



# Insurance Companies' Deposits Amendment Act 2006

Public Act 2006 No 66  
Date of assent 21 November 2006  
Commencement see section 2

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Insurance Companies' Deposits Amendment Act 2006.

**2 Commencement**

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

**3 Principal Act amended**

This Act amends the Insurance Companies' Deposits Act 1953.

**4 Penalty for non-compliance**

Section 20 is amended by repealing subsection (1) and substituting the following subsection:

- “(1) A person who defaults in complying with any of the requirements of this Act and, if that person is a company or mutual insurance association, every officer of that company or mutual insurance association that is in default, commits an offence and is liable on summary conviction,—
- “(a) in the case of a company or a mutual insurance association, to a fine not exceeding \$200,000;
- “(b) in the case of an individual, to a fine not exceeding \$50,000.”

**5 Further penalty for carrying on business after notice prohibiting**

Section 22(1) is amended by omitting “\$200” and substituting “\$2,000”.

## 6 New sections 22A to 22I inserted

The following sections are inserted after section 22:

### “22A Interpretation

In sections 22A to 22I,—

“**industry association** means a non-profit association of members who work in the insurance industry that performs 1 or more of the following functions:

- “(a) representing members’ views to non-members including the Government:
- “(b) providing dispute resolution:
- “(c) providing education and training for members:
- “(d) providing social events for members:
- “(e) establishing rules or codes of conduct

“**New Zealand person** means any of the following:

- “(a) a company registered in New Zealand under the Companies Act 1993:
- “(b) an association within the meaning of the Mutual Insurance Act 1955:
- “(c) an incorporated or unincorporated body established in New Zealand:
- “(d) a New Zealand resident within the meaning of section OE 1 of the Income Tax Act 2004

“**overseas company** means an overseas company registered on the overseas register kept under the Companies Act 1993

“**specified insurance business** means any of the following:

- “(a) business for which a person is liable to pay a deposit under this Act:
- “(b) insurance provided by an association under the Mutual Insurance Act 1955:
- “(c) the business of insurance under the Life Insurance Act 1908.

### “22B Certain New Zealand persons and overseas companies prohibited from holding out New Zealand connection

No New Zealand person or overseas company may hold out outside New Zealand that the person carries on a specified insurance business in New Zealand, or that the person is regulated by New Zealand law in respect of a specified insurance business, if the person does not carry on that specified insurance business in New Zealand.

**“22C Certain New Zealand persons and overseas companies prohibited from using certain words in their name**

- “(1) If a New Zealand person or overseas company does not carry on specified insurance business in New Zealand, the person cannot—
- “(a) be formed, incorporated, or registered using a name or title that includes a restricted word; or
  - “(b) change the person’s name or title to a name or title that includes a restricted word; or
  - “(c) carry on any activity directly or indirectly in New Zealand (whether through an agent or otherwise) using a name or title that includes a restricted word.
- “(2) The restricted words are the following in any language:
- “(a) insurance:
  - “(b) assurance:
  - “(c) underwriter:
  - “(d) re-insurance:
  - “(e) any term whose meaning is the same as, or similar to, that of any term in paragraphs (a) to (d).

**“22D Exception for certain insurance workers and industry associations**

- “(1) Sections 22B and 22C do not apply to a person if, in relation to specified insurance business carried on in New Zealand, that person does any 1 or more of the following:
- “(a) assists in issuing or administering policies, or in collecting premiums:
  - “(b) arranges, negotiates, solicits, or promotes contracts of insurance or the renewals of contracts of insurance (or both).
- “(2) Sections 22B and 22C do not apply to industry associations.

**“22E Exemption from section 22C granted by Secretary**

- “(1) The Secretary may issue exemptions from section 22C if the Secretary is satisfied that the person who will be subject to the exemption—
- “(a) will not be carrying on specified insurance business in New Zealand; and
  - “(b) has a legitimate reason to use the particular word in the person’s name.

- “(2) The Secretary may grant an exemption to a person or class of persons on any terms and conditions that the Secretary thinks fit.
- “(3) As soon as practicable, the exemption must be notified in the *Gazette* along with the Secretary’s reasons for granting an exemption (including why the exemption is appropriate).
- “(4) However, the Secretary may defer notifying or not notify the reasons for granting an exemption if the Secretary is satisfied that it is proper to do so on the ground of commercial confidentiality.
- “(5) The Secretary may vary or revoke an exemption in the same way as an exemption may be granted under this section.
- “(6) Each notice published in the *Gazette* under this section is a regulation for the purposes of the Regulations (Disallowance) Act 1989 but is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.

*“Information gathering powers*

**“22F Secretary’s powers of inspection**

- “(1) The Secretary, or a person authorised by the Secretary, may exercise any powers described in subsection (2) if the Secretary, or that person, considers it to be reasonably necessary to do so for the purpose of—
  - “(a) ascertaining whether a person is complying or has complied with any of the requirements of this Act; or
  - “(b) detecting offences against this Act.
- “(2) The powers are all or any of the following:
  - “(a) to require a person, including a person carrying on the business of banking, to produce for inspection relevant documents in that person’s possession or control:
  - “(b) to inspect and take copies of relevant documents;
  - “(c) to take possession of relevant documents and remove them from the place where they are kept, and retain them for a reasonable time, for the purpose of taking copies:
  - “(d) to retain relevant documents for a period that is, in all the circumstances, reasonable if there are reasonable grounds for believing that they are evidence of the commission of an offence.

