



ANALYSIS

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1993, No. 118

An Act to amend the Reserve Bank of New Zealand Act 1989
[28 September 1993]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Reserve Bank of New Zealand Amendment Act 1993, and shall be read together with and deemed part of the Reserve Bank of New Zealand Act 1989 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of July 1994.

2. Liquidation of registered banks—The principal Act is hereby amended by repealing section 136, and substituting the following section:

“136. (1) Subject to this Part of this Act, a statutory manager of a registered bank may, with the prior approval of the Bank,—

“(a) In the case of a registered bank which may be put into liquidation under the Companies Act 1955 or the Companies Act 1993, apply under either of those Acts to put the registered bank into liquidation:

“(b) In the case of a registered bank which is an individual, petition under the Insolvency Act 1967 to have that registered bank declared bankrupt:

“(c) In the case of a registered bank constituted under any other Act, take such steps as are provided for in that Act for the winding up, liquidation, or dissolution of that registered bank.

“(2) The Governor-General may, by Order in Council, on the advice of the Minister given in accordance with a recommendation of a statutory manager of a registered bank, not being a registered bank referred to in subsection (1) of this section, order that the registered bank to which the recommendation relates shall be wound up in such manner as may be specified in the order and, in any such case, the registered bank shall be wound up in the manner specified.

“(3) A statutory manager shall not make a recommendation under subsection (2) of this section without the prior approval of the Bank.

“(4) Nothing in this section limits or affects any other enactment which provides for the winding up, liquidation, or dissolution, of any body corporate or any class of body corporate.”

3. Power to trace property improperly disposed of—Section 138 of the principal Act is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) Nothing in this section restricts the operation of the Companies Act 1955 or the Companies Act 1993.”

4. Application of certain provisions of Companies Act 1993—The principal Act is hereby amended by repealing section 139, and substituting the following section:

“139. (1) Sections 292 to 301 and 312 of the Companies Act 1993 shall apply to a registered bank that is subject to statutory management under this Act in all respects, and with such modifications as may be necessary, as if—

“(a) The registered bank was a company in liquidation under that Act; and

“(b) The statutory manager of the registered bank was the liquidator of the company; and

“(c) The date on which the registered bank became subject to statutory management was the date on which the liquidation commenced.

“(2) Nothing in section 263 of the Companies Act 1993 shall apply to a registered bank by virtue of the application of section 312 of that Act.”

5. Transitional provisions—Nothing in section 4 of this Act applies to or affects—

- (a) A registered bank that was subject to statutory management under the principal Act immediately before the commencement of this Act:
- (b) Any transaction entered into by a registered bank or anything done by any person before the commencement of this Act—

and, in any such case, sections 308 (except subsection (1) (d)), 309 to 311c, and 319 to 321 of the Companies Act 1955, as in force before the commencement of this Act, shall continue to apply to the registered bank in all respects and with such modifications as may be necessary, as if—

- (c) The registered bank were a company that was being wound up under the Companies Act 1955; and
- (d) The statutory manager of the registered bank was the liquidator of the company; and
- (e) The date on which the registered bank became subject to statutory management was the date of the commencement of the winding up.

6. Prior winding up, liquidation, or receivership to cease—Section 143 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Where a registered bank, or any subsidiary or associated person of a registered bank, becomes subject to statutory management, and that registered bank, subsidiary, or associated person is already being wound up or is already in liquidation or receivership,—

“(a) The winding up or liquidation or receivership of that registered bank, subsidiary, or associated person shall, for so long as it continues to be subject to statutory management, cease; and

“(b) The person appointed as liquidator or receiver shall be discharged.”

7. Termination of statutory management—(1) Section 144 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Any registered bank, or associated person of a registered bank, or subsidiary of a registered bank shall cease to be subject to statutory management if that registered bank, or associated person, or subsidiary, as the case may be, is put into liquidation on the application of the statutory manager.”

(2) Section 144 (4) of the principal Act is hereby amended by omitting the words “a winding-up order is made in respect of a registered bank, associated person, or subsidiary”, and substituting the words “a registered bank, associated person, or subsidiary is put into liquidation”.

(3) Section 144 (5) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) In any case where a liquidator is appointed, the date of the liquidator’s appointment.”

8. Priority for certain debts—The principal Act is hereby amended by repealing section 145, and substituting the following section:

“145. In the winding up or liquidation of a registered bank or an associated person of a registered bank or a subsidiary of a registered bank, all amounts required to satisfy obligations incurred by the statutory manager on behalf of the registered bank, associated person, or subsidiary, shall be paid in priority to all other debts.”

9. Application of other Acts—The principal Act is hereby amended by repealing section 153, and substituting the following section:

“153. (1) Subject to subsection (2) of this section, all the provisions of the Companies Act 1955 and all rules and regulations under that Act shall, so far as they are applicable, and with the necessary modifications, apply to a registered bank that is a company within the meaning of section 2 of that Act and that is subject to statutory management.

“(2) Nothing in sections 41, 130 to 135, and 152 to 167 of the Companies Act 1955 shall apply to a company that is subject to statutory management.

“(3) Subject to subsection (4) of this section, all the provisions of the Companies Act 1993 and all rules and regulations made under that Act shall, so far as they are applicable and with the necessary modifications, apply to a registered bank that is a company within the meaning of section 2 of that Act and that is subject to statutory management.

“(4) Nothing in sections 120, 196 to 210, and 214 of the Companies Act 1993 shall apply to a registered bank that is subject to statutory management.

“(5) Nothing in the Receiverships Act 1993 shall apply to a company that is subject to statutory management.

“(6) Subject to subsection (7) of this section, all the provisions of the Building Societies Act 1965 and all rules and regulations under that Act shall, so far as they are applicable, and with the necessary modifications, apply to a registered bank that is a building society within the meaning of section 2 of that Act and that is subject to statutory management.

“(7) Nothing in sections 76 and 91 to 106 of the Building Societies Act 1965 shall apply to a building society that is subject to statutory management.

“(8) The Governor-General may, from time to time, by Order in Council, on the advice of the Minister given in accordance with the recommendation of the Bank, declare that the provisions of any Act under which any other registered bank that is subject to statutory management is incorporated, constituted, or registered corresponding with the provisions referred to in subsections (2), (4), and (7) of this section shall not apply to that registered bank.”

This Act is administered in the Reserve Bank of New Zealand.
