

Accident Insurance (Transitional Provisions) Bill

Government Bill

As reported from the committee of the whole House

This bill was formerly part of the Accident Insurance (Transitional Provisions) Bill as reported from the Committee on the Bill.

The committee of the whole House has divided the bill as follows:

- This bill, comprising clauses 1 to 3A and Part 1
 - The Accident Insurance Amendment Bill, comprising Part 2 and the schedules
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Key to symbols used in reprinted bill

As reported from a select committee

Struck out (unanimous)

[Subject to this Act,]	Text struck out unanimously
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Struck out (majority)

[Subject to this Act,]	Text struck out by a majority
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New (majority)

[Subject to this Act,]	Text inserted by a majority
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<Subject to this Act,>	Words struck out by a majority
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< <u>Subject to this Act,</u> >	Words inserted by a majority
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As reported from the committee of the whole House

((Subject to this Act,))	Words struck out
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<u>Subject to this Act.</u>	Words inserted
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Note: This bill has been reformatted in accordance with the resolution of the House of 22 December 1999.

Hon Dr Michael Cullen

Accident Insurance (Transitional Provisions) Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Accident Insurance (Transitional Provisions) Act **2000**.
- (2) In this Act, the Accident Insurance Act 1998 is called "the principal Act".

2 Commencement

- (1) **Section 10J** comes into force on a date to be appointed by the Governor-General by Order in Council; and 1 or more Orders in Council may be made bringing different provisions of that section into force on different dates.
- (2) The rest of this Act comes into force on 1 April 2000.

3 Purpose

The purpose of this Act is to remove the competitive provision of workplace accident insurance <that was introduced by the principal Act> and, instead, provide for the entire scheme to be delivered through a single public fund model, while ensuring that—

- (a) claimants continue to have access to entitlements; and
- (b) all persons who should be contributing to the cost of accident insurance do so; and
- (c) the <Corporation> <manager> has the infrastructure and powers necessary for carrying out its functions (including the collection of premiums); and
- (d) there is an orderly transition.

New (majority)

3A Interpretation

In this Act, unless the context otherwise requires, terms not defined in this Act but defined in the principal Act have, in this Act, the same meanings as in the principal Act.

Part 1

Removal of competition for workplace insurance**4 No new accident insurance contracts after 1 April 2000 and cancellation of contracts at close of 30 June 2000**

- (1) All accident insurance contracts in force at the close of 30 June 2000 are cancelled at the close of that date.
- (2) An accident insurance contract that is entered into on or after 1 April 2000, or that was entered into before that date but comes into force on or after that date, has no effect.
- (3) Despite **subsection (1)**,—
 - (a) the obligations of each party under a contract cancelled by that subsection, in respect of any period before that cancellation, continue to have effect after that cancellation; and
 - (b) in particular, the obligations of an insurer under a contract cancelled by that subsection, in respect of personal injury suffered before that cancellation, continue to have effect after that cancellation; and

- (c) all provisions of the contract relevant to those obligations continue to have effect after that cancellation.
- (4) The insurer under an accident insurance contract cancelled by **subsection (1)** must, as soon as practicable, refund any part of a premium received by the insurer in respect of the contract that relates to a period after the cancellation. 5
- (5) The amount of any refund under **subsection (4)** must be determined—
- (a) in accordance with the applicable provisions (if any) of the accident insurance contract; or 10
 - (b) if there are no such provisions, so as to reflect the respective risks of the parties; or
 - (c) if the parties are unable to determine the amount under **paragraph (a) or paragraph (b)**, as otherwise agreed by the parties. 15

5 <Corporation> <Manager> to provide cover

- (1) On and from 1 April 2000, the <Corporation> <manager> provides cover and statutory entitlements under the principal Act in respect of work-related personal injury suffered on or after that date by persons who are not insured under an accident insurance contract at the <time> <date> of the injury. 20
- (2) On and from 1 July 2000, the <Corporation> <manager> provides cover and statutory entitlements under the principal Act in respect of work-related personal injury, and all other personal injury, that occurs on or after that date. 25

6 <Corporation> <Manager> or any other insurer may take on insurer's obligations by agreement

- (1) The <Corporation> <manager> or any other insurer may take on an insurer's obligations under an accident insurance contract by agreement with that insurer <and for all purposes becomes the insurer>. 30

New (majority)

- (1A) An insurer who transfers the insurer's obligations under an accident insurance contract to the manager or another insurer

New (majority)

must give notice of the transfer to any third party who is *((providing services that are))* affected by the transfer.

