

Aotearoa New Zealand Public Media Bill

Government Bill

Explanatory note

General policy statement

This Bill seeks to strengthen the delivery of public media services to New Zealanders by establishing a new public media entity.

The media landscape in New Zealand is changing rapidly. Trends include increasing competition from international content providers, along with a continued audience shift to online platforms for all genres of entertainment and for news and current affairs. These trends will continue to evolve as technology and delivery of content change.

In the face of these challenges, the Government's objective is to ensure that all New Zealanders can access relevant and trusted public media content across the platforms they use by—

- better aligning Government investment across platforms, increasing flexibility to respond to future demographic and technological changes, and reducing inefficiencies:
- ensuring a more sustainable long-term funding model:
- enabling a greater focus on currently under-served and under-represented audiences, while continuing to provide for existing audiences.

The Government also intends to consider and provide for Māori interests through the delivery of public media services.

To achieve those objectives, the Bill establishes Aotearoa New Zealand Public Media as an autonomous Crown entity that will—

- be required to focus on achieving public media outcomes through objectives, functions, and operating principles set out in a Charter:
- have obligations through its governance arrangements, delivery of its Charter, engagement with Māori, and working with the Māori media sector, so as to

recognise and respect the Crown's responsibility to give effect to the principles of te Tiriti o Waitangi/the Treaty of Waitangi:

- be editorially independent, with Ministers unable to direct the entity or remove board members in relation to editorial matters and the entity being required by its Charter to demonstrate editorial independence, impartiality, and balance, and to provide reliable, accurate and comprehensive regional, national, and international news and information;
- be required to maximise access to content, including by ensuring that content is made freely available and accessible to all New Zealanders and that it is predominantly free of charge (if content is charged for on first broadcast, it must subsequently be broadcast free within a reasonable time period);
- be required to work collaboratively across the media sector, wherever appropriate and financially responsible, to support a diverse, capable, and resilient media ecosystem and to co-ordinate with NZ On Air and Te Māngai Pāho to avoid any gaps or duplication in the public provision of content;
- be governed by a board that has skills and experience relating to financial management and te ao Māori and tikanga Māori;
- be able to be held to account for delivery of its Charter, its other statutory functions, and its financial performance through planning and reporting requirements over and above the standard requirements in the Crown Entities Act 2004, and a requirement to report on specific aspects of its performance in its annual report (informed by audience research), and provision for the House of Representatives to review the Charter and Aotearoa New Zealand Public Media's performance against it.

The Government intends that the transition from RNZ and TVNZ to Aotearoa New Zealand Public Media should be as efficient as possible, while providing certainty for employees and the broader media sector, providing continuity of service for audiences, and giving Aotearoa New Zealand Public Media adequate time and flexibility to resolve more complex contractual issues.

The Bill therefore provides, that on commencement, all shares in RNZ and TVNZ will transfer to Aotearoa New Zealand Public Media (along with functions, land, and property), and RNZ and TVNZ will exist as subsidiaries of Aotearoa New Zealand Public Media. RNZ and TVNZ subsidiaries will become subsidiaries of Aotearoa New Zealand Public Media.

RNZ and TVNZ employees (with the exception of the chief executives) will transfer to Aotearoa New Zealand Public Media on the same terms and conditions, with no impact on their entitlements or continuity of service.

All services that were previously provided commercial-free by RNZ will continue to be provided commercial-free.

Agreements with international parties will remain with RNZ and TVNZ, unless renegotiated separately, and will not be affected by the commencement of the legislation. Aotearoa New Zealand Public Media's board must set a date on which RNZ and

TVNZ will be dissolved and any contractual rights remaining with RNZ and TVNZ will be transferred to Aotearoa New Zealand Public Media.

The Bill also clarifies how other enactments will apply during and after the transition from RNZ and TVNZ to Aotearoa New Zealand Public Media, reflecting that the ultimate owner of RNZ and TVNZ will not change (it remains the Crown).

Departmental disclosure statement

The Ministry for Culture and Heritage is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2022&no=146>

Regulatory impact statement

The Treasury's Regulatory Impact Analysis team has determined that this proposal is exempted from the requirement to provide a regulatory impact statement because it would substantively duplicate the Strong Public Media Business Case published by the Ministry for Culture and Heritage in August 2021. The Treasury has reviewed that business case and confirmed that it contains the requirements that would otherwise be included in a regulatory impact statement.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill will come into force on **1 March 2023**.

Part 1

Preliminary provisions

Clause 3 provides that the purpose of the Bill is to establish Aotearoa New Zealand Public Media, dissolve Radio New Zealand Limited (**RNZ**) and Television New Zealand Limited (**TVNZ**), and provide for transitional arrangements.

Clause 4 sets out the definitions of terms used in the Bill. Key terms include Charter, content, and broadcasting.

Charter is given the meaning set out in *clause 13* (discussed below).

Content is defined to mean sounds and visual images intended to inform, enlighten, or entertain (or intended to promote the interests of any person or promote any product or service).

Broadcasting is defined to mean transmitting or making available content by radio waves or other means of telecommunication.

This definition includes transmitting content on demand. And it includes transmitting visual images consisting predominantly of alphanumeric text (or alphanumeric text and software). (For example, the text of a news article posted on an Internet site.) The definition also includes any transmission made solely for performance or display in a public place. These 3 aspects of the definition contrast with the way broadcasting is defined in the Broadcasting Act 1989. However, that Act has different purposes.

Clause 5 indicates how the Bill recognises and respects the Crown's responsibility to give effect to the principles of te Tiriti o Waitangi/the Treaty of Waitangi.

Clause 6 provides that *Schedule 1* sets out transitional, savings, and related provisions.

Clause 7 provides that the Bill will bind the Crown.

