relates to a power to exercise the rights of a rightholder under a spectrum licence, the High Court may, on the application of the mortgagee made *ex parte* or otherwise as the court thinks fit, grant leave to the mortgagee to exercise the power at any time before the date specified in the notice.

(2) Leave may be granted under subsection (1) either unconditionally or upon or subject to such conditions as the court thinks fit.

Section 81(1): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

82 Restriction on action to recover deficiency

If at any time the mortgagee under any mortgage of any management rights or any spectrum licence exercises the power of sale conferred by the mortgage, and the amount realised is less than the amount owing under the covenant to repay expressed or implied in the mortgage, no action to recover the amount of the deficiency or any part of the deficiency shall be commenced by the mortgagee against any person (not being the mortgagor of the management rights or spectrum licence at the time of the exercise of the power of sale) unless the mortgagee, at least 1 month before the exercise of the power of sale, serves on that person notice of the mortgagee's intention to exercise the power of sale and to commence action against that person to recover the amount of the deficiency in the event of the amount realised being less than the amount owing under the covenant to repay.

Section 82: amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

83 No contracting out

Sections 79 to 82 shall have effect notwithstanding any provision to the contrary in any mortgage or other agreement.

84 Application of purchase money

The purchase money from the sale by the mortgagee of any management rights or spectrum licence shall be applied as follows:

(a) first, in payment of the expenses occasioned by the sale:

(b) secondly, in payment of the money then due or owing to the mortgagee:

(c) thirdly, in payment of subsequent registered mortgages (if any) in the order of their priority:

(d) fourthly, the surplus (if any) shall be paid to the mortgagor.

Section 84: amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

85 Transfer by mortgagee

Upon the registration of any transfer executed by a mortgagee for the purpose of the sale, by the mortgagee, of any management rights or spectrum licence, ownership of those management rights or that spectrum licence shall pass to and vest in the purchaser, freed and discharged from all liability on account of the mortgage, and of any interest other than an instrument created by an instrument that has priority over the mortgage or which by reason of the consent of the mortgagee is binding on the mortgagee.

Section 85: amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

86 Discharge of mortgage

(1) Where the sum secured by a mortgage has been paid off either wholly or in part, or where for any other reason the mortgagee has become bound to discharge the mortgage either wholly or partially, the mortgagee shall complete a memorandum in the prescribed form.

(2) A discharge of mortgage, when registered under this Act, shall effectually discharge the management rights or spectrum licence from the mortgage to the extent specified in the memorandum of discharge.

Section 86(1): amended, on 12 October 2001, by section 27(1) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 86(2): amended, on 12 October 2001, by section 27(2) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Part 10
Acquisitions by operation of law, caveats

Acquisitions by operation of law

87 Person claiming under operation of law may apply to have interest registered

(1) Any person claiming to be entitled by operation of law to be registered as manager or rightholder in relation to any radio frequencies may make application to the Registrar in the prescribed form to have the person registered as manager or rightholder.

(2) Every application under subsection (1) shall be accompanied by such evidence in support of the application as may be necessary to establish the applicant's entitlement to be registered as manager or rightholder.

(3) No application may be made under subsection (1) in respect of any entitlement arising or claimed to have arisen before the commencement of this Act.

88 Procedure on application

If, on any application under section 87, the Registrar is satisfied that the applicant is entitled to be registered as manager or rightholder in relation to the radio frequencies to which the application relates, the Registrar shall register the applicant as manager or rightholder, as the case may require.

Caveats

89 Caveat against dealing with radio frequencies

(1) Any person—

(a) claiming to be entitled to, or to be beneficially interested in,—

(i) the management rights in relation to any radio frequencies in respect of which a record of management rights is registered under this Act; or

(ii) any spectrum licence—

by virtue of any unregistered agreement or other instrument, or of any trust expressed or implied, or otherwise howsoever; or

(b) transferring—

(i) the management rights in relation to any such radio frequencies; or

(ii) any spectrum licence—

to any other person to be held in trust—

may at any time lodge with the Registrar a caveat in the prescribed form.

(2) Every caveat lodged under subsection (1) shall contain a statement of the grounds on which the caveat is lodged.

(3) No caveat may be lodged pursuant to subsection (1)(a) in respect of any entitlement or beneficial interest arising or claimed to have arisen before the commencement of this Act.

Section 89(1)(a)(ii): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 89(1)(b)(ii): amended, on 31 October 2006, by section 24 of the Radiocommunications Amendment Act 2006 (2006 No 54).

90 Service of notices as to caveats

Every notice relating to a caveat and any proceedings in respect of a caveat, if served at the place appointed in the caveat, shall be deemed duly served.

91 Effect of caveat

(1) Subject to subsections (2) to (4), so long as a caveat remains in force, the Registrar shall not make any entry on the register having the effect of—

(a) charging or transferring the management rights to which the caveat relates, or creating or modifying any spectrum licence under those management rights; or

(b) charging or transferring or modifying the spectrum licence to which the caveat relates.

(2) Subsection (1) shall not prevent the Registrar from making any entry where—

(a) the caveator consents to the making of that entry; or

(b) the making of that entry is necessary to complete the registration of any instrument that has been accepted for registration before the receipt of the caveat.

(3) Subsection (1) shall not prevent the Registrar from making any entry necessary to effect the registration of a transfer of any interest in any management rights or spectrum licence where—

(a) the transfer is expressed to be made in pursuance of a power of sale conferred on the transferor by virtue of a registered mortgage of those management rights or that spectrum licence (hereafter in this subsection referred to as the empowering mortgage); and

(b) the caveat was lodged after the registration of the empowering mortgage; and

(c) the interest claimed by the caveator arises under an unregistered mortgage or an agreement to mortgage, dated later than the date of registration of the empowering mortgage and relating to the same interest to which the empowering mortgage relates; and

(d) the Registrar is not satisfied from the particulars stated in the caveat that, on the assumption that the caveator is able to prove the caveator's claim, the caveator would be entitled to—

(i) an order of the court that the registration of the empowering mortgage be cancelled; or

(ii) the registration of any instrument that would have the effect of making the mortgagee's interest under the empowering mortgage subject to the interest claimed by the caveator.

(4) In any case to which subsection (3) applies, the caveat shall, upon the registration of the transfer, be deemed to have lapsed and the interest of the mortgagor expressed in that transfer to be transferred shall pass to and vest in the purchaser freed and discharged of the interest claimed by the caveator; and the Registrar may make on the register any entry necessary to show that the caveat has lapsed.

Section 91(1)(a): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 91(1)(a): amended, on 28 August 1990, by section 7(a) of the Radiocommunications Amendment Act (No 2) 1990 (1990 No 104).

Section 91(1)(b): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 91(1)(b): amended, on 28 August 1990, by section 7(b) of the Radiocommunications Amendment Act (No 2) 1990 (1990 No 104).

Section 91(3): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 91(3)(a): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

92 Notice of caveat to be given to persons affected

Upon the receipt of any caveat that complies with section 89, and is completed to the satisfaction of the Registrar, the Registrar shall give notice of the caveat to—

(a) the manager against whose management rights the caveat has been lodged; or

(b) the rightholder against whose spectrum licence the caveat has been lodged.

Section 92(b): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

93 Procedure for removal of caveat

(1) Any manager or rightholder against whose management rights or spectrum licence a caveat has been lodged, or any other person having any registered interest in any management rights or spectrum licence against which a caveat has been lodged, may apply to the High Court for an order that the caveat be removed.

(2) The court, upon proof that notice of the application has been served on the caveator or the person on whose behalf the caveat has been lodged, may make such order, either *ex parte* or otherwise, as the court thinks fit.

Section 93(1): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

94 Lapse of caveat against dealings

Every caveat shall, upon the expiry of 10 working days after notice is given to the caveator that application has been made for the registration of any instrument affecting the management rights or spectrum licence protected by the caveat, be deemed to have lapsed as to those management rights or that spectrum licence, or so much of those management rights or that spectrum licence as is referred to in the notice, unless—

(a) before the expiry of the 10 working days, notice is given to the Registrar that application for an order to the contrary has been made to the High Court; and

(b) such an order is made and served on the Registrar within a further period of 20 working days.

Section 94: amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

95 Person entering or maintaining caveat without due cause liable for damages

(1) Any person who, without reasonable cause, lodges any caveat is liable in damages for any loss or damage suffered by any person as a result of the lodging of the caveat.

(2) Any person who lodges a caveat and who, when that caveat is no longer needed to protect any interest of the caveator, fails, without reasonable cause, to withdraw that caveat as soon as reasonably practicable after having been requested to do so by any person prejudicially affected by the caveat is liable in damages for any loss or damage suffered by any person as a result of the failure to withdraw the caveat.

96 Caveat may be withdrawn

(1) Any caveat may be withdrawn by the caveator or by the caveator's attorney or agent under a written authority, and either as to the whole or any part of the management rights or spectrum licence protected by the caveat.

(2) Every withdrawal of a caveat shall be made in the prescribed form.

Section 96(1): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

97 No second caveat may be entered

When any caveat lodged under this Part has lapsed or has been withdrawn, it shall not be lawful for the Registrar to receive any second caveat affecting the same management rights or spectrum licence by the same person, or in the same right and for the same cause, except by order of the High Court.

Section 97: amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Part 11
Rights and duties of managers and rightholders

98 Rights conferred by registration as manager

Subject to any spectrum licence granted by the manager, every manager shall have the right to create spectrum licences under section 48 in relation to the frequencies specified in the manager's record of management rights and in relation to any location in New Zealand.

Section 98: amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

99 Rights conferred on rightholder by spectrum licence

(1) Every rightholder who has a spectrum licence to transmit radio waves and to receive no harmful interference from co-channel emissions in a protection area has the right to transmit radio waves and to receive no harmful interference from co-channel emissions in that protection area in accordance with that licence while the rightholder's spectrum licence is in force and the rightholder is complying with the requirements in section 101.

(2) Every rightholder who has a spectrum licence to transmit radio waves has the right to transmit radio waves in accordance with that spectrum licence while

the rightholder's spectrum licence is in force and the rightholder is complying with the requirements in section 101.

(3) Every rightholder who has a spectrum licence containing the right to receive no harmful interference from co-channel emissions in a protection area has the right to receive no harmful interference from co-channel emissions in the protection area in accordance with that spectrum licence while the rightholder's spectrum licence is in force and the rightholder is complying with the requirements in section 101.

(4) If the rightholder complies with section 102, the right to transmit radio waves includes the right to transmit unwanted emissions.

Section 99: substituted, on 12 October 2001, by section 28 of the Radiocommunications Amendment Act 2000 (2000 No 8).

100 Rights of holders of certain licences

[Repealed]

Section 100: repealed, on 12 October 2001, by section 29 of the Radiocommunications Amendment Act 2000 (2000 No 8).

101 Requirements to be complied with in exercise of rights

(1) Every rightholder, in exercising rights under section 99, shall comply with—

(a) any conditions specified in the record of management rights in relation to which the rightholder's spectrum licence is registered; and

(b) any conditions specified in the spectrum licence pursuant to section 49(1)(j); and

(c) the requirements specified in Schedule 1.

(2) Every person who fails to comply with subsection (1) shall be deemed not to be acting in accordance with the person's rights as rightholder for the purposes of section 103.

Section 101(1)(a): amended, on 12 October 2001, by section 30(a) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 101(1)(b): amended, on 12 October 2001, by section 30(b) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 101(1)(b): amended, on 12 October 2001, by section 30(c) of the Radiocommunications Amendment Act 2000 (2000 No 8).

102 Compliance with unwanted emission limits

(1) No rightholder, in exercising rights under section 99, shall transmit unwanted emissions on any frequency within the range of frequencies to which the unwanted emission limit specified in the spectrum licence applies, at a level greater than is specified in the spectrum licence as the unwanted emission limit applying to that frequency.

(2) No rightholder, in exercising rights under section 99, may transmit unwanted emissions on any frequency that is not within the frequency band or the

range of frequencies to which any unwanted emission limit specified in the spectrum licence applies, at a level greater than the power floor applying to that frequency in accordance with the record of management rights relating to that frequency at the time the spectrum licence was registered.

(3) Every person who contravenes subsection (1) or subsection (2) shall be deemed not to be acting in accordance with the person's rights as rightholder for the purposes of section 103.

Section 102(1): amended, on 12 October 2001, by section 31(1) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 102(2): substituted, on 12 October 2001, by section 31(2) of the Radiocommunications Amendment Act 2000 (2000 No 8).

103 Transmission other than in accordance with spectrum licence

(1) Subject to subsection (3), every transmission of radio waves by any person on any frequency in respect of which a management right is registered under this Act is prohibited, except—

(a) a transmission of radio waves by a rightholder acting in accordance with a rightholder's spectrum licence; or

(b) a transmission by a person acting in accordance with a general user spectrum licence.

(2) Every person who contravenes this section commits an offence against this Act.

(3) Nothing in subsection (1) applies to the transmission of unintended emissions from a receiver tuned to receive emissions from a rightholder transmitting in accordance with the rightholder's spectrum licence.

Section 103 heading: amended, on 12 October 2001, by section 32(1) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 103(1): substituted, on 12 October 2001, by section 32(2) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 103(3): amended, on 12 October 2001, by section 32(3) of the Radiocommunications Amendment Act 2000 (2000 No 8).

104 Transmission under radio licence not affected

Nothing in section 103 prevents any person from transmitting radio waves in accordance with—

(a) a radio licence; or

(b) an exemption exempting that transmission of radio waves from any requirement to be licensed, being an exemption granted by or under any regulations made under section 116(1)(c).

Section 104: substituted, on 12 October 2001, by section 33 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Part 12
Interference

Interference to receivers

105 Interference to receivers

For the purposes of any action in tort, it is declared that where a receiver is tuned to receive emissions from a transmitter operated by a rightholder in accordance with the rightholder's spectrum licence or by the holder of a radio licence in accordance with that radio licence, and that receiver is situated on land within the protection area of that licence, any harmful interference to the reception, by that receiver, of radio waves constitutes an interference with the enjoyment of land on which the receiver is situated.

Section 105: substituted, on 12 October 2001, by section 34 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Interference caused by lawful transmission and reception

106 Definitions for sections 108 to 109C

(1) For the purposes of sections 108 to 109C,—

arbitral tribunal has the same meaning as in the Arbitration Act 1996

claimant means—

(a) the rightholder or holder of a radio licence claiming harmful interference in the protection area of the claimant's licence; or

(b) the owner of a radionavigation receiver or a safety receiver claiming that harmful interference with reception by that receiver would endanger the functioning of a radionavigation service or other safety service

respondent means the person whose lawful transmission of radio waves is alleged to be causing harmful interference in the claimant's protection area.

(2) Where a person holds a radio licence that does not specify an area as a protection area, that person may proceed as a claimant if there is harmful interference in the area that the person considers would be the protection area of the licence, and that area is the protection area for that radio licence until such time as the arbitral tribunal determines otherwise in accordance with section 109A(2).

(3) Despite the lack of a radio licence or the lack of a protection area specified in that radio licence, where that radio licence is for a radionavigation or safety service, the owner of the radionavigation receiver or a safety receiver may proceed as a claimant if there is harmful interference with reception by that receiver that endangers the functioning of that radionavigation service or safety service.

