

# STATE-OWNED ENTERPRISES BILL

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## EXPLANATORY NOTE

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### *Introduction*

1. This Bill has the dual objectives of facilitating improved economic performance of State enterprises and enhancing their accountability. *Part I (Principles)* and *Part III (Accountability)* will apply to all existing and new State enterprises listed in the *First Schedule* to the Bill. *Part II* of the Bill allows for eight new corporations (Land, Forestry, Electricity, Coal, Airways, Post Office Telecom, New Zealand Post, and Post Office Bank) to be established and owned by Ministers. Using the model of the Shipping Corporation of New Zealand Act 1973, the new State enterprises will be set up as companies under the Companies Act 1955.

### *Background*

2. State enterprises undertake one-fifth of New Zealand's investment and produce 12 percent of national income. Poor performance by State enterprises can seriously impede economic development and impose a burden upon Government finances. Conversely good performance can contribute significantly to the attainment of the Government objectives of more jobs and higher living standards.

3. In considering the performance of existing State enterprises and State trading activities, the Government concluded that their performance and hence their contribution to national income could be increased from current levels. The review by the Government concluded that the shortfall in performance by these enterprises was caused by a number of factors, the key ones being:

- multiple and conflicting objectives including commercial and non-commercial objectives:
- bureaucratic controls on managers with a heavy focus on inputs rather than output:
- lack of managerial autonomy:

- legislative protection of the activity from competition and unnecessary constraints on the activity's behaviour:
- lack of managerial accountability.

#### *State Enterprise Policy*

4. To deal with these fundamental problems and constraints on State enterprise performance, the Government concluded that a new approach to the operation of State enterprises was necessary. The Government's State-owned enterprise policy, announced on 12 December 1985 by the Minister of Finance, contained the following points:

- (a) Responsibility for non-commercial functions will be separated from major trading State enterprises:
- (b) Managers of State enterprises will be given a principal objective of running them as successful business enterprises:
- (c) Managers will be given responsibility for decisions on the inputs and on pricing and marketing of their output within the performance objectives agreed with Ministers so that the managers can be held accountable to Ministers and the House of Representatives for their results:
- (d) The advantages and disadvantages which State enterprises have, including unnecessary barriers to competition, will be removed so that commercial criteria will provide a fair assessment of managerial performance.

The Government also concluded that the application of the policy to State enterprises required the establishment of a legal form consistent with their intention. The Government believes that implementation of this policy will facilitate more efficient operation of State enterprises while reducing the pressure on Government financing.

#### *Application of Policy*

5. In the 19 May 1986 Statement on Government Expenditure Reform, the Government announced that the policy would be applied to the trading activities of the Electricity Division, State Coal Mines, the Post Office, and the Civil Aviation Division. A decision to apply the policy to the trading activities of the Department of Lands and Survey and the Forest Service was taken in late 1985.

6. The structure of the Bill is as follows:

- (a) *Part I—Principles*—This Part indicates that State enterprises will have a clearly commercial mandate and freedom to manage the businesses subject to being held accountable to Ministers and the House of Representatives for their stewardship:
- (b) *Part II—Ownership*—This Part permits Ministers to acquire all the shares in new corporations established to take over the businesses of the departmental trading activities:
- (c) *Part III—Accountability*—This Part specifies the accountability requirements for both the new enterprises and existing enterprises:
- (d) *Part IV—Miscellaneous Provisions*—This Part deals with miscellaneous and transitional matters.

#### *Part I—Principles*

7. The Bill aims to strike a balance between the powers of Ministers to control the direction of policies pursued by the State enterprises and the need to ensure that boards are given the ability to manage the operations commercially, free

from day-to-day political control over operations. Directors of State enterprises will have a clear goal to run the State enterprises as successful businesses.

*Good Employer, Social Responsibility*

8. The Bill requires the State enterprises to be good employers and to have a sense of social responsibility, which will require organisations to respect the interests of the communities in which they operate and to accommodate and encourage these when able to do so. As set out in *clause 4* of the Bill, being a good employer will include the provision of good and safe working conditions, an equal opportunities employment programme, impartial selection for appointment, and training programmes for employees. These provisions will require the State enterprises, while carrying out their commercial roles, to adhere to high standards of performance as employers and as participants in the community. They will maintain good employment practices and assume responsible, fair, and sensitive behaviour in the wider economic and social environment of New Zealand.

*Directors*

9. Directors of State enterprises will be appointed from among people who, in the opinion of Ministers, can help the organisations to achieve their principal objective of operating as successful businesses. Directors will be responsible for key decisions on the operations of State enterprises including strategic planning, the appointment and dismissal of the chief executive, financial, pricing, and marketing decisions and monitoring the performance of the enterprise. Within the agreed framework of the statement of corporate intent (see below), directors will be free to manage the operations of the enterprise. Ministers and control agencies will no longer have the powers to exercise detailed control over operational decisions.