Part 2

Aotearoa New Zealand Public Media established

Clause 8 establishes Aotearoa New Zealand Public Media.

Clause 9 provides that Aotearoa New Zealand Public Media is a Crown entity and the Crown Entities Act 2004 applies (except to the extent that the Bill expressly provides otherwise).

Clause 10 provides that the board of Aotearoa New Zealand Public Media consists of 6 to 9 members. At least 2 board members must have knowledge of te ao Māori and tikanga Māori. The appointing Minister (in this case, the Minister for Broadcasting and Media) must consult the Minister for Māori Development about this. The persons appointed must, collectively, as agreed by the Minister of Finance having regard to their financial management skills or experience, have the appropriate skills, knowledge, or background to assist the new entity to perform its Charter. The Minister of Finance must be consulted about any removal of a board member.

Clauses 11, 12, and 13 provide for the objectives, functions, and operating principles of Aotearoa New Zealand Public Media. Together, these are the Charter of Aotearoa New Zealand Public Media.

Clause 14 provides that the board of Aotearoa New Zealand Public Media has 2 duties in addition to the duties required by the Crown Entities Act 2004. The 2 additional duties are to ensure that Aotearoa New Zealand Public Media—

- acts in accordance with its Charter; and
- engages with Māori about relevant strategies and policies.

Clause 15 provides for the role of the responsible Minister. The Minister must perform the role consistently with the Charter. *Clause 15* restricts the Minister's ability to direct the entity, and the Minister's ability to remove board members, in relation to editorial matters. This is to protect editorial independence. These restrictions are largely the same as those relating to TVNZ and RNZ.

If content is charged for on first broadcast, *clause 16* imposes a duty on Aotearoa New Zealand Public Media to subsequently broadcast the content free within a reasonable time period.

Clause 17 requires Aotearoa New Zealand Public Media to collaborate with Māori media entities and other media entities. However, any collaboration must be consistent with the Charter and with section 51 of the Crown Entities Act 2004. The requirement to be consistent with section 51 precludes any collaboration that would not be financially responsible.

Clause 18 requires Aotearoa New Zealand Public Media to have regard to the funding policies adopted by the Broadcasting Commission (known as NZ on Air) and Te Reo Whakapuaki Irirangi. Equivalent obligations are imposed on those 2 bodies by an amendment to the Broadcasting Act 1989 in *Schedule 2*.

Clause 19 provides that section 97(g) of the Crown Entities Act 2004 does not apply to Aotearoa New Zealand Public Media. This has the effect that Aotearoa New Zealand Public Media may require or permit any subsidiaries to perform its statutorily independent functions.

Clauses 20 and 21 set out reporting requirements for Aotearoa New Zealand Public Media.

Clause 22 provides that the House of Representatives (Parliament) must review the Charter every 5 years. (This is currently done for RNZ's Charter.) It must also review Aotearoa New Zealand Public Media's performance of the Charter.

Part 3

Amendments to other enactments

Clause 23 provides for the amendments to other enactments set out in *Schedule 2*.

Clause 24 repeals the Radio New Zealand Act 1995 and the Television New Zealand Act 2003.

Schedules

Schedule 1 provides for the transition of the Crown's provision of public broadcasting from TVNZ and RNZ to Aotearoa New Zealand Public Media.

Clauses 3, 6, and 11 provide that the shares, land and other property, and employees of TVNZ and RNZ transfer to Aotearoa New Zealand Public Media on the commencement date. (The functions of RNZ and TVNZ transfer by virtue of their Acts being repealed by the Bill and their public media functions being required by the Bill to be carried out by Aotearoa New Zealand Public Media.)

The only exception to the property transfer is that property consisting of contractual rights under an international agreement continues as before, until RNZ and TVNZ are dissolved on the dissolution date (*clauses 7 and 17 to 19*).

The shares in RNZ and TVNZ's current subsidiaries also transfer to Aotearoa New Zealand Public Media (*clause 4*).

Clause 8 prevents Aotearoa New Zealand Public Media from charging for or including any advertising on a service that is the same, or substantially the same, as a service provided by RNZ before the commencement of the Bill. (Advertising that promotes Aotearoa New Zealand Public Media's services is allowed though.)

Clauses 9 and 10 provide for the interaction of other legislation with the transfers of land and property. *Clause 9* disapplies obligations under the Public Works Act 1981. The effect is that the transferred land is to be treated as if it had not been transferred for the purposes of that Act.

Clause 10 disapplies Parts 2 and 3 of the Commerce Act 1986. An effect of *clause 10* is that the transfers of shares and assets are not acquisitions for the purposes of section 47 of the Commerce Act 1986.

Clauses 11 to 13 provide that RNZ and TVNZ employees (other than the chief executives) transfer to Aotearoa New Zealand Public Media on the same terms and conditions. Their employment is continuous for the purposes of various employment-related Acts. The employment of the chief executives ceases. The employment of the other employees does not cease and they are not entitled to compensation relating to the transfer.

Clause 14 provides other restrictions on redundancy payments for the employees. The first redundancy for each employee after the commencement date will not give rise to a redundancy payment if—

- the employee is offered, and accepts, another position with Aotearoa New Zealand Public Media; or
- the employee is offered an alternative position with Aotearoa New Zealand Public Media that has comparable duties and responsibilities.

Both positions must have no less favourable terms and conditions and treat service in either position as if it were continuous. *Clause 14* therefore has the effect that when Aotearoa New Zealand Public Media is in a position to restructure its business after its inception, it is able to redeploy employees as it thinks appropriate to carry out the Charter and carry on its business. This clause is essentially the same as the provision that applies to public service employees who are made redundant (section 88 of the Public Service Act 2020).

Clauses 15 and 16 provide for consequential changes of references given the various transfers.

