



## ANALYSIS

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1974, No. 146

**An Act to amend the Life Insurance Act 1908**

[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 Life Insurance Amendment Act 1974, and shall be read together with and deemed part of the Life Insurance Act 1908 (hereinafter referred to as the principal Act).

(2) Section 3 of this Act shall be deemed to have come into force on the 26th day of July 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**—Section 2 of the principal Act is hereby amended by inserting in the definition of the term “company”, after the words “or which grants annuities upon human life in New Zealand”, the words “, or which is liable under

any contract of reinsurance in respect of the issue in New Zealand of policies of insurance upon human life, or of the granting in New Zealand of annuities upon human life”.

**3. Companies to make deposits—**(1) The principal Act is hereby amended by repealing section 3, and substituting the following section:

“3. (1) Every company that is, on the 26th day of July 1974, carrying on in New Zealand the business of insurance upon human life or the grant of annuities, or of reinsurance in respect of policies of insurance upon human life or the grant of annuities, shall, unless the company sooner ceases to carry on that business, deposit with the Public Trustee, by the respective dates shown in the first column of the table set out in the Twenty-First Schedule to this Act, approved securities of an aggregate value equal to a sum which, when added to the aggregate value of any money and approved securities previously deposited by that company and not withdrawn, totals not less than the amount shown in the second column of that table:

“Provided that in any case where the Minister is satisfied that, having regard to the financial position of the company, and to the interests of the policyholders, he would be justified in doing so, he may, by notice in writing to the company, defer for any period not exceeding 5 years the date by which any sum specified in the table, or any part of any such sum, is to be deposited.

“(2) Every company that proposes to commence, after the 26th day of July 1974, to carry on in New Zealand the business of insurance upon human life or the grant of annuities, or of reinsurance in respect of policies of insurance upon human life or the grant of annuities, shall, before commencing to carry on that business, deposit with the Public Trustee approved securities of an aggregate value of not less than \$500,000.

“(3) For the purposes of this section, the term ‘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 by 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 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:

“(d) Any deposit receipt given in the name of the Public Trustee by any bank approved for that purpose by him.

“(4) All deposits lawfully made by any company before the commencement of this subsection shall be deemed to be approved securities, and to have been lawfully made under this section.”

(2) The following enactments are hereby consequentially repealed:

(a) Paragraphs (a), (b), (d) and (e) of subsection (1) and subsection (2) of section 2 of the Life Insurance Amendment Act 1921–22:

(b) Section 2 of the Life Insurance Amendment Act 1958:

(c) So much of the Second Schedule to the State Advances Corporation Act 1965 as relates to the principal Act:

(d) The Life Insurance Amendment Act 1971:

(e) So much of the First Schedule to the Housing Corporation Act 1974 as relates to the principal Act.

**4. Compensation for lost deposits**—The principal Act is hereby amended by inserting, after section 4, the following section:

“4A. If any securities deposited under this Act with the Public Trustee are, while so deposited, lost, stolen, destroyed, or damaged, any loss suffered by the company making the deposit, or by any other person, shall be made good out of money to be appropriated for the purpose by Parliament.”

**5. Increase of deposits where securities have depreciated**—The principal Act is hereby amended by inserting, after section 6, the following section:

“6A. (1) If the Public Trustee is satisfied that by reason of depreciation in the value of securities or other cause the value of the approved securities together with the money (if any)

deposited by any company under this Act falls short of the amount required by this Act, he may by notice in writing served on the company require the company to deposit with the Public Trustee, within such time as he may specify in the notice, approved securities to a value deemed by the Public Trustee to be sufficient to bring the amount of the deposit to the value required by this Act.

“(2) The Public Trustee shall not issue a notice under this section until he has given an opportunity to the company to be heard in connection with the matter.

“(3) If any company fails to deposit with the Public Trustee approved securities as required by the Public Trustee in any notice served under this section, that failure shall be deemed—

“(a) For the purposes of section 28 of this Act, to be a default in complying with a requirement of Part I of this Act; and

“(b) For the purposes of section 38 of this Act, to be a default in complying with the provisions of this section.”

**6. Certificate of incorporation not to be given until deposit made**—Section 10 of the principal Act is hereby amended by omitting from subsection (1) the words “to the extent of five thousand pounds”.

**7. Remuneration of Public Trustee**—The principal Act is hereby amended by inserting, after section 13, the following section:

“13A. 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 consolidated by this Act:

“Provided that the Public Trustee shall not be entitled under this section to remuneration for any services performed by him before the commencement of this section.”