10. To improve accountability, directors will be given clear commercial performance objectives. The directors of a State enterprise can thus more easily be held accountable for their results. Select Committees of the House of Representatives will have the power to scrutinise and probe the performance of State enterprises.

11. Ministers will be the shareholders and will be accountable to the House of Representatives for the performance of the State enterprises through the accountability provisions set out in *Part III* of the Bill. Ministers will have the power to appoint and dismiss directors and to determine the broad guidelines, through the statement of corporate intent, within which the State enterprise operates. The role of Ministers in relation to the statement of corporate intent is discussed in the section on accountability below.

*Non-Commercial Activities*

12. The Bill provides that where the Government wishes a State enterprise to provide products or services, which the enterprise has assessed as being unprofitable, the enterprise shall enter into any agreement which makes the provision of the product or service commercially profitable.

13. This provision will enable the Government to ensure that any necessary non-commercial activities can be undertaken by State enterprises without unnecessarily restricting the enterprises' commercial autonomy. It will also ensure that the Government can move to cushion any adverse social impact from the commercial decisions made. In making a clear separation between commercial and non-commercial objectives for State sector organisations, it is

acknowledged that there will be an adjustment process for individuals, communities, and regions. The Government has embarked on work to identify the social impacts of the restructuring process.

The information provided will allow for a variety of different policy responses from central government. These could include the following:

- (a) Mechanisms can be identified whereby central government can work constructively with regions, communities, and employee organisations to manage the transition, e.g., in providing good information on the nature of the changes arising and existing services available to assist affected individuals and communities:
- (b) New social policies may be developed which can assist communities to adjust to change:
- (c) Some non-commercial functions may be selected for continuation on a contractual basis because it is assessed to be the best means of achieving a social objective.

Some aspects of “social responsibility” will be compatible with good commercial practice and could be continued by the State enterprises within their legislative mandate. A deployment agreement has been negotiated which provides a variety of possible measures for surplus staff including attrition, early retirement, retraining, redeployment, and voluntary severance.

#### *Industrial Relations*

14. The Bill provides that the State Services Conditions of Employment Act 1977 will apply to the new State enterprises. The Government intends to introduce legislation to amend the Act where appropriate to take account of the commercial environment within which the enterprises will operate. Where necessary, employment provisions for employees in the new State enterprises will be dealt with at the same time.

#### *Part II—Ownership*

15. The Bill, while authorising Ministers to acquire and hold shares in the eight corporations established to take over the business of existing State trading activities, does not affect the ownership of existing State enterprises listed in the *First Schedule* to the Bill. The ownership of these enterprises continues to be governed by existing statutes.

16. The new State enterprises listed in the *Second Schedule* to the Bill will purchase the existing departmental businesses at their full commercial value by means of a sale and purchase agreement with the Crown. The enterprises will pay for the assets they receive partly by issuing fully paid-up shares to the Crown and partly by cash and promissory notes. The amount of equity in relation to total assets of the State enterprises will be determined on the basis of the enterprises' circumstances and by a comparison with similar private sector firms. The terms of the notes will reflect the enterprises' ability to raise funds and the Government's debt-management and monetary policies. The Government does not intend to act as banker to these State enterprises beyond the short-term. The Government has announced that the State enterprises will be borrowing in their own right, without recourse to the taxpayer.

17. The shares in the new State enterprises will be held equally by the Minister of Finance and another Minister appointed by the Government (the responsible Minister).

18. The Bill prohibits Ministers from selling shares in the new enterprises or from permitting shares in the enterprises being allotted to other than the Ministers. This does not apply to instruments such as preference shares which have the characteristics of debt rather than equity. The Bill would permit, following a resolution of the House of Representatives, the issue of State enterprise equity bonds in a State enterprise. These would permit holders to share in the earnings of the enterprise but would not permit them to vote at general meetings of shareholders.

### *Part III—Accountability*

#### *Statement of Corporate Intent*

19. The main vehicle for Ministerial control and accountability to Parliament is the statement of corporate intent. The Bill requires each State enterprise listed in the *First Schedule* to deliver to the shareholding Ministers a draft statement of corporate intent no later than one month after the commencement of each financial year of the State enterprise.

20. For State enterprises listed in the *Second Schedule* the shareholding Ministers may direct the board as to the content of the statement of corporate intent. For existing State enterprises listed in the *First Schedule*, this requirement does not apply because of their different circumstances. The existing enterprises have obligations to shareholding Ministers provided under existing statutes, rules, and agreements, which are not affected by the Bill.

21. The statement is required to contain the key operating parameters for the enterprise in the period ahead. It is intended to be a broad statement of the enterprise's plans which will permit Ministers, the House of Representatives, and the public to ascertain its objectives, directions, targets, and performance measures. This, in turn, will permit assessment of the enterprise's performance. As discussed below, annual reports of State enterprises will be required to include sufficient information and analysis to allow an informed assessment of performance against objectives and targets.

22. The statement also requires the following information:

- nature and scope of activities:
- proposed financial structure:
- accounting policies:
- rates of return and other performance targets:
- dividend policy:
- policy towards subsidiaries:
- estimate of net worth.

