

Television New Zealand Act 2003

Public Act 2003 No 1
Date of assent 27 February 2003

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Television New Zealand Act 2003.

Part 1 Preliminary provisions

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Purpose of Act

The purpose of this Act is to-

- (a) provide for the existing State enterprise Television New Zealand Limited to be split into a Crown entity conducting a television business and a State enterprise conducting a transmission business; and
- (b) ensure that the Crown entity responsible for the television business gives effect to its Charter while maintaining its commercial performance; and
- (c) provide for the governance of the Crown entity, including reporting requirements and the role of shareholding Ministers in addition to the provisions contained in the Crown Entities Act 2004.

Paragraph (c) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by inserting the words “in addition to the provisions contained in the Crown Entities Act 2004”.

4 Interpretation

In this Act, unless the context otherwise requires,-

Crown entity*[Repealed]*

Crown entity: this definition was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

[Repealed]

equal employment opportunities programme*[Repealed]*

equal employment opportunities programme: this definition was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

[Repealed]

GAAP means generally accepted accounting practice (as defined in section 136 of the Crown Entities Act 2004)

GAAP: this definition was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting “section 136 of the Crown Entities Act 2004” for “section 2 of the Financial Reporting Act 1993”.

good employer*[Repealed]*

good employer: this definition was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

[Repealed]

shareholding Ministers has the same meaning as in section 10 of the Crown Entities Act 2004.

shareholding Ministers: this definition was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

State enterprise means an organisation that is named in the First Schedule of the State-Owned Enterprises Act 1986; and includes a subsidiary of such an organisation

THL means the company Kordia Group Limited (formerly known as Transmission Holdings Limited)

THL: this definition was amended, as from 22 March 2007, by clause 6(2) State-Owned Enterprises (Kordia Group Limited) Order 2007 (SR 2007/17) by substituting “Kordia Group Limited (formerly known as Transmission Holdings Limited)” for “Transmission Holdings Limited”.

TVNZ means the company Television New Zealand Limited.

5 Meaning of maintaining commercial performance

For the purposes of this Act, a company is **maintaining its commercial performance** if—

- (a) it operates in a financially responsible manner so that it maintains its financial viability; and
- (b) its activities generate, on the basis of GAAP, an adequate rate of return on shareholders’ funds; and
- (c) it is operating as a successful going concern.

6 Act binds the Crown

This Act binds the Crown.

Part 2**Structure and shareholdings of TVNZ
and transmission business****7 TVNZ ceases to be State enterprise**

On the day of commencement of this Act, TVNZ ceases to be a State enterprise subject to the State-Owned Enterprises Act 1986.

8 Separation of transmission business

- (1) TVNZ must prepare and submit to the shareholding Ministers, as soon as practicable after the commencement of this Act, a separation proposal providing for THL, or the transmission business that was owned and operated, directly or indirectly, by TVNZ at the commencement of this Act,-
 - (a) to be separated from TVNZ; and
 - (b) to become a new State enterprise subject to the State-Owned Enterprises Act 1986.
- (2) The separation proposal-
 - (a) must specify a date on which the separation is to take effect, which must be no later than 31 December 2003; and
 - (b) must identify how the separation of the transmission business is to take place, including the shares, property, rights, and liabilities of TVNZ, THL, or any other subsidiary or nominee of TVNZ that are to be transferred.

9 Implementation of separation proposal by Order in Council

- (1) The Governor-General may, by Order in Council made on the recommendation of the shareholding Ministers, approve the draft separation proposal.
- (2) The Order in Council-
 - (a) must appoint an effective date for the separation (which must be on or before 31 December 2003); and
 - (b) must identify the draft proposal approved, but need not incorporate it in the order; and
 - (c) must ensure that the company that becomes a State enterprise becomes, at the same time, subject to the Official Information Act 1982 and the Ombudsmen Act 1975 and to Schedule 18 of the Income Tax Act 1994.
- (3) On the date appointed in the order,-
 - (a) the company nominated in the separation proposal becomes a State enterprise subject to the State-Owned Enterprises Act 1986; and
 - (b) all of the shares so nominated in the separation proposal are deemed to be transferred in equal parts to the Min-

- isters who are to be the shareholding Ministers of the new State enterprise; and
- (c) all of the property, rights, and liabilities that are so nominated in the separation proposal are deemed to be transferred to the new State enterprise (or any subsidiary of the State enterprise that may be specified in the proposal).
- (4) The transfer (or the transfers cumulatively, as the case may be) in subsection (3)(b) and (c) is or are deemed to take place for a consideration equal to the book value of the equity of the transmission business that is transferred under the separation proposal.