Section 106: substituted, on 12 October 2001, by section 35 of the Radiocommunications Amendment Act 2000 (2000 No 8).

107 Sections 106 to 109C apply where transmissions not commenced

Where a radio licence or a spectrum licence has been granted and registered but lawful transmissions have not commenced, and a rightholder or holder of a radio licence believes that lawful transmissions made in accordance with that licence are very likely to cause harmful interference in the protection area of that licence, the provisions of sections 106 to 109C apply as though the lawful transmissions had commenced.

Section 107: substituted, on 12 October 2001, by section 35 of the Radiocommunications Amendment Act 2000 (2000 No 8).

108 Notice of harmful interference

(1) Where a respondent is lawfully transmitting radio waves under a registered spectrum licence or radio licence, and those transmissions cause or contribute to harmful interference in the protection area of another registered spectrum licence or radio licence, the claimant may serve on the respondent a notice concerning that interference.

(2) If both the claimant and the respondent are holders of radio licences and the matter is in relation to those licences,—

(a) the provisions of subsections (5) to (7) and sections 109 to 109C do not apply; and

(b) the matter may be referred to the Secretary by the claimant or the respondent; and

(c) the Secretary may take any action that the Secretary thinks fit.

(2A) The claimant may, after the expiry of 10 working days from the date when the matter was referred to the Secretary under subsection (2), by notice in the prescribed form to the Secretary, request that the Secretary refer the matter to arbitration under section 109 if, within that 10-working-day period,—

(a) the action specified in the notice given under subsection (1) has not been taken; and

(b) the claimant continues to believe that the respondent's transmissions have caused or contributed to, or are causing or contributing to, harmful interference in the protection area of the claimant, and that the action that is specified in the notice is justified; and

(c) the claimant, the respondent, and the Secretary have not agreed on a method of reaching an agreement to deal with the harmful interference or to refer the matter to arbitration.

(2B) Despite subsection (2)(a), if a claimant has made a request under subsection (2A), sections 109 to 109C apply.

(3) Where the harmful interference which is the subject of the notice under subsection (1) endangers the functioning of the claimant's radionavigation service or other safety service, the claimant may also serve a copy of the notice

on the Secretary, and the Secretary may, in his or her discretion, direct the claimant or the respondent, or both, to take action forthwith, including ceasing transmissions, until the matter is resolved in accordance with sections 108 to 109A and section 109C.

(4) A notice given under subsection (1) must state—

(a) the nature of the harmful interference experienced; and

(b) the alleged cause of the harmful interference and the manner in which the respondent is believed to have caused or contributed to the harmful interference; and

(c) what action the claimant desires to be taken by the respondent to remedy the harmful interference; and

(d) that the respondent has 10 working days following the receipt of the notice within which to take one of the actions referred to in subsection (5) and that, if the action the claimant wishes to be taken to remedy the harmful interference is not taken within 10 working days following the receipt of the notice, the matter may be referred to arbitration under this section.

(5) Every respondent who receives a notice properly given under subsection (1) must, within 10 working days of receiving that notice,—

(a) take the action to remedy the harmful interference specified in the notice; or

(b) notify the claimant that in the respondent's opinion the respondent's transmissions have not caused or contributed to, or are not causing or contributing to, harmful interference to the claimant or that the action specified in the notice which the claimant wishes to be taken to remedy the harmful interference is not justified; or

(c) agree with the claimant on a method of reaching an agreement to deal with the harmful interference; or

(d) agree with the claimant to refer the matter to arbitration to be determined in accordance with the Arbitration Act 1996.

(6) If, within 10 working days of a notice being properly given under subsection (1),—

(a) the action specified in the notice has not been taken; and

(b) the claimant continues to believe that the respondent's transmissions have caused or contributed to, or are causing or contributing to, harmful interference in the protection area of the claimant, and that the action which is specified in the notice is justified; and

(c) the claimant and the respondent have not agreed on a method of reaching an agreement to deal with the harmful interference or to refer the matter to arbitration,—

the claimant may, following the expiry of that 10-working-day period, by notice in the prescribed form to the Secretary, request the Secretary to refer the matter to arbitration under section 109.

(7) Where the claimant and the respondent agree on a method of reaching an agreement to deal with the harmful interference under subsection (5)(c), but no agreement is reached within 20 working days of a notice properly given under subsection (1), the claimant may, following the expiry of that 20-working day period, by notice in the prescribed form to the Secretary, request the Secretary to refer the matter to arbitration under section 109.

Section 108: substituted, on 12 October 2001, by section 35 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 108(2): substituted, on 17 May 2005, by section 3 of the Radiocommunications Amendment Act 2005 (2005 No 67).

Section 108(2)(a): amended, on 31 October 2006, by section 25(1) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 108(2A): inserted, on 31 October 2006, by section 25(2) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 108(2B): inserted, on 31 October 2006, by section 25(2) of the Radiocommunications Amendment Act 2006 (2006 No 54).

109 Reference to arbitration by Secretary

(1) Where the Secretary receives a request under section 108(2A), (6), or (7), and the Secretary is satisfied that—

(a) the alleged harmful interference is being caused in the protection area of a registered spectrum licence or radio licence; and

(b) the transmissions allegedly causing or contributing to the harmful interference are being lawfully made under a registered spectrum licence or radio licence; and

(c) there is prima facie evidence of harmful interference and that the harmful interference is being caused or contributed to by the respondent; and

(d) a notice was properly given under section 108(1) concerning that harmful interference; and

(e) the time limits specified in section 108 have expired; and

(f) the respondent has not taken the action specified in that notice,—

the Secretary may refer the matter to arbitration and, except as provided in sections 109A and 109C, the provisions of the Arbitration Act 1996 apply as though the claimant and the respondent had agreed to refer the matter to arbitration.

(2) The reference by the Secretary may specify the matters that would otherwise be included in an arbitration agreement, and that reference is an arbitration agreement for the purposes of the Arbitration Act 1996.

Section 109: substituted, on 12 October 2001, by section 35 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 109(1): amended, on 31 October 2006, by section 26 of the Radiocommunications Amendment Act 2006 (2006 No 54).

109A Matters relevant to arbitration

(1) Article 28(4) of Schedule 1 of the Arbitration Act 1996 does not apply to matters referred to arbitration under section 108(5)(d) or section 109; instead, the arbitral tribunal's decision must seek to balance the reasonable expectations, rights, and duties of the claimant and the respondent or other persons, without compromising public safety, and having regard to—

(a) the costs and effects of possible alternative solutions; and

(b) the technical compatibility between the claimant's receiver and the respondent's transmitter as determined by—

(i) the nature and characteristics of the rights described in the licences concerned; and

(ii) the International Radio Regulations; and

(iii) the ITU-R reports and recommendations; and

(iv) Annex 10 of the Convention on International Civil Aviation; and

(v) the International Convention for the Safety of Life at Sea; and

(vi) the nature of the service operated or proposed to be operated under any licences concerned; and

(vii) any relevant reference standards issued by the Secretary; and

(c) which of the licences held by the parties to the dispute was registered or granted first; and

(d) the desirability of minimising disruption to existing services; and

(e) the terms of the licences concerned; and

(f) any other matters prescribed by regulations made under this Act or that the arbitral tribunal considers relevant.

(1A) The arbitral tribunal must not have regard to the reception of radio waves by inappropriate receivers.

(2) Unless a person proceeds as a claimant in accordance with section 106(3), where the claimant is the holder of a radio licence that does not specify an area as a protection area, the arbitral tribunal must determine, from the technical details on the licence, whether the area considered by the claimant as the protection area for that licence is the protection area.

Section 109A: inserted, on 12 October 2001, by section 35 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 109A(1): substituted, on 31 October 2006, by section 27 of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 109A(1A): inserted, on 31 October 2006, by section 27 of the Radiocommunications Amendment Act 2006 (2006 No 54).

109B Offence to transmit in breach of Secretary's direction

Every person who contravenes a direction given by the Secretary under section 108(3) commits an offence against this Act.

Section 109B: inserted, on 12 October 2001, by section 35 of the Radiocommunications Amendment Act 2000 (2000 No 8).

109C Powers when deciding disputes

(1) In addition to the powers given to the arbitral tribunal by section 12 of the Arbitration Act 1996, the arbitral tribunal has the power to determine the cause of the harmful interference and has the power to direct the parties to the dispute or the Secretary to take action to reduce or eliminate harmful interference.

(2) Where the arbitral tribunal directs that a spectrum licence or radio licence be modified or amended, then, despite any provision to the contrary in this Act or any spectrum licence, the manager or rightholder in the case of a spectrum licence, or the Secretary in the case of a radio licence, must modify or amend the licence as directed by the arbitral tribunal.

Section 109C: inserted, on 12 October 2001, by section 35 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Part 13
Radio licences

Part 13 heading: substituted, on 12 October 2001, by section 36 of the Radiocommunications Amendment Act 2000 (2000 No 8).

110 Part to apply to frequencies unless or until record of management rights registered and rights commence

(1) This Part applies to every radio frequency unless or until a record of management rights is registered and the rights have commenced under Part 2 in respect of that radio frequency.

(2) Where a record of management rights is registered and commenced under Part 2 in respect of that radio frequency, this Part continues to apply to emissions on any frequency—

(a) below the power floor specified for that record of management rights; or

(b) if no power floor is specified in the record of management rights, below –50dBW.

(3) This Part does not apply to—

(a) a transmission of radio waves by a rightholder acting in accordance with a rightholder's spectrum licence; or

(b) a transmission by a person in accordance with a general user spectrum licence.

Section 110: substituted, on 12 October 2001, by section 36 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 110 heading: amended, on 19 December 2002, by section 6(1) of the Radiocommunications Amendment Act 2002 (2002 No 74).

Section 110(1): substituted, on 19 December 2002, by section 6(2) of the Radiocommunications Amendment Act 2002 (2002 No 74).

Section 110(2): amended, on 19 December 2002, by section 6(3) of the Radiocommunications Amendment Act 2002 (2002 No 74).

111 Granting of radio licences

(1) For the purposes of this section, **New Zealand ship** includes—

(a) any New Zealand ship within the meaning of the Crimes Act 1961; and

(b) any vessel for the time being registered in New Zealand as a ship under the Ship Registration Act 1992.

(2) The Secretary may, in accordance with regulations made under this Part, grant radio licences authorising the transmission of radio waves on the frequencies specified in the radio licence within the territorial limits of New Zealand, or from any New Zealand ship, or from any aircraft registered in New Zealand or providing protection from harmful interference from co-channel emissions.

(3) In addition to the requirements of the regulations, every radio licence must be in such form and for such period, and contain such terms, conditions, and restrictions, as the Secretary thinks fit.

(4) Every licence issued in accordance with regulations made under this Part includes a requirement that any person transmitting under that radio licence must comply with Schedule 1.

Section 111: substituted, on 12 October 2001, by section 37 of the Radiocommunications Amendment Act 2000 (2000 No 8).

112 Secretary to have regard to Government policy

(1) In the exercise of his or her functions, duties, and powers under section 111 or under any regulations made under section 116(1)(a), the Secretary shall have regard to the general policy of the Government in relation to the functions, duties, and powers of the Secretary under that section or, as the case may be, those regulations as that policy is communicated to the Secretary from time to time by notice in writing by the Minister, and shall comply with any directions given by the Minister to the Secretary by notice in writing pursuant to such policy.

(2) Nothing in subsection (1) authorises the Minister to give a direction under that subsection in respect of the grant of a particular radio licence.

(3) Without limiting the generality of subsection (1), but subject to subsection (2), the Minister may, pursuant to subsection (1),—

(a) give a direction in respect of any particular class or classes of radio licence:

(b) direct the Secretary not to issue licences of a particular class or particular classes, either generally or except as may be specified in the direction.

(4) Without limiting the generality of subsection (1), but subject to subsection (2), any direction given under subsection (1) may apply in respect of any application for any radio licence, including—

(a) applications made before the date of the direction but not dealt with before that date:

(b) applications made pursuant to Part 2 of the Telecommunications Act 1987 after the close of 23 November 1989 but not dealt with before the date of the direction.

(5) Where a notice is given to the Secretary under subsection (1), the Minister shall, as soon as practicable after the giving of the notice,—

(a) publish a copy of it in the *Gazette*; and

(b) lay a copy of it before the House of Representatives.

Section 112(1): amended, on 12 October 2001, by section 38(1) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 112(1): amended, on 12 October 2001, by section 38(2) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 112(1): amended, on 28 March 1990, by section 2 of the Radiocommunications Amendment Act 1990 (1990 No 22).

Section 112(2): amended, on 12 October 2001, by section 38(2) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 112(2): amended, on 12 October 2001, by section 38(3) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 112(2): amended, on 28 March 1990, by section 2 of the Radiocommunications Amendment Act 1990 (1990 No 22).

Section 112(3): amended, on 12 October 2001, by section 38(2) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 112(3): amended, on 28 March 1990, by section 2 of the Radiocommunications Amendment Act 1990 (1990 No 22).

Section 112(3)(a): amended, on 12 October 2001, by section 38(3) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 112(4): amended, on 12 October 2001, by section 38(3) of the Radiocommunications Amendment Act 2000 (2000 No 8).

113 Offences

Every person commits an offence under this Act who transmits radio waves, otherwise than—

(a) under, or in conformity with, the terms and conditions of a radio licence issued under section 111; or

(b) in accordance with regulations made under section 116(1)(c) exempting the transmission of radio waves from the need to obtain a radio licence.

Section 113: substituted, on 12 October 2001, by section 39 of the Radiocommunications Amendment Act 2000 (2000 No 8).

114 Presumptions

(1) For the purposes of section 113, any person who erects, constructs, establishes, maintains, or is in possession of any radio transmitter is presumed to have used the radio transmitter unless and until the contrary is proved.

(2) Where a radio transmitter is temporarily inoperative or has been partially dismantled, that radio transmitter is deemed to be, and to remain, capable of transmitting radiocommunications unless the Secretary is satisfied that the transmitter has been rendered inoperative.

Section 114: substituted, on 12 October 2001, by section 40 of the Radiocommunications Amendment Act 2000 (2000 No 8).

115 Radiocommunication within territorial limits

(1) The Governor-General may from time to time, by Order in Council, make regulations governing or prohibiting the use of radio apparatus on merchant ships, or on aircraft, of whatever nationality or registration, or on foreign ships of war or foreign military aircraft, while within the territorial limits of New Zealand.

(2) Any such regulations may prescribe fines, not exceeding $20,000 in any case, for any breach of the regulations and provide for the detention of any merchant ship or civil aircraft on which a breach of the regulations has been made, pending the institution and determination of proceedings in respect of the breach and pending the recovery of any fine imposed in respect of the breach.