(1B) If the manager or another insurer takes over another insurer's obligations under an accident insurance contract and intends to revise an agreed rehabilitation plan that has effect for the purposes of that contract, the manager or that other insurer, as the case may be, must give notice of the fact to every service provider who is affected by the change. 5

(1C) Nothing in the Privacy Act 1993 is to be regarded as preventing the disclosure of personal information to the manager or another insurer for the purposes of transferring an obligation under this section but otherwise that Act applies in respect of that personal information. 10

(1D) The obligations of At Work Insurance Limited under accident insurance contracts that are vested in the manager by **section 10D** are, for the purposes of **subsection (1B)** and sections 236(2), 247(4), 281A, 282(2) and (3), and 299(2) and (3) of the principal Act, to be regarded as having been taken on by the manager in accordance with **subsection (1)**. 20

(2) This section overrides any provision to the contrary in any accident insurance contract.

7 Transitional regulations

(1) The Governor-General may from time to time, by Order in Council, make regulations prescribing transitional and savings provisions required or desirable because of the coming into force of this Act or provisions of it. 25

(2) Regulations made under **subsection (1)** may not have retrospective effect.

New (majority)

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7A Expiry of section 7

Section 7 expires with the close of 31 March 2003.

- 8 No compensation for enactment of this Act**
No compensation is payable by the Crown to any person for any loss or damage, or any taxation liability, arising from the enactment or operation of this Act.
- 9 No compensation for technical redundancy, etc** 5
(1) This section applies if the whole or part of the business of a company that, before the commencement of this section, was a wholly-owned subsidiary of the *<Corporation>* *<manager>* is transferred to the *<Corporation>* *<manager>* (whether or not as a result of the liquidation of the company). 10
(2) An employee of the company who transfers to the *<Corporation>* *<manager>* on terms and conditions of employment that are no less favourable than the terms and conditions of employment applying to the employee immediately before the transfer is not entitled to any compensation for redundancy or any severance payment solely because— 15
(a) the position held by the person in the company has ceased to exist; or
(b) the person has ceased to be an employee of the company. 20
(3) No director of the company who ceases to hold office as such as a result of the transfer of the whole or part of the company's business is entitled to any compensation for ceasing to hold that office.
- 10 Effect of *<this Part>* *<sections 4 to 9>*** 25
<This Part has> *<Sections 4 to 9 have>* effect despite anything in the principal Act or any other enactment or rule of law.

New (majority)

Disestablishment of At Work Insurance Limited

- 10A Interpretation of sections 10A to 10J** 30
In this section and in **sections 10B to 10J**, unless the context otherwise requires,—
assets and **liabilities** have the same meanings as in section 29(1) of the State-Owned Enterprises Act 1986

New (majority)

Company means At Work Insurance Limited

excluded assets means assets of the Company that are specified as excluded assets by the shareholding Ministers by notice in the *Gazette* published before 1 July 2000 5

excluded liabilities means liabilities of the Company that are specified as excluded liabilities by the shareholding Ministers by notice in the *Gazette* published before 1 July 2000

instrument includes—

(a) any instrument (other than this Act) of any form or kind that creates, evidences, modifies, or extinguishes rights, interests, or liabilities or would do so if it or a copy thereof were lodged, filed, or registered under any enactment; and 10

(b) any judgment, order, or process of a court 15

security means a mortgage, submortgage, or charge (whether legal or equitable), debenture, bill of exchange, promissory note, guarantee, indemnity, defeasance, hypothecation, instrument by way of security, lien, pledge, or other security for the payment of money or for the discharge of any other obligation or liability, whether upon demand or otherwise, present or future, and actual or contingent; and includes an agreement or undertaking to give or execute, whether upon demand or otherwise, any such security 20

shareholding Ministers means the Minister of Finance and the Minister of the Crown for the time being responsible for the Company 25

vested asset or liability means an asset or liability of the Company that is vested in the manager under **section 10D**.