**8. Actuarial report and abstract**—The principal Act is hereby amended by repealing section 18, and substituting the following section:

“18. (1) Every company shall, once in every year, cause an investigation to be made into its financial condition by an actuary, and shall cause an abstract of the actuary’s report to be made in the form prescribed in the Sixth Schedule hereto.

“(2) Notwithstanding anything in subsection (1) of this section, in any case where the Minister is satisfied that, having regard to the financial position of the company, and to the interests of the company’s policyholders, it is not necessary to require a company to comply with the requirements of that subsection, he may, by notice in the *Gazette*, exempt that company from those requirements:

“Provided that an exemption granted to a company under this subsection shall not release the company from, or in any way limit or affect, any obligation imposed on it by the instrument constituting the company, or by its regulations or bylaws.

“(3) A company that is, for the time being, exempt from the requirements of subsection (1) of this section shall, notwithstanding that it is so exempt, once in every 5 years, or at such shorter intervals (being of not less than 12 months) as the Minister may from time to time require, cause an investigation to be made into its financial condition by an actuary, and shall cause an abstract of the actuary’s report to be made in the form prescribed in the Sixth Schedule hereto.

“(4) Where the Minister has exempted any company under subsection (2) of this section, he may at any time thereafter, by notice in the *Gazette*, revoke that exemption if, having regard to the matters referred to in that subsection, he is of the opinion that he should do so.”

**9. Requirements as to statements and abstracts—**(1) The principal Act is hereby amended by repealing section 21, and substituting the following section:

“21. (1) Each statement or abstract required under any of the foregoing provisions of this Act shall be made in writing and signed by the principal officer of the company managing the life insurance business in New Zealand, and shall be deposited, together with 2 copies thereof, with the Secretary for Justice within 9 months after the date prescribed by this Act as the date at which it is to be prepared.

“(2) On receiving any such statement or abstract the Secretary for Justice may, by notice in writing served on the company depositing the statement or abstract, require

that company, within such period (being not less than 14 days after the date of service) or extended period as he may allow, to supply him with such explanation of, or such further information relating to, the subject-matter of the statement or abstract as he may consider necessary for the purposes of this Act."

(2) The Life Insurance Amendment Act 1972 is hereby consequentially amended by repealing so much of the Schedule as relates to section 21 of the principal Act.

**10. Minister may alter form**—The principal Act is hereby amended by inserting, after section 78, the following section:

"78A. The Minister, on application by or with the consent of a company, may alter the form in the Twentieth Schedule to this Act for the purposes of adapting it to the circumstances of the company, or for the better carrying into effect of the objects of this Act."

**11. Separate statements of New Zealand business**—Section 79 of the principal Act is hereby amended by adding, as subsections (2) and (3), the following subsections:

"(2) Every statement deposited under subsection (1) of this section (except a statement in the form set out in the Twentieth Schedule to this Act) shall be accompanied by a written report prepared by an auditor (being a qualified person within the meaning of section 402 (5) of the Companies Act 1955) appointed for the purpose by the company depositing the statement.

"(3) For the purposes of this section,—

"(a) Sections 163 and 164 and subsections (4) to (6) of section 165 of the Companies Act 1955 shall apply, with any necessary modifications, to the appointment, remuneration, removal, and disqualification of an auditor:

"(b) Section 166 of that Act shall apply, with any necessary modifications, to the content of the auditor's report, to his right of access to the company's books, and to his right to attend and be heard at the company's meetings."

**12. Secretary for Justice may require further information**—The principal Act is hereby amended by inserting, after section 79, the following section:

“79A. On receiving any statement required by section 78 or section 79 of this Act the Secretary for Justice may, by notice in writing served on the company depositing the statement, require that company, within such period (being not less than 14 days after the date of service) or extended period as he may allow, to supply him with such explanation of, or such further information relating to, the subject-matter of the statement as he may consider necessary for the purposes of this Act.”

**13. New Schedule added**—The principal Act is hereby further amended by adding the Twenty-First Schedule set out in the Schedule to this Act.

Section 13

## SCHEDULE

NEW TWENTY-FIRST SCHEDULE ADDED TO PRINCIPAL ACT

Section 3

### “TWENTY-FIRST SCHEDULE

“TABLE OF DEPOSITS REQUIRED OF COMPANIES CARRYING ON BUSINESS  
IN NEW ZEALAND ON 26 JULY 1974

Date by Which Deposit is to be Made	Minimum Amount to be Deposited by That Date
26 July 1975	\$100,000
26 July 1976	\$200,000
26 July 1977	\$300,000
26 July 1978	\$400,000
26 July 1979	\$500,000.”

This Act is administered in the Department of Justice.