(3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 115(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

116 Regulations

(1) The Governor-General may from time to time, by Order in Council, make regulations—

(a) providing for the making of applications for, and the granting of, radio licences granting to holders the right to transmit radio waves on specified frequencies; and providing for the terms and conditions subject to which radio licences may be granted, amended, transferred, suspended, or revoked (including the amending of those terms and conditions):

(b) providing for the making of applications for, and the granting of, general user radio licences granting to every person the right to transmit radio waves on any frequency specified in the licence; and providing for the terms and conditions subject to which general user radio licences may be granted, amended, transferred, suspended, or revoked (including the amending of those terms and conditions):

(c) authorising the Secretary to grant exemptions from the requirement for a radio licence in respect of the transmission of radio waves using certain radio apparatus, where the Secretary is satisfied that a licence is not required for the efficient and effective management of the radio frequency spectrum:

(d) requiring, as a condition of a radio licence or a condition of an exemption from the requirement to obtain a radio licence, that every transmission comply with Schedule 1:

(e) providing for the allocation of radio licences by competitive tender, auction, or by any other means, and for the payment of consideration to the Crown for the allocation:

(f) providing for the making of applications for, and the granting of, radio licences, providing for the protection from harmful interference from co-channel emissions; and providing for the terms and conditions subject to which radio licences may be granted, amended, transferred, suspended, or revoked (including the amending of those terms and conditions):

(g) prescribing offences in respect of contraventions of any regulations made under this section.

(2) No regulation made under this section is invalid because it leaves any matter to the discretion of the Secretary or any other person or because it authorises the Secretary or any other person to give any consent or approval or to set any standard on or subject to conditions to be approved by the Secretary.

(3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 116(1): substituted, on 12 October 2001, by section 41 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 116(1)(a): substituted, on 31 October 2006, by section 28(1) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 116(1)(b): substituted, on 31 October 2006, by section 28(1) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 116(1)(e): substituted, on 31 October 2006, by section 28(2) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 116(1)(f): substituted, on 31 October 2006, by section 28(2) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 116(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 116(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 14
Enforcement and remedies

Civil proceedings

117 Actions for damages for contravention of section 103

(1) Every person is liable in damages for any loss or damage caused by that person engaging in conduct that constitutes any of the following:

(a) a contravention of section 103:

(b) aiding, abetting, counselling, or procuring the contravention of that section:

(c) inducing by threats, promises, or otherwise the contravention of that section:

(d) being in any way directly or indirectly, knowingly concerned in, or party to, the contravention of that section:

(e) conspiring with any other person in the contravention of that section.

(2) Any action under subsection (1) may be commenced at any time within 3 years from the time when the cause of action arose.

118 Injunction may be granted for contravention of section 103

(1) The High Court may, on the application of the Secretary or of any rightholder affected by the conduct to which the application relates, grant an injunction restraining a person from engaging in conduct that constitutes or would constitute any of the following:

(a) a contravention of section 103:

(b) aiding, abetting, counselling, or procuring the contravention of that section:

(c) inducing by threats, promises, or otherwise the contravention of that section:

(d) being in any way directly or indirectly, knowingly concerned in, or party to, the contravention of that section:

(e) conspiring with any other person in the contravention of that section.

(2) The High Court may at any time rescind or vary an injunction granted under this section.

(3) Where an application is made to the High Court under this section for the grant of an injunction restraining a person from engaging in conduct of a particular kind, the High Court may,—

(a) if it is satisfied that the person has engaged in conduct of that kind, grant an injunction restraining the person from engaging in conduct of that kind; or

(b) if in the opinion of the court it is desirable to do so, grant an interim injunction restraining the person from engaging in conduct of that kind,—

whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind.

119 Injunction may be granted for failure to comply with section 107(3)

[Repealed]

Section 119: repealed, on 12 October 2001, by section 42 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Powers to obtain evidence

120 Powers to obtain evidence

(1) Subject to this section, any employee of the Ministry of Economic Development authorised in writing by the Secretary for the purpose, or a constable, may, where there are reasonable grounds for believing that any person has committed or is committing an offence against this Act or against any regulations made under section 134(1)(g), at any time in the day or night, enter upon and search any premises, building, aircraft, ship, carriage, vehicle, box, receptacle, or place and—

(a) inspect and remove any documents in the possession of, or under the control of, any person, and take copies of or extracts from any such documents; and

(b) inspect and remove any radio apparatus or interfering equipment in the possession of, or under the control of, any person.

(2) No person shall exercise the powers conferred by subsection (1) unless the person obtains a warrant authorising that person to exercise those powers in accordance with subsection (3).

(3) Where any issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) is satisfied, on application made in the manner provided in subpart 3 of Part 4 of the Search and Surveillance Act 2012, that there are reasonable grounds for believing that any person has committed or is committing an offence against this Act, or against any regulations made under

section 134(1)(g), that issuing officer may, by warrant, authorise an employee of the Ministry of Economic Development authorised for the purpose, or a constable, to exercise the powers conferred by subsection (1) in relation to any premises, building, aircraft, ship, carriage, vehicle, box, receptacle, or place specified in the warrant.

(4) The provisions of Part 4 of the Search and Surveillance Act 2012 (except sections 118 and 119) apply.

Section 120(1): amended, on 7 September 2000, pursuant to section 5(a) of the Ministry of Economic Development Act 2000 (2000 No 28).

Section 120(3): amended, on 1 October 2012, by section 295(2)(a) of the Search and Surveillance Act 2012 (2012 No 24).

Section 120(3): amended, on 1 October 2012, by section 295(2)(b) of the Search and Surveillance Act 2012 (2012 No 24).

Section 120(3): amended, on 7 September 2000, pursuant to section 5(a) of the Ministry of Economic Development Act 2000 (2000 No 28).

Section 120(4): inserted, on 1 October 2012, by section 295(3) of the Search and Surveillance Act 2012 (2012 No 24).

121 Powers conferred by warrant

[Repealed]

Section 121: repealed, on 1 October 2012, by section 295(4) of the Search and Surveillance Act 2012 (2012 No 24).

122 Person executing warrant to produce evidence of authority and identity

[Repealed]

Section 122: repealed, on 1 October 2012, by section 295(4) of the Search and Surveillance Act 2012 (2012 No 24).

123 Schedule of evidence taken to be prepared

[Repealed]

Section 123: repealed, on 1 October 2012, by section 295(4) of the Search and Surveillance Act 2012 (2012 No 24).

124 Duty to provide all reasonable facilities and assistance

[Repealed]

Section 124: repealed, on 1 October 2012, by section 295(4) of the Search and Surveillance Act 2012 (2012 No 24).

125 Power to inspect and take copies of documents, etc

[Repealed]

Section 125: repealed, on 1 October 2012, by section 295(4) of the Search and Surveillance Act 2012 (2012 No 24).

126 Offence

[Repealed]

Section 126: repealed, on 1 October 2012, by section 295(4) of the Search and Surveillance Act 2012 (2012 No 24).

127 Proceedings privileged

[Repealed]

Section 127: repealed, on 1 October 2012, by section 295(4) of the Search and Surveillance Act 2012 (2012 No 24).

Penalties

128 Penalties

(1) Every person who commits an offence against this Act, or against any regulations made under this Act, for which no penalty is provided elsewhere than in this section shall be liable on conviction to a fine not exceeding,—

(a) in the case of an individual, $30,000:

(b) in the case of a body corporate, $200,000.

(2) Where an offence is a continuing offence, a further fine of an amount not exceeding $1,000 for every day or part of a day during which the offence has continued may be imposed.

Section 128(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 128(2): added, on 12 October 2001, by section 43 of the Radiocommunications Amendment Act 2000 (2000 No 8).

128A Commission of infringement offence

Where any person is alleged to have committed an infringement offence, that person may either—

(a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or

(b) be served with an infringement notice as provided for in section 128B.

Section 128A: inserted, on 12 October 2001, by section 44 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 128A(a): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

128B Infringement notices

(1) Where the Secretary or any person duly authorised by the Secretary observes a person committing an infringement offence or has reasonable cause to believe such an offence is being or has been committed by that person, an infringement notice in respect of that offence may be issued to that person by the Secretary or the authorised person.

(2) An infringement notice may be served—

(a) by attaching an infringement notice, or a copy of an infringement notice, to the equipment to which the notice relates; or

(b) by delivering it personally to the person who appears to have committed the infringement offence; or

(c) by sending it by post addressed to that person at that person's last known place of residence or business; or

(d) by sending it to an electronic address of the person in any case where the person does not have a known place of residence or business in New Zealand.

(3) For the purposes of the Summary Proceedings Act 1957, unless the contrary is shown,—

(a) an infringement notice sent to a person by post under subsection (2)(c) is to be treated as having been served on the person when it would have been delivered in the ordinary course of post; and

(b) an infringement notice sent to a valid electronic address under subsection (2)(d) is to be treated as having been served at the time the electronic communication first enters an information system that is outside the control of the Secretary or the authorised person.

(4) Every infringement notice must be in the prescribed form and must contain the following particulars:

(a) such details of the alleged infringement offence as are sufficient fairly to inform a person of the time, place, and nature of the alleged offence:

(b) the amount of the infringement fee for that offence:

(c) the address at which the infringement fee may be paid:

(d) the time within which the infringement fee must be paid:

(e) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957:

(f) a statement that the person served with the notice has the right to request a hearing:

(g) a statement of the consequences if the person served with the notice does not pay the infringement fee and does not make a request for a hearing:

(h) such other particulars as are prescribed in regulations made under this Act.

(5) Where an infringement notice has been issued under this section, proceedings in respect of the offence to which the notice relates may be commenced in accordance with section 21 of the Summary Proceedings Act 1957.

Section 128B: inserted, on 12 October 2001, by section 44 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 128B(2)(d): inserted, on 27 November 2025, by section 137(1) of the Statutes Amendment Act 2025 (2025 No 74).

Section 128B(3): replaced, on 27 November 2025, by section 137(2) of the Statutes Amendment Act 2025 (2025 No 74).

129 Forfeiture

(1) Where, in any proceedings under section 128, the court finds that a person has committed an offence against this Act, or against any regulations made under this Act, the court may order any radio apparatus or interfering equipment (being the property of a person convicted under that section) in relation to which the offence has been committed to be forfeited.

(2) Subject to subsection (3) and to any directions of the court that orders the forfeiture, any such radio apparatus or interfering equipment that is forfeited under subsection (1) may be sold, destroyed, or otherwise disposed of as the Secretary may direct.

(3) Where any radio apparatus or interfering equipment that is forfeited under subsection (1) is sold, the proceeds of the sale shall be applied as if the proceeds were a fine incurred under section 128.

Part 15
Miscellaneous provisions

Approval of radio engineers

130 Approval of radio engineers

(1) The Secretary may from time to time, on application made on the form provided for the purpose by the Secretary, grant to an applicant an approval authorising the applicant to give certificates for the purposes of sections 25, 39, 40, and 57D.

(2) The Secretary shall not approve a person under subsection (1) unless the person is, by reason of his or her qualifications and experience in radio engineering, a suitable person to give certificates for the purposes of sections 25, 39, 40, and 57D.

(3) Where the Secretary is satisfied that any person approved under subsection (1) is no longer qualified by virtue of subsection (2) to be an approved radio engineer, the Secretary may revoke that person's approval.

Section 130(1): amended, on 12 October 2001, by section 45(a) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 130(2): amended, on 12 October 2001, by section 45(b) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Licensing of supply of radio apparatus

131 Licensing of supply of radio apparatus

(1) The Secretary may, in accordance with regulations made under section 134, grant licences for the supply and importation for supply of radio apparatus.

(2) Subject to any such regulations, every such licence shall be in such form and for such period, and shall contain such terms, conditions, and restrictions, as the Secretary thinks fit.

Section 131(1): amended, on 7 July 2010, by section 4 of the Radiocommunications Amendment Act 2010 (2010 No 80).

132 Offence

(1) In this section, the term **restricted radio apparatus** means radio apparatus of any class or classes of radio apparatus the supply and importation for supply of which is, pursuant to regulations made under section 134, prohibited except pursuant to a licence or licences granted under this Part.

(2) Every person commits an offence who, not being the holder of a licence issued under section 131 authorising that person to do so, does any of the following:

(a) supplies or imports for supply any restricted radio apparatus:

(b) offers to supply or to import for supply any restricted radio apparatus:

(c) possesses for supply any restricted radio apparatus.

Section 132(1): amended, on 7 July 2010, by section 5(1) of the Radiocommunications Amendment Act 2010 (2010 No 80).

Section 132(2): substituted, on 7 July 2010, by section 5(2) of the Radiocommunications Amendment Act 2010 (2010 No 80).

Reference standards

133 Secretary may issue reference standards

(1) The Secretary may from time to time, by notice in the *Gazette*, issue standards or specifications relating to the performance of—

(a) any radio apparatus:

(b) radio apparatus of any class or classes:

(c) any system for the effecting of radiocommunication, whether by transmission or reception, or both.

(2) Any reference standard may be in like manner amended or revoked at any time.

(3) Any reference standard may adopt as a standard or specification any New Zealand Standard or any part of a New Zealand Standard (as that term is defined in the Standards and Accreditation Act 2015).

Section 133(3): replaced, on 1 March 2016, by section 45(1) of the Standards and Accreditation Act 2015 (2015 No 91).

133A Offence to disclose contents of radiocommunications

(1) Every person commits an offence against this Act who receives a radiocommunication and who, knowing that the radiocommunication was not intended for that person,—

(a) makes use of the radiocommunication or any information derived from that radiocommunication; or

(b) reproduces or causes or permits to be reproduced the radiocommunication or information derived from that radiocommunication; or

(c) discloses the existence of the radiocommunication.

(2) Subsection (1) does not apply to any radiocommunications intercepted—

(a) by the Secretary for the purpose of ensuring compliance with this Act; or

(b) by a constable, a Customs officer, or any other class of law enforcement official listed in regulations made under this Act for the purpose of avoiding prejudice to the maintenance of the law, including the detection, prevention, investigation, prosecution, and punishment of offences; or

(c) by an employee of an intelligence and security agency for the purpose of performing the function under section 10 of the Intelligence and Security Act 2017; or

(d) by a member of the New Zealand Defence Force, in connection with any of the purposes specified in section 5(a) to (d) of the Defence Act 1990; or

(e) by a person acting under, and in accordance with, any authority conferred on him or her by or under—

(i) Part 1 of the Telecommunications (Residual Provisions) Act 1987; or

(ii) Part 4 of the Intelligence and Security Act 2017; or

(iia) *[Repealed]*

(iii) the Misuse of Drugs Amendment Act 1978; or

(iv) the International Terrorism (Emergency Powers) Act 1987.

(3) In this section, **intelligence and security agency** means—

(a) the New Zealand Security Intelligence Service:

(b) the Government Communications Security Bureau.

(4) Subsection (2) does not authorise the interception of any private communications within the meaning of section 216A of the Crimes Act 1961.

Section 133A: inserted, on 12 October 2001, by section 46 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 133A(2)(b): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 133A(2)(c): replaced, on 28 September 2017, by section 335 of the Intelligence and Security Act 2017 (2017 No 10).

Section 133A(2)(e)(i): amended, on 20 December 2001, pursuant to section 159(3) of the Telecommunications Act 2001 (2001 No 103).

Section 133A(2)(e)(ii): replaced, on 28 September 2017, by section 335 of the Intelligence and Security Act 2017 (2017 No 10).