Schedule 2 contains amendments to other enactments that will occur on the commencement date of the Bill. Some of these amendments replace references to TVNZ and RNZ with references to Aotearoa New Zealand Public Media. The replacements have the effect that Aotearoa New Zealand Public Media gains the rights and responsibilities associated with—

- being a lifeline utility regulated as such under the Civil Defence Emergency Management Act 2002; and
- being a broadcaster regulated under the Broadcasting Act 1989; and
- having entitlements to frequencies under the Radiocommunications Act 1989.

Other consequential amendments give effect to the Crown entity status of Aotearoa New Zealand Public Media. Those amendments include the following:

- adding Aotearoa New Zealand Public Media to Part 2 of Schedule 1 of the Crown Entities Act 2004. This means that Aotearoa New Zealand Public Media is an autonomous Crown entity;
- adding Aotearoa New Zealand Public Media to Part 2 of Schedule 1 of the Ombudsmen Act 1975. This means that that Act will apply to Aotearoa New Zealand Public Media;
- adding Aotearoa New Zealand Public Media to Schedule 1 of the Official Information Act 1982. This means that that Act will apply to Aotearoa New Zealand Public Media.

Hon Willie Jackson

Aotearoa New Zealand Public Media Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Aotearoa New Zealand Public Media Act **2022**.

2 Commencement

This Act comes into force on **1 March 2023**.

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Part 1
Preliminary provisions

3 Purpose

The purpose of this Act is to—

- (a) establish Aotearoa New Zealand Public Media as a public broadcaster and provide for its objectives, functions, operating principles, and governance; and 10
- (b) dissolve RNZ and TVNZ; and
- (c) provide for transitional arrangements for the transfer of the Crown’s provision of public broadcasting from RNZ and TVNZ to Aotearoa New Zealand Public Media. 15

4 Interpretation

In this Act, unless the context otherwise requires,—

Aotearoa New Zealand Public Media means the Crown entity established by **section 8**

broadcasting means transmitting or making available content, whether or not encrypted, by radio waves or other means of telecommunication for reception by the New Zealand public by means of receiving apparatus 5

Charter has the meaning given in **section 13**

content means sounds or visual images, or a combination of sounds and visual images, intended to— 10

- (a) inform, enlighten, or entertain; or
- (b) promote the interests of any person; or
- (c) promote any product or service

RNZ means the Crown entity company Radio New Zealand Limited

TVNZ means the Crown entity company Television New Zealand Limited 15

visual image includes a visual image consisting predominantly of—

- (a) alphanumeric text; or
- (b) alphanumeric text and software.

5 Tiriti o Waitangi/Treaty of Waitangi

In order to recognise and respect the Crown's responsibility to give effect to the principles of te Tiriti o Waitangi/the Treaty of Waitangi,— 20

- (a) **section 10(3)** requires that at least 2 board appointments are made after consulting the Minister for Māori Development and having regard to an appointee's knowledge of te ao Māori and tikanga Māori:
- (b) **sections 11(1)(b), (2)(c), (d), and (e), 12(1)(c), (d), (e), and (2)(a)(ii), and 13(1)(b)** set out Charter objectives, functions, and operating principles in relation to te reo Māori or Māori: 25
- (c) **section 14(1)(b)** requires the board to ensure that Aotearoa New Zealand Public Media engages with Māori about relevant strategies and policies: 30
- (d) **section 17(1)** requires Aotearoa New Zealand Public Media to collaborate with Māori media entities (and other media entities) where this is financially responsible and consistent with the Charter:
- (e) **section 21(1)** requires the annual report to include an assessment of the extent to which Aotearoa New Zealand Public Media— 35
 - (i) is fulfilling its Charter; and
 - (ii) is engaging with Māori about relevant strategies and policies; and

- (iii) is collaborating with Māori media entities (and other media entities).

6 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms.

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7 Act binds the Crown

This Act binds the Crown.

Part 2

Aotearoa New Zealand Public Media established

Subpart 1—Aotearoa New Zealand Public Media established 10

8 Aotearoa New Zealand Public Media established

Aotearoa New Zealand Public Media is established.

9 Aotearoa New Zealand Public Media is Crown entity

- (1) Aotearoa New Zealand Public Media is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004. 15
- (2) The Crown Entities Act 2004 applies to Aotearoa New Zealand Public Media except to the extent that this Act expressly provides otherwise.

10 Board

- (1) The board of Aotearoa New Zealand Public Media consists of not fewer than 6, and not more than 9, members. 20
- (2) The persons appointed must, collectively, as agreed with the Minister of Finance having regard to their financial management skills or experience, have the appropriate skills, knowledge, or background to assist Aotearoa New Zealand Public Media to perform its Charter.
- (3) At least 2 persons must be appointed who, in the opinion of the responsible Minister (after consulting the Minister for Māori Development), are qualified for appointment having regard to their knowledge of te ao Māori and tikanga Māori. 25
- (4) This section does not limit section 29 of the Crown Entities Act 2004.
- (5) When removing a board member under section 37 of the Crown Entities Act 2004, the responsible Minister must consult the Minister of Finance. 30

