

INSURANCE COMPANIES' DEPOSITS BILL

EXPLANATORY NOTE

THIS Bill is a consolidation with amendments of the Insurance Companies' Deposits Act 1921-22 and the amendments of that Act. The Bill comprises substantially the present legislation, the only material amendments being in connection with deposits by mutual fire insurance associations, the form future deposits are to take, and the powers of the Supreme Court to enforce a charge on the deposits in favour of policyholders.

Clause 3 prescribes the persons who are liable to make deposits under the Bill. *Subclause (1) (b)* is a new provision, and imposes an obligation on mutual fire insurance associations to make deposits in respect of employers' liability insurance business, but only in respect of that class of insurance business.

Clause 4 prescribes the amount of the deposits to be made in respect of each class of business, the amounts being specified in the *First Schedule* to the Bill. The deposits required are those prescribed by the present legislation, with the exception of deposits by mutual fire insurance associations, as to which see the note with respect to *clause 6*. *Subclause (2) (c)* is a new provision, and provides that a policy is not to be regarded as one of fire insurance if the Public Trustee is satisfied that it is principally intended for other purposes (*e.g.*, a comprehensive policy on a motor vehicle).

Clause 5 preserves the existing position with respect to deposits by local insurance companies and the companies at present undertaking motor vehicles (third party risks) business. They are not required to increase their present deposits unless their premium income increases to such an extent that under the existing law they would be required to increase their deposits.

Clause 6 is a new provision, and prescribes the deposits to be made by mutual fire insurance associations in respect of employers' liability insurance business. Associations which are at present carrying on that class of business are required within three months after the passing of the Bill to deposit approved securities valued at not less than £1,000, together with further approved securities valued at not less than £1,000 for every complete amount of £2,500 of premium income earned by the association in respect of that class of business in its last financial year ended before the passing of the Bill. Associations which hereafter commence to carry on that class of business must, before doing so, deposit approved securities valued at not less than £1,000. Under *subclause (3)* provision is made for an increase in the deposit where the premium income in respect of that business increases. Under *subclause (4)* the maximum deposit required from any association is fixed at £22,500.

Clause 7 requires persons who are obliged to make deposits under the Bill and who have not already done so to make the deposit within one month after the passing of the Bill, and prohibits persons from commencing to carry on any class of insurance business before they have made the required deposit.

Clause 8 requires all future deposits to be made in approved securities. At present deposits in respect of some classes of business must be made in cash, and in other cases depositors have an option to make the deposit in cash or in securities. The Bill does not interfere with existing deposits, but requires all future deposits to be made in securities only.

Clause 9 is a new provision, and specifies the manner in which deposits are to be made or withdrawn.

Clause 10 re-enacts the existing provisions requiring further deposits to be made where by reason of depreciation in the value of securities or other cause the value of the deposit falls short of the amount required under the Bill.

Under *clause 11* the Public Trustee is to be the sole judge of the value of approved securities for the purposes of the Bill.

Clause 12 specifies that deposits held by the Public Trustee are held in trust for the policyholders. *Subclause (4)* is a new provision, and enables the Supreme Court to make orders providing for the realization of securities comprising or forming part of any deposit, and for the distribution or application of the proceeds of any such realization and of any moneys deposited with the Public Trustee and of income from any deposit, and authorizes the Court to make such orders as the Court thinks fit in order that the security granted to policyholders and claimants may be made effective.

Clauses 13 and 14 re-enact the existing provisions relating to the investment of existing cash deposits, entitlement to income received from deposits, and the assessment of income tax on income derived from moneys (but not from securities) deposited with the Public Trustee.

Clause 15 requires cover notes and receipts issued by agents or underwriters who are required to make a deposit to bear on the face thereof the name of the agent or underwriter by whom the deposit has been made, together with a statement to the effect that the deposit has been made and is available as security for the policyholder.

Clauses 16 and 17 re-enact the existing provisions relating to the annual statements to be supplied and the penalty for making a false statement.

Clause 18 requires the Registrar of Motor Vehicles to deliver to the Public Trustee an annual statement of the amounts of the premium income received by persons undertaking motor vehicles (third party risks) insurance business who have made a deposit in respect of that class of business of less than £10,000.

Clause 19 specifies the circumstances under which the depositors may withdraw their deposits.

Clauses 20 to 22 re-enact without amendment the provisions imposing penalties in respect of persons who fail to comply with the provisions of the Bill, empowering the Minister of Finance to prohibit defaulters from carrying on insurance business, and imposing a further penalty on persons who carry

on business after being prohibited. Under *clause 23* in any action it will be unnecessary to show that a company has been incorporated, but it will be sufficient to show that the company is carrying on business by the style or description by which it is made party to the proceedings.