Section 133A(2)(e)(iia): repealed, on 28 September 2017, by section 335 of the Intelligence and Security Act 2017 (2017 No 10).

Section 133A(3): replaced, on 28 September 2017, by section 335 of the Intelligence and Security Act 2017 (2017 No 10).

Section 133A(4): amended, on 2 April 2003, by section 32(3) of the Government Communications Security Bureau Act 2003 (2003 No 9).

Regulations

134 Regulations

(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) prohibiting the supply and importation for supply of radio apparatus of any class or classes except pursuant to a licence or licences granted under section 131:

(b) providing for the exemption of certain radio apparatus, as determined by the Secretary, from the requirement that the supply and importation for supply of that radio apparatus be licensed, where the Secretary is satisfied that a licence for the supply and importation for supply of that radio apparatus is not required for the efficient and effective management of the radio frequency spectrum:

(c) providing for the granting of licences for the supply and importation for supply of radio apparatus to which regulations made under paragraph (a) apply and for the terms and conditions subject to which any such licences may be granted, refused, transferred, suspended, or revoked:

(d) *[Repealed]*

(e) providing for examinations to determine the competence of persons wishing to operate radio apparatus and prescribing fees in respect of those examinations; and providing for the issue, revocation, or suspension of certificates of competency in respect of any operations, and for the authorisation by the Secretary of—

(i) persons to conduct the examinations; and

(ii) persons to issue certificates; and

(iii) the content of the examinations; and

(iv) the conduct of the examinations:

(f) prohibiting the operation of radio apparatus of any class or classes except pursuant to a certificate of competency issued under this Act:

(g) providing for the prohibition or control of the installation, use, sale, distribution, manufacture, or importation of interfering equipment or susceptible equipment, and for the compulsory recall by a supplier of such equipment or any equipment that does not comply with regulations made under this Act:

(ga) prescribing search references for access to the register:

(gb) prescribing the persons or class of persons to whom information on the register may be disclosed and the purposes for which the information may be disclosed:

(gc) prescribing the matters to which an arbitral tribunal must have regard under section 109A:

(gd) prescribing the classes of persons who may intercept radiocommunications under section 133A:

(h) prescribing forms for the purposes of this Act:

(i) prescribing requirements for the standardisation of—

(i) technical systems for radiocommunications:

(ii) technical formats for radiocommunications:

(j) prescribing offences in respect of the contravention of, or non-compliance with, any regulations made under this section:

(ja) prescribing those breaches of regulations made under paragraph (g) that constitute infringement offences against this Act:

(jb) prescribing the infringement fee (not exceeding $2,000) for each infringement offence:

(k) such other matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

(1A) Different fees and different forms may be prescribed for different infringement offences.

(1B) The Governor-General may, by Order in Council, in accordance with a recommendation of the Minister, make regulations declaring receivers of any kind to be inappropriate receivers for the purposes of this Act.

(1C) The Minister may only make a recommendation under subsection (1B) if the Minister is satisfied that the type of receiver concerned will or may compromise the optimal utilisation of the radio frequency spectrum.

(1D) The power to regulate in relation to interfering equipment, susceptible equipment, or other equipment under subsection (1)(g) includes the power to regulate in relation to such equipment that is, or may be, exported from New Zealand pursuant to the Conformity Cooperation Agreement.

(2) No regulation made under this section is invalid because it leaves any matter to the discretion of the Secretary or any other person or because it authorises

the Secretary or any other person to give any consent or approval or to set any standard on or subject to conditions to be approved by the Secretary.

(3) The Conformity Cooperation Agreement (including any amendments made to that agreement in accordance with it) and any standards or rules referred to in the Conformity Cooperation Agreement may be incorporated by reference in regulations made in reliance on subsection (1D).

(4) The provisions of Schedule 8 apply to material incorporated by reference in regulations made in reliance on subsection (1D).

(5) In this section, **Conformity Cooperation Agreement** means the Agreement between the Government of New Zealand and the Government of the People's Republic of China on Cooperation in the Field of Conformity Assessment in Relation to Electrical and Electronic Equipment and Components, which is Annex 14 of the Free Trade Agreement between the Government of New Zealand and the Government of the People's Republic of China done at Beijing on 7 April 2008.

(6) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 134(1)(a): amended, on 7 July 2010, by section 6(1) of the Radiocommunications Amendment Act 2010 (2010 No 80).

Section 134(1)(b): amended, on 7 July 2010, by section 6(2) of the Radiocommunications Amendment Act 2010 (2010 No 80).

Section 134(1)(c): amended, on 7 July 2010, by section 6(3) of the Radiocommunications Amendment Act 2010 (2010 No 80).

Section 134(1)(d): repealed, on 12 October 2001, by section 47(1) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 134(1)(e): substituted, on 31 October 2006, by section 30(1) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 134(1)(g): substituted, on 12 October 2001, by section 47(2) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 134(1)(g): amended, on 7 July 2010, by section 6(4) of the Radiocommunications Amendment Act 2010 (2010 No 80).

Section 134(1)(ga): inserted, on 12 October 2001, by section 47(2) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 134(1)(gb): inserted, on 12 October 2001, by section 47(2) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 134(1)(gc): inserted, on 12 October 2001, by section 47(2) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 134(1)(gd): inserted, on 12 October 2001, by section 47(2) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 134(1)(j): substituted, on 12 October 2001, by section 47(3) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 134(1)(ja): inserted, on 12 October 2001, by section 47(3) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 134(1)(jb): substituted, on 31 October 2006, by section 30(2) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 134(1A): inserted, on 31 October 2006, by section 30(3) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 134(1B): inserted, on 31 October 2006, by section 30(3) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 134(1C): inserted, on 31 October 2006, by section 30(3) of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 134(1D): inserted, on 29 July 2008, by section 5(1) of the Radiocommunications Amendment Act (No 2) 2008 (2008 No 51).

Section 134(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 134(3): added, on 29 July 2008, by section 5(2) of the Radiocommunications Amendment Act (No 2) 2008 (2008 No 51).

Section 134(4): added, on 29 July 2008, by section 5(2) of the Radiocommunications Amendment Act (No 2) 2008 (2008 No 51).

Section 134(5): added, on 29 July 2008, by section 5(2) of the Radiocommunications Amendment Act (No 2) 2008 (2008 No 51).

Section 134(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

134AA Secretary may prescribe forms

(1) The Secretary by notice in the *Gazette* may prescribe any forms (including infringement and reminder notices) that are not otherwise specifically prescribed.

(2) Different forms may be prescribed for different infringement offences.

Section 134AA: inserted, on 31 October 2006, by section 31 of the Radiocommunications Amendment Act 2006 (2006 No 54).

134A Regulations prohibiting unauthorised broadcasting from high seas

(1) The Governor-General may from time to time, by Order in Council, make regulations prohibiting broadcasting contrary to international regulations from a ship or installation on the high seas.

(2) Regulations made under subsection (1) may make a breach of the regulations an offence punishable on conviction in New Zealand if—

(a) the ship is a New Zealand ship; or

(b) the installation is registered in New Zealand; or

(c) the person engaged in broadcasting is a New Zealand citizen or ordinarily resident in New Zealand; or

(d) the broadcast can be received in New Zealand; or

(e) radiocommunication within the territorial limits of New Zealand is suffering interference.

(3) Regulations made under subsection (1) may prescribe fines, not exceeding $20,000 in any case, for any breach of the regulations and provide for the detention of any ship or installation on which a breach of the regulations is alleged to have occurred or has occurred, pending the institution and determination of proceedings in respect of the breach and pending the recovery of any fine imposed in respect of the breach.

(4) Notwithstanding anything in any other enactment, proceedings for the trial and punishment of any person charged with having committed an offence against regulations made under subsection (1) shall not be instituted in any court except with the consent of the Attorney-General and on the Attorney-General's certificate that it is expedient that the proceedings should be instituted.

(5) A person alleged to have committed an offence against regulations made under subsection (1) may be arrested or a warrant for the person's arrest may be issued and executed, and the person may be remanded in custody or on bail, notwithstanding that the consent of the Attorney-General to the institution of proceedings for the offence has not been obtained; but no further or other proceedings shall be taken until that consent has been obtained.

(6) In this section,—

broadcasting has the same meaning as it has in the Broadcasting Act 1989

New Zealand ship has the same meaning as it has in the Maritime Transport Act 1994

ship has the same meaning as it has in the Maritime Transport Act 1994.

(7) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: United Nations Convention on the Law of the Sea, art 109

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 134A: inserted, on 1 August 1996, by section 2 of the Radiocommunications Amendment Act 1996 (1996 No 76).

Section 134A(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 134A(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

135 Regulations prescribing fees

(1) The Governor-General may from time to time, by Order in Council, make regulations prescribing the matters in respect of which fees are payable under this Act; the amounts of those fees or the method by which they are to be assessed; and the persons liable for payment of the fees; and providing for the method of payment of, or the waiver or refund of any such fees by the Secretary or the Registrar.

(2) Without limiting the generality of subsection (1), any regulations made under this section may make provision for the payment, by managers or rightholders or both (being persons who are broadcasters within the meaning of the Broadcasting Act 1989), of an annual fee payable to the Secretary, which fee may include an amount to cover the costs incurred by the Secretary in respect of measures taken to deal with interference with the reception of broadcast signals.

(3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 135(1): amended, on 19 December 2002, by section 7 of the Radiocommunications Amendment Act 2002 (2002 No 74).

Section 135(1): amended, on 12 October 2001, by section 48 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 135(1): amended, on 28 August 1990, by section 8(2) of the Radiocommunications Amendment Act (No 2) 1990 (1990 No 104).

Section 135(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Recovery of fees

136 Recovery of fees

(1) Any fee that is not paid in accordance with regulations made under this Act, until paid in full, constitutes a debt to the Crown, and may be recovered from the person liable at the suit of the Secretary or the Registrar in any court of competent jurisdiction.

(2) The Secretary or the Registrar may from time to time enter into agreements or arrangements, on such terms and conditions as the Secretary or the Registrar thinks fit, with any person to collect or assist in collecting any fees payable in accordance with regulations made under this Act.

(3) If a rightholder does not pay any fee relating to a spectrum licence in accordance with regulations made under this Act in full within 6 months of the date the fee is due,—

(a) the manager of the management rights to which the spectrum licence relates is jointly and severally liable with the rightholder for payment of the unpaid fees; and

(b) regardless of whether or not the spectrum licence may be cancelled by the manager alone, and independently of any right of the manager to cancel the licence in accordance with section 57A or 57B, the manager may cancel the licence to which the unpaid fees relate by sending to the Registrar, by electronic or other means and for the purposes of registration, a notice in the prescribed form.

(4) *[Repealed]*

(5) The notice must specify—

(a) that the spectrum licence is cancelled; and

(b) the date from which the cancellation is to apply.

(6) As soon as practicable after receiving a notice under subsection (3)(b), the Registrar must ensure that the details specified in the notice are sent, by electronic or other means, to the rightholder.

Section 136(1): amended, on 12 October 2001, by section 49(1) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 136(1): amended, on 12 October 2001, by section 49(2)(a) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 136(2): amended, on 12 October 2001, by section 49(2)(b) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 136(3): added, on 31 October 2006, by section 32 of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 136(3)(b): amended, on 31 August 2012, by section 6(1) of the Radiocommunications Amendment Act 2012 (2012 No 65).

Section 136(4): repealed, on 31 August 2012, by section 6(2) of the Radiocommunications Amendment Act 2012 (2012 No 65).

Section 136(5): added, on 31 October 2006, by section 32 of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 136(6): inserted, on 31 August 2012, by section 6(3) of the Radiocommunications Amendment Act 2012 (2012 No 65).

Distress calls

137 Distress calls

Nothing in this Act shall prohibit any person in distress from using any means at that person's disposal to attract attention, indicate the person's position, and obtain assistance.

Application of Commerce Act 1986

138 Application of Commerce Act 1986 to acquisition or disposition of management rights or licence in relation to radio frequencies

(1) Subject to subsections (2) and (3), for the purposes of section 47 of the Commerce Act 1986, management rights in relation to radio frequencies and spectrum licences created under section 48 shall be deemed to be assets of a business.

(2) Nothing in subsection (1) applies in respect of the acquisition, by the Crown, of the management rights in relation to any radio frequencies where those management rights are acquired by the Crown—

(a) on the recording, under section 10(2), of a record of management rights in relation to the frequencies to which those rights relate.

(b) *[Repealed]*

(3) Nothing in subsection (1) applies in respect of the acquisition, by any person, of any management rights or any spectrum licence, where those management rights or that spectrum licence are or is acquired by that person pursuant to any right conferred on that person by Part 16.

Section 138(1): substituted, on 1 January 1991, by section 47 of the Commerce Amendment Act 1990 (1990 No 41).

Section 138(1): amended, on 12 October 2001, by section 50(1) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 138(2)(b): repealed, on 12 October 2001, by section 50(2) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 138(3): amended, on 12 October 2001, by section 50(3) of the Radiocommunications Amendment Act 2000 (2000 No 8).

Repeals and consequential amendments

139 Repeals and consequential amendments

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

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

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

Part 16
Transitional provisions

140 Licences granted under Part 2 of Telecommunications Act 1987

Every licence granted under Part 2 of the Telecommunications Act 1987 and in force immediately before the commencement of this Act shall be deemed to be a radio licence granted under Part 13.

Section 140: amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

141 Regulations deemed to have been made under this Act

The regulations set out in Schedule 3 are hereby deemed to have been made pursuant to this Act, and may be amended and revoked accordingly.

142 Saving for documents made or acts done under Part 2 of Telecommunications Act 1987

Without limiting sections 140 and 141, any document made or any thing whatsoever done under any provision of Part 2 of the Telecommunications Act 1987, so far as it is subsisting or in force immediately before the commencement of this Act and could have been made or done under Part 13, shall continue and have effect as if it had been made or done under the corresponding provision of Part 13.

143 Forms approved by Secretary may be used where no form prescribed

[Expired]

Section 143: expired, on 1 April 1990, by section 143(2).

Transitional rights in relation to Schedule 4 frequencies

144 Interpretation

(1) In sections 145 to 153, unless the context otherwise requires,—

gross income, in relation to an incumbent who is required by section 149(1) to make any payment in respect of a licence,—

(a) means the gross earnings received from all sources during a financial year in respect of—

(i) the provision or disposal of programmes, advertisements, or other matter broadcast or intended to be broadcast by that incumbent that involve the exercise of the rights conferred by any radio licence held by the incumbent or by any spectrum licence of which the incumbent is the rightholder; and

(ii) the provision of any other services that involve the exercise of the rights conferred by any radio licence held by the incumbent or by any licence of which the incumbent is the rightholder; and

(b) includes the money value of any consideration received otherwise than in cash; and

(c) also includes any amount treated as part of the gross income of the incumbent in accordance with subsections (2) and (3)

incumbent means a person who, pursuant to section 146, is the incumbent in relation to a frequency to which section 145 applies.