Subpart 2—Charter

11 Objectives

- (1) The purpose of Aotearoa New Zealand Public Media is to contribute to—

-
- (a) a strong and distinctive New Zealand identity; and
 - (b) valued, visible, and flourishing te reo Māori and tikanga Māori; and
 - (c) an inclusive, enriched, and connected society; and
 - (d) a healthy, informed, and participative democracy.
- (2) Aotearoa New Zealand Public Media’s objectives are to— 5
- Strong and distinctive New Zealand identity*
- (a) reflect, represent, and help to shape the development of New Zealand’s unique identity and culture:
 - (b) provide shared experiences that contribute to a sense of citizenship and national identity: 10
- Valued, visible, and flourishing te reo Māori and tikanga Māori*
- (c) reflect the contribution of te ao Māori to a unique New Zealand identity and culture:
 - (d) promote understanding and use of te reo Māori and tikanga Māori among all New Zealanders: 15
 - (e) promote the telling of Māori stories to all New Zealanders:
- Inclusive, enriched, and connected society*
- (f) reflect, include, and serve New Zealand’s diverse society, languages, and cultures:
 - (g) support children’s and young people’s— 20
 - (i) emotional, physical, and mental well-being:
 - (ii) creativity, learning, and development:
 - (iii) social participation and sense of belonging:
 - (h) ensure that content and services are available and accessible to—
 - (i) all regions and communities; and 25
 - (ii) New Zealanders of all ages, genders, abilities, and ethnicities:
- Healthy, informed, and participative democracy*
- (i) support all New Zealanders to be informed and engaged citizens who participate fully in society:
 - (j) build awareness of the world and of New Zealand’s place in it: 30
 - (k) foster critical thought, counter misinformation, and promote informed and many-sided debate:
 - (l) support freedom of thought and expression.

12 Functions

- (1) The functions of Aotearoa New Zealand Public Media are to broadcast (and select, commission, or produce) freely available, accessible, and high-quality 35

- content across all genres that informs, enlightens, and entertains, including content that—
- (a) is predominantly and distinctively of New Zealand:
 - (b) covers events of national significance:
 - (c) is in, or uses, te reo Māori: 5
 - (d) promotes tikanga Māori:
 - (e) reflects Māori history, experiences, and perspectives to a wide audience:
 - (f) appeals to, and engages, a wide audience:
 - (g) caters for tastes, interests, and perspectives not catered for elsewhere:
 - (h) reflects the needs and experiences of New Zealanders— 10
 - (i) of all ages, genders, abilities, and ethnicities; and
 - (ii) from all regions and communities:
 - (i) is regional, national, and international news and information that is—
 - (i) reliable and accurate; and
 - (ii) comprehensive, impartial, and balanced. 15
- (2) Aotearoa New Zealand Public Media also has the following functions:
- (a) in relation to content it holds (or content held on its behalf),—
 - (i) to preserve and enable access to content that reflects New Zealand’s history:
 - (ii) to enable iwi, hapū, and Māori entities to have access to content 20
 by and about themselves, and to ensure that that content is preserved:
 - (b) to provide, or support the provision of, content and services that recognise New Zealand’s strong and enduring relationships with Pacific Island countries (and New Zealand’s interest in promoting and protecting 25
 Pacific languages):
 - (c) to perform any additional function that the responsible Minister adds in accordance with section 112 of the Crown Entities Act 2004 (*see **section 15(2)***).
- 13 Charter** 30
- (1) The Charter of Aotearoa New Zealand Public Media is to perform its functions, while acting consistently with its objectives and operating in accordance with the following principles:
- (a) demonstrating editorial independence, impartiality, and balance, particularly when broadcasting news and current affairs: 35

- (b) ensuring that Māori perspectives are reflected in the development and delivery of content and services for and about Māori, including by providing opportunities for Māori participation:
- (c) representing and reflecting the diversity of New Zealand’s communities:
- (d) striving to understand, engage, and serve New Zealanders of all ages, genders, abilities, ethnicities, regions, and communities: 5
- (e) ensuring that its content is broadcast predominantly free of charge:
- (f) identifying and working to address any areas where public broadcasting is not—
 - (i) easily accessible; or 10
 - (ii) meeting the needs of New Zealand’s diverse communities:
- (g) ensuring that the perspectives of under-served and under-represented audiences are reflected in the development and delivery of content and services, including by providing opportunities for participation by those audiences: 15
- (h) ensuring that the means of broadcasting content and services aligns with audience preferences and needs:
- (i) innovating and taking creative risks:
- (j) aiming for the highest standards of quality and integrity.
- (2) For the purposes of section 113 of the Crown Entities Act 2004, carrying out the Charter is a statutorily independent function. 20

Subpart 3—Board’s role

14 Additional collective duties of board

- (1) The board must ensure that Aotearoa New Zealand Public Media—
 - (a) acts in accordance with its Charter; and 25
 - (b) engages with Māori about relevant strategies and policies.
- (2) The duties in **subsection (1)**—
 - (a) apply in addition to the duties of the board in sections 49 to 52 of the Crown Entities Act 2004; and
 - (b) are collective duties owed to the responsible Minister for the purposes of section 58 of that Act. 30

Compare: 2020 No 52 s 19

Subpart 4—Minister’s role

15 Minister’s role

- (1) In relation to Aotearoa New Zealand Public Media, the responsible Minister must exercise or perform the powers, duties, and functions conferred or 35

imposed by this Act (or by the Crown Entities Act 2004) in a manner that is consistent with the Charter.

- (2) The Minister may, in accordance with section 112 of the Crown Entities Act 2004, add to the functions of Aotearoa New Zealand Public Media (if the additional function is consistent with the Charter). 5

Editorial independence

- (3) The Minister may not give a direction to Aotearoa New Zealand Public Media (or any of its members, subsidiaries, or employees) for any reason relating to broadcasting, selecting, commissioning, or producing particular content.
- (4) For example, the Minister must not give a direction in respect of— 10
- (a) any content; or
 - (b) any allegation or complaint relating to content; or
 - (c) the gathering or presentation of news or the preparation or presentation of any current affairs content; or
 - (d) standards administered under the Broadcasting Act 1989. 15
- (5) The Minister may not remove a member of Aotearoa New Zealand Public Media or any of its subsidiaries for any reason relating to broadcasting, selecting, commissioning, or producing particular content.
- (6) For example, the Minister must not remove a member for any reason relating to— 20
- (a) any content; or
 - (b) any allegation or complaint relating to content; or
 - (c) the gathering or presentation of news or the preparation or presentation of any current affairs content; or
 - (d) the responsibility of Aotearoa New Zealand Public Media or any of its subsidiaries for compliance with standards administered under the Broadcasting Act 1989. 25

Compare: 1995 No 52 s 13(1), (2); 2003 No 1 s 28(1), (2); 2003 No 21 s 10

Subpart 5—Duties

16 Duty to broadcast content free of charge 30

- (1) If there is a charge for content on its first broadcast, Aotearoa New Zealand Public Media must subsequently broadcast it free of charge.
- (2) The subsequent broadcast must be within a time period that is reasonable given the nature of the content and the circumstances.