Clause 24 re-enacts the existing provision relating to the remuneration of the Public Trustee, and *clause 25* provides for repeals and savings.

To enable a comparison to be made with the present legislation, references thereto are given in the margin and a table is annexed which indicates where the present legislation appears (either in the same form or in a modified form) in the Bill, and which indicates what has been omitted.

TABLE OF CORRESPONDING SECTIONS OF ENACTMENTS REPEALED

THE INSURANCE COMPANIES' DEPOSITS ACT 1921-22, No. 40 (REPRINT OF STATUTES, VOL. IV, P. 165)

Section of Act.	Clause of Bill.	Section or Schedule of Act.	Clause or Schedule of Bill.
1	Short Title.	8	19
2	2	9	20
3	3, 4 (1)	10	21
4		11	22
5	Repealed.	12	23
6 (1)	13	13	25
6 (2)	14	First Schedule	First Schedule.
7	12	Second Schedule	First Schedule.

THE INSURANCE COMPANIES' DEPOSITS AMENDMENT ACT 1922, No. 15 (REPRINT OF STATUTES, VOL. IV, P. 169)

Section or Schedule of Act.	Clause or Schedule of Bill.
1	Short Title.
2	3, 4 (1)
Schedule	First Schedule.

THE INSURANCE COMPANIES' DEPOSITS AMENDMENT ACT 1923, No. 3 (REPRINT OF STATUTES, VOL. IV, P. 170)

Section of Act.	Clause of Bill.
1	Short Title.
2	14 (2)

THE INSURANCE COMPANIES' DEPOSITS AMENDMENT ACT 1927, No. 71 (REPRINT OF STATUTES, VOL. IV, P. 171)

Section of Act.	Clause of Bill.	Section or Schedule of Act.	Clause or Schedule of Bill.
2 (1)	2	4	3
2 (2)	3 (4)	5	2
3 (1)-(3)	3, 4 (1)	6	4 (2)
3 (4)	3 (5)	Schedule	First Schedule.
3 (5)	15		

THE FINANCE ACT 1937, No. 17

Section of Act.	Clause of Bill.
56 ..	3 (2) (3)

THE INSURANCE COMPANIES' ACT 1940, No. 27

Section of Act.	Clause of Bill.	Section or Schedule of Act.	Clause or Schedule of Bill.
2 ..	..	11 (1)-(3) ..	.. 8
3 ..	.. 2	11 (4) ..	.. 2
4 ..	.. 3, 4 (1)	11 (5) ..	.. ..
5 ..	.. 3, 4 (1)	11 (6) ..	.. 11
6 ..	.. 2	12 ..	.. 10
7 (1) ..	.. 3, 4 (1)	13 ..	.. 14
7 (2) ..	.. 7 (4)	14 ..	.. ..
8 (1)-(4) ..	.. 3, 4 (1)	15 ..	.. 16
8 (5) ..	.. 18	16 ..	.. 17
9 ..	.. 12	Schedule ..	.. First Schedule.
10 ..	.. ..	

THE WORKERS' COMPENSATION AMENDMENT ACT 1947, No. 58

Section of Act.	Clause of Bill.
36 ..	19

THE INSURANCE COMPANIES' DEPOSITS AMENDMENT ACT 1950, No. 82

Section of Act.	Clause of Bill.
1 ..	Short Title.
2 (1) ..	.. 8
2 (2) ..	.. 14
3 ..	.. 19
4 ..	.. 4 (1)
5 ..	.. 5
6 ..	.. 24



Hon. Mr. Marshall

INSURANCE COMPANIES' DEPOSITS

ANALYSIS

Title.	15. Cover notes and receipts to refer to deposit.
1. Short Title.	16. Statements to be supplied annually.
2. Interpretation.	17. Penalty for false statement.
3. Liability to make deposits.	18. Statement by Registrar of Motor Vehicles.
4. Amount of deposit.	19. Withdrawal of deposits.
5. Smaller deposits permitted in certain cases.	20. Penalty on default in complying with terms of Act.
6. Deposits to be made by mutual fire insurance associations.	21. If default continues, person may be prohibited from carrying on business.
7. When deposits to be made.	22. Further penalty for carrying on business after notice prohibiting.
8. Deposits to be in approved securities.	23. In any action incorporation of company need not be proved.
9. Manner in which deposits to be made or withdrawn.	24. Remuneration of Public Trustee.
10. Increase of deposits where securities have depreciated.	25. Repeals and savings.
11. Valuation of approved securities.	Schedules.
12. Deposits to be held in trust for policyholders.	
13. Investment of cash deposits.	
14. Income from deposits.	