(2) For the purposes of the definition of the term gross income in subsection (1), and without limiting its generality, the amount of any discount or commission paid or allowed or agreed to be paid or allowed by an incumbent to any person in respect of the provision or disposal of programmes, advertisements, or other matter broadcast or intended to be broadcast, or in respect of the provision of any other services that involve the exercise of the rights conferred by any radio licence held by the incumbent or by any spectrum licence of which the incumbent is the rightholder, shall be treated as part of the gross earnings received by the incumbent.

(3) Where—

(a) an amount, or part of an amount, earned during any financial year by any person, other than an incumbent, by reason of any contract, agreement, or arrangement between an incumbent and that other person relating to the provision or disposal of programmes or advertisements or other matter broadcast or intended to be broadcast, or relating to the provision of any other services that involve the exercise of the rights conferred by any radio licence or any spectrum licence, would, for the purposes of this Part, if the incumbent and that other person were the same person, form part of the gross income of the incumbent in respect of that financial year; and

(b) a relationship exists between the incumbent and the other person (whether by reason of any shareholding or of any contract, agreement, or arrangement, or for any other reason) of such a kind that the amount or the part of the amount, as the case may be, should, in the opinion of the Secretary, be treated for the purposes of this Part as part of the gross income of the incumbent in respect of that financial year,—

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

Section 144(1) **gross income** paragraph (a): substituted, on 28 August 1990, by section 9 of the Radiocommunications Amendment Act (No 2) 1990 (1990 No 104).

Section 144(1) **gross income** paragraph (a)(i): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 144(1) **gross income** paragraph (a)(ii): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 144(2): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 144(3)(a): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

145 Transitional rights in relation to frequencies in Schedule 4

(1) This section applies to any frequency that is within any of the ranges of frequencies specified in Schedule 4.

(2) Where, pursuant to section 10(2), a record of management rights is recorded in relation to any frequency to which this section applies, the incumbent in

relation to that frequency shall have the right to be granted a spectrum licence pursuant to section 48(b) in relation to that frequency.

(3) Every spectrum licence to which an incumbent is entitled pursuant to subsection (2) in relation to any frequency—

(a) shall confer—

(i) a right to transmit that is identical to the right conferred by the radio licence held by the incumbent in relation to that frequency immediately before the record of management rights was recorded in relation to that frequency; or

(ii) where the incumbent did not hold such a radio licence, but was entitled, immediately before that record of management rights was so recorded, to be granted a radio licence in relation to that frequency pursuant to section 95(2) of the Broadcasting Act 1989, a right to transmit that is identical to the right that would have been conferred had that radio licence been granted; and

(b) shall have an expiry date that is the expiry date of that record of management rights.

(4) Where, but for this subsection, the expiry date of any record of management rights relating to any frequency in relation to which a spectrum licence is granted pursuant to subsection (2) is earlier than the expiry of the period of 20 years commencing on the date on which that record of management rights was recorded under section 10(2), the expiry date of that record of management rights shall be deemed to be the date of the expiry of the period of 20 years commencing on the date on which that record of management rights was recorded under that section, and the Registrar shall amend the register accordingly.

Section 145(2): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 145(3): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 145(3)(a)(i): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 145(3)(a)(ii): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 145(4): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

146 Incumbents in relation to Schedule 4 frequencies

(1) For the purposes of section 145, the incumbent in relation to a frequency to which that section applies is—

(a) in the case of a frequency that is used for the purposes of any television service to which this paragraph applies,—

(i) where that frequency is within any of the ranges of frequencies specified in Part A of Schedule 4, the person who, immediately

before a record of management rights is recorded, pursuant to section 10(2), in relation to that frequency, is the holder of a radio licence in relation to that frequency; or

(ii) where that frequency is within any of the ranges of frequencies specified in Part B of Schedule 4, the person who holds the radio licence in relation to that frequency on 8 December 1989; or

(b) in the case of any other frequency, the person who, immediately before a record of management rights is recorded, pursuant to section 10(2), in relation to that frequency,—

(i) is the holder of a radio licence in relation to that frequency, being a radio licence that was issued to that person in order to enable that person to exercise that person's rights under a sound-radio warrant under the Broadcasting Act 1976 of which that person was the holder at the close of 30 June 1989; or

(ii) is the holder of a radio licence in relation to that frequency, being a radio licence granted to that person pursuant to section 95(2) of the Broadcasting Act 1989; or

(iii) is entitled, pursuant to section 95(2) of the Broadcasting Act 1989, to be granted a radio licence in relation to that frequency.

(2) The television services to which subsection (1)(a) applies are—

(a) the service known as TV1:

(b) the service known as TV2:

(c) the service known as TV3.

Section 146(1)(a)(i): substituted, on 30 June 1995, by section 3 of the Radiocommunications Amendment Act 1995 (1995 No 38).

Section 146(1)(a)(i): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 146(1)(a)(ii): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 146(1)(b)(i): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 146(1)(b)(ii): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 146(1)(b)(iii): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

146A Transfer of rights of incumbents in relation to television services

(1) Subject to subsection (2), a person who is the incumbent in relation to a frequency to which section 145 applies, being a frequency used for the purposes of any television service to which section 146(1)(a) applies, may transfer that person's rights as the incumbent to any other person.

(2) A transfer to which subsection (1) applies shall not take effect unless the Secretary, at the written request of the incumbent, issues to the transferee the radio apparatus licences in relation to the frequency.

(3) When a transfer to which subsection (1) applies takes effect, the transferee—

(a) shall become the incumbent in relation to the frequency; and

(b) shall, while the transferee is the incumbent,—

(i) be entitled to transfer, in accordance with subsections (1) and (2), the transferee's rights as the incumbent in relation to the frequency; and

(ii) perform the obligations imposed on the incumbent by this Part.

Section 146A: inserted, on 28 August 1990, by section 10 of the Radiocommunications Amendment Act (No 2) 1990 (1990 No 104).

147 Broadcasting Tribunal to certify incumbents

(1) No person shall be entitled, by virtue of being an incumbent under section 146(1)(b), to be granted any spectrum licence under section 145 in relation to any frequency unless that person holds a certificate issued by the Broadcasting Tribunal certifying that the person—

(a) at the close of 30 June 1989, held a sound-radio warrant under the Broadcasting Act 1976 in relation to that frequency; or

(b) is or was entitled, pursuant to section 95(2) of the Broadcasting Act 1989, to be granted a radio licence in relation to that frequency.

(2) The Broadcasting Tribunal shall, on application made on the form provided for the purpose by the Tribunal, issue a certificate certifying whether or not the applicant—

(a) at the close of 30 June 1989, held a sound-radio warrant under the Broadcasting Act 1976 in relation to a frequency to which section 145 applies; or

(b) is or was entitled, pursuant to section 95(2) of the Broadcasting Act 1989, to be granted a radio licence in relation to any such frequency.

(3) Notwithstanding the repeals and revocations effected by the Broadcasting Act 1989, and without limiting section 93 of that Act, the Broadcasting Tribunal shall remain in office until the close of 31 March 1990 for the purpose of carrying out the function conferred on it by subsection (2).

Section 147(1): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 147(1)(b): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 147(2)(b): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

148 Incumbent to give notice of intention to exercise transitional right

(1) Where the incumbent in relation to any frequency to which section 145 applies wishes to be granted in relation to that frequency the spectrum licence to which the incumbent is entitled by virtue of that section, the incumbent shall give written notification of that fact to the Secretary not later than 10 working days after the date on which a record of management rights is recorded in relation to that frequency pursuant to section 10(2).

(2) The incumbent shall also specify in that notice whether the incumbent elects to pay, in respect of the spectrum licence,—

(a) an annual levy in accordance with paragraph (a) of subsection (1) of section 149; or

(b) the amount referred to in paragraph (b) of that subsection,—

and that election shall not be capable of revocation or variation.

(3) If the incumbent in relation to any frequency does not give the written notice required by subsection (1) within the period specified in that subsection, the right conferred on the incumbent by section 145 to be granted a spectrum licence in relation to the frequency shall lapse, and the incumbent shall not be entitled to be granted any spectrum licence pursuant to that right.

Section 148(1): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 148(2): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 148(3): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

149 Payments for licences

(1) Where any person is granted a spectrum licence pursuant to section 145, that person shall, in accordance with the election made by that person pursuant to section 148(2), pay to the Secretary, in respect of that spectrum licence,—

(a) an annual levy calculated in accordance with section 150; or

(b) the amount calculated in accordance with section 151.

(2) The payment or payments required by subsection (1) are in addition to any fees payable in respect of the spectrum licence under any regulations made under section 135.

(3) The payment required by subsection (1)(b) shall be payable,—

(a) in the case of any spectrum licence issued in relation to a frequency to which section 146(1)(b) applies, on 30 June 1992:

(b) in the case of any spectrum licence issued in relation to a frequency to which section 146(1)(a) applies, on 30 September 1995.

Section 149(1): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 149(2): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 149(3): substituted, on 30 June 1995, by section 4 of the Radiocommunications Amendment Act 1995 (1995 No 38).

Section 149(3)(a): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 149(3)(b): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

150 Payment of annual levy

(1) The annual levy payable pursuant to section 149(1)(a) by an incumbent in respect of each spectrum licence granted to that person pursuant to section 145—

(a) shall be payable in respect of each financial year during which that person holds that spectrum licence; and

(b) shall be an amount equal to 1.5% of the gross income of that person in the financial year in respect of which the levy is payable; and

(c) shall be paid not later than 6 months after the end of the financial year to which it relates.

(2) Where, during any financial year, an incumbent holds such a spectrum licence for a period that is less than the whole of that financial year, the annual levy payable by the incumbent shall be reduced in proportion to that period.

(3) Every payment of the annual levy payable by an incumbent shall be accompanied by a return of the gross income of the incumbent for the financial year to which the payment relates.

(4) The return—

(a) shall be in such form and contain such particulars as the Secretary may from to time 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 gross income of the incumbent.

Section 150(1): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 150(1)(a): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 150(2): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

151 Lump sum payment

(1) The amount payable pursuant to section 149(1)(b) by an incumbent in respect of each spectrum licence granted to that person pursuant to section 145 shall be an amount ascertained in accordance with the following formula:

$$a \times b$$

where—

a is 1.5% of the gross income of the incumbent for the year ending on 31 December 1991; and

b is 4.87.

(2) Notwithstanding anything in subsection (1), but subject to subsection (5), where a spectrum licence is granted to any person pursuant to section 145 by virtue of that person being an incumbent under section 146(1)(b), the amount payable pursuant to section 149(1)(b) by that incumbent in respect of that spectrum licence shall be—

(a) the amount calculated in accordance with subsection (1); or

(b) the amount calculated in accordance with subsection (3),—

whichever is the smaller.

(3) The amount referred to in subsection (2)(b) is the amount that is 50% of the average amount payable to the Secretary by way of consideration for all other comparable spectrum licences—

(a) that have applying to them a receive coverage area that in the case of each spectrum licence covers not less than 90% of the receive coverage area applying to the spectrum licence granted to the incumbent; and

(b) that are disposed of by the Crown before 1 January 1992 by way of competitive tender.

(4) For the purposes of subsection (3), a comparable spectrum licence is—

(a) where the frequency in relation to which the incumbent is granted a spectrum licence pursuant to section 145 is within the range of frequencies that are not less than 526.5 kHz and do not exceed 1606.5 kHz, any other spectrum licence that relates to any frequency that is within that range of frequencies:

(b) where the frequency in relation to which the incumbent is granted a spectrum licence pursuant to section 145 is within the range of frequencies that are not less than 88.5 MHz and do not exceed 100.0 MHz, any other spectrum licence that relates to any frequency that is within that range of frequencies.

(5) Subsection (2) does not apply where no comparable spectrum licence is disposed of before the date referred to in subsection (3)(b).

Section 151(1): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 151(2): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 151(3): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 151(3)(a): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 151(4): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 151(4)(a): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 151(4)(b): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 151(5): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

152 Return to accompany lump sum payment

(1) Every payment made pursuant to section 149(1)(b) by an incumbent shall be accompanied by a return of the gross income of the incumbent for the year ending on 31 December 1991.

(2) The return—

(a) shall be in such form and contain such particulars as the Secretary 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 gross income of the incumbent for the period referred to in subsection (1).

153 Transferee liable for payments

(1) Where the rightholder's rights pursuant to a spectrum licence granted to an incumbent pursuant to section 145 are transferred to any other person, any payment that would have been required by section 149 to be made in respect of that spectrum licence by the incumbent if those rights had not been transferred shall be payable by the transferee, and sections 149 to 152 shall apply accordingly as if the transferee were the incumbent.

(2) Notwithstanding anything in subsection (1), where the rightholder's rights pursuant to a spectrum licence granted to an incumbent pursuant to section 145 are transferred to any other person, and the incumbent and the transferee are associated persons within the meaning of subpart YB of the Income Tax Act 2007, any payment that would have been required by subsection (1) to be made in respect of that spectrum licence by the transferee shall be payable by the incumbent as if those rights had not been transferred.

Section 153(1): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 153(2): amended, on 1 April 2010, by section 861 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section 153(2): amended, on 1 April 2008 (effective for 2008–09 income year and later income years, except when the context requires otherwise), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 153(2): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Transitional rights in relation to AMPS B Band

154 Interpretation

In sections 155 to 161, unless the context otherwise requires, the term **incumbent**, in relation to any frequency to which section 155 applies, means,—

(a) where Telecom Corporation of New Zealand Limited holds a radio licence in relation to that frequency immediately before a record of management rights is recorded pursuant to section 10(2) in relation to that frequency, that company:

(b) where Telecom Cellular Limited holds a radio licence in relation to that frequency immediately before a record of management rights is recorded pursuant to section 10(2) in relation to that frequency, that company:

(c) where a wholly-owned subsidiary of Telecom Corporation of New Zealand Limited holds a radio licence in relation to that frequency immediately before a record of management rights is recorded pursuant to section 10(2) in relation to that frequency, that subsidiary.

Section 154(a): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 154(b): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 154(c): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

155 Transitional rights in relation to AMPS B Band

(1) This section applies to any frequency that is within any of the ranges of frequencies specified in Schedule 5.

(2) Where, pursuant to section 10(2), a record of management rights is recorded in relation to any frequency to which this section applies, the incumbent in relation to that frequency shall have the right to be registered as manager in respect of that frequency.

(3) Where, but for this subsection, the expiry date of any record of management rights relating to any frequency in relation to which the incumbent is entitled to be registered as manager is earlier than the expiry of the period of 20 years commencing on the date on which that record of management rights was recorded under section 10(2), the expiry date of that record of management rights shall be deemed to be the date of the expiry of the period of 20 years commencing on the date on which that record of management rights was recorded under that section, and the Registrar shall amend the register accordingly.

156 Incumbent to give notice of intention to exercise transitional right

(1) Where the incumbent in relation to any frequency to which section 155 applies wishes to be registered as manager in respect of that frequency in accordance with that section, the incumbent shall give written notification of that fact to the Secretary not later than 10 working days after the date on which a record of management rights is recorded in relation to that frequency pursuant to section 10(2).

(2) The incumbent shall also specify in that notice whether the incumbent elects to pay, in respect of that person's registration as manager,—

(a) an annual levy in accordance with paragraph (a) of subsection (1) of section 157; or

(b) the amount referred to in paragraph (b) of that subsection,—

and that election shall not be capable of revocation or variation.

