



ANALYSIS

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1983, No. 117

An Act to consolidate and amend the law relating to private savings banks [16 December 1983]

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 Private Savings Banks Act 1983.

(2) This Act shall come into force on the 1st day of April 1984.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Financial year”, in relation to a savings bank company, means the financial year determined in that behalf by the company:

“Minister” means the Minister of Finance:

“Parent bank”, in relation to a savings bank company, means the bank having control of that company:

“Private savings bank” means a savings bank carried on by a savings bank company:

“Savings bank company” means a private company within the meaning of the Companies Act 1955, which, under the control of a bank in accordance with section 5 of this Act, has for its principal object the carrying on in New Zealand of a savings bank:

“Subsidiary” means a subsidiary within the meaning of the Companies Act 1955:

“Trading bank” or “bank” means a bank referred to in the First Schedule to the Reserve Bank of New Zealand Act 1964:

“Trustee bank” means a trustee bank established under the Trustee Banks Act 1983.

Cf. 1964, No. 9, s. 2

3. Banks may acquire shares in savings bank company—

(1) Notwithstanding the provisions of any enactment, contract, charter, memorandum or articles of association, or rule of law, but subject to subsection (2) of this section, any trading bank and any subsidiary of a trading bank may subscribe for and hold shares in a savings bank company.

(2) A trading bank or any subsidiary of that bank shall not at any time hold shares in more than one savings bank company to which this Act applies.

Cf. 1964, No. 9, s. 3

4. Savings bank company may carry on private savings bank—(1) Subject to the provisions of this Act, any savings bank company may establish and carry on in New Zealand a savings bank and for that purpose may establish branch offices and agencies.

(2) Except with the consent of the Minister, no savings bank company shall establish or carry on a savings bank elsewhere than in New Zealand.

(3) Except as otherwise provided by this Act or regulations made under this Act, no savings bank company shall carry on any business other than that of a savings bank.

Cf. 1964, No. 9, s. 4 (1)–(3)

5. Savings bank company to be controlled by bank—

(1) No savings bank company shall commence or continue to carry on business unless effective control of the company is vested in its parent bank.

(2) For the purposes of this section, effective control of a savings bank company shall be deemed to be vested in its parent bank if, but only if, the savings bank company is a subsidiary of its parent bank.

Cf. 1964, No. 9, s. 8

6. Commencement of business—No savings bank company shall commence to carry on a savings bank until authorised in that behalf by the Governor-General by Order in Council.

Cf. 1964, No. 9, s. 9

7. Functions of private savings banks—The functions of every private savings bank shall be—

- (a) To carry on the business of banking in the following forms—
 - (i) The receipt of money on current account or on deposit:
 - (ii) The payment and collection of cheques:
 - (iii) The investment and lending of money:
 - (iv) The provision of banking services to facilitate the forms of business described in subparagraphs (i) to (iii) of this paragraph:
- (b) To carry on the business of banking in such other forms as may be authorised from time to time by the Governor-General by Order in Council:
- (c) To carry on such functions related to the business of banking as may be authorised from time to time by the Governor-General by Order in Council.

Cf. 1964, No. 9, s. 4 (4)

8. Powers—Every savings bank company shall have all such powers as are conferred on it under this Act and all such other powers, not inconsistent with this Act, as are reasonably necessary for or incidental to the effective performance of the functions of the savings bank which it carries on.

Cf. 1964, No. 9, s. 4 (5)

9. Deposits—Subject to regulations made under this Act, a private savings bank may receive money on current account or on deposit upon such terms and conditions as may be determined by the private savings bank company.

10. Interest on deposits—Subject to any Order in Council or regulations made under this or any other Act, a savings bank company may pay interest on money received at such rate and on such terms and conditions as the savings bank company may from time to time determine.

11. Power to borrow—Every savings bank company may from time to time borrow from any person such amounts, upon such terms and conditions as it may determine.

12. Power to invest money—(1) Subject to this Act and to section 34C of the Reserve Bank of New Zealand Act 1964, any savings bank company may invest any money deposited in its savings bank or belonging to the company in such manner and upon such terms and conditions as may from time to time be determined by the company.

(2) All money deposited in New Zealand with a private savings bank shall be invested in New Zealand.

13. Guarantee to depositors—(1) If the money for the time being available to any savings bank company is not sufficient to meet the claims of depositors in the savings bank carried on by the company for payment of money standing to their credit, the parent bank of the company shall pay to the company such sums as may be necessary to meet the deficiency.

(2) Every trading bank and every savings bank company controlled by that bank shall execute an instrument of guarantee, in a form approved by the Minister, under which the trading bank guarantees the payment to the savings bank company of any amount required to be paid under subsection (1) of this section.

(3) Every instrument executed under subsection (2) of this section shall be deposited with the Registrar of Companies.

Cf. 1964, No. 9, s. 11

14. Directions by Minister—(1) If in the opinion of the Minister the business of a savings bank company is being conducted in such a way as to be prejudicial to the safety of the funds of the depositors in its savings bank or as to be prejudicial to the stability of the financial system in New Zealand, the Minister may give, in writing, such directions for the conduct of the company's business as he thinks fit, and the company shall be bound to act in accordance with those directions.

(2) Nothing in this section shall—

- (a) Authorise the Minister to give directions with respect to an advance made or proposed to be made to a particular person; or
- (b) Affect the validity of a transaction entered into in relation to an advance or affect the right of a savings bank company to recover an advance or enforce the security given in respect of an advance.

Cf. 1964, No. 9, s. 5 (1), (4) (a), (b)

15. Savings bank company ceasing business—(1) If any savings bank company intends to cease to carry on a savings bank, it shall forthwith give notice of the fact to the Minister.