A BILL INTITULED

AN ACT to consolidate and amend the law relating to deposits required from companies and persons carrying on various classes of insurance business. Title.

5 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Insurance Companies' Deposits Act 1953. Short Title.

Interpretation.
Cf. 1921-22,
 No. 40, s. 2
Cf. 1927,
 No. 71,
 ss. 2 (1), 5
Cf. 1940,
 No. 27, ss. 3,
 11 (4)

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

- “ Agent ” means any person who negotiates, or attempts to negotiate, or holds himself out as having authority to negotiate, on behalf of any underwriter, any contract of insurance relating to any class of insurance business; and includes any person who is deemed to be an agent of any other person under the provisions of section *three* of this Act: 5
- “ Approved securities ” means stock, bonds, debentures, or other securities issued by the Government of New Zealand or by any City Council, Borough Council, County Council, Electric Power Board, or Harbour Board in New Zealand: 10
- “ Commonwealth company ” means a company established or incorporated in, and having its chief office in, a Commonwealth country other than New Zealand: 20
- “ Commonwealth country ” means a country that is a member of the British Commonwealth of Nations; and includes every territory for whose international relations the Government of that country is responsible; and also includes the Republic of Ireland as if that country were a member of the British Commonwealth of Nations: 25
- “ Commonwealth underwriter ” means an underwriter who is ordinarily resident in a Commonwealth country other than New Zealand: 30
- “ Company ” means any association of persons, whether incorporated or not; but does not include a mutual fire insurance association: 35
- “ Depositor ” means a person who has made any deposit with the Public Trustee under this Act in respect of any class of insurance business:
- “ Financial year ”, in relation to any person, means a year ending on the date of the annual balance of the accounts of that person, or, if there is no annual balance, a year ending on the thirty-first day of December: 40
- “ Foreign company ” means a company that is neither a local company nor a Commonwealth company: 45

- “ Foreign underwriter ” means an underwriter who is not ordinarily resident in New Zealand and who is not a Commonwealth underwriter:
- 5 “ Insurance business ” includes every class of insurance business, except—
 (a) Life insurance (including endowment and annuity contracts); and
 (b) Marine insurance; and
 (c) Insurance against earthquake:
- 10 “ Local company ” means a company established or incorporated in, and having its chief office in, New Zealand:
- “ Mutual fire insurance association ” means a mutual fire insurance association incorporated under the Mutual Fire Insurance Act 1908:
- 15 “ Policyholder ” means any person who is indemnified or deemed to be indemnified by any contract of insurance, whether or not a policy of insurance is issued; and includes any person claiming by, through, or under any policyholder:
- 20 “ Premium income ” means the gross income earned in New Zealand from premiums after deducting any rebates or refunds allowed or paid to persons insured, but without making any allowance or deduction for reinsurances, commissions, or other agency charges, or for reserves for unexpired risks at the beginning or end of the financial year:
- 25 “ Underwriter ” means a person named in a contract or policy of insurance as liable to pay or contribute towards payment in whole or in part of the sum secured by the contract or policy; but does not include a company or a mutual fire insurance association.
- 30
- 35 **3. (1) Deposits with the Public Trustee in accordance with the provisions of this Act shall be made by—**
- (a) Every local company, Commonwealth company, or foreign company which at the passing of this Act is carrying on in New Zealand any class of insurance business, or which thereafter commences to do so:
- 40
- (b) Every mutual fire insurance association which at the passing of this Act is carrying on in New Zealand employers' liability insurance
- 45
- See Reprint of Statutes, Vol. IV, p. 22
- Liability to make deposits.
Cf. 1921–22, No. 40, s. 3
Cf. 1922, No. 15, s. 2
Cf. 1927, No. 71, ss. 3, 4
Cf. 1937, No. 17, s. 56
Cf. 1940, No. 27, ss. 4–8

business, or which thereafter commences to do so, but only in respect of that class of insurance business:

(c) Every person (not being a mutual fire insurance association) who at the passing of this Act is acting in New Zealand as an underwriter in respect of any class of insurance business, or who thereafter commences so to act: 5

(d) Every person who at the passing of this Act is acting in New Zealand as agent of a Commonwealth underwriter or of a foreign underwriter in respect of any class of insurance business, or who thereafter commences so to act. 10

(2) For the purposes of this Act, every person who, in the course of his business, negotiates or attempts to negotiate, directly or indirectly (whether through a broker or otherwise), any contract of insurance between— 15

(a) Any company engaged in carrying on any class of insurance business or any underwriter (in this section referred to as the insurer); and 20

