



ANALYSIS

<p>Title</p> <p>1. Short Title and commencement</p> <p>2. Interpretation</p> <p><i>Valuation New Zealand to be Crown-Owned Company</i></p> <p>3. Shareholding in Valuation New Zealand Limited</p> <p>4. Application of Companies Act 1993</p> <p>5. Minister may appoint representative</p> <p>6. Valuation New Zealand Limited to be good employer</p> <p>7. Audit Office to be auditor of Valuation New Zealand Limited</p> <p><i>Transfer of Crown Assets and Liabilities Relating to Valuation Department</i></p> <p>8. Transfer of Crown assets and liabilities to Valuation New Zealand Limited</p>	<p>9. Rights and liabilities of Crown and third parties following transfer</p> <p><i>Transfer of Employees of Valuation Department</i></p> <p>10. Transfer of employees</p> <p>11. Protection of conditions of employment on transfer</p> <p>12. No compensation for technical redundancy</p> <p>13. Membership of Government Superannuation Fund</p> <p><i>Amendment to Other Acts</i></p> <p>14. Amendments to other Acts</p> <p>15. References to Valuation New Zealand Limited in Acts amended may be removed by Order in Council if Crown shareholding falls below 50%</p>
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1998, No. 70

An Act to restructure the Valuation Department as a Crown-owned company and to provide for the transfer of employees to that company and to Land Information New Zealand [23 June 1998]

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

1. Short Title and commencement—(1) This Act may be cited as the Valuation Department (Restructuring) Act 1998.

(2) This Act comes into force on 1 July 1998.

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

“Company” means Valuation New Zealand Limited, a company incorporated under the Companies Act 1993:

“Department” means Land Information New Zealand:

“Shareholding Ministers” means the Minister of Finance and the Minister for State-owned Enterprises.

Valuation New Zealand to be Crown-Owned Company

3. Shareholding in Valuation New Zealand Limited—

(1) All shares in Valuation New Zealand Limited held by a shareholding Minister are held on behalf of the Crown.

(2) The number of shares in the company held by each shareholding Minister are to be the same.

(3) Any payment of money required from a shareholding Minister on subscribing for or otherwise acquiring shares in the company is to be met from an appropriation by Parliament for the purpose.

(4) Shares in the company held in the name of a person described as the Minister of Finance or the Minister for State-owned Enterprises are to be held by the person for the time being holding the relevant office.

(5) Notwithstanding any other enactment or rule of law, it is unnecessary to complete or register a transfer of shares consequent upon a change in the person holding the relevant office as Minister.

(6) A shareholding Minister may exercise all the rights and powers attaching to the shares in the company held by the Minister.

4. Application of Companies Act 1993—(1) Except as otherwise provided in this Act, the Companies Act 1993 applies to Valuation New Zealand Limited.

(2) Nothing in this Act prevents a change to the company’s name in accordance with the Companies Act 1993, and if this occurs references in this Act to Valuation New Zealand Limited and to the company are to be read, where appropriate, as applying to the company under its new name.

5. Minister may appoint representative—(1) A shareholding Minister may at any time authorise another person to act as the Minister’s representative at any or all of the meetings of shareholders of Valuation New Zealand Limited.

(2) The authorisation is to be made by way of written notice to the secretary of the company, and is subject to any terms or conditions specified in the notice.

(3) Subject to any such terms and conditions, the person authorised is entitled to exercise the same powers on behalf of

the Minister as the Minister could exercise if present in person at the meeting or meetings.

6. Valuation New Zealand Limited to be good employer—(1) This section applies for so long as—

- (a) The shareholding Ministers continue to hold at least 50% of the ordinary shares in the capital of Valuation New Zealand Limited; and
- (b) The Fourth, Sixth, and Seventh Schedules of the Public Finance Act 1989 apply to the company.

(2) The company must operate a personnel policy that complies with the principle of being a good employer.