(2) No savings bank company shall cease to carry on a savings bank less than 6 months after having given notice of its intention to do so under subsection (1) of this section and unless all money owing to depositors in the savings bank has been paid to the depositors.

(3) If any savings bank company—

- (a) Ceases to carry on business without having given notice of intention to do so under subsection (1) of this section; or
- (b) Acts in contravention of or fails to comply with subsection (2) of this section,—

it and its parent bank each commit an offence and the company and its parent bank shall each be liable on summary conviction to a fine not exceeding \$50,000.

(4) Where a savings bank company ceases to carry on a savings bank contrary to the provisions of subsection (2) of this section, any amount due to any depositor in the savings bank shall constitute a debt owing to the depositor by the parent bank of the company, and shall be recoverable accordingly in any Court of competent jurisdiction.

Cf. 1964, No. 9, s. 12

16. Financial statements—(1) Every savings bank company shall cause full and accurate accounts to be kept of all money received and disbursed, and of all assets and liabilities, and of all profits and losses in respect of the operations of the company.

(2) Nothing in subsection (1) of this section shall derogate from any provision of the Companies Act 1955 or any other enactment.

Cf. 1964, No. 9, s. 19 (1)

17. Authority for certain deposits—Where any provision of any enactment authorises the investment of money on deposit in a trustee bank, that provision shall be deemed to include authority to invest money on deposit in a private savings bank or a savings bank carried on by a trading bank.

Cf. 1964, No. 9, s. 21 (2)

18. Offences—Any savings bank company which carries on a savings bank contrary to the provisions of this Act, or which wilfully fails to comply with any direction of the Minister under and in accordance with this Act, commits an offence and shall be liable on summary conviction to a fine not exceeding \$10,000 and, if the offence is a continuing one, to a further fine not exceeding \$1,000 for every day during which the offence has continued.

Cf. 1964, No. 9, s. 22

19. Contravention of Act by company not to prejudice rights of depositors—A contravention of or non-compliance with any provision of this Act, or of any regulation made or condition imposed thereunder, by a savings bank company shall not prejudice any contract or obligation for repayment to a depositor of any money deposited by him with the savings bank of the company or for the payment of interest lawfully payable thereon.

Cf. 1964, No. 9, s. 23

20. Other legislation—(1) Subject to the provisions of this Act, no savings bank company and no private savings bank shall be deemed to be a bank within the meaning of the Banking Act 1982.

(2) Nothing in sections 31 (2) (c) and 458 (2) of the Companies Act 1955 shall apply to a savings bank company.

(3) The provisions of sections 5 to 9 of the Banking Act 1982 shall apply with respect to private savings banks.

(4) Subject to the provisions of this Act, and of regulations made under this Act, the provisions of the Bills of Exchange Act 1908 shall apply to savings bank companies in all respects as if those companies were bankers.

Cf. 1964, No. 9, s. 24

21. Regulations—(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Prescribing and regulating the keeping of accounts of depositors:
 - (b) Prescribing the mode of making deposits and withdrawing money, and the conditions relating thereto:
 - (c) Prescribing the classes of accounts which may be opened and operated in private savings banks, and the conditions relating thereto:
 - (d) Prescribing the persons or classes of persons who may be depositors in private savings banks:
 - (e) Regulating rates of interest on money received and the manner in which interest is calculated and paid:
 - (f) Applying, with the necessary modifications, the provisions of section 129 of the Post Office Act 1959 to Home Lay-by Accounts opened in private savings banks:
 - (g) Providing for the payment of amounts standing to the credit of a depositor at his death to persons nominated in that behalf by the depositor and prescribing conditions relating to any such payment or nomination:
 - (h) Prescribing amounts to be kept by savings bank companies in cash, or on current account, or in other investments immediately available:
 - (i) Prohibiting, restricting, or controlling the automatic transfer of money from an account of any person in a private savings bank to an account of the same person in the parent bank of that savings bank:
 - (j) Prescribing limits in respect of deposits by savings bank companies with their parent banks or other trading banks and regulating the disposition of cash reserves of savings bank companies:
 - (k) Applying to savings banks carried on by trading banks (other than by means of a savings bank company) any regulation made under any other paragraph of this subsection in respect of Home Lay-by Accounts or any account in a private savings bank established under the Farm Ownership Savings Act 1974, the Fishing Vessel Ownership Savings Act 1977, or the Home Ownership Savings Act 1974:
 - (l) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.
- (2) Nothing in subsection (1) (k) of this section limits any provision of the Reserve Bank of New Zealand Act 1964 or any power to give directions or to make regulations which is conferred by any such provision.

22. Repeals and saving—(1) The enactments specified in the Schedule to this Act are hereby repealed.

(2) The repeal of the Private Savings Banks Act 1964 by subsection (1) of this section shall not affect the amendment made by section 21 (1) of that Act to section 2 (1) of the Trustee Act 1956.

(3) Nothing in this Act prevents a trading bank from carrying on a savings bank other than by means of a savings bank company.

SCHEDULE

Section 22 (1)

ENACTMENTS REPEALED

- 1964, No. 9—The Private Savings Banks Act 1964.
1970, No. 18—The Private Savings Banks Amendment Act 1970.
1972, No. 122—The Private Savings Banks Amendment Act 1972.
1973, No. 16—The Reserve Bank of New Zealand Amendment Act 1973:
Section 14 (4) and so much of the Schedule to that Act
as relates to the Private Savings Banks Act 1964.
(Reprinted 1974, Vol. 3, p. 2485.)
1977, No. 24—The Private Savings Banks Amendment Act 1977.
1978, No. 103—The Securities Act 1978: Section 71 (13).
1978, No. 118—The Private Savings Banks Amendment Act 1978.

This Act is administered in the Treasury.