(b) Any other person in New Zealand (in this section referred to as the insured)—

shall be deemed to be the agent of the insurer (whether or not he is also the agent of the insured), and, if the insurer is a company and enters into the contract of insurance, the insurer shall be deemed to be carrying on in New Zealand the class of insurance business to which the contract belongs. 25 30

(3) The fact that any person issues any cover note in respect of a contract of insurance, or gives any information that insurance has been effected, or issues any receipt or other document acknowledging the receipt of a premium in respect of a contract of insurance, or receives any premiums, proposals, or requests for insurance business shall, for the purposes of this section, be conclusive evidence that he is engaged in the business of negotiating or attempting to negotiate contracts of insurance. 35 40

(4) For the purposes of this Act, a person shall be deemed to act as the agent of an underwriter if that person acts in New Zealand as the agent or servant of a person carrying on business out of New Zealand as the agent of an underwriter. 45

(5) Nothing in this section shall impose an obligation to make a deposit under this Act on any person who, in negotiating or attempting to negotiate any contract of insurance, acts as the servant or authorized agent of an agent or underwriter by whom a deposit has been made in respect of that class of insurance business represented by the contract.

4. (1) Subject to the provisions of sections *five* and *six* of this Act, the amount of the deposit to be made under this Act in respect of the several classes of insurance business shall be as specified in the *First* Schedule to this Act.

(2) For the purposes of the *First* Schedule to this Act, any person carrying on insurance business who issues or undertakes liability under policies or contracts of insurance against loss by or incidental to fire, whether other risks are included or not, shall be deemed to be carrying on fire insurance business (but not to the exclusion of any other class of insurance business):

Provided that—

- (a) A person carrying on the business of marine insurance shall not be deemed to carry on the business of fire insurance by reason only that loss by fire is one of the various risks covered by the marine policies issued by that person:
- (b) A person carrying on the business of insurance against earthquake shall not be deemed to be carrying on the business of fire insurance by reason only that he insures against loss by fire consequential on earthquake:
- (c) If the Public Trustee is satisfied that any policy or contract is principally one of insurance against loss due to causes other than fire though loss by fire is one of the various risks thereby covered, the person who issues or undertakes liability under the policy or contract shall not be deemed to be carrying on the business of fire insurance by reason only of the issue of or undertaking of liability under the policy or contract.

Amount of deposit.

Cf. 1921-22, No. 40, s. 3

Cf. 1922, No. 15, s. 2

Cf. 1927, No. 71, ss. 3, 6

Cf. 1940, No. 27, ss. 4-8

Smaller
deposits
permitted in
certain cases.
Cf. 1940,
No. 27, ss. 5, 6, 8
Cf. 1950,
No. 82, s. 5
1940, No. 27
1950, No. 82

5. (1) This section shall apply with respect to—
(a) Every local company to which section five of
the Insurance Companies Act 1940 or section
five of the Insurance Companies' Deposits
Amendment Act 1950 applied immediately 5
before the passing of this Act:

(b) Every person to whom section eight of the
Insurance Companies Act 1940 applied im-
mediately before the passing of this Act.

(2) Where at the passing of this Act any local 10
company or person to which or to whom this section
applies has made the full deposit required to be made
by that company or person in respect of the carrying
on of any class of insurance business under the
provisions of Part I of the Insurance Companies Act 15
1940 or of section five of the Insurance Companies'
Deposits Amendment Act 1950, then, subject to the
provisions of subsection *three* of this section and of
section *ten* of this Act, no increase in the amount of
the deposit in respect of that class of insurance business 20
shall be required by reason of the passing of this Act.

(3) If the premium income in respect of any class
of insurance business earned in the last financial year
of the depositor ended before the passing of this Act
or in any subsequent financial year by any local company 25
or person to which or to whom this section applies is
such that, if the amount of the deposit required by
this Act in respect of that class of business were
computed on the basis of a sum of one thousand pounds
together with a further sum of one thousand pounds 30
for each complete amount of two thousand five hundred
pounds of that premium income, it would have exceeded
the amount of the deposit already made by the depositor
in respect of that class of insurance business, the amount
of the deposit required from the depositor in respect 35
of that class of insurance business shall be increased
by the amount by which the deposit already made would
have been exceeded.

(4) No local company or person shall be required
under this section to deposit in respect of any class 40
of insurance business a greater sum than the sum
specified in the *First* Schedule to this Act in respect
of that class of business.

(5) Where by reason of the provisions of this section an increase in any deposit is required, that deposit shall be made within six months after the end of the financial year in which the premium income is
5 such that an increase in the amount of the deposit is required.