17 Collaboration with media entities

- (1) Aotearoa New Zealand Public Media must, if doing so is consistent with the Charter and with section 51 of the Crown Entities Act 2004, collaborate with Māori media entities and other media entities.
- (2) The duty in **subsection (1)** is in addition to the duty in section 50(c) of the Crown Entities Act 2004 to collaborate with other public entities where practicable. 5

Guidance note

Section 51 requires a Crown entity board to ensure that the entity operates in a financially responsible manner. 10

18 Regard to relevant Crown funding policies

Aotearoa New Zealand Public Media must, when carrying out the Charter, have regard to the funding policies adopted by the Broadcasting Commission (NZ On Air) and Te Reo Whakapuaki Irirangi (the Māori Broadcasting Funding Agency). 15

Compare: 1989 No 25 s 39A

19 No duty to ensure subsidiary does not perform Aotearoa New Zealand Public Media's functions

Section 97(g) of the Crown Entities Act 2004 does not apply to Aotearoa New Zealand Public Media. 20

Guidance note

Section 97(g) requires a Crown entity parent to ensure (to the extent it is reasonably able) that each of its subsidiaries does not perform any of the parent's statutorily independent functions.

Compare: 1995 No 52 s 13(3); 2003 No 1 s 28(3) 25

Subpart 6—Reporting and review**20 Supply of information and statements to Ministers**

- (1) The board of Aotearoa New Zealand Public Media must supply to the Minister of Finance any information relating to the financial performance of the entity that that Minister requests as if the request were a request made by the responsible Minister under section 133 of the Crown Entities Act 2004 (and section 134 of that Act applies). 30
- (2) When Aotearoa New Zealand Public Media provides any of the following under the Crown Entities Act 2004 to the responsible Minister, Aotearoa New Zealand Public Media must also provide it to the Minister of Finance: 35
- (a) a statement of intent (or a draft or an amended statement of intent):

- (b) a statement of performance expectations (or a draft or an amended statement of performance expectations).
- (3) The Minister of Finance may comment in relation to matters of financial performance on a statement of intent or a statement of performance expectations (whether draft, final, or amended) under the Crown Entities Act 2004 in the same way as the responsible Minister. 5

21 Reporting

- (1) Aotearoa New Zealand Public Media must include in its annual report required by section 150 of the Crown Entities Act 2004 an assessment of the extent to which Aotearoa New Zealand Public Media— 10
 - (a) is fulfilling its Charter; and
 - (b) is engaging with Māori about relevant strategies and policies (*see **section 14(1)(b)***); and
 - (c) is collaborating with Māori media entities and other media entities under **section 17**. 15
- (2) In making the assessment, Aotearoa New Zealand Public Media must take into account—
 - (a) research relating to a representative selection of members of the public; and
 - (b) the measures, if any, it has taken as a result of the research. 20
- (3) For the purposes of **subsection (2)(a)**, Aotearoa New Zealand Public Media must undertake or obtain the research on a regular basis, but at least once a year.

Compare: 1995 No 52 s 8D

22 Review of Charter 25

- (1) The House of Representatives must periodically review the Charter and Aotearoa New Zealand Public Media's performance of the Charter.
- (2) The first review must be undertaken and completed as soon as practicable after the date that is 5 years after the commencement of this Act.
- (3) A subsequent review must be undertaken and completed as soon as practicable after the fifth anniversary of the later of the dates specified in **subsection (4)**. 30
- (4) For the purposes of **subsection (3)**, the dates are—
 - (a) the date on which the select committee that reviews the Charter presents its report to the House of Representatives;
 - (b) the date on which any subsequent legislation that amends the Charter comes into force. 35

Compare: 1995 No 52 s 8C

Part 3

Amendments to other enactments

23 Amendments to other enactments

Amend or revoke the enactments specified in **Schedule 2** as set out in that schedule.

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24 Repeals

The following Acts are repealed:

- (a) Radio New Zealand Act 1995 (1995 No 52):
- (b) Television New Zealand Act 2003 (2003 No 1).

Schedule 1

Transitional, savings, and related provisions

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Provisions relating to this Act as enacted

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Part 1

Provisions relating to this Act as enacted

Overview of transitional arrangements

1 Overview of transitional arrangements

- (1) This schedule transitions the Crown's provision of public broadcasting from 2 Crown entity companies to 1 autonomous Crown entity. 5
- (2) This clause is only a guide to the general scheme and effect of this schedule.