10 Transitional provisions

The ceasing of TVNZ to be a State enterprise, and the separation of the transmission business, does not give any party to a contract with TVNZ or THL or the company that owns the transmission business or any of those companies' subsidiaries a right to avoid that party's obligations under that contract.

11 Responsibilities of shareholding Ministers

[Repealed]

Section 11 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

12 Functions and objectives of TVNZ

- (1) TVNZ's principal function is to provide the television and other services that may be specified from time to time in its current statement of intent.
- (2) In carrying out its functions, TVNZ's principal objective is to give effect to its Charter (set out below) while maintaining its commercial performance:

The following Charter shall apply to all those parts of TVNZ's operations that contribute to its broadcast content. It shall be predominantly fulfilled through free-to-air broadcasting. In programming for particular audiences, TVNZ is to consider all relevant provisions of the Charter.

- (a) TVNZ will—
- (i) feature programming across all genres that informs, entertains, and educates New Zealand audiences;
 - (ii) strive always to set and maintain the highest standards of programme quality and editorial integrity;
 - (iii) provide shared experiences that contribute to a sense of citizenship and national identity;
 - (iv) ensure in its programmes and programme planning the participation of Maori and the presence of a significant Maori voice;
 - (v) feature programming that serves the varied interests and informational needs and age groups within New Zealand society, including tastes and interests not generally catered for by other national television broadcasters;
 - (vi) maintain a balance between programmes of general appeal and programmes of interest to smaller audiences;
 - (vii) seek to extend the range of ideas and experiences available to New Zealanders;
 - (viii) play a leading role in New Zealand television by setting standards of programme quality and encouraging creative risk-taking and experiment;

- (ix) play a leading role in New Zealand television by complying with free-to-air codes of broadcasting practice, in particular any code with provisions on violence;
 - (x) support and promote the talents and creative resources of New Zealanders and of the independent New Zealand film and television industry.
- (b) In fulfilment of these objectives, TVNZ will—
- (i) provide independent, comprehensive, impartial, and in-depth coverage and analysis of news and current affairs in New Zealand and throughout the world and of the activities of public and private institutions;
 - (ii) feature programming that contributes towards intellectual, scientific, cultural, and spiritual and ethical development that reflects the diverse beliefs of New Zealanders, promotes informed and many-sided debate, and stimulates critical thought, thereby enhancing opportunities for citizens to participate in community, national, and international life;
 - (iii) in its programming enable all New Zealanders to have access to material that promotes Maori language and culture;
 - (iv) feature programmes that reflect the regions to the nation as a whole;
 - (v) promote understanding of the diversity of cultures making up the New Zealand population;
 - (vi) feature New Zealand films, drama, comedy, and documentary programmes;

- (vii) feature programmes about New Zealand's history and heritage, and natural environment;
 - (viii) feature programmes that serve the interests and informational needs of Maori audiences, including programmes promoting the Maori language and programmes addressing Maori history, culture, and current issues;
 - (ix) include in programming intended for a mass audience material that deals with minority interests;
 - (x) feature New Zealand and international programmes that provide for the informational, entertainment, and educational needs of children and young people and programmes that allow for the participation of children and young people;
 - (xi) maintain and observe a code of ethics that addresses the level and nature of advertising to which children are exposed;
 - (xii) feature programmes that encourage and support the arts, including programmes featuring New Zealand and international artists and arts companies;
 - (xiii) reflect the role that sporting and other leisure interests play in New Zealand life and culture; and
 - (xiv) feature programming of an educational nature that supports learning and the personal development of New Zealanders.
- (3) TVNZ also has the following further objectives in carrying out its functions:
- (a)
 - (b)

- (c) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates and by endeavouring to accommodate or encourage those interests when able to do so.
- (4) The Charter must be reviewed by the House of Representatives at least every 5 years.