6. (1) Every mutual fire insurance association which at the passing of this Act is carrying on in New Zealand employers' liability insurance business shall, within
10 three months after the passing of this Act, deposit with the Public Trustee approved securities valued at not less than one thousand pounds, together with further approved securities valued at not less than one thousand
15 five hundred pounds of premium income earned by the association in respect of that class of business in its last financial year ended before the passing of this Act.

Deposits to be made by mutual fire insurance associations.

(2) Every mutual fire insurance association which after the passing of this Act proposes to carry on in
20 New Zealand employers' liability insurance business shall, before commencing to do so, deposit with the Public Trustee approved securities valued at not less than one thousand pounds.

(3) If the premium income earned by any mutual
25 fire insurance association in respect of employers' liability insurance business in any financial year ending after the passing of this Act is such that, if the amount of the deposit required by this Act in respect of that class of business were computed on the basis of one
30 thousand pounds together with a further sum of one thousand pounds for each complete amount of two thousand five hundred pounds of that premium income, it would have exceeded the amount of deposit already made by the association, the association shall, within six
35 months after the end of that financial year, deposit with the Public Trustee further approved securities valued at not less than the amount by which the deposit already made would have been so exceeded.

(4) Notwithstanding anything in this section, no
40 mutual fire insurance association shall be required under this section to deposit approved securities valued at more than twenty-two thousand five hundred pounds in all.

When deposits
to be made.

7. (1) Every person (not being a mutual fire insurance association) who is required by this Act to make a deposit in respect of any class of insurance business carried on by him at the passing of this Act, and who has not already done so, shall make that deposit within one month after the passing of this Act. 5

(2) Every company which hereafter proposes to commence to carry on in New Zealand any class of insurance business shall, before commencing that class of business, make the deposit required by this Act in respect of that class of business. 10

(3) Every person who hereafter proposes to commence to act in New Zealand as an underwriter or as an agent of a Commonwealth underwriter or of a foreign underwriter in respect of any class of insurance business shall, before commencing to do so, make the deposit required by this Act in respect of that class of business. 15

Deposits to be
in approved
securities.

Cf. 1940,
No. 27,
s. 11 (1)-(3)
Cf. 1950,
No. 82, s. 2

8. (1) Every deposit (including every increase of a deposit) made by any person after the passing of this Act shall be made by the deposit with the Public Trustee of approved securities valued at not less than the amount of the required deposit. 20

(2) Any person who has deposited approved securities under the provisions of this Act or of any enactment repealed by this Act may withdraw any securities so deposited on depositing with the Public Trustee other approved securities: 25

Provided that the total value of the securities and money (if any) remaining deposited with the Public Trustee on behalf of that person shall not be less than the amount required by this Act to be so deposited. 30

Manner in
which deposits
to be made or
withdrawn.

9. (1) Every deposit made under this Act shall be made as follows:

(a) In the case of approved securities that are payable to bearer, by the delivery of the securities to the Public Trustee or to some person authorized by him in writing to receive them: 35

(b) In the case of approved securities that are not payable to bearer, by the transfer of the securities to the Public Trustee in such manner as shall be requisite to make him the legal owner thereof. 40

(2) Every withdrawal of securities made under this Act shall, unless the depositor otherwise directs in writing delivered to the Public Trustee, be made as follows:

5 (a) In the case of securities that are payable to bearer, by the delivery of the securities by the Public Trustee to the depositor:

(b) In the case of securities that are not payable to bearer, by the transfer of the securities by the
10 Public Trustee to the depositor.

10 10. (1) If the Public Trustee is satisfied that by reason of depreciation in the value of securities or other cause the value of the approved securities together with the money (if any) deposited by any
15 person under this Act falls short of the amount required by this Act, he may by notice in writing require the depositor to deposit with the Public Trustee, within such time as the Public Trustee specifies in the notice, approved securities to a value deemed by the Public
20 Trustee to be sufficient to bring the amount of the deposit to the value required by this Act.

(2) A notice under this section shall not be issued until after the Public Trustee has given an opportunity to the depositor to be heard in connection with the
25 matter.

(3) If any person fails to deposit with the Public Trustee approved securities as required by the Public Trustee under this section, that failure shall, for the purposes of sections *twenty, twenty-one, and twenty-two*
30 of this Act, be deemed to be a default in complying with a requirement of this Act.

11. The Public Trustee shall be the sole judge of the value of approved securities for the purposes of this Act, and his decision shall be final and binding.