(3) If the incumbent in relation to any frequency does not give the written notice required by subsection (1) within the period specified in that subsection, the right conferred on the incumbent by section 155 to be registered as manager in respect of the frequency shall lapse, and the incumbent shall not be entitled to be registered as manager in relation to that frequency pursuant to that right.

157 Payments for management rights

(1) Where, pursuant to section 155, the incumbent is registered as manager in respect of any frequency, that person shall, in accordance with the election made by that person pursuant to section 156(2), pay to the Secretary, in respect of that person's registration,—

(a) an annual levy calculated in accordance with section 158; or

(b) the amount calculated in accordance with section 159.

(2) The payment or payments required by subsection (1) are in addition to any fees payable in respect of that person's registration under any regulations made under section 135.

(3) The payment required by subsection (1)(b) shall be payable on 30 June 1992.

(4) Where, pursuant to section 155, the incumbent is registered as manager in respect of 2 or more frequencies, the payment or payments required by subsection (1) shall be payable in respect of 1 registration only.

158 Payment of annual levy

(1) The annual levy payable pursuant to section 157(1)(a) by the incumbent in respect of that person's registration, pursuant to section 155, as manager in respect of any frequency to which section 155 applies—

(a) shall be payable in respect of each financial year during which that person is registered, pursuant to section 155, as manager in respect of any such frequency; and

(b) shall be an amount equal to 1.5% of the gross income of the incumbent in the financial year in respect of which the levy is payable, being gross income in respect of the provision of any services that involve the exercise of the rights conferred by any spectrum licence granted pursuant to the incumbent's management rights in relation to any such frequency; and

(c) shall be paid not later than 6 months after the end of the financial year to which it relates.

(2) Where, during any financial year, an incumbent is registered as manager for a period that is less than the whole of that financial year, the annual levy payable by the incumbent shall be reduced in proportion to that period.

(3) Every payment of the annual levy payable by an incumbent shall be accompanied by a return of the gross income of the incumbent for the financial year to which the payment relates.

(4) The return—

(a) shall be in such form and contain such particulars as the Secretary may from time to time 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 gross income of the incumbent.

Section 158(1)(b): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

159 Lump sum payment

(1) The amount payable pursuant to section 157(1)(b) by the incumbent in respect of the incumbent's registration, pursuant to section 155, in respect of any frequency to which section 155 applies shall be an amount ascertained in accordance with the following formula:

$$a \times b$$

where—

a is 1.5% of the gross income of the incumbent for the year ending on 31 December 1991, being gross income in respect of the provision of any services that involve the exercise of the rights conferred by any spectrum licence granted pursuant to the incumbent's management rights in relation to any frequency to which section 155 applies; and

b is 4.87.

(2) Notwithstanding anything in subsection (1), where the management rights in relation to the frequencies of the AMPS A Band are disposed of by the Crown by way of competitive tender before 1 January 1992, the amount payable pursuant to section 157(1)(b) by an incumbent in respect of the incumbent's

registration, pursuant to section 155, in respect of any frequency to which section 155 applies shall be—

(a) the amount calculated in accordance with subsection (1); or

(b) the amount calculated in accordance with subsection (3),—

whichever is the smaller.

(3) The amount referred to in subsection (2)(b) is the amount that is 50% of the total amount payable to the Secretary by way of consideration for the management rights in relation to the frequencies of the AMPS A Band that are disposed of by the Crown by way of competitive tender before 1 January 1992.

(4) For the purposes of subsections (2) and (3), the frequencies of the AMPS A Band are as follows:

(a) the frequencies that are within the range of frequencies that are not less than 825.0150 MHz and do not exceed 835.005 MHz; and

(b) the frequencies that are within the range of frequencies that are not less than 870.0150 MHz and do not exceed 880.005 MHz.

Section 159(1) formula item a: amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

160 Return to accompany lump sum payment

(1) Every payment made pursuant to section 157(1)(b) by an incumbent shall be accompanied by a return of the gross income of the incumbent for the year ending on 31 December 1991.

(2) The return—

(a) shall be in such form and contain such particulars as the Secretary 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 fair and accurate statement of the gross income of the incumbent for the period referred to in subsection (1).

161 Transferee liable for payments

(1) Where the management rights in relation to any frequency in respect of which an incumbent is registered as manager pursuant to section 155 are transferred to any other person, any payment that would have been required by section 157(1) to be made in respect of the incumbent's registration as manager if those management rights had not been transferred shall be payable by the transferee, and sections 157 to 160 shall apply accordingly as if the transferee were the incumbent.

(2) Notwithstanding anything in subsection (1), where the management rights in relation to any frequency in respect of which an incumbent is registered as manager pursuant to section 155 are transferred to any other person, and the

incumbent and the transferee are associated persons within the meaning of subpart YB of the Income Tax Act 2007, any payment that would have been required by subsection (1) to be made in respect of the transferee's registration as manager shall be payable by the incumbent as if those management rights had not been transferred.

Section 161(2): amended, on 1 April 2010, by section 861 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section 161(2): amended, on 1 April 2008 (effective for 2008–09 income year and later income years, except when the context requires otherwise), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Transitional rights in relation to 2 frequency land mobile

162 Transitional rights in relation to frequencies in Schedule 6

(1) This section applies to any frequency that is within any of the ranges of frequencies specified in Schedule 6.

(1A) For the purposes of this section and section 168, **channel** means a pair of frequencies that are designated to be used together for the purposes of a service of the type known as land mobile.

(2) Subject to section 169, where,—

(a) pursuant to section 10(2), a record of management rights is recorded in relation to any frequency to which this section applies; and

(b) that frequency is one of the frequencies of a channel; and

(c) immediately before the date on which that record of management rights is so recorded, no person held more than 7 radio licences (being licences that were first granted before 1 July 1989 for a period of not less than 12 months) to operate a service on that channel,—

each person who, immediately before the date on which that record of management rights is so recorded, held a radio licence in relation to that frequency (being a licence that was first granted before 1 July 1989 for a period of not less than 12 months) shall have the right to be granted a spectrum licence under section 48 in relation to that frequency.

(3) Every spectrum licence to which any person is entitled pursuant to subsection (2) in relation to any frequency—

(a) shall confer a right to transmit that is identical to the right conferred by the radio licence held by that person in relation to that frequency immediately before the record of management rights was recorded in relation to that frequency; and

(b) shall have an expiry date that is the expiry date of that record of management rights.

(4) Subject to section 169, where,—

(a) pursuant to section 10(2), a record of management rights is recorded in relation to any frequency to which this section applies; and

(b) that frequency is one of the frequencies of a channel; and

(c) immediately before the date on which that record of management rights is so recorded, any person held more than 7 radio licences (being licences that were first granted before 1 July 1989 for a period of not less than 12 months) to operate a service on that channel,—

that person shall have the right to be registered as manager of the frequencies of which that channel is comprised.

(5) Where, but for this subsection, the expiry date of any record of management rights relating to any frequency in relation to which a spectrum licence is granted pursuant to subsection (2) or, as the case may be, any person is registered as manager pursuant to subsection (4) is earlier than the expiry of the period of 20 years commencing on the date on which that record of management rights was recorded under section 10(2), the expiry date of that record of management rights shall be deemed to be the date of the expiry of the period of 20 years commencing on the date on which that record of management rights was recorded under that section, and the Registrar shall amend the register accordingly.

Section 162(1A): inserted, on 12 October 2001, by section 51 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 162(2): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 162(2): amended, on 12 October 2001, by section 62 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 162(2)(c): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 162(3): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 162(3)(a): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 162(4)(c): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 162(5): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

163 Incumbent to give notice of intention to exercise transitional right

(1) Where, in relation to any frequency to which section 162 applies, any person wishes to be granted the spectrum licence to which that person is entitled by virtue of subsection (2) of that section or, as the case may be, to be registered as manager by virtue of subsection (4) of that section, that person shall give written notification of that fact to the Secretary not later than 10 working days after the date on which a record of management rights is recorded in relation to that frequency pursuant to section 10(2).

(2) That person shall also specify in that notice whether that person elects to pay, in respect of the spectrum licence or, as the case may be, the registration as manager,—

(a) an annual fee in accordance with paragraph (a) of subsection (1) of section 164; or

(b) the amount referred to in paragraph (b) of that subsection,—

and that election shall not be capable of revocation or variation.

(3) If the person entitled, pursuant to section 162, to be granted a spectrum licence or, as the case may be, to be registered as manager in respect of any frequency does not give the written notice required by subsection (1) within the period specified in that subsection, the right conferred on that person by section 162 to be granted that spectrum licence or, as the case may be, registered as manager in respect of that frequency shall lapse, and that person shall not be entitled to be granted any spectrum licence or be registered as manager pursuant to that right.

Section 163(1): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 163(2): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 163(3): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

164 Payments for licences

(1) Where any person is granted a spectrum licence pursuant to section 162, that person shall pay to the Secretary, in respect of that spectrum licence,—

(a) an annual fee of $81; or

(b) the amount calculated in accordance with section 166.

(2) The payment or payments required by subsection (1) are in addition to any fees payable in respect of the spectrum licence under any regulations made under section 135.

(3) The payment required by subsection (1)(b) shall be payable on 30 June 1992.

Section 164(1): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 164(2): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

165 Payment of annual fee

(1) The annual fee payable pursuant to section 164(1)(a) by a person in respect of each spectrum licence granted to that person pursuant to section 162—

(a) shall be payable in respect of each financial year during which that person holds that spectrum licence; and

(b) shall be paid not later than 3 months after the end of the financial year to which it relates.

(2) Where, during any financial year, a person holds such a spectrum licence for a period that is less than the whole of that financial year, the annual fee payable by that person shall be reduced in proportion to that period.

Section 165(1): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 165(1)(a): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 165(2): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

166 Lump sum payment

(1) The amount payable pursuant to section 164(1)(b) by a person (in this section referred to as the incumbent) in respect of each spectrum licence granted to the incumbent pursuant to section 162 shall be—

(a) $395; or

(b) the amount calculated in accordance with subsection (2),—

whichever is the smaller.

(2) The amount referred to in subsection (1)(b) is the amount that is 50% of the average amount payable to the Secretary by way of consideration for all comparable licences that are disposed of by the Crown before 1 January 1992 by way of competitive tender.

(3) For the purposes of subsection (2), a comparable spectrum licence, in relation to the spectrum licence granted to the incumbent pursuant to section 162, is a spectrum licence—

(a) that relates to any frequency to which section 162 applies; and

(b) that relates to a base repeater apparatus that is located not more than 5 kilometres from the base repeater apparatus to which the spectrum licence granted to the incumbent relates.

(4) Subsection (1)(b) does not apply where no comparable spectrum licence is disposed of before the date referred to in subsection (2).

Section 166(1): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 166(3): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 166(3)(b): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 166(4): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

167 Transferee liable for payments

Where the rightholder's rights pursuant to a spectrum licence granted to any person pursuant to section 162 are transferred to any other person, any payment that would have been required by section 164 to be made in respect of that spectrum licence by the first-mentioned person if those rights had not been transferred shall be payable by the transferee, and sections 164 to 166 shall apply accordingly as if the transferee were the first-mentioned person.

Section 167: amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

168 Payment for registration as manager

Where, pursuant to section 162(4), any person is registered as manager of the frequencies of which a channel is comprised, the provisions of sections 164 to 167 shall apply as if that person had been granted licences pursuant to section 162(2) conferring rights to transmit that are identical to the rights conferred by the radio apparatus licences (being licences that were first granted before 1 July 1989 for a period of not less than 12 months) held by that person in relation to those frequencies immediately before a record of management rights was recorded pursuant to section 10(2) in relation to those frequencies.

169 User of frequency entitled to be registered as manager

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

qualifying radio licence means a radio licence that was first granted before 1 July 1989 for a period of not less than 12 months

user, in relation to any qualifying radio licence, means the person on whom the sole right to transmit in accordance with the licence has been conferred pursuant to a contract between that person and the holder of the licence.

(2) Where,—

(a) pursuant to section 10(2), a record of management rights is recorded in relation to any frequency to which section 162 applies; and

(b) immediately before the date on which that record of management rights is so recorded,—

(i) any person held, in relation to that frequency, any qualifying radio licence; and

(ii) any person was the user in relation to that licence; and

(c) the person who was the user in relation to that licence would be entitled, pursuant to section 162(4), to be registered as manager in relation to that frequency if that person had been the holder of that licence,—

sections 162 and 168 shall apply in all respects as if the person who was the user in relation to that licence had been the holder of that licence instead of the holder.

(3) Where, but for this subsection, subsection (2) would in any particular case have the effect of conferring on the Crown the right to be registered as manager in relation to any frequency, then, notwithstanding anything in section 162(4), no person shall be entitled, pursuant to section 162(4), to be registered as manager of that frequency.

Section 169(1) **qualifying radio apparatus licence**: repealed, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 169(1) **qualifying radio licence**: inserted, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 169(1) **user**: amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 169(2)(b)(i): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Transitional rights in relation to Schedule 7 frequencies

170 Bodies specified in Schedule 7 entitled to licence

(1) Notwithstanding anything in any of sections 144 to 153, where a record of management rights is recorded under section 10(2) in relation to any frequency specified in Schedule 7, the body or organisation specified in that schedule as the operator on that frequency shall have the right to be granted, without payment, a spectrum licence pursuant to section 48 entitling that body or organisation to transmit radio waves on that frequency from the location specified, in relation to that body or organisation, in that schedule.

(2) Nothing in subsection (1) exempts any body or organisation from liability for any fee payable, pursuant to any regulations made under section 135, in respect of any spectrum licence granted pursuant to that subsection.

(3) Where, in accordance with subsection (1), a spectrum licence is granted under section 48 to any body or organisation to transmit radio waves on any frequency, the conditions that apply to that spectrum licence shall, so far as possible, correspond to—

(a) the terms, conditions, and restrictions that applied to the radio licence held by that body or organisation in relation to that frequency immediately before a record of management rights was recorded under section 10(2) in relation to that frequency (or, where no such radio licence was held by that body or organisation at that time, the terms, conditions, and restrictions that applied to the radio licence last held by that body or organisation in relation to that frequency); and

(b) the restrictions that applied pursuant to section 171 in relation to—

(i) the broadcasting, by that body or organisation, of advertising programmes on that frequency; and

(ii) the purposes for which a radio licence was granted to that body or organisation in relation to that frequency,—

being the restrictions that applied immediately before a record of management rights was recorded under section 10(2) in relation to that frequency or, where the body or organisation did not hold a radio licence in relation to that frequency at that time, that last applied, in relation to that body or organisation, in respect of the matters referred to in subparagraphs (i) and (ii).

(4) Where, in accordance with subsection (1), a spectrum licence is granted under section 48 to any body or organisation, no transfer or mortgage, by that body or organisation, of that spectrum licence shall be registered by the Registrar unless the Minister has consented to that transfer or mortgage.

(5) Where, in accordance with subsection (1), a spectrum licence is granted under section 48 to any body or organisation, the expiry date of that spectrum licence shall be the expiry date applying to the record of management rights to which the spectrum licence relates.