- “(3) The Secretary, or a person authorised by the Secretary, must consult with the Reserve Bank of New Zealand before exercising any of the powers conferred by subsection (2) if the purpose of exercising the power relates to a registered bank (within the meaning of section 2(1) of the Reserve Bank of New Zealand Act 1989).
- “(4) A person must not obstruct or hinder the Secretary, or a person authorised by the Secretary, while the Secretary or authorised person is exercising a power conferred by subsection (2).
- “(5) If any document is taken under this section, the person who takes it must prepare a written inventory of all documents so taken, and must—
- “(a) leave the inventory at a prominent location at the place from which the document was taken; or
  - “(b) send the inventory to the occupier or the person in charge of that place, as the case may be, within 10 working days after taking the document.
- “(6) Nothing in this section limits or affects the privilege against self-incrimination.

Compare: 1993 No 105 s 365

## “22G Disclosure of information and reports

- “(1) Subsections (2) and (3) apply to a person authorised by the Secretary for the purposes of section 22F who has—
- “(a) obtained a document or information in the course of making an inspection under that section; or
  - “(b) prepared a report in relation to an inspection under that section.
- “(2) The person must, if directed to do so by the Secretary, give the document, information, or report to—
- “(a) the Secretary; or
  - “(b) any person authorised by the Secretary to receive the document, information, or report for the purposes of detecting offences against this Act; or
  - “(c) the Minister.
- “(3) The person must not disclose the document, information, or report except—
- “(a) in accordance with subsection (2); or
  - “(b) with the consent of the person to whom it relates and with the approval of the Secretary; or

- “(c) with the approval of the Secretary, for the purposes of this Act; or
- “(d) to the extent that the information, or information contained in the document or report, is available under any Act or in a public document; or
- “(e) in the course of criminal proceedings.

Compare: 1993 No 105 s 366

## “22H Application of Official Information Act 1982 and Privacy Act 1993

- “(1) This section applies to—
  - “(a) the Minister; and
  - “(b) the Secretary or a delegate of the Secretary.
- “(2) A person to whom this section applies may refuse to disclose a document, information, or a report in his or her possession obtained in making, or acquired as a result of, an inspection under section 22F until the purpose for which the inspection is carried out has been satisfied.
- “(3) If a person requests disclosure of whether an inspection under section 22F is being, is proposed to be, or has been carried out, as the case may be, no person to whom this section applies is required to disclose that information under the Official Information Act 1982 unless—
  - “(a) the disclosure of that information would not be likely to prejudice the commercial position of any person; and
  - “(b) there is no other good reason for withholding that information under that Act.
- “(4) Subsection (2) overrides the Official Information Act 1982 and the Privacy Act 1993, and subsection (3) overrides the Official Information Act 1982.

Compare: 1993 No 105 s 367

### “*Appeals*

## “22I Appeals from certain decisions

- “(1) A person who is aggrieved by a refusal to disclose a document, information, or a report, or by anything done under any of sections 22F, 22G, and 22H, may appeal to the High Court within 15 working days after being notified of that refusal or the doing of that thing, or within any further time as the Court may allow.

- “(2) On hearing the appeal, the High Court may confirm the refusal or the doing of the thing, or give any directions, or make any determination in the matter, as the Court thinks fit.

Compare: 1993 No 105 s 368”

## **7 New section 26 added**

The following section is added:

### **“26 Regulations**

The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

- “(a) prescribing fees and charges that the Secretary may require to be paid to the Secretary in connection with an application to the Secretary to grant or vary an exemption:
- “(b) prescribing the amounts of those fees or charges or the method by which they are to be calculated.”

## **8 Transitional provision**

- (1) Section 22B of the principal Act (as inserted by section 6 of this Act) does not apply to a person that is in existence when this Act comes into force until 3 months after this Act comes into force.
- (2) Section 22C of the principal Act (as inserted by section 6 of this Act) does not apply to a person that is in existence when this Act comes into force until 6 months after this Act comes into force.

## **9 Consequential amendment to Life Insurance Act 1908**

- (1) This section amends the Life Insurance Act 1908.
- (2) The following section is inserted after section 36:

### **“36A Overseas business**

Sections 22A to 22I and 26 of the Insurance Companies' Deposits Act 1953 apply to certain business in New Zealand and overseas.”

## **10 Consequential amendment to Mutual Insurance Act 1955**

- (1) This section amends the Mutual Insurance Act 1955.
- (2) The following section is inserted after section 43:



**“43A Overseas business**

Sections 22A to 22I and 26 of the Insurance Companies' Deposits Act 1953 apply to certain business in New Zealand and overseas.”

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**Legislative history**

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| 14 November 2006 | Divided from Business Law Reform Bill (Bill 64–2)<br>as Bill 64–3E |
| 15 November 2006 | Third reading  |
| 21 November 2006 | Royal assent   |

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This Act is administered by the Ministry of Economic Development.

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