Subsection (3)(a) and (3)(b) was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

13 TVNZ board

[Repealed]

Sections 13 to 17 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

14 Duties of TVNZ board

[Repealed]

Sections 13 to 17 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

15 Ministers to hold all shares in TVNZ

[Repealed]

Sections 13 to 17 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

16 Authorising Crown shareholding in TVNZ

[Repealed]

Sections 13 to 17 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

17 Further provisions relating to Ministers' shareholding in TVNZ

[Repealed]

Sections 13 to 17 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

18 Change in name of TVNZ

- (1) The Governor-General may, by Order in Council made on the recommendation of the shareholding Ministers, amend any en-

actment by omitting from it the name of TVNZ and substituting some other name.

- (2) The shareholding Ministers must not recommend the making of an order in respect of a change of name of TVNZ unless satisfied that the change of name has been registered at the Companies Office in accordance with section 23 of the Companies Act 1993.

Compare: 1986 No 124 s 30A

19 Shares or interests of TVNZ in bodies corporate or interests in associations

[Repealed]

Section 19 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

**Part 3
Reporting**

20 Application of Crown Entities Act 2004

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

Section 20 was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

21 Auditor-General is auditor of TVNZ

[Repealed]

Section 21 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

22 Information required in annual report for TVNZ

- (1)
- (2) In addition to the information required to be contained in the annual report under section 151 of the Crown Entities Act 2004, TVNZ's annual report must include a statement of its performance against its Charter, using the performance measures set out in its statement of intent.

Subsection (1) was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsection (2) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words “section 151 of the Crown Entities Act 2004” for the words “section 41I of the Public Finance Act 1989”.

23 Additional information requirements for statement of intent

- (1) In addition to the information required to be contained in the statement of intent under section 141 of the Crown Entities Act 2004, TVNZ’s statement of intent must include the following information:
 - (a)
 - (b) qualitative and quantitative performance measures for measuring performance against its Charter; and
 - (c) a statement of how it will involve the public in measuring performance against its Charter.
- (2) TVNZ’s first statement of intent is for the period beginning 1 July 2003.
- (3) From the commencement of this Act to 30 June 2003 TVNZ must continue to operate under its statement of corporate intent.

Subsection (1) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words “section 141 of the Crown Entities Act 2004” for the words “section 41D of the Public Finance Act 1989”.

Subsection (1)(a) was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

24 Half-year financial statements

In addition to the annual financial statements required to be prepared under section 154 of the Crown Entities Act 2004, TVNZ must, within 2 months after the end of the first 6 months of each financial year, prepare financial statements for that half-year in accordance with GAAP.

Section 24 was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words “section 154 of the Crown Entities Act 2004” for the words “section 41 of the Public Finance Act 1989”.

25 Protection from disclosure of sensitive information

[Repealed]

Sections 25 and 26 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

26 Responsible Minister

[Repealed]

Sections 25 and 26 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Part 4

Ministers and editorial independence

27 Powers of shareholding Ministers

(1) The shareholding Ministers may, by written notice to the TVNZ board,-

- (a) direct the board to include in, or omit from, its statement of intent any provision or provisions of a kind referred to in section 23; and
- (b) determine the amount of dividend payable by TVNZ to the Crown in respect of any financial year or years.

(2)

(3) Before giving any notice under subsection (1), the shareholding Ministers must have regard to the objectives and functions of TVNZ, and section 115 of the Crown Entities Act 2004 applies.

Subsection (2) was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsection (3) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words “, and section 115 of the Crown Entities Act 2004 applies” for the words “and consult with the board of TVNZ as to the matters to be referred to in the notice”.