Section 170(1): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 170(1): amended, on 12 October 2001, by section 63 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 170(2): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 170(3): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 170(3): amended, on 12 October 2001, by section 63 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 170(3)(a): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 170(3)(b)(ii): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 170(4): amended, on 12 October 2001, by section 52 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 170(4): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 170(4): amended, on 12 October 2001, by section 63 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 170(5): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 170(5): amended, on 12 October 2001, by section 63 of the Radiocommunications Amendment Act 2000 (2000 No 8).

171 Continuation of advertising restrictions, etc

Where any body or organisation is specified in Schedule 7 as the operator on a frequency specified in that schedule, there shall be deemed to be incorporated into every radio licence that is held by that body or organisation in relation to that frequency—

(a) the restrictions that applied in relation to—

(i) the broadcasting, by that body or organisation, on that frequency, of advertising programmes pursuant to the warrant or authorisation under the Broadcasting Act 1976 that was held by that body or organisation at the close of 30 June 1989; and

(ii) the purposes for which a radio licence was granted to that body or organisation to broadcast on that frequency pursuant to that warrant or authorisation; or

(b) where, as the result of a decision of the Broadcasting Tribunal, that body or organisation has, before the commencement of this Act, been granted a radio licence in relation to that frequency pursuant to section 95(2) of the Broadcasting Act 1989, or is granted any such licence on or after the commencement of this Act, the restrictions that are specified in the decision of the Broadcasting Tribunal in relation to—

(i) the broadcasting, by that body or organisation, on that frequency, of advertising programmes; and

(ii) the purposes for which that radio licence was, or is, granted.

Section 171: amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 171(a)(ii): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 171(b): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 171(b)(ii): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

172 Amendment of advertising restrictions, etc

The Minister may, from time to time, by notice in the *Gazette*, revoke, vary, or add to—

(a) any restrictions that, by virtue of section 171, are deemed to be incorporated into any radio licence:

(b) any conditions that, by virtue of section 170(3)(b), apply to any spectrum licence.

Section 172: amended, on 12 October 2001, by section 53 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 172(a): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 172(b): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Transitional rights of other licenceholders under Part 13

173 Transitional rights of other licenceholders under Part 13

(1) Subject to subsection (5), where, pursuant to section 10(2), a record of management rights is recorded in relation to any radio frequencies, any person who,

immediately before that record of management rights was so recorded, was the holder of a radio licence (being a licence that was first granted before 1 July 1989 for a period of not less than 12 months) entitling that person to transmit radio waves on a frequency within the range of frequencies described in that record of management rights shall have the right to be granted, without payment, a spectrum licence pursuant to section 48(b) entitling that person to transmit radio waves on that frequency until the expiration of the period of 5 years beginning on the date on which that record of management rights was so recorded.

(2) Where, in accordance with subsection (1), a spectrum licence is granted under section 48(b) to any person to transmit radio waves on any frequency, the conditions that apply to that spectrum licence shall, so far as possible, correspond to the terms, conditions, and restrictions that applied to the radio licence held by that person in relation to that frequency immediately before a record of management rights was recorded under section 10(2) in relation to that frequency.

(3) Nothing in this section exempts any person from liability for any fee payable, pursuant to any regulations made under section 135, in respect of any spectrum licence granted, in accordance with subsection (1), under section 48(b).

(4) Where, but for this subsection, the expiry date of any record of management rights relating to any frequency in relation to which a spectrum licence is granted pursuant to subsection (1) is earlier than the expiry of the period of 5 years commencing on the date on which that record of management rights was recorded under section 10(2), the expiry date of that record of management rights shall be deemed to be the date of the expiry of the period of 5 years commencing on the date on which that record of management rights was recorded under that section, and the Registrar shall amend the register accordingly.

(5) Nothing in this section applies in respect of any radio frequency that is within any of the ranges of frequencies specified in Schedule 4 or Schedule 5 or Schedule 6.

Section 173(1): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 173(2): amended, on 31 October 2006, by section 33 of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 173(2): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 173(3): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 173(4): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Special provisions relating to Radio New Zealand Limited

174 Radio New Zealand Limited entitled to certain frequencies

(1) This section applies to the frequencies used exclusively for the purposes of the operation of the following services:

(a) the service known as the FM Concert Programme:

(b) the service known as National Radio:

(c) the service known as the AM Network:

(d) the service known as 2YB.

(2) Notwithstanding anything in sections 144 to 153, where, pursuant to section 10(2), a record of management rights is recorded in respect of any frequency to which this section applies, Radio New Zealand shall have the right to be granted, without payment, a spectrum licence pursuant to section 48(b) in relation to that frequency.

(3) Every spectrum licence to which Radio New Zealand is entitled pursuant to subsection (2) in relation to any frequency shall have an expiry date that is the expiry date of the record of management rights to which the spectrum licence relates.

(4) Where, but for this subsection, the expiry date of any record of management rights relating to any frequency in relation to which a spectrum licence is granted pursuant to subsection (2) is earlier than the expiry of the period of 20 years commencing on the date on which that record of management rights was recorded under section 10(2), the expiry date of that record of management rights shall be deemed to be the date of the expiry of the period of 20 years commencing on the date on which that record of management rights was recorded under that section, and the Registrar shall amend the register accordingly.

(5) Nothing in subsection (2) exempts Radio New Zealand from liability for any fee payable, pursuant to any regulations made under section 135, in respect of any spectrum licence granted pursuant to that subsection.

Section 174(2): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 174(3): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 174(4): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 174(5): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

175 Conditions of licences relating to the FM Concert Programme and National Radio

(1) This section applies to the following licences in any case where the licence is or was granted to Radio New Zealand for the purposes of any service referred to in paragraph (a) or paragraph (b) of section 174(1):

(a) a radio licence granted under the Telecommunications Act 1987 that is deemed, on the commencement of this Act, to be a licence granted under Part 13:

(b) a radio licence granted after the commencement of this Act:

(c) a spectrum licence granted under section 48(b).

(2) The following conditions shall be deemed to be incorporated into every licence to which this section applies:

(a) that the first priority for the use of the frequency to which the licence relates shall be the broadcasting of—

(i) in the case of a licence that relates to the service known as the FM Concert Programme, that service:

(ii) in the case of a licence that relates to the service known as National Radio, that service,—

as each such service is for the time being required to be operated in accordance with the conditions on which funds are made available for that purpose by the Broadcasting Commission under section 36 of the Broadcasting Act 1989:

(b) that no advertising programme shall be broadcast on the frequency to which the licence relates when that frequency is used for the purposes of any service referred to in paragraph (a) or paragraph (b) of section 174(1).

(3) Nothing in subsection (2)(b) prevents the inclusion in any programme of a credit in respect of a sponsorship or underwriting arrangement entered into in relation to that programme.

Section 175(1)(a): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 175(1)(b): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 175(1)(c): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

176 Conditions to lapse if public funding ceases

(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,—

(a) the conditions deemed by section 175 to be incorporated in every radio licence or spectrum licence that relates to any frequency used for the purpose of the operation of the service shall lapse; and

(b) there shall be payable to the Secretary, in respect of each such licence (being a licence granted pursuant to section 174), by the holder of the licence, the annual levy referred to in section 149(1)(a), and the provi-

sions of sections 149, 150, and 153 shall apply, as if the licence had been granted to the rightholder pursuant to section 145.

(2) For the purposes of subsection (1), the specified date shall be either—

(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

(b) where there is no contract of the kind referred to in paragraph (a), 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.

Section 176: substituted, on 1 December 1995, by section 20 of the Radio New Zealand Act 1995 (1995 No 52).

Section 176(1)(a): amended, on 31 October 2006, by section 34 of the Radiocommunications Amendment Act 2006 (2006 No 54).

Section 176(1)(a): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

177 Conditions of licences relating to AM Network

(1) This section applies to every spectrum licence that is granted, pursuant to section 174, to Radio New Zealand in relation to the frequencies used for the purposes of the operation of the service known as the AM Network.

(2) The following conditions shall be deemed to be incorporated into every spectrum licence to which this section applies:

(a) that the first priority for the use of the frequency to which the spectrum licence relates shall be the broadcasting of the proceedings of the House of Representatives pursuant to any agreement for the time being in force between the rightholder and any other person:

(b) *[Repealed]*

(c) that the rightholder shall pay to the Secretary an annual levy calculated in accordance with subsection (3), which levy is in addition to any fees payable in respect of the spectrum licence under any regulations made under section 135.

(3) The annual levy payable pursuant to subsection (2)(c) by the rightholder—

(a) shall be payable in respect of each financial year during which the rightholder holds any spectrum licence to which this section applies; and

(b) shall be an amount equal to 1.5% of the gross income of the rightholder in the financial year in respect of which the levy is payable, being gross income derived from the provision of all services involving the exercise of the rights conferred by any spectrum licence to which this section

applies (other than income derived from the provision of any service referred to in paragraph (a) of subsection (2)); and

(c) shall be paid not later than 6 months after the end of the financial year to which it relates.

(4) Subsections (2) to (4) of section 150 shall, with all necessary modifications, apply in respect of the levy payable pursuant to subsection (2)(c) as if the levy were payable pursuant to section 149(1)(a).

(5) For the purposes of subsection (3)(b), the term **gross income** has the meaning given to that term by section 144.

Section 177(1): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 177(2): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 177(2)(a): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 177(2)(a): amended, on 1 July 1994, by section 2 of the Radiocommunications Amendment Act 1994 (1994 No 57).

Section 177(2)(b): repealed, on 1 December 1995, by section 20 of the Radio New Zealand Act 1995 (1995 No 52).

Section 177(2)(c): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 177(3)(a): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 177(3)(b): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 177(3)(b): amended, on 1 December 1995, by section 20 of the Radio New Zealand Act 1995 (1995 No 52).

178 Conditions of licences relating to 2YB service

(1) This section applies to every spectrum licence that is granted, pursuant to section 174, to Radio New Zealand in relation to the frequencies used for the purposes of the operation of the service known as 2YB.

(2) The following conditions shall be deemed to be incorporated into every spectrum licence to which this section applies:

(a) that in relation to the service known as Wellington Access Radio, provision will be made for that service on the frequency to which the spectrum licence relates, being provision that, taken overall, is no less favourable than the provision afforded to that service on that frequency in the year 1989:

(b) *[Repealed]*

(c) that the rightholder shall pay to the Secretary an annual levy calculated in accordance with subsection (3), which levy is in addition to any fees payable in respect of the spectrum licence under any regulations made under section 135.

(3) The annual levy payable pursuant to subsection (2)(c) by the rightholder—

(a) shall be payable in respect of each financial year during which the rightholder holds any spectrum licence to which this section applies; and

(b) shall be an amount equal to 1.5% of the gross income of the rightholder in the financial year in respect of which the levy is payable, being gross income derived from the provision of all services involving the exercise of the rights conferred by any spectrum licence to which this section applies (other than income derived from the provision of any service referred to in paragraph (a) of subsection (2)); and

(c) shall be paid not later than 6 months after the end of the financial year to which it relates.

(4) Subsections (2) to (4) of section 150 shall, with all necessary modifications, apply in respect of the levy payable pursuant to subsection (2)(c) as if the levy were payable pursuant to section 149(1)(a).

(5) For the purposes of subsection (3)(b), the term **gross income** has the meaning given to that term by section 144.

Section 178(1): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 178(2): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 178(2)(a): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 178(2)(b): repealed, on 1 December 1995, by section 20 of the Radio New Zealand Act 1995 (1995 No 52).

Section 178(2)(c): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 178(3)(a): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 178(3)(b): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 178(3)(b): amended, on 1 December 1995, by section 20 of the Radio New Zealand Act 1995 (1995 No 52).

Crown not entitled to transitional rights

179 Crown not entitled to transitional rights

Notwithstanding anything in sections 145 to 178, nothing in this Part shall confer on the Crown the right to be granted any licence.

Conditions deemed to be incorporated in licences granted to TV3

180 Conditions deemed to be incorporated in licences granted to TV3

(1) This section applies to the following licences in any case where the licence was or is granted for the purposes of the television service known as TV3:

(a) a radio licence granted under the Telecommunications Act 1987 that is deemed, on the commencement of this Act, to be a licence granted under Part 13:

(b) a radio licence granted after the commencement of this Act:

(c) a spectrum licence granted under section 48(b).

(2) The following conditions shall be deemed to be incorporated into every licence to which this section applies:

(a) that the interests and concerns of Maori shall be a prominent element in TV3's programming and presentation:

(b) that in the third year after it commences broadcasting, TV3 shall broadcast a total of not less than 52 hours of programmes that are specifically designed to be of interest to Maori:

(c) that TV3 shall ensure that not less than the following percentages of its total programming (excluding advertising and other promotional programmes) in any year consists of programmes that reflect and develop a New Zealand identity and culture or are specifically targeted at a New Zealand audience:

(i) in its first year of broadcasting, 26.5%:

(ii) in its second year of broadcasting, 36.5%:

(iii) in its third year of broadcasting, 37.9%.

(3) The conditions deemed by subsection (2) to be incorporated in every licence to which this section applies shall lapse at the close of 31 December 1992.

(4) In calculating, for the purposes of paragraph (b) of subsection (2), the number of hours of programmes to which that paragraph applies that have been broadcast, advertising and promotional programmes broadcast during the course of any such programme shall be deemed to be part of that programme.

Section 180(1)(a): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 180(1)(b): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Section 180(1)(c): amended, on 12 October 2001, by section 54 of the Radiocommunications Amendment Act 2000 (2000 No 8).

Miscellaneous provisions

181 Priorities under Part 12 of licences granted to incumbents

(1) For the purposes of section 107, every licence granted to any person pursuant to any provision of this Part shall,—

(a) in relation to any other licence that is granted pursuant to any provision of this Part, be deemed to have been granted at the same time as that other licence:

(b) in relation to any licence granted other than pursuant to any provision of this Part, be deemed to have been granted before that other licence.

(2) Where,—

(a) pursuant to any provision of this Part, any person is registered as manager in respect of any frequency; and

(b) that person creates, in respect of that frequency, any licence (being a licence to which section 48(a) applies) for the purposes of exercising any rights previously exercised by that person pursuant to the radio apparatus licence that related to that frequency immediately before a record of management rights was recorded pursuant to section 10(2) in relation to that frequency,—

subsection (1) shall apply to that licence as if it were a licence granted to that person pursuant to a provision of this Part.

182 Payments inclusive of goods and services tax

The amount of any payment required to be made by section 149 or section 157 or section 164 or section 177(2)(c) or section 178(2)(c), whether that amount is specified in any of those sections or is calculated in accordance with any of the provisions of this Part, is inclusive of goods and services tax under the Goods and Services Tax Act 1985.

183 Recovery of payments

(1) Any payment required by section 149 or section 157 or section 164 or section 177(2)(c) or section 178(2)(c) that is not paid in accordance with this Act may be recovered from the person liable at the suit of the Secretary in any court of competent jurisdiction.

(2) Where any person fails wholly or in part to make any payment required by section 149 or section 157 or section 164 or section 177(2)(c) or section 178(2)(c) to be made to the Secretary by that person, an amount equal to the total for the time being unpaid to the Secretary in respect of that payment, and in respect of any judgment obtained for that payment (including any costs, fees, or expenses included in the judgment or otherwise payable by that person to the Secretary in respect of the judgment) shall be a charge on all the real and personal property of that person.