10B At Work Insurance Limited to cease to be State enterprise 30

- (1) The State-Owned Enterprises Act 1986 is amended by omitting from each of the First and Second Schedules the item “At Work Insurance Limited”. 30
- (2) Despite subsection (1), while Ministers of the Crown are shareholders in the Company on behalf of the Crown, sections 35

New (majority)

18, 19, and 22 of the State-Owned Enterprises Act 1986 continue to apply after the coming into force of this section as if—

- (a) the Company were a State enterprise; and 5
- (b) the Minister of Finance and the Minister responsible for the Company were the shareholding Ministers for the Company.

10C Annual report, accounts, and dividend

- (1) Within 3 months (or such longer period as the shareholding Ministers may determine) after the end of the financial year ending 30 June 2000, the board of the Company must deliver to the shareholding Ministers— 10
 - (a) a report of the operations of the Company and those of its subsidiaries during that financial year; and 15
 - (b) audited consolidated financial statements for that financial year consisting of statements of financial position, profit and loss, changes in financial position, and such other statements as may be necessary to show the financial position of the Company and its subsidiaries and the financial results of their operations during that financial year; and 20
 - (c) the auditor's report on those financial statements.
- (2) The report under subsection (1)(a) must— 25
 - (a) contain such information as is necessary to enable an informed assessment of the operations of the Company and its subsidiaries, including a comparison of the performance of the Company and subsidiaries with such performance targets and reporting requirements as have been agreed between the shareholding Ministers and the Company; and 30
 - (b) state the dividend payable to the Crown by the Company for the financial year to which the report relates.
- (3) Within 12 sitting days of receiving all the documents referred to in subsection (1), the responsible Minister for the Company must ~~((lay the documents before))~~ present the documents to the House of Representatives. 35

New (majority)

**10D Vesting of assets and liabilities of At Work Insurance
Limited in the manager**

- (1) On the commencement of 1 July 2000, all assets and liabilities of the Company (other than excluded assets and excluded liabilities) vest, by virtue of this section, in the manager. 5
- (2) The shareholding Ministers must, by notice in the *Gazette*, specify the amount that the Company must pay to the manager, or that the manager must pay to the Company, in consideration for the vesting of assets and liabilities under **subsection (1)**. 10

10E Termination of trust deed

- (1) In this section,—
trust deed means the deed dated 3 May 1999 entered into between the Company and the Trustee 15
Trustee means The New Zealand Guardian Trust Company Limited.
- (2) The trust deed is revoked, and the floating charge and any other charges created by it are released, with effect from the end of 30 June 2000. 20
- (3) From the end of 30 June 2000, the following liabilities of the Company to the Trustee are, to the extent that they are not satisfied by the Company, also liabilities of the Crown to the Trustee:
 (a) any liability of the Company to the Trustee under the trust deed that has accrued on or before that date: 25
 (b) any liability that, if the trust deed were not revoked by **subsection (2)**, the Company would have to the Trustee under the trust deed in respect of any matter occurring on or before that date. 30

10F Provisions relating to vesting of assets and liabilities

- (1) Without limiting the generality of **section 10D**, the following provisions have effect on and from 1 July 2000—
 (a) a reference (express or implied) to the Company in any instrument, register, record, notice, security, document, 35

New (majority)

- or communication made, given, passed, or executed at any time in relation to a vested asset or liability is to be read and construed as a reference to the manager:
- (b) all contracts, agreements, conveyances, deeds, leases, licences, and other instruments, undertakings, and notices, (whether or not in writing), entered into by, made with, given to or by, or addressed to the Company (whether alone or with any other person) in relation to a vested asset or liability before 1 July 2000 and subsisting immediately before that day are, to the extent that they were previously binding on and enforceable by, against, or in favour of the Company, binding on and enforceable by, against, or in favour of the manager as fully and effectually in every respect as if, instead of the Company, the manager had been the person by whom they were entered into, with whom they were made, or to or by whom they were given or addressed, as the case may be: 5 10 15
 - (c) an instruction, order, direction, mandate, or authority given to the Company in relation to a vested asset or liability and subsisting immediately before 1 July 2000 is to be regarded as having been given to the manager: 20
 - (d) a security held by the Company as security for a vested asset or liability is to be available to the manager as security for the discharge of that asset or liability and, where the security extends to future or prospective assets or liabilities, is to be available as security for the discharge of assets or liabilities to the manager incurred on or after 1 July 2000; and, in relation to a security, the manager is to be entitled to all the rights and priorities (howsoever arising) and is to be subject to all liabilities to which the Company would have been entitled or subject if this Act had not been passed: 25 30
 - (e) all the rights and liabilities of the Company as bailor or bailee of documents or chattels in relation to a vested asset or liability are to be vested in and assumed by the manager: 35