(3) For the purposes of this section, a “good employer” is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—

- (a) Good and safe working conditions; and
- (b) An equal employment opportunities programme; and
- (c) The impartial selection of suitably qualified persons for appointment; and
- (d) Recognition of—
 - (i) The aims and aspirations of the Maori people; and
 - (ii) The employment requirements of the Maori people; and
 - (iii) The need for greater involvement of the Maori people as employees of the company; and
- (e) Opportunities for the enhancement of the abilities of individual employees; and
- (f) Recognition of the aims and aspirations, and the cultural differences, of ethnic or minority groups; and
- (g) Recognition of the employment requirements of women; and
- (h) Recognition of the employment requirements of persons with disabilities.

7. Audit Office to be auditor of Valuation New Zealand Limited—(1) The Audit Office is the auditor of Valuation New Zealand Limited and of every subsidiary of Valuation New Zealand Limited for so long as—

- (a) The shareholding Ministers continue to hold at least 50% of the ordinary shares in the capital of Valuation New Zealand Limited; and

(b) The Fourth, Sixth, and Seventh Schedules of the Public Finance Act 1989 apply to the company,—
and for that purpose has and may exercise all such powers as it has under the Public Finance Act 1997 in respect of public money and public stores.

(2) Valuation New Zealand Limited is to pay to the Audit Office for carrying out its duties and functions under this section fees at such rates as may be prescribed by the Minister of Finance.

(3) Without limiting subsections (1) and (2), Valuation New Zealand Limited, or any subsidiary of the company, may, after consultation with the Audit Office and if the shareholding Ministers so approve, appoint a person or firm that is qualified for appointment as an auditor of a company to be an additional auditor of Valuation New Zealand Limited or the subsidiary.

*Transfer of Crown Assets and Liabilities Relating to Valuation
Department*

8. Transfer of Crown assets and liabilities to Valuation New Zealand Limited—(1) Notwithstanding any Act, rule of law, or agreement, the shareholding Ministers may, on behalf of the Crown,—

- (a) Transfer to Valuation New Zealand Limited assets and liabilities of the Crown; and
- (b) Authorise the company to act on behalf of the Crown in providing goods or services, or in managing assets or liabilities of the Crown; and
- (c) Grant to the company leases, licences, easements, permits, or rights of any kind in respect of any assets or liabilities of the Crown—

for such consideration and on such terms and conditions as the shareholding Ministers may agree with the company.

(2) The shareholding Ministers must present to the House of Representatives any contract or other document entered into under subsection (1) within 12 sitting days after the date of that contract or document.

9. Rights and liabilities of Crown and third parties following transfer—(1) Where there is a transfer of any asset, liability, or responsibility to Valuation New Zealand Limited under any of paragraphs (a) to (c) of section 8 (1),—

- (a) The transfer does not entitle any other person to terminate, alter, or in any way affect the rights or

liabilities of the Crown or the company under any Act or any agreement:

- (b) Where the transfer is registrable, the person responsible for keeping the register must register the transfer forthwith after written notice of the transfer is received by him or her from any person authorised for this purpose by a shareholding Minister:
- (c) The presentation to the House of Representatives of any contract or other document relating to the transfer is deemed to be notice of the transfer, and after the date of the contract or agreement any affected third party is to deal with the company in place of the Crown:
- (d) The Crown remains liable to any third party as if the asset, liability, or responsibility had not been transferred, but the company must indemnify the Crown in respect of any liability to the third party:
- (e) Any satisfaction or performance by the company in respect of the asset or liability is deemed to be also satisfaction or performance by the Crown:
- (f) Any satisfaction or performance in respect of the asset or liability by any third party to the benefit of the company is deemed to be also to the benefit of the Crown.

(2) No provision in any agreement limiting the Crown's right to sell any assets to third parties, or for determining the consideration for the sale of any assets to third parties, or obliging the Crown to account to any person for the whole or part of the proceeds of sale by the Crown of any assets to third parties, or obliging the Crown to pay a greater price than otherwise by reason of or as a consequence of the sale of any assets to third parties, has any application or effect in respect of any agreement or transfer entered into or effected pursuant to or under this Act or pursuant to such an agreement or transfer.

