



## ANALYSIS

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1974, No. 145

**An Act to amend the Insurance Companies' Deposits Act 1953**  
*[8 November 1974]*

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

**1. Short Title and commencement**—(1) This Act may be cited as the Insurance Companies' Deposits Amendment Act 1974, and shall be read together with and deemed part of the Insurance Companies' Deposits Act 1953 (hereinafter referred to as the principal Act).

(2) Sections 3 and 5 of this Act shall be deemed to have come into force on the 26th day of August 1974.

(3) Except as provided in subsection (2) of this section, this Act shall come into force on the date of its passing.

**2. Interpretation**—(1) Section 2 of the principal Act is hereby amended by repealing the definition of the term “approved securities” (as substituted by section 2 of the Insurance Companies' Deposits Amendment Act 1958), and substituting the following definition:

“‘Approved securities’ means—

“(a) Any debentures, stock, bonds, or other securities issued by the Government of New Zealand:

“(b) Any debentures, stock, bonds, or other securities, issued by any local authority within the meaning of Part VI of the Local Authorities Loans Act 1956, that are for the time being authorised by or under section 4 of the Trustee Act 1956 for the investment of trust funds:

“(c) Any debentures, stock, bonds, or other securities issued by the Auckland Harbour Bridge Authority or the Christchurch-Lyttelton Road Tunnel Authority or by any other body or person if payment of all money secured by the debentures, stock, bonds, or other securities is, in case of default, guaranteed by the Government of New Zealand or is to be made out of the Consolidated Revenue Account without further appropriation.”

(2) Section 2 of the principal Act is hereby further amended by inserting, after the definition of the term “foreign underwriter”, the following definition:

“‘Insurance’ in relation to any class of insurance business (including life insurance, endowment and annuity contracts, and insurance against earthquake) includes reinsurance in respect of that class of insurance business:”.

(3) Section 2 of the principal Act is hereby further amended by repealing the definition of the term “insurance business”, and substituting the following definition:

“‘Insurance business’ includes mortgage guarantee insurance and every other class of insurance business, except—

“(a) Life insurance (including endowment and annuity contracts); and

“(b) Insurance against earthquakes:”.

(4) Section 2 of the principal Act is hereby further amended by inserting, after the definition of the term “local company”, the following definition:

“ ‘Mortgage guarantee insurance’ means the acceptance, in consideration of any premium, fee, commission, or other payment, of any liability to repay the whole or any part of any sum owing to any person, the repayment of which is secured to that person by way of a mortgage of any land or any interest in land, contingent upon default by the mortgagor:”.

(5) Every deposit made by any depositor before the passing of this Act, in so far as it consists at the passing of this Act of approved securities within the definition repealed by subsection (1) of this section, shall be deemed to consist of approved securities, notwithstanding that any of those securities may not be within the definition substituted by that subsection, and the provisions of the principal Act shall apply to the deposit and to the securities comprised therein accordingly.

(6) The following enactments are hereby consequentially repealed:

- (a) The Insurance Companies' Deposits Amendment Act 1958:
- (b) The Insurance Companies' Deposits Amendment Act 1971.

**3. Liability to make deposits**—(1) Section 3 of the principal Act is hereby amended by inserting, after the words “insurance business” in each place where they appear in paragraphs (a), (c), and (d) of subsection (1), the words “(except marine insurance business)”.

(2) Section 3 of the principal Act is hereby further amended by adding to subsection (1) the following paragraph:

- “(e) Every person who commences after the 26th day of August 1974 to carry on in New Zealand marine insurance business, or to act in New Zealand as an underwriter in respect of marine insurance business, or to act in New Zealand as agent of a Commonwealth underwriter or of a foreign underwriter in respect of marine insurance business.”

**4. Deposit may be made by Lloyds of London**—The principal Act is hereby amended by inserting, after section 3, the following section:

“3A. (1) The Public Trustee is hereby authorised to accept from the society known as Lloyds of London (in this section referred to as the society) a deposit under this Act of \$500,000.

