



## ANALYSIS

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1970, No. 3—*Private*

**An Act to provide for the investment of the moneys of The National Heart Foundation of New Zealand in investments other than those prescribed by its constitution**

[21 November 1970]

WHEREAS The National Heart Foundation of New Zealand was incorporated under the provisions of the Charitable Trusts Act 1957 on the 26th day of April 1968: And whereas the constitution of the said Foundation provides that the Council of the Foundation has the power from time to time to invest and reinvest in securities authorised by law for the investment of trust funds upon such terms as the said Council shall think fit the whole or any part of the moneys of the said Foundation not required for the immediate purposes of the said Foundation: And whereas it is expedient that the Council of the Foundation should be granted certain further powers of investment: And whereas it is desirable that such further powers of investment should be granted by legislation:

BE IT THEREFORE 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 National Heart Foundation of New Zealand Empowering Act 1970.

**2. Interpretation—**

“Council” means the Council or other governing body of the Foundation for the time being appointed as provided in the constitution of the Foundation:

“Foundation” means The National Heart Foundation of New Zealand a body duly incorporated under the provisions of the Charitable Trusts Act 1957.

**3. Investment of Foundation’s funds—**(1) Without restricting the powers conferred on the Council by the constitution of the Foundation to invest and reinvest in securities authorised by law for the investment of trust funds upon such terms as the Council shall think fit the whole or any part of the moneys of the Foundation not required for the immediate purposes of the Foundation, it is hereby declared that the Council may, subject to the restrictions specified in subsections (2) to (4) of this section, invest any such moneys in the securities of any company, whether incorporated in New Zealand or elsewhere, which are officially listed on Stock Exchanges affiliated to the Stock Exchange Association of New Zealand and which comprise—

- (a) Ordinary or preference shares, stock, or debentures (including debenture stock and bonds and whether constituting a charge on assets or not); or
- (b) Secured or unsecured notes, whether registered or unregistered, and whether conveying the right of conversion to shares or not.

(2) The securities mentioned in subsection (1) of this section do not include:

- (a) Any shares, stock, debentures, or notes, not fully paid up, except such as are, by the terms of issue, required to be fully paid up within 12 months of the date of issue; or
- (b) Any notes, or any debentures, under or in respect of which any liability to make further advances or payments will remain after the expiration of 12 months from the date of acquisition.

(3) An investment under subsection (1) of this section shall not be made in the securities of any company—

- (a) Unless the company has a paid-up share capital of \$1,000,000 or more; and
- (b) If the company has not paid a dividend of at least 5 percent, in each complete financial year of the company the last day of which occurred within

5 years before the date of the investment, on all ordinary stock and shares issued by the company, excluding (in respect of the financial year of issue) any stock or shares issued in that financial year after the dividend was declared and any stock or shares on which (in terms of their issue) no dividend or dividends of less than 5 percent are payable in the financial year; and for the purposes of this paragraph a company formed to take over the whole of the business of another company or other companies shall be deemed to have paid the requisite dividend in any financial year, if such a dividend was paid by each such other company in each financial year of that company any part of which fell within the relevant financial year of the company taking over the business.

(4) Before making any investment pursuant to subsection (1) of this section the Council shall first obtain and consider proper advice in writing as to the suitability of the proposed investment from a person—

- (a) Who is reasonably believed by the Council to be qualified by his ability in and practical experience of financial matters; and
- (b) Who is not a member of the Council, or an officer or employee of the Foundation or of the company in which it is proposed to make such investment.

(5) The Council shall have power to exercise all of the options and other rights to which the Foundation may become entitled as the holder of any ordinary or preference shares, stock, debentures, or notes and to sell, exchange, vary, or transpose any investments from time to time held by the Foundation.

**4. Private Act**—This Act is hereby declared to be a private Act.

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