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1982, No. 117

**An Act to amend the Insurance Companies' Deposits Act
1953**

[30 November 1982]

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

1. Short Title—This Act may be cited as the Insurance Companies' Deposits Amendment Act 1982, and shall be read together with and deemed part of the Insurance Companies' Deposits Act 1953 (hereinafter referred to as the principal Act).

2. Liability to make deposits—Section 3 (1) of the principal Act (as amended by section 3 of the Insurance Companies' Deposits Amendment Act 1974) is hereby amended by adding the following paragraph:

“(f) Every person who as at the 1st day of February 1983 acts or who thereafter commences to act in New Zealand as the agent of a company (being a Commonwealth company or a foreign company) which is deemed under subsection (2) of this section to be carrying on in New Zealand any class of insurance business.”

3. New sections inserted—The principal Act is hereby amended by inserting, after section 4, the following sections:

“4A. Amount of deposit to be made by agent of Commonwealth company or foreign company—(1) A deposit shall be made with the Public Trustee by every person who as at the 1st day of February 1983 acts or who thereafter commences to act in New Zealand as the agent of a company (being a Commonwealth company or a foreign company) which is deemed under section 3 (2) of this Act to be carrying on in New Zealand any class of insurance business.

“(2) The amount of the deposit that the person who acts as agent is liable to make under subsection (1) of this section shall be the same as the amount of the deposit which the Commonwealth company or foreign company is liable to make under this Act.

“(3) Nothing in this section or in section 3 of this Act shall impose an obligation to make a deposit under this Act on any person, who, in negotiating or attempting to negotiate any contract of insurance, acts as the servant or authorised agent of an agent or company (being a Commonwealth company or a foreign company) which—

“(a) Has made a deposit under this Act; or

“(b) Is not liable under this Act to make a deposit in respect of the class of insurance business represented by the contract.

“4B. Public Trustee may accept single deposit in certain cases—(1) Notwithstanding anything in this Act, the Public Trustee, subject to this section, is hereby authorised to accept a deposit under this Act of \$500,000 from every agent of a Commonwealth underwriter or a foreign underwriter or a Commonwealth company or a foreign company.

“(2) A deposit accepted under subsection (1) of this section shall be deemed to have been made in satisfaction of the liability of the agent to make any other deposit under this Act.

“(3) No deposit shall be made or accepted by the Public Trustee under this section unless the Minister of Justice has declared, by notice in the *Gazette*, that the agent specified in the notice is authorised to make a deposit under this section.

“(4) Notwithstanding anything in this Act, no Commonwealth underwriter or foreign underwriter or Commonwealth company or foreign company shall be liable to make a deposit under this Act in respect of any class of insurance business placed with that Commonwealth underwriter or foreign underwriter or Commonwealth company or foreign company

by an agent to which subsection (1) of this section applies where the agent of that Commonwealth underwriter, or foreign underwriter, or Commonwealth company, or foreign company (as the case may be) makes a deposit under this section.”

4. When deposits to be made—Section 7 of the principal Act is hereby amended by adding the following subsections:

“(4) Subject to section 4A (3) of this Act, every person who as at the 1st day of February 1983 acts in New Zealand as the agent of a company (being a Commonwealth company or a foreign company) which is deemed under section 3 (2) of this Act to be carrying on in New Zealand any class of insurance business shall make the deposit required by this Act not later than the 1st day of March 1983.

“(5) Subject to section 4A (3) of this Act, every person who after the 1st day of February 1983 proposes to act in New Zealand as the agent of a company (being a Commonwealth company or a foreign company) which is or would thereby be deemed under section 3 (2) of this Act to be carrying on in New Zealand any class of insurance business shall, before commencing to do so, make the deposit required by this Act.”

5. Deposits to be held in trust for policyholders—(1) Section 12 (1) of the principal Act is hereby amended by inserting, after the word “underwriter”, the words “or company”.

(2) The said section 12 (1) is hereby further amended by repealing the proviso (as amended by section 8 of the Insurance Companies' Deposits Amendment Act 1974), and substituting the following proviso:

“Provided that the deposit made in respect of any class of insurance business (not being a deposit made under section 4 (1) of this Act, or under section 4A of this Act by any person as the agent of a company liable to make a deposit under section 4 (1) of this Act, or under section 4B of this Act (as the case may be)) shall be held in trust exclusively for policyholders and claimants as aforesaid in respect of that class of insurance.”

(3) Section 8 of the Insurance Companies' Deposits Amendment Act 1974 is hereby consequentially repealed.