2 Interpretation

In this schedule, unless the context otherwise requires,—

commencement date means the day on which this Act comes into force under **section 2**, namely **1 March 2023** 10

dissolution date means the date set under **clause 17 of this schedule**

international agreement means an agreement—

- (a) with an international party; and
- (b) with a pre-commencement media company; and 15
- (c) that is in force immediately before the commencement date

pre-commencement media company means RNZ or TVNZ

pre-commencement subsidiary means one of the following subsidiaries of the pre-commencement media companies:

- (a) Freeview Limited: 20
- (b) Freeview Television Limited:
- (c) NZOOM Limited:
- (d) TVNZ International Limited:
- (e) TVNZ Investments Limited:
- (f) Sound Archives Nga Taonga Korero Limited. 25

Subpart 1—On and after commencement date

3 Shares in pre-commencement media companies transferred to Aotearoa New Zealand Public Media

- (1) On the commencement date, all shares in the pre-commencement media companies are transferred to Aotearoa New Zealand Public Media. 30
- (2) Section 96 of the Crown Entities Act 2004 does not apply in relation to that transfer.
- (3) Section 84 of the Companies Act 1993 applies.

- 4 Shares in pre-commencement subsidiaries transferred to Aotearoa New Zealand Public Media**
- (1) On the commencement date, all shares in the pre-commencement subsidiaries are transferred to Aotearoa New Zealand Public Media.
 - (2) Section 96 of the Crown Entities Act 2004 does not apply in relation to that transfer. 5
 - (3) Section 84 of the Companies Act 1993 applies.
- 5 Directors: no compensation for loss of office**
- (1) The directorships of the directors of the pre-commencement media companies cease on the commencement date. 10
 - (2) *See* section 91 of the Crown Entities Act 2004, which provides that no compensation is payable.
- 6 Land and property transferred to Aotearoa New Zealand Public Media**
- (1) On the commencement date, the following are transferred to Aotearoa New Zealand Public Media from the pre-commencement media companies: 15
 - (a) all land and interests in land:
 - (b) all other property except for property consisting of contractual rights under an international agreement.
 - (2) In any instrument relating to any property referred to in **subclause (1)(a) and (b)**, a reference to a pre-commencement media company must be read as a reference to Aotearoa New Zealand Public Media. 20
 - (3) The Registrar-General of Land or any other person charged with keeping books or registers is not required to change, in those books or registers or in any document, the name of a pre-commencement media company to Aotearoa New Zealand Public Media solely because of this clause. 25
 - (4) If Aotearoa New Zealand Public Media presents an instrument and a certificate referred to in **subclause (5)** to a Registrar or another person, the presentation of that instrument is, in the absence of proof to the contrary, sufficient evidence that the property is vested in Aotearoa New Zealand Public Media.
 - (5) For the purposes of this clause, the instrument need not be an instrument of transfer, but must— 30
 - (a) be executed (or purport to be executed) by Aotearoa New Zealand Public Media; and
 - (b) relate to property held by a pre-commencement media company immediately before the commencement date; and 35
 - (c) be accompanied by a certificate by Aotearoa New Zealand Public Media that the property became vested in it by virtue of the provisions of this Act.

7 Ownership changes do not affect international agreements, etc

- (1) All of the following continue as if this Act had not been passed and the ownership of the pre-commencement media companies and pre-commencement subsidiaries had not changed under **clauses 3 and 4**:
- (a) an international agreement: 5
 - (b) the completion of a matter or thing that relates to an existing right, interest, title, immunity, duty, status, or capacity (a **legal position**), including, for example,—
 - (i) a contract to which a pre-commencement media company is a party: 10
 - (ii) contractual obligations owed by, and owed to, a pre-commencement media company:
 - (c) the right to commence a proceeding that relates to an existing legal position:
 - (d) the completion of a proceeding commenced or in progress before the commencement date: 15
 - (e) shareholder continuity for the purposes of the Income Tax Act 2007.
- (2) Any international agreement or other contract in force on the commencement date continues in force, but—
- (a) the board of Aotearoa New Zealand Public Media is not in breach of its collective duties if the agreement or contract is inconsistent with the Charter; and 20
 - (b) Aotearoa New Zealand Public Media or a pre-commencement media company may continue, until the dissolution date, its obligations under the agreement or contract despite any inconsistency with the Charter. 25
- (3) In any instrument relating to any matter referred to in **subclause (1)**, a reference to a pre-commencement media company must be read as a reference to Aotearoa New Zealand Public Media.

8 Pre-existing services to be commercial-free

- (1) If a service is the same, or substantially the same, as a commercial-free service provided by RNZ before the commencement date, Aotearoa New Zealand Public Media must provide it in a commercial-free manner. 30
- (2) In this clause,—
- commercial-free**—
- (a) means free of charge and without advertising or sponsorship; but 35
 - (b) to avoid doubt, does not include advertising by Aotearoa New Zealand Public Media of Aotearoa New Zealand Public Media's own services

service does not include a service that is a means of transmission (such as radio itself).

Compare: 1995 No 52 s 8B

9 Public Works Act 1981 does not apply to land transfer

Nothing in sections 40 to 42 of the Public Works Act 1981 applies to the transfer of land and interests in land from the pre-commencement media companies to Aotearoa New Zealand Public Media under this Act, but if section 40 or 41 of that Act applied to transferred land or interests in land before the commencement date then that section will, after the transfer, apply to the land or interests in land (as if the pre-commencement media companies were the Crown and the land had not been transferred under this Act).

10 Commerce Act 1986 does not apply to transfers of shares and assets

Parts 2 and 3 of the Commerce Act 1986 do not apply to the transfers of shares and assets in the pre-commencement media companies and in the pre-commencement subsidiaries to Aotearoa New Zealand Public Media.

Employees

11 Employees of pre-commencement media companies

- (1) On the commencement date,—
 - (a) the employment of the chief executives of the pre-commencement media companies ceases; and
 - (b) the employment of the other employees of the pre-commencement media companies is transferred to Aotearoa New Zealand Public Media.
- (2) For the employees of the pre-commencement media companies who transfer under **subclause (1)(b)**,—
 - (a) employment by Aotearoa New Zealand Public Media is on the same terms and conditions as their employment with the pre-commencement media company; and
 - (b) employment does not cease and they are not entitled to any compensation relating to the transfer; and
 - (c) employment is continuous for the purposes of the Holidays Act 2003, the Parental Leave and Employment Protection Act 1987, and the Kiwi-Saver Act 2006 (as provided in **clause 12**); and
 - (d) **clause 13** applies if they are members of the Government Superannuation Fund.