Transfer of Employees of Valuation Department

10. Transfer of employees—(1) Every person—

- (a) Who is employed in the Valuation Department immediately before the date of commencement of this Act; and
- (b) Who is carrying out duties that on or after that date are to be carried out (in whole or in part) by Valuation New Zealand Limited or by Land Information New Zealand; and

(c) Whose transfer to the company or that Department is agreed to by the company or by the chief executive of the Department—
is deemed to have transferred to the company or the Department (as the case may be) on the date of commencement of this Act.

(2) The transfer of any employee by this section is subject to any relevant provisions of the employment contract applying to that employee.

(3) This section applies notwithstanding section 61A of the State Sector Act 1988.

11. Protection of conditions of employment on transfer—(1) The employment of any person deemed to have been transferred by section 10 is to be on terms and conditions no less favourable than those that the transferred employee was entitled to receive under the employment contract applying to the employee at the date of transfer.

(2) Any unexpired collective employment contract which covers transferred employees is deemed, as from the date of transfer, to continue to apply on the same terms—

(a) As if it were a contract that had been made in respect of Valuation New Zealand Limited or Land Information New Zealand, as the case may be; and

(b) As if it were binding both on those employees and on the company or on the Department's chief executive.

(3) Subsections (1) and (2) cease to apply to a transferred employee if the terms and conditions of employment that apply under the employment contract applying to the employee at the date of the transfer are varied by agreement between the employee and the company or (as the case may be) the Department's chief executive.

(4) Every employee deemed by section 10 to have been transferred to Valuation New Zealand Limited or to Land Information New Zealand becomes an employee of the relevant entity on the date of the transfer, but, for the purposes of every enactment, law, contract, and agreement relating to the employment of each such employee,—

(a) The contract of employment of that employee that applied immediately before the commencement of this Act in respect of that person's employment in the Valuation Department is deemed to have been unbroken; and

(b) The employee's period of service with the Valuation Department, and every other period of service of that

employee that was recognised by the Department as continuous service, is deemed to have been a period of service with Valuation New Zealand Limited or Land Information New Zealand, as the case may be.

12. No compensation for technical redundancy—No person who is deemed by section 10 to have transferred to Valuation New Zealand Limited or to Land Information New Zealand is entitled to any compensation for redundancy by reason only of the person ceasing to be employed by the Valuation Department.

13. Membership of Government Superannuation Fund—Where a person deemed by section 10 to have been transferred to Valuation New Zealand Limited was a contributor to the Government Superannuation Fund under the Government Superannuation Fund Act 1956 immediately before that transfer,—

- (a) That person is deemed for the purposes of that Act to be employed in the Government service for so long as the person continues to be employed by the company; and
- (b) That Act is deemed to apply to the person in all respects as if the person's service with the Government service were continuous.

Amendments to Other Acts

14. Amendments to other Acts—(1) The Ombudsmen Act 1975 is amended—

- (a) By omitting from Part I of the First Schedule the item “The Valuation Department”;
- (b) By inserting in Part II of the First Schedule, immediately before the item relating to Vehicle Testing New Zealand Limited, the item “Valuation New Zealand Limited”.

(2) The State Sector Act 1988 is amended by omitting from the First Schedule the item “Valuation Department”.

(3) The Public Finance Act 1989 is amended by inserting in each of the Fourth, Sixth, and Seventh Schedules, in its appropriate alphabetical order, the item “Valuation New Zealand Limited”.

(4) The Income Tax Act 1994 is amended by inserting in Schedule 18, in its appropriate alphabetical order, the item “Valuation New Zealand Limited”.

15. References to Valuation New Zealand Limited in Acts amended may be removed by Order in Council if Crown shareholding falls below 50%—(1) The Governor-General may from time to time, by Order in Council, amend the provisions amended by section 14 (1)(b) and (4) by removing from those provisions the references to Valuation New Zealand Limited.

(2) The Governor-General may make an order under this section only where satisfied that, at the time the order is made, at least 50% of the ordinary shares in the capital of the company are no longer held on behalf of the Crown.

This Act is administered in Land Information New Zealand.