(3) The provisions of section 169 of the Tax Administration Act 1994 (other than subsections (1) and (10)) shall, with all necessary modifications, apply in respect of any charge created by subsection (2) as if that charge were a charge created by that section and as if every reference in those provisions to the Commissioner were a reference to the Secretary.

(4) *[Repealed]*

(5) *[Repealed]*

(6) *[Repealed]*

Section 183(3): amended, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

Section 183(3): amended, on 1 April 1995 (applying with respect to the tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 183(4): repealed, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

Section 183(5): repealed, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

Section 183(6): repealed, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

Schedule 1
Requirements in relation to radio licences and spectrum licences

ss 101, 111

Schedule 1: substituted, on 12 October 2001, by section 55 of the Radiocommunications Amendment Act 2000 (2000 No 8).

1 Compliance with International Radio Regulations

Every person transmitting radio waves must comply with the International Radio Regulations.

2 False or misleading communication

No person may—

(a) cause or permit the transmission, under any spectrum licence, radio licence, or exemption by regulations made under this Act from the requirement to obtain a radio licence or spectrum licence, of any radiocommunications of a false, fictitious, or misleading character; or

(b) cause or permit to be transmitted any false or deceptive distress signal or distress call.

3 Breach of other enactment

No person may transmit radio waves under a radio licence, a spectrum licence, or an exemption by regulations made under this Act from the requirement to obtain a radio licence or spectrum licence, in breach of any other enactment.

Schedule 2
Enactments consequentially amended

s 139(3)

Broadcasting Act 1989 (1989 No 25)

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

Companies Act 1955 (1955 No 63) (RS Vol 15, p 89)

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

Industrial and Provident Societies Amendment Act 1952 (1952 No 45) (RS Vol 7, p 445)

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

Schedule 3
Regulations deemed to have been made pursuant to this Act

s 141

Radio Regulations 1987 (SR 1987/412)

Radio Regulations 1987, Amendment No 1 (SR 1988/69)

Radio Regulations 1987, Amendment No 2 (SR 1988/304)

Radio Regulations 1987, Amendment No 3 (SR 1989/7)

Radio Regulations 1987, Amendment No 4 (SR 1989/145)

Radio Regulations 1987, Amendment No 5 (SR 1989/200)

Schedule 4
Frequencies to which section 145 applies

s 145

Part A

526.50 kHz to 1606.50 kHz

44.00 MHz to 51.00 MHz

54.00 MHz to 68.00 MHz

88.50 MHz to 100.00 MHz

174.00 MHz to 230.00 MHz

Part B

518.00 MHz to 582.00 MHz

646.00 MHz to 806.00 MHz

Schedule 5
AMPS B Band

s 155

835.005 MHz to 844.995 MHz

880.005 MHz to 890.000 MHz

Schedule 6
2 frequency land mobile frequencies

s 162

81.00000 MHz to 84.03125 MHz
84.97500 MHz to 88.00000 MHz
100.99375 MHz to 104.01875 MHz
104.96875 MHz to 108.00000 MHz
151.00000 MHz to 153.41250 MHz
153.59375 MHz to 156.00000 MHz
450.27500 MHz to 453.30000 MHz
455.31250 MHz to 458.33750 MHz
461.81250 MHz to 464.81250 MHz
467.00000 MHz to 470.00000 MHz
472.00000 MHz to 476.00000 MHz
477.98750 MHz to 481.98750 MHz
483.98750 MHz to 487.98750 MHz
490.00000 MHz to 494.00000 MHz

Schedule 7
Entitlements to specific licences

s 170

Frequency	Operator	Location
540 kHz	Radio Rhema Incorporated	Papamoa
585 kHz	Radio Ngati Porou Charitable Trust	Ruatoria
594 kHz	Radio Rhema Incorporated	Timaru
603 kHz	Aotearoa Maori Radio Trust	Auckland
621 kHz	Radio Rhema Incorporated	Dunedin
648 kHz	Radio Rhema Incorporated	Mahia
801 kHz	Radio Rhema Incorporated	Nelson
855 kHz	Radio Rhema Incorporated	Hamilton
1161 kHz	Nga Kaiwhakapumau I Te Reo	Wellington
1251 kHz	Radio Rhema Incorporated	Auckland
1305 kHz	Otago Radio Association Inc	Dunedin
1350 kHz	Trustees of the Te Arawa Lakes Trust	Rotorua
1350 kHz	Mang-o-nui Limited	Rotorua
1368 kHz	Tauranga District Museum and Historic Village	Tauranga
1404 kHz	Radio Rhema Incorporated	Invercargill
1503 kHz	Radio Rhema Incorporated	Wellington
1503 kHz	Radio Rhema Incorporated	Christchurch
1602 kHz	Radio For the Print Disabled Incorporated	Levin
89.0 MHz	Ex-Static Society Incorporated	Blenheim
89.0 MHz	Victoria University of Wellington Students Association Incorporated	Wellington
89.0 MHz	Waikato Students Union Incorporated	Hamilton
91.0 MHz	Otago University Students Association Incorporated	Dunedin
92.8 MHz	Te Whare Awhina O Te Iwi Trust	Kaitaia
95.0 MHz	Campus Radio BFM Ltd	Auckland
95.1 MHz	Radio Rhema Incorporated	Taupo
96.3 MHz	Otematata Televiewers Society	Otematata
96.9 MHz	Canterbury Communications Trust	Christchurch
97.3 MHz	Otematata Televiewers Society	Otematata
98.3 MHz	University of Canterbury Students Association	Christchurch
99.4 MHz	Massey University Students Association	Palmerston North

Schedule 7: amended, on 26 September 2006, by section 99(2) of the Te Arawa Lakes Settlement Act 2006 (2006 No 43).

Schedule 8
General provisions relating to material incorporated by reference in regulations

s 134(4)

Schedule 8: added, on 29 July 2008, by section 6 of the Radiocommunications Amendment Act (No 2) 2008 (2008 No 51).

1 Effect of material incorporated by reference in regulations

(1) This clause and clauses 2 to 8 apply to material incorporated by reference in regulations made in reliance on section 134(1D).

(2) Material incorporated by reference in regulations has effect as part of the regulations.

2 Effect of amendments to, or replacement of, material incorporated by reference in regulations

An amendment to, or replacement of, material incorporated by reference in regulations (**regulations A**) has legal effect as part of regulations A only if regulations made after the making of regulations A state that the particular amendment or replacement has that effect.

3 Proof of material incorporated by reference

(1) A copy of the material incorporated by reference in regulations, including any amendment to, or replacement of, the material, must be—

(a) certified as a correct copy of the material by the Secretary; and

(b) retained by the Secretary.

(2) The production in proceedings of a certified copy of the material is, in the absence of evidence to the contrary, sufficient evidence of the incorporation in the regulations of the material.

4 Effect of expiry or revocation of material incorporated by reference

Material incorporated by reference in regulations that expires or is revoked, or that ceases to have effect, ceases to have legal effect as part of the regulations only if regulations state that the material is revoked or ceases to have legal effect.

5 Access to material incorporated by reference

(1) The Secretary—

(a) must make the material referred to in subclause (2) available for inspection during working hours free of charge at the head office of the Ministry of Economic Development and at any other places that the Secretary determines are appropriate; and

(b) must make copies available for purchase at a reasonable price; and

(c) may make copies of the material available in any other way that the Secretary considers appropriate in the circumstances (for example, on an Internet site); and

(d) must give notice in the *Gazette* stating that—

(i) the material is incorporated in the regulations and the date on which the regulations were made; and

(ii) the material is available for inspection during working hours, free of charge, and the location of the place or places at which it can be inspected; and

(iii) copies of the material can be purchased and the location of the place or places at which they can be purchased; and

(iv) if copies of the material are available under paragraph (c), the material is available in other ways, and giving the details of how and where it can be accessed and obtained.

(2) In this clause, **material** is—

(a) material incorporated by reference in regulations:

(b) any amendment to, or replacement of,—

(i) that material that is incorporated in the regulations; or

(ii) the material referred to in paragraph (a) with the amendments or replacement material incorporated within it:

(c) if the material referred to in paragraph (a) or (b) is not in an official New Zealand language, as well as the material itself, an accurate translation of the material in an official New Zealand language.

(3) A failure to comply with this clause does not invalidate regulations that incorporate material by reference.

6 Application of Legislation Act 2019 to material incorporated by reference

Subpart 1 of Part 3 and section 114 of the Legislation Act 2019 do not apply to material that is incorporated by reference in regulations merely because it is incorporated.

Schedule 8 clause 6: replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

7 Application of Regulations (Disallowance) Act 1989 to material incorporated by reference

[Repealed]

Schedule 8 clause 7: repealed, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

8 Application of Standards and Accreditation Act 2015 not affected

Clauses 1 to 7 do not affect the application of sections 29 to 32 of the Standards and Accreditation Act 2015.

Schedule 8 clause 8: replaced, on 1 March 2016, by section 45(1) of the Standards and Accreditation Act 2015 (2015 No 91).

Radiocommunications Amendment Act 2000

Public Act	2000 No 8
Date of assent	7 April 2000
Commencement	see section 2

1 Title

(1) This Act is the Radiocommunications Amendment Act 2000.

(2) In this Act, the Radiocommunications Act 1989 is called "the principal Act".

2 Commencement

This Act comes into force on a date to be fixed by the Governor-General by Order in Council.

Section 2: Radiocommunications Amendment Act 2000 brought into force, on 12 October 2001, by clause 2 of the Radiocommunications Amendment Act Commencement Order 2001 (SR 2001/239).

57 Interference caused by lawful exercise of rights

If, before the commencement of this Act, a rightholder has given notice in accordance with section 107 or section 109 of the principal Act (as in force before the coming into force of this Act), those sections continue to apply as if they had not been repealed.

58 Transitional provisions relating to power floors

(1) Where a record of management rights registered in accordance with the principal Act was in force immediately before the commencement of this Act, the power floor applying to each frequency in that record of management rights is, unless modified in accordance with section 34B of the principal Act (as inserted by section 17), –50dBW.

(2) Every reference in the principal Act (as amended by this Act) to a power floor for those records of management rights to which subsection (1) applies must, unless modified in accordance with section 34B of the principal Act (as inserted by section 17), be read as a reference to –50dBW.

(3) Every application for a management right made before the commencement of this Act is deemed to include a power floor of –50dBW.

59 Spectrum licences registered in accordance with Part 3 of principal Act

(1) Where any licence was registered in accordance with Part 3 of the principal Act and was in force immediately before the commencement of this Act, that licence is deemed to be a spectrum licence granted in accordance with Part 3 of the principal Act as amended by this Act.

(2) Nothing in this Act authorises any manager to create any further spectrum licence in relation to any frequency within a record of management rights if the spectrum licence would contravene provisions relating to maximum

permitted interfering signals or receive coverage location in a licence granted in accordance with Part 3 of the principal Act in force immediately before the commencement of this Act.

(3) Where a licence granted in accordance with Part 3 of the principal Act and in force immediately before the commencement of this Act refers to a maximum bandwidth, that maximum bandwidth, together with the frequency, must be read as a reference to a frequency band.

(4) A licence to which subsection (1) applies may be modified or cancelled only in accordance with section 57B or section 57C of the principal Act (as substituted by section 25) as if the licence provided that it could be modified or cancelled only by the rightholder and manager together.

(5) If maximum permitted interfering signals specified in a licence granted in accordance with Part 3 of the principal Act and in force immediately before the commencement of this Act are exceeded by any emissions, those emissions are deemed to cause harmful interference for the purpose of sections 106 to 109A of the principal Act.

60 Licences granted under Part 13 of principal Act

(1) Where any licence has been granted for the installation, operation, or use of radio apparatus in accordance with Part 13 of the principal Act before the commencement of this Act, or was deemed to be a licence granted under that Part by section 140 of the principal Act, and was in force immediately before the commencement of this Act, that licence is deemed to be a radio licence and the following modifications apply to the licence:

(a) the licence is deemed to include a requirement that persons transmitting in accordance with the licence comply with Schedule 1 of the principal Act (as substituted by section 55):

(b) the frequencies in the licence used to describe the radio apparatus are the frequencies on which the transmission of radio waves are authorised by the licence.

(2) If a licence to which subsection (1) applies does not describe the radio apparatus by referring to radio frequencies, the holder of the licence must return the licence to the Secretary who must amend the licence to include the frequencies upon which transmissions can be made in accordance with the licence.

Notes

1 General

This is a consolidation of the Radiocommunications Act 1989 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Statutes Amendment Act 2025 (2025 No 74): Part 33

Crimes (Countering Foreign Interference) Amendment Act 2025 (2025 No 71): section 17

Secondary Legislation Act 2021 (2021 No 7): section 3

Public Service Act 2020 (2020 No 40): section 135

Intelligence and Security Act 2017 (2017 No 10): section 335

Standards and Accreditation Act 2015 (2015 No 91): section 45(1)

Companies Amendment Act 2013 (2013 No 111): section 14

Legislation Act 2012 (2012 No 119): section 77(3)

Radiocommunications Amendment Act 2012 (2012 No 65)

Search and Surveillance Act 2012 (2012 No 24): section 295

Criminal Procedure Act 2011 (2011 No 81): section 413

Radiocommunications Amendment Act 2010 (2010 No 80)

Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34): section 861

Policing Act 2008 (2008 No 72): section 116(a)(ii)

Radiocommunications Amendment Act (No 2) 2008 (2008 No 51)

Radiocommunications Amendment Act 2008 (2008 No 16)

Income Tax Act 2007 (2007 No 97): section ZA 2(1)

Radiocommunications Amendment Act 2007 (2007 No 75)

Insolvency Act 2006 (2006 No 55): section 445

Radiocommunications Amendment Act 2006 (2006 No 54)

Te Arawa Lakes Settlement Act 2006 (2006 No 43): section 99(2)

Radiocommunications Amendment Act (No 2) 2005 (2005 No 111)

Radiocommunications Amendment Act 2005 (2005 No 67)

Government Communications Security Bureau Act 2003 (2003 No 9): section 32

Radiocommunications Amendment Act 2002 (2002 No 74)

Telecommunications Act 2001 (2001 No 103): section 159(3)

Radiocommunications Amendment Act Commencement Order 2001 (SR 2001/239)

Ministry of Economic Development Act 2000 (2000 No 28): section 5(a)

Radiocommunications Amendment Act 2000 (2000 No 8)

Radiocommunications Amendment Act 1996 (1996 No 76)

Radio New Zealand Act 1995 (1995 No 52): section 20

Radiocommunications Amendment Act 1995 (1995 No 38)

Income Tax Act 1994 (1994 No 164): section YB 1

Radiocommunications Amendment Act 1994 (1994 No 57)

Radiocommunications Amendment Act (No 2) 1990 (1990 No 104)

Commerce Amendment Act 1990 (1990 No 41): section 47

Radiocommunications Amendment Act 1990 (1990 No 22)

Public Finance Act 1989 (1989 No 44): section 65R(3)

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