“(2) A deposit made in accordance with subsection (1) of this section shall, for the purposes of subsection (5) of section 3, and section 10 of this Act, be deemed to have been made by each and every person who is for the time being an underwriting member of the society (in this section referred to as a Lloyds underwriter).

“(3) A deposit made in accordance with subsection (1) of this section may be withdrawn by the society—

“(a) On the expiration of 6 months after service on the Public Trustee of a notice in writing, duly signed on behalf of the society, stating that the society intends to withdraw the deposit; and

“(b) On satisfying the Public Trustee that all the liabilities in New Zealand of each and every Lloyds underwriter are fully liquidated or provided for.

“(4) Where any notice is served on the Public Trustee under paragraph (a) of subsection (3) of this section, he shall cause a copy of that notice to be published at the cost of the society in such manner as he thinks fit.”

**5. Amount of deposit**—Section 4 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsections:

“(1) A deposit of \$500,000 shall be made with the Public Trustee by—

“(a) Every company commencing after the 26th day of August 1974 to carry on in New Zealand any class of insurance business (whether or not that company was on that date carrying on in New Zealand any other class of insurance business):

“(b) Every person (not being a mutual insurance association) commencing after the 26th day of August 1974 to act in New Zealand as an underwriter in respect of any class of insurance business (whether or not that person was on that date acting in New Zealand as an underwriter in respect of any other class of insurance business):

“(c) Every person commencing after the 26th day of August 1974 to act in New Zealand as agent of a Commonwealth underwriter or of a foreign underwriter in respect of any class of insurance business

(whether or not that person was on that date acting in New Zealand as agent of a Commonwealth underwriter or a foreign underwriter in respect of any other class of insurance business):

“Provided that no person shall be required to make a deposit under this subsection in respect of more than one class of insurance business.

“(1A) Where any person is required to make a deposit under subsection (1) of this section,—

“(a) He shall not be required to make a deposit under the provisions of subsection (1B) of this section or of sections 5 and 6 of this Act:

“(b) Any money or approved securities deposited by that person under any of those provisions shall be deemed to have been deposited under subsection (1) of this section.”

“(1B) Subject to the foregoing provisions of this section and to sections 5, 6, and 6A of this Act, the amount of the deposit to be made under this Act in respect of the several classes of insurance business mentioned in the First Schedule to this Act shall be as specified in that Schedule.”

**6. Deposits by existing companies carrying on mortgage guarantee insurance business**—The principal Act is hereby amended by inserting, after section 6, the following section:

“6A. (1) Every company that is, on the 26th day of August 1974, carrying on in New Zealand the business of mortgage guarantee insurance shall make with the Public Trustee a deposit of \$500,000:

“Provided that no company that has made a deposit of that amount under section 4 of this Act shall be required to make a deposit under this section.

“(2) Notwithstanding subsection (1) of this section, in any case where the Minister is satisfied that, having regard to the matters specified in subsection (3) of this section, he would be justified in doing so, he may, by notice in writing to the company, exempt any company from the requirement to make a deposit under subsection (1) of this section, subject to the condition specified in subsection (4) of this section.

“(3) The matters referred to in subsection (2) of this section are—

“(a) The average total mortgage indebtedness that is the subject of the guarantees given by the company in relation to the average value of the properties over which that total mortgage indebtedness is secured; and

“(b) The company’s total contingent liabilities (net of reinsurance) in relation to the company’s net assets; and

“(c) The class of properties over which the mortgage indebtedness guaranteed by the company is secured; and

“(d) Such other matters as the Minister considers relevant to a proper assessment of the company’s financial position.

“(4) The condition referred to in subsection (2) of this section is that the company shall make a deposit with the Public Trustee of such amount as the Minister shall specify, being not less than \$10,000.