28 Shareholding Ministers must not give certain directions

(1) No shareholding Minister or any other Minister, and no person acting by or on behalf of or at the direction of a shareholding Minister or any other Minister, may give a direction to TVNZ or to any of its subsidiaries, or to any director or officer or employee of TVNZ or of any of its subsidiaries, in respect of-

- (a) a particular programme or programmes or a particular allegation or a particular complaint; or
 - (b) the gathering or presentation of news or the preparation or presentation of current affairs programmes; or
 - (c) programme standards.
- (2) No director of TVNZ or of any of its subsidiaries may be removed for any reason relating to-
- (a) a particular programme or a particular allegation or a particular complaint relating to a particular programme; or
 - (b) the gathering or presentation of news or the preparation or presentation of current affairs programmes; or
 - (c) the responsibility of TVNZ or any of its subsidiaries for programme standards.
- (3) Section 97(g) of the Crown Entities Act 2004 does not apply to TVNZ.

Compare: 1988 No 162 s 7

Subsection (3) was inserted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

29 Directions and compliance costs

- (1) Every direction given under section 27 of this Act or section 147 of the Crown Entities Act 2004 must be accompanied by a statement of the estimated expenditure to be incurred and revenue to be forgone by TVNZ or any of its subsidiaries.
- (2) Every direction and its accompanying statement of the estimated expenditure and revenue forgone must be presented by either of the shareholding Ministers to the House of Representatives and published in the *Gazette* as soon as practicable after giving the direction.

Subsection (1) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words “section 147 of the Crown Entities Act 2004” for the words “section 41G of the Public Finance Act 1989”.

Subsection (2) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by substituting the words “published in the *Gazette* as soon as practicable after giving the direction” for the words “notified in the *Gazette* within 12 sitting days”.

Part 5 Miscellaneous

30 Consequential amendments to enactments

The enactments listed in Schedule 1 are amended in the manner indicated in that schedule.

31 Consequential repeal

The State-Owned Enterprises Amendment Act (No 4) 1988 is repealed.

32 Superannuation or retiring allowances

[Repealed]

Section 32 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

33 Existing Government Superannuation Fund members

- (1) A person who, immediately before the commencement of this Act, is an employee of TVNZ or a TVNZ subsidiary and a contributor to the Government Superannuation Fund under Part 2 or Part 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 TVNZ or a subsidiary of TVNZ, and that Act applies to that person in all respects as if that person's service as an employee of TVNZ or a TVNZ subsidiary were in the Government service.
- (2) Nothing in subsection (1) entitles a person to become a contributor to the Government Superannuation Fund after that person has ceased to be a contributor.
- (3) For the purposes of applying the Government Superannuation Fund Act 1956 under subsection (1), **controlling authority**, in relation to that employee, means TVNZ or a TVNZ subsidiary.

34 Transfer of land from TVNZ to THL

- (1) Despite any other enactment or rule of law, on any day on or after the commencement of this Act, TVNZ may transfer to THL or to any of its subsidiaries the areas of land listed in

Schedule 2 for the consideration that is determined between TVNZ and THL.

- (2) Nothing in sections 40 to 42 of the Public Works Act 1981 applies to the transfer of land from TVNZ to THL or to any of its subsidiaries under this Act, but sections 40 to 42 of that Act will, after that transfer, apply to the land as if THL or any of its subsidiaries were the Crown and the land had not been transferred under this Act.
- (3) The Governor-General may, from time to time, by Order in Council,-
 - (a) amend Schedule 2 by including additional areas of land in the list in that schedule:
 - (b) otherwise amend Schedule 2, or revoke that schedule, and substitute a new schedule.

35 Shareholder continuity

The structural changes to TVNZ and the transmission business set out in sections 7 to 9 do not constitute a breach in shareholder continuity for the purposes of the Income Tax Act 1994.

36 Savings of certain transactions

A failure by TVNZ to comply with section 12 or any statement of corporate intent or statement of intent does not affect the validity or enforceability of any deed, agreement, right, or obligation entered into, obtained, or incurred by TVNZ or any of its subsidiaries.