New (majority)

- (f) a negotiable instrument or order for payment of money in relation to a vested asset or liability which is drawn on or given to or accepted or indorsed by the Company or payable at a place of business of the Company will, unless the context otherwise requires, have the same effect on and after 1 July 2000 as if it had been drawn on or given to or accepted or indorsed by the manager instead of the Company or was payable at the place of business of the manager: 5
- (g) nothing effected or authorised by **sections 10A to 10J**—
- (i) is to be regarded as placing the Company, or the manager, or any other person in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or 15
 - (ii) is to be regarded as giving rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; or
 - (iii) is to be regarded as placing the Company, or the manager, or any other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of any assets or liabilities or (except as provided in **section 10I**) the disclosure of any information; or 25
 - (iv) will release any surety wholly or in part from all or any obligation; or
 - (v) will invalidate or discharge any contract or security: 30
- (h) any action, arbitration or proceedings, or cause of action in relation to a vested asset or liability which immediately before 1 July 2000 is pending or existing by, against, or in favour of the Company or to which the Company is a party may be prosecuted, and without amendment of any writ, pleading, or other document, continued and enforced by, against, or in favour of the manager. 35

New (majority)

- (2) Any document (within the meaning of section 2(1) of the Evidence Amendment Act (No 2) 1980), matter, or thing in relation to a vested asset or liability, which if this Act had not been passed would have been admissible in evidence in respect of any matter for or against the Company will, on and after 1 July 2000, be admissible in evidence in respect of the same matter for or against the manager. 5
- (3) No Registrar of Deeds or District Land Registrar or any other person charged with the keeping of any books or registers is obliged solely by reason of this Act to change the name of the Company to that of the manager in those books or registers or in any document. 10
- (4) The presentation to any registrar or other person of any instrument, whether or not comprising an instrument of transfer by the manager,— 15
- (a) executed or purporting to be executed by the manager; and
 - (b) relating to any asset or liability held immediately before 1 July 2000 by the Company; and 20
 - (c) containing a recital that that asset or liability has become vested in the manager by virtue of this Act— will, in the absence of evidence to the contrary, be sufficient proof that the asset or liability is vested in the manager.

10G Information relating to vested assets and liabilities 25

- (1) The manager must, as soon as practicable and without charge, provide to the Company, or provide the Company with access to, any information relating to any vested asset or liability, or class of such assets or liabilities, that is requested by the Company at any time or times after 30 June 2000 for the purposes referred to in **subsection (2)** and that the manager either has in its possession or is entitled to obtain from any person. 30
- (2) The Company may examine, investigate, and use any information referred to in **subsection (1)** for the purposes of completing its affairs and complying with its reporting and other obligations under any enactment. 35

New (majority)

10H Removal from register of insurers

The Company is removed from the register of insurers kept under section 202 of the principal Act with effect from the end of 30 June 2000.

5

10I Application of Privacy Act 1993

Nothing in ((*this Part*)) sections 10A to 10J limits the Privacy Act 1993, except that—

- (a) nothing in that Act is to be regarded as preventing the disclosure of information to the manager by virtue of the vesting of assets and liabilities by **section 10D**; and 10
- (b) nothing in that Act is to be regarded as preventing the manager from providing to the Company, or providing the Company with access to, information under **section 10G**; and 15
- (c) for the purposes of applying the Privacy Act 1993 to the Company, any information provided to the Company, or to which the Company has access, under **section 10G** is to be regarded as information of the Company.

10J Consequential amendments and revocation

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- (1) The Ombudsmen Act 1975 is amended by omitting from Part II of the First Schedule the item “At Work Insurance Limited”.
- (2) The Income Tax Act 1994 is amended by omitting from Schedule 18 the item “At Work Insurance Limited”. 25
- (3) The State-Owned Enterprises (At Work Insurance Limited) Order 1999 (SR 1999/64) is consequentially revoked.

Legislative history

22 December 1999	Introduction, first reading, and referral to Committee on the Bill (Bill 4-1)
28 February 2000	Reported from Committee on the Bill (Bill 4-2)
2 March 2000	Second reading
21 March 2000	Committee of the whole House. Divided into 2 bills (Bill 4-3, Bill 4-3A)