35 12. (1) Subject to the provisions of this Act, the Public Trustee shall, as to every deposit made under this Act, hold the same as security for policyholders or claimants in respect of policies or other contracts issued, granted, or entered into in New Zealand by the
40 person making the deposit or in respect of which he has acted in New Zealand as agent of an underwriter, whether the policies or contracts have been granted or entered into before or after the passing of this Act:

Increase of deposits where securities have depreciated.

Cf. 1940, No. 27, s. 12

Valuation of approved securities.

Cf. 1940, No. 27, s. 11 (6)

Deposits to be held in trust for policyholders.

Cf. 1921-22, No. 40, s. 9

Provided that the deposit made in respect of any class of insurance business shall be held in trust exclusively for policyholders and claimants as aforesaid in respect of that class of insurance business.

(2) For the purposes of subsection *one* of this section a policy or other contract of insurance shall be deemed to have been issued, granted, or entered into in New Zealand if it is in fact issued, granted, or entered into in New Zealand and also if the insurer or any agent of the insurer issues in New Zealand any cover note in respect of the contract or receives in New Zealand any proposal or premium in respect of the contract. 5 10

(3) Until all the rights and claims in New Zealand in respect of such policies or contracts as aforesaid are cancelled, annulled, or liquidated, the deposit shall not be liable to be attached or levied upon, or be subject to any debts of or claims against the depositor, without the previous consent in writing of the Minister of Finance, who may give his consent upon or subject to such terms and conditions as he thinks equitable, having regard to the interests of the persons as security for whom the deposits are held by the Public Trustee. 15 20

(4) Upon application made by the Public Trustee or by the depositor or by any person claiming to be one of the persons as security for whom the deposit is held, the Supreme Court may make orders providing for the realization of approved securities comprising or forming part of any deposit under this Act, and for the distribution or application of the proceeds of any such realization and of any moneys deposited with the Public Trustee and of any income from the deposit held by the Public Trustee or thereafter arising; and the Court may direct the issue of such notices and advertisements and the making of such inquiries and generally may make such orders as the Court thinks fit in order that the security granted by this Act to policyholders and claimants may be made effective. 25 30 35

13. All moneys deposited with the Public Trustee before the passing of this Act under the provisions of any enactment repealed by this Act shall be invested in the Common Fund of the Public Trust Office, and shall bear interest at the rate from time to time determined by the Governor-General in Council under the provisions of section thirty-two of the Public Trust Office Act 1908. 40 45

Investment of
cash deposits.
Cf. 1921-22,
No. 40, s. 6 (1)

See Reprint
of Statutes,
Vol. VIII,
p. 944

14. (1) Except in so far as may otherwise be provided in any order made by the Supreme Court under section *twelve* of this Act, every depositor shall be entitled to receive from time to time the income payable 5 or derived in respect of moneys or securities deposited by him.

(2) Income tax payable under any Act (whether passed before or after the passing of this Act) shall be assessed upon the income derived by each depositor 10 from moneys (but not from approved securities) deposited in accordance with the provisions of any enactment repealed by this Act separately from any other income of the depositor, and so that the rate of income tax payable by the depositor in respect of income 15 derived from moneys so deposited shall be the same rate as would be payable by the depositor if he received in or derived from New Zealand no other income.

15. (1) Every cover note and every receipt or other document acknowledging the receipt of a premium in 20 respect of a contract of insurance issued by any agent or underwriter required to make a deposit under this Act in respect of the class of insurance business represented by that contract, or issued by any person acting as the servant or agent of any such agent or underwriter, 25 at any time after the deposit is required to be made shall bear on the face thereof the name of the agent or underwriter by whom the deposit has been made, together with a statement to the effect that a deposit has been so made and is available as security for the 30 contract of insurance evidenced by the cover note, receipt, or other document as aforesaid.

(2) Every person who issues any such cover note, receipt, or other document as aforesaid that does not conform to the requirements of this section commits 35 an offence, and is liable on summary conviction to a fine not exceeding fifty pounds.

16. (1) Every person required by this Act to make a deposit with the Public Trustee shall, at the expiration of each financial year, prepare such statement in 40 relation to that year, in such form, and containing such particulars as the Governor-General from time to time, by Order in Council, prescribes. Any such Order in Council may prescribe different statements, forms, or particulars for different persons or classes 45 of persons.