Section 36 was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by omitting the words “, section 14, or section 19”.

Schedule 1

s 30

Consequential amendments

Broadcasting Act 1989 (1989 No 25)

Repeal paragraph (e) of the Preamble.

Public Finance Act 1989 (1989 No 44)

[Repealed]

The item relating to the Public Finance Act 1989 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

State-Owned Enterprises Act 1986 (1986 No 124)

Omit from the First Schedule the words “Television New Zealand Limited”.

Omit from the Second Schedule the words “Television New Zealand Limited”.

Schedule 2

s 34(1), (3)(a) and (b)

**Land to be transferred from TVNZ to
THL**

Description	Area (more or less)	Title document
North Auckland Land District		
Lot 1, Deposited Plan 113371 and Sections 1, 2, and 3 on Survey Office Plan 45895	9.4906 hectares	Certificate of Title 63D/289
Section 14, Block III Tangihua Survey District	98.685 hectares	Certificate of Title 241/300
Part Lots 3 and 4, Deposited Plan 8837, allotment 566, Parish of Waipareira	1.6890 hectares	Certificate of Title 9B/564
Allotment 550, Parish of Waipareira	440 square metres	Certificate of Title 3A/1104

Description	Area (more or less)	Title document
South Auckland Land District		
Part Rotomahana Parekarangi 3A 3B 5A block	1184 square metres	Certificate of Title 12D/123
Hawkes Bay Land District		
Blocks VII and XI, Te Mata Survey District, being Part Lot 24, Deeds Plan 107, more particularly described on Survey Office Plan 6486	2.3435 hectares	Certificate of Title F2/719
Block XI, Te Mata Survey District being Part Lot 4 and Parts of Lot 5, Deeds Plan 713, being part Block 12, Te Mata Crown Grant, District Part Te Wharau, and part Kohinurakau Blocks	3.9337 hectares	Certificate of Title 114/1121
Wellington Land District		
Lot 1, Deposited Plan 61858	3350 square metres	Certificate of Title 31A/317

Description	Area (more or less)	Title document
Situated partly in the City of Wellington and partly in Blocks III Port Nicholson Survey District and Block XI Belmont Survey District, being part section 135 Ohariu District and being also Lot 2 Deposited Plan 27542	29.29 hectares	Certificate of Title 10A/838
Situated in the City of Wellington, being Part Section 94, Ohariu District	6.0275 hectares	Certificate of Title 13C/999
City of Wanganui, Section 351, Right Bank Wanganui River	2.2763 hectares	Certificate of Title 12C/965
County of Masterton, Lot 1 Deposited Plan 59378	6999 square metres	Certificate of Title 32A/765
Nelson Land District		
City of Nelson, Section 31 Block 'D', Wakatu District	1801 square metres	Certificate of Title 3C/881
Westland Land District		

Description	Area (more or less)	Title document
Rural Section 5640, Block 1, Cobden Survey District	600 square metres	Lease SC/829
Canterbury Land District		
Block VIII Part Run 284, Waihao Survey District	11.5158 hectares	Certificate of Title 8F/956
Otago Land District		
Section 68 Block II, Cairnhill Survey District	2.2210 hectares	Lease 10A/399
Section 48, Block IX, Tarras Survey District	4800 square metres	Lease 9A/222
Section 1, Block IV, Naseby Survey District	6650 square metres	Lease 8D/701
Sections 31 and 32, Block I and Section 31 Block IV, Kuriwao District	51.3154 hectares	Certificate of Title 3B/435
Southland Land District		
Lot 2, Deposited Plan 8310, being Part Section 65 Block VI Waimumu Hundred	13.0840 hectares	Certificate of Title 5A/398

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Television New Zealand Act 2003

Legislative history

11 December 2001
18 December 2001
23 April 2002
16 October 2002
25, 26 February 2003
27 February 2003

Introduction (Bill 185-1)
First reading and referral to Commerce Committee
Reported from Commerce Committee (Bill 185-2)
Second reading
Committee of the whole House (Bill 185-3)
Third reading and Assent