12 Employment continuous for purpose of certain enactments

- (1) The employment of an employee to whom this clause applies is to be treated as continuous for the purposes of—

-
- (a) entitlements under the following provisions in Part 2 of the Holidays Act 2003:
 - (i) subpart 1 (annual holidays); and
 - (ii) subpart 3 (public holidays and alternative holidays); and
 - (iii) subpart 4 (sick leave and bereavement leave); and 5
 - (iv) subpart 5 (family violence leave); and
 - (b) entitlements to leave under the Parental Leave and Employment Protection Act 1987; and
 - (c) the KiwiSaver Act 2006.
 - (2) For the purpose of **subclause (1)(a)**,— 10
 - (a) the period of employment of the employee that ends with the date on which the employee moves to the new position must be treated as a period of employment with Aotearoa New Zealand Public Media for the purpose of determining the employee's entitlement to annual holidays, sick leave, bereavement leave, and family violence leave; and 15
 - (b) the chief executive of Aotearoa New Zealand Public Media must not pay the employee for annual holidays, or alternative holidays, not taken before the date on which the employee moved to the new position; and
 - (c) the chief executive of Aotearoa New Zealand Public Media must recognise the employee's entitlement to— 20
 - (i) any sick leave, including any sick leave carried over under section 66 of the Holidays Act 2003, not taken before the date on which the employee moved to the new position; and
 - (ii) any annual holidays not taken before the date on which the employee moved to the new position; and 25
 - (iii) any alternative holidays not taken or exchanged for payment under section 61 of that Act before the date on which the employee moved to the new position; and
 - (iv) any holidays not taken before the date on which the employee moved to the new position in relation to which there was an agreement between the employee and the pre-commencement media company under section 44A or 44B of that Act. 30
 - (3) For the purpose of **subclause (1)(b)**, the period of employment of the employee that ends on the date on which the employee moves to the new position must be treated as a period of employment with Aotearoa New Zealand Public Media. 35
 - (4) For the purpose of **subclause (1)(c)**, the employment of the employee in the new position is not new employment within the meaning of that term in the KiwiSaver Act 2006.

13 Government Superannuation Fund members

- (1) A person who, immediately before the commencement date, is an employee of a pre-commencement media company and a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956 is, for the purposes of that Act, deemed to be employed in the Government service so long as that person continues to be an employee of Aotearoa New Zealand Public Media. 5
- (2) The Government Superannuation Fund Act 1956 applies to the person in all respects as if that person's service as an employee were in the Government service. 10
- (3) For the purposes of applying the Government Superannuation Fund Act 1956 under **subclause (1)**, controlling authority, in relation to that employee, means—
- (a) the pre-commencement media company; or
 - (b) Aotearoa New Zealand Public Media. 15

Compare: 2003 No 1 s 33

14 Other restrictions on redundancy payments

- (1) This clause applies to a notice of termination by reason of redundancy that is the first redundancy for a particular employee of Aotearoa New Zealand Public Media after the commencement date. 20
- (2) An employee of Aotearoa New Zealand Public Media who receives a notice to which this clause applies is not entitled to a redundancy payment if, before the employee's employment has ended, the employee—
- (a) is offered and accepts another position as an employee in Aotearoa New Zealand Public Media that— 25
 - (i) begins before, on, or immediately after the date on which the employee's preceding position ends; and
 - (ii) is on terms and conditions of employment (including redundancy and superannuation conditions) that are no less favourable; and
 - (iii) is on terms that treat service in either position as if it were continuous service; or 30
 - (b) is offered an alternative position as an employee in Aotearoa New Zealand Public Media that—
 - (i) begins before, on, or immediately after the date on which the employee's preceding position ends; and 35
 - (ii) is a position with comparable duties and responsibilities to those of the employee's preceding position; and
 - (iii) is in substantially the same general locality or a locality within reasonable commuting distance; and

- (iv) is on terms and conditions of employment (including redundancy and superannuation conditions) that are no less favourable; and
 - (v) is on terms that treat service in either position as if it were continuous service.
- (3) **Clauses 12 and 13** apply to an employee who (being an employee to whom **subclause (2)(a)** applies) is moving from 1 position to another position in Aotearoa New Zealand Public Media. 5
- (4) This clause overrides Part 6A of the Employment Relations Act 2000. Compare: 2020 No 40 s 88

References

10

15 Consequential changes to references

- (1) After the commencement date, if an instrument or other thing refers to a pre-commencement media company and that reference is no longer appropriate because functions were transferred to Aotearoa New Zealand Public Media on the commencement date, the reference must be read as a reference to Aotearoa New Zealand Public Media. 15
- (2) After the commencement date, if an instrument or other thing refers to employees of a pre-commencement media company and that reference is no longer appropriate because those employees have been transferred, the reference must be read as a reference to the employees of Aotearoa New Zealand Public Media. 20
- (3) After the commencement date, if an instrument or other thing refers to employees of a pre-commencement media company and that reference is no longer appropriate because functions were transferred to Aotearoa New Zealand Public Media, the reference must be read as a reference to the employees who carry out the relevant functions at Aotearoa New Zealand Public Media. 25