Income from deposits.
Cf. 1921-22, No. 40, s. 6 (2)
Cf. 1923, No. 3, s. 2
Cf. 1940, No. 27, s. 13
Cf. 1950, No. 82, s. 2 (2)

Cover notes and receipts to refer to deposit.
Cf. 1927, No. 71, s. 3 (5)

Statements to be supplied annually.
Cf. 1940, No. 27, s. 15

1933, No. 29

(2) Every such statement shall be audited by a person qualified to be the auditor of a company under section one hundred and forty of the Companies Act 1933, and shall be printed or typewritten, and, together with three printed or typewritten copies thereof, shall be deposited with the Public Trustee within four months after the close of the financial year to which it relates. 5

(3) The original of each statement shall be signed by the auditor, and shall also be signed in the case of a company by the principal officer of the company managing its business in New Zealand, or in the case of a mutual fire insurance association by the secretary or manager of the association, or in the case of a person not being a company or a mutual fire insurance association by that person. 10 15

(4) The Public Trustee shall forward one copy of each statement received under this section to the Minister of Finance, and shall forward another copy of each statement so received to the Minister of Justice.

Penalty for false statement.
Cf. 1940,
No. 27, s. 16

17. Every person who signs or deposits any statement required by this Act, knowing the same to be false in any particular, is liable on summary conviction to a fine not exceeding fifty pounds. 20

Statement by Registrar of Motor Vehicles.
Cf. 1940,
No. 27, s. 8 (5)
1949, No. 7

18. The Registrar of Motor Vehicles appointed under the Transport Act 1949 shall, not later than the thirty-first day of December in every year, deliver to the Public Trustee a statement showing in respect of each person liable under this Act to make a deposit in respect of motor vehicles (third party risks) insurance business, but whose deposit in respect of that class of business is less than ten thousand pounds, the amount of the premium income received by that person in the annual licensing period ended in that year in respect of that class of business. 25 30

Withdrawal of deposits.
Cf. 1921-22,
No. 40, s. 8
Cf. 1947,
No. 58, s. 36
Cf. 1950,
No. 82, s. 3

19. (1) If any person who has made any deposit with the Public Trustee under this Act in respect of any class of insurance business ceases to carry on that class of business in New Zealand, the depositor may withdraw that deposit— 35

(a) On the expiration of six months after service on the Public Trustee of a notice in writing, duly signed on behalf of the depositor, stating that the depositor has ceased to carry on that class of business in New Zealand and proposes to withdraw the deposit; and 40 45

- (b) On satisfying the Public Trustee that from the date of the service of the notice the depositor has not, except as to policies or contracts granted or made before that date, carried on that class of business in New Zealand; and
- 5 (c) On satisfying the Public Trustee that all the liabilities of the depositor in New Zealand in respect of that class of business are fully liquidated or provided for.
- 10 (2) For the purposes of this section a person in New Zealand shall be deemed to be carrying on a class of insurance business in New Zealand not only if he does so on his own account but also if he acts as agent of a Commonwealth underwriter or of a foreign
- 15 underwriter in respect of that class of business.
- (3) The Public Trustee shall cause every such notice as aforesaid, and also his decision with regard to every such proposed withdrawal, to be published at the cost of the depositor in such manner as he thinks fit.
- 20 **20.** If any person makes default in duly and fully complying with any of the requirements of this Act affecting him, that person, and also his attorney, general agent, and every other agent, are severally liable on summary conviction to a fine not exceeding fifty pounds
- 25 for every day during which the default continues.
- 21.** If any such default as aforesaid is continued for a period of three months the Minister of Finance may, by notice published in the *Gazette*, prohibit the defaulting person from carrying on insurance business
- 30 or any class of insurance business in New Zealand, either absolutely or for such time as he declares.
- 22.** If any such person as aforesaid, or any person as attorney, general agent, or other agent for him or otherwise for or on his behalf, after publication of any
- 35 notice under section *twenty-one* of this Act receives any application for insurance, or accepts any premium for insurance, or otherwise carries on the business of that person in New Zealand in contravention of the notice, then, in addition to any penalty for which they may be
- 40 liable under section *twenty* of this Act, all such persons are severally liable on summary conviction to a fine not exceeding one hundred pounds for each and every act so done in breach of the notice.

Penalty on default in complying with terms of Act.
Cf. 1921-22, No. 40, s. 9

If default continues, person may be prohibited from carrying on business.
Cf. 1921-22, No. 40, s. 10

Further penalty for carrying on business after notice prohibiting.
Cf. 1921-22, No. 40, s. 11

In any action
incorporation
of company
need not be
proved.

Cf. 1921-22,
No. 40, s. 12

Remuneration
of Public
Trustee.

Cf. 1950,
No. 82, s. 6

Repeals and
savings.