“(5) For the purposes of paragraph (a) of subsection (3) of this section, where a company has given a guarantee in respect of any sum secured by a second or subsequent mortgage over any property, the repayment of the whole of the sum secured by a prior mortgage over that property shall be deemed to have been guaranteed by the company.

“(6) Once in every year the Minister shall review the financial position of each company to which he has granted an exemption under subsection (2) of this section.

“(7) Any exemption granted by the Minister under subsection (2) of this section may be revoked by him at any time.

“(8) Notwithstanding any other provision of this Act, no deposit shall be required to be made by the Housing Corporation of New Zealand in respect of any mortgage guarantee insurance business carried on in New Zealand by the Corporation.”

**7. Deposits by companies proposing to carry on fidelity guarantee insurance or professional liability indemnity insurance**—The principal Act is hereby amended by inserting, after section 6A (as inserted by section 6 of this Act), the following section:

“6B. (1) Notwithstanding section 4 (1) of this Act, in the case of any company that is, at any time after the commencement of this Act, proposing to carry on in New Zealand the

business of fidelity guarantee insurance or professional liability indemnity insurance, and no other class of insurance business, the Minister may, if he is satisfied—

“(a) That in terms of the company’s memorandum of association or other rules the prospective policyholders must belong to a particular profession, calling, trade, or occupation, or to a particular association, society, or other body having a definable community of interest; and

“(b) That, having regard to the matters referred to in subsection (2) of this section, he would be justified in doing so,—

exempt the company from the requirement to make a deposit under the said section 4 (1) of this Act, subject to the condition specified in subsection (3) of this section.

“(2) The matters referred to in subsection (1) of this section are:

“(a) The financial position of the company; and

“(b) Such other matters as the Minister considers relevant.

“(3) The condition referred to in subsection (1) of this section is that the company shall make a deposit with the Public Trustee of such amount as the Minister shall specify, being not less than \$10,000.”

**8. Deposits to be held in trust for policyholders**—Section 12 of the principal Act is hereby amended by inserting in the proviso to subsection (1), after the words “insurance business” where they first occur, the words “(not being a deposit made under subsection (1) of section 4 of this Act)”.

**9. Statement by Registrar of Motor Vehicles**—The principal Act is hereby amended by repealing section 18.

**10. Withdrawal of deposits**—(1) Section 19 of the principal Act is hereby amended by omitting from subsection (1) the words “this Act”, and substituting the words “any of the provisions of this Act (except subsection (1) of section 4)”.

(2) Section 19 of the principal Act is hereby further amended by inserting, after subsection (1), the following subsection:

“(1A) If any person who has made a deposit with the Public Trustee under subsection (1) of section 4 of this Act is no longer carrying on in New Zealand any class of insurance business, he may withdraw that deposit—

- “(a) On the expiration of 6 months after the service on the Public Trustee of a notice in writing, duly signed on behalf of the depositor, stating that the depositor is no longer carrying on in New Zealand any class of insurance business, and that he proposes to withdraw the deposit;
- “(b) On satisfying the Public Trustee that from the date of the service of the notice the depositor has not, except as to policies or contracts granted or made before that date, carried on in New Zealand any class of insurance business; and
- “(c) On satisfying the Public Trustee that all the liabilities of the depositor in New Zealand in respect of every class of insurance business previously carried on in New Zealand by the depositor are fully liquidated or provided for.”

**11. Remuneration of Public Trustee**—The principal Act is hereby amended by repealing section 24, and substituting the following section:

“24. The Public Trustee shall be entitled to such reasonable remuneration from any depositor as the Public Trustee may determine, or (if the depositor does not accept the Public Trustee’s determination) as the Minister of Finance may determine, for the Public Trustee’s services in respect of any approved securities deposited by any person (whether before or after the passing of this Act) under any of the provisions of this Act or of any enactment repealed by this Act.”

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This Act is administered in the Public Trust Office.

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