16 Consequential changes to references to chief executives

- (1) After the commencement date, if an instrument or other thing refers to a chief executive of a pre-commencement media company and that reference is no longer appropriate because the employment of that chief executive has ceased, the reference must be read as a reference to the chief executive of Aotearoa New Zealand Public Media. 30
- (2) If an instrument or other thing refers to a chief executive of a pre-commencement media company and that reference is no longer appropriate because functions were transferred to Aotearoa New Zealand Public Media, the reference must be read as a reference to the chief executive of Aotearoa New Zealand Public Media. 35

Compare: 1988 No 20 s 30I; 2020 No 40 Schedule 9 cl 3

*Setting dissolution date***17 Setting dissolution date**

- (1) The board of Aotearoa New Zealand Public Media may set as the dissolution date any date before **1 March 2028**.
- (2) The dissolution date must be set no later than 3 months before the dissolution date. 5

Subpart 2—On and after dissolution date**18 International agreements**

- (1) On the dissolution date, property that consists of contractual rights under any international agreement that remains in force is transferred to Aotearoa New Zealand Public Media from the pre-commencement media company. 10
- (2) *See **clause 7(1) and (3)*** (international agreement continues in force; references to be read as references to Aotearoa New Zealand Public Media).

19 Pre-commencement media companies to be removed from companies register 15

- (1) As soon as is reasonably practicable on or after the dissolution date, the Registrar of Companies must remove the pre-commencement media companies from the companies register.
- (2) In this clause, **companies register** means the register of companies incorporated in New Zealand that is kept under section 360(1)(a) of the Companies Act 1993. 20

Schedule 2

Amendments to other enactments on commencement date

s 23

Part 1

Amendments to Acts

5

Broadcasting Act 1989 (1989 No 25)

Replace section 39A with:

39A Funding and commissioning policies

The Commission and Te Reo Whakapuaki Irirangi must, in carrying out their respective functions under this Act, each have regard to—

10

- (a) the funding policies adopted by the other; and
- (b) the commissioning policies of Aotearoa New Zealand Public Media.

In section 44(1A), replace “Radio New Zealand Limited” with “Aotearoa New Zealand Public Media”.

Civil Defence Emergency Management Act 2002 (2002 No 33)

15

In Schedule 1, Part A, replace “Radio New Zealand Limited and Television New Zealand Limited” with “Aotearoa New Zealand Public Media”.

Copyright Act 1994 (1994 No 143)In section 50(1), definition of **archive**, replace paragraph (a)(iii) and (iv) with:

- (iii) the sound and film archives maintained by Aotearoa New Zealand Public Media; or

20

Replace section 56(5) with:

- (5) This section does not apply to the sound and film archives maintained by Aotearoa New Zealand Public Media or the film archive maintained by the New Zealand Film Archive Incorporated.

25

In section 57(1), replace “Radio New Zealand Limited” with “Aotearoa New Zealand Public Media”.

In section 57(2), replace “Television New Zealand Limited” with “Aotearoa New Zealand Public Media”.

Repeal section 57A.

30

Crown Entities Act 2004 (2004 No 115)

In Schedule 1, Part 2, insert in its appropriate alphabetical order:

Crown Entities Act 2004 (2004 No 115)—*continued*

Name	Exemption from acquisition of financial products, borrowing, guarantee, and derivative rules				Exemption from section 165 (net surplus payable to Crown)
	s 161	s 162	s 163	s 164	
Aotearoa New Zealand Public Media	✓	✓	✓	✓	✓

In Schedule 2, repeal the items relating to Radio New Zealand Limited and Television New Zealand Limited.

Finance Act (No 2) 1992 (1992 No 127)

Repeal section 2 and the cross-heading above section 2.

Income Tax Act 2007 (2007 No 97)

5

In Schedule 36, Part A, insert in its appropriate alphabetical order:

Aotearoa New Zealand Public Media

In Schedule 36, Part A, repeal the items relating to Radio New Zealand Limited and Television New Zealand Limited.

Official Information Act 1982 (1982 No 156)

10

In Schedule 1, insert in its appropriate alphabetical order:

Aotearoa New Zealand Public Media

In Schedule 1, repeal the items relating to Radio New Zealand Limited and Television New Zealand Limited.

Ombudsmen Act 1975 (1975 No 9)

15

In Schedule 1, Part 2, insert in its appropriate alphabetical order:

Aotearoa New Zealand Public Media

In Schedule 1, Part 2, repeal the items relating to Radio New Zealand Limited and Television New Zealand Limited.

Radiocommunications Act 1989 (1989 No 148)

20

In section 2(1), insert in its appropriate alphabetical order:

Aotearoa New Zealand Public Media has the meaning given in **section 4** of the Aotearoa New Zealand Public Media Act **2022**, and includes any subsidiary within the meaning of section 5 of the Companies Act 1993

In section 2(1), repeal the definition of **Radio New Zealand**.

25

In the heading to section 174, replace “**Radio New Zealand Limited**” with “**Aotearoa New Zealand Public Media**”.

In section 174(2), (3), and (5), replace “Radio New Zealand” with “Aotearoa New Zealand Public Media”.

Radiocommunications Act 1989 (1989 No 148)—*continued*

In section 175(1), replace “Radio New Zealand” with “Aotearoa New Zealand Public Media”.

In section 177(1), replace “Radio New Zealand” with “Aotearoa New Zealand Public Media”.

In section 178(1), replace “Radio New Zealand” with “Aotearoa New Zealand Public Media”. 5

Part 2**Amendments to secondary legislation****Copyright (General Matters) Regulations 1995 (SR 1995/146)**

Replace regulation 5A(a) with:

10

(a) Aotearoa New Zealand Public Media:

Radio New Zealand (Assets) Order 1992 (SR 1992/220)

Revoke.

Television New Zealand (Assets) Order 1994 (SR 1994/62)

Revoke.

15

Television New Zealand (Separation of Transmission Business) Order 2003 (SR 2003/323)

Revoke.