See Reprint
of Statutes,
Vol. VIII,
p. 568

See Reprint
of Statutes,
Vol. IV, p. 165

23. In any action or other proceedings it shall not be necessary to show that a company has been incorporated, but it shall be sufficient to show that the company is carrying on business or has agreed or acted by the style or description by which it is made a party to any action or other proceedings. 5

24. The Public Trustee shall be entitled to such reasonable remuneration from any depositor as may be agreed upon between the Public Trustee and the depositor or, failing agreement, as shall be fixed by the Minister of Finance, either generally or in any particular case, for the Public Trustee's services in respect of any approved securities deposited by any person (whether before or after the passing of this Act) under any of the provisions of this Act or of any enactment repealed by this Act. 10 15

25. (1) The enactments specified in the *Second* Schedule to this Act are hereby repealed.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done. 20 25 30

(3) Every deposit held at the passing of this Act by the Public Trustee made by any person under the provisions of the Insurance Companies' Deposits Act 1921-22 in respect of any specified class of insurance business or of all classes of insurance business shall be deemed to have been made under the corresponding provisions of this Act in respect of that class of insurance business or of all classes of insurance business, as the case may be, and the provisions of this Act shall apply to the deposit accordingly. 35 40

SCHEDULES

Schedules.

FIRST SCHEDULE

Section 4

AMOUNTS OF DEPOSITS TO BE MADE

1. *Preliminary.*—For the purposes of this Schedule, insurance business shall be divided into four classes, as follows:

Class 1: Fire insurance business.

Class 2: Employers' liability insurance business.

Class 3: Third party risks insurance business under Part V of the Transport Act 1949.

Class 4: All other kinds of insurance business, except—

(a) Life insurance, including endowment and annuity contracts; and

(b) Marine insurance; and

(c) Insurance against earthquake.

2. *Local Companies.*—Subject to the provisions of section 5 of this Act, the amounts of the deposits required to be made by each local company in respect of each class of insurance business carried on by the company shall be as follows:

	£
Class 1	22,500
Class 2	22,500
Class 3	10,000
Class 4	5,000

3. *Mutual Fire Insurance Associations.*—A deposit shall be required only in respect of Class 2, and shall be computed as shown in section 6 of this Act.

4. *Commonwealth Companies.*—The amounts of the deposits required to be made by each Commonwealth company in respect of each class of insurance business carried on in New Zealand by the company shall be as follows:

Class 1—

(a) If immediately before the passing of this Act the company was required to make a deposit of only £15,000 in respect of fire insurance business and had made that deposit, then

(b) In other cases

Class 2

Class 3 (subject to the provisions of section 5 of this Act)

Class 4

5. *Foreign Companies.*—The amounts of the deposits required to be made by each foreign company in respect of each class of insurance business carried on in New Zealand by the company shall be as follows:

Classes 1, 2, and 4 (whether only one or more than one of those classes carried on)—

(a) If immediately before the passing of this Act, the company was required to make a deposit of only £35,000 in respect of those classes of insurance business and had made that deposit, then

(b) In other cases

Class 3 (subject to the provisions of section 5 of this Act)

FIRST SCHEDULE—*continued*AMOUNTS OF DEPOSITS TO BE MADE—*continued*

6. *Agents of Commonwealth Underwriters and Persons in New Zealand Acting as Underwriters.*—The amounts of the deposits required by each person in New Zealand acting as an underwriter and by each person in New Zealand acting as agent of a Commonwealth underwriter shall for each class of insurance business be as follows:

	£
Class 1	15,000
Class 2	15,000
Class 3 (subject to the provisions of section 5 of this Act)	10,000
Class 4	5,000

7. *Agents of Foreign Underwriters.*—The amounts of the deposits required to be made by each person in New Zealand who acts as agent of a foreign underwriter shall in respect of each class of insurance business be as follows:

Classes 1, 2, and 4 (whether he acts as agent in respect of only one or more than one of those classes)	£ 50,000
Class 3 (subject to the provisions of section 5 of this Act)	10,000

Section 25

SECOND SCHEDULE

ENACTMENTS REPEALED

1921–22, No. 40—

The Insurance Companies' Deposits Act 1921–22. (Reprint of Statutes, Vol. IV, p. 165.)

1922, No. 15—

The Insurance Companies' Deposits Amendment Act 1922. (Reprint of Statutes, Vol. IV, p. 169.)

1923, No. 3—

The Insurance Companies' Deposits Amendment Act 1923. (Reprint of Statutes, Vol. IV, p. 170.)

1927, No. 71—

The Insurance Companies' Deposits Amendment Act 1927. (Reprint of Statutes, Vol. IV, p. 171.)

1937, No. 17—

The Finance Act 1937: Section 56.

1940, No. 27—

The Insurance Companies Act 1940: Part I and the Schedule.

1947, No. 58—

The Workers' Compensation Amendment Act 1947: Section 36.

1950, No. 82—

The Insurance Companies' Deposits Amendment Act 1950.