The reasoning behind these requirements is elaborated below.

#### *Nature and Scope of Activities*

23. As directors of State enterprises have to operate in accordance with the current statement of corporate intent (and the statements have to be approved for State enterprises listed in the *Second Schedule*) *clause 13* effectively means that Ministerial approval is required for new State enterprises to be able to move into any significant new activities. The Government considers that any such proposals must be subject to Ministerial approval.

24. In commercial terms, the Government believes that such approval should be required because significant changes in activities can greatly affect the value of the taxpayers' investment in a State enterprise. Taking over activities in different

lines of business often requires different skills and expertise. Diversification proposals need to be carefully considered by the owners to guard against the new venture being a drain on the existing business.

#### *Financial Structure*

25. State enterprises will be required to report their proposed ratio of equity to total assets. This is related to the enterprises' debt-equity ratios. The Government considers that State enterprises should operate within debt-equity ratios that provide an adequate framework within which to measure performance.

#### *Accounting Policies*

26. As the financial objectives and performance assessment of State enterprises will hinge on accounting information, clear definition of the accounting policies will be important. The enterprises will be bound by the provisions of the Companies Act 1955 and the Government expects State enterprises to follow the accounting policies of the New Zealand Society of Accountants. However, in some cases it may be appropriate, in terms of full and effective disclosure, for best accounting practices to be used (for example, early application of new accounting standards).

#### *Rates of Return and Other Performance Measures*

27. The State enterprises will be required to report their forecast rate of return for the current financial year and the two following financial years. The Government considers that the directors of the enterprises should report their target rates of return in terms of pre-tax, pre-interest return on assets, and post-tax, post-interest return on equity. These measures are commonly used in the private sector and data to establish them is available. The Government will be working with the enterprises to identify comparable private sector norms against which the performance of State enterprises can be assessed.

28. The Government believes that in the case of State enterprises with market power, such as the proposed Electricity Corporation of New Zealand Limited, directors should be required to produce other performance indicators such as asset utilisation, labour productivity, and indices of real labour cost. This information will give an indication of changes in the efficiency levels of such State enterprises.

#### *Dividend Policy*

29. The Government sees dividend policy as an integral component of the overall financial objectives and monitoring system for State enterprises. While the Government is reserving the right in the Bill for the Minister of Finance to set the dividend payment in the event of an unresolved disagreement between shareholding Ministers and the directors of the enterprises listed in the *Second* Schedule, the Government believes that directors and the Government will be able to agree on a dividend policy which covers the following two or three years.

30. The dividend policy will reflect views about returns on new investments, profit forecasts, borrowing capacity, and private sector dividend policies. This approach will give directors greater certainty within which to plan, while assuring Ministers that the dividend policy reflects commercial realities and gives the Government a cash return on its profitable investments.

*Policy Towards Subsidiaries*

31. The Bill requires State enterprises to formulate a policy, acceptable to Ministers in the case of enterprises listed in the *Second* Schedule, on acquiring or establishing subsidiaries. This will ensure that subsidiaries are covered by the accountability procedures.

*Estimate of Net Worth*

32. To ensure that information is publicly available on estimates of the value of the taxpayers' investment in each State enterprise, each board will be required to report their estimate of the net worth of the enterprise and the method used to reach that estimate. A comparison of consecutive estimates of net worth will be an important indicator of the performance and efficiency of each enterprise. The statement of corporate intent will also indicate when comprehensive net worth and efficiency audits will be undertaken.

*Shareholder Monitoring*

33. The Government is presently considering the monitoring regime that it will apply in its capacity as owner of each State enterprise. The purpose of the shareholders' monitoring is to provide Ministers as owners of State enterprises with information on performance against the general objective that State enterprises should operate as a successful business. This allows Ministers to account for State enterprise performance to the House of Representatives and the public.

34. The Government proposes that State enterprises should provide Ministers with regular reports on their financial performance. This information flow would allow the Government as owners to make judgments about the progress of the enterprise in meeting the objectives and targets specified in its statement of corporate intent. It is proposed to subject all State enterprises named in the *First* Schedule to the Bill to this shareholder monitoring regime. The confidential shareholder monitoring reports will be requested by the shareholding Ministers under *clause 17* of the Bill.

35. It is also intended to periodically assess, in a separate and distinct study, the value of the Government's investment in a State enterprise. These audits would focus on net cash flows over the life of assets, organisational efficiency levels, risk and the value of the assets in alternative uses. These net worth audits could be conducted every two years, for example, and would provide a basis for a Government re-evaluation of the efficiency of State enterprises and its investment strategy.

*Public Accountability*

36. The Bill institutes formal procedures for the release of information on State enterprise performance to the House of Representatives and to the public.

*Half-Yearly Reports*

37. These will focus upon the operations for that half-year and compare the half-yearly results with the objectives contained in the statement of corporate intent. Each report would be a relatively short document in line with private sector practice, containing summary earning and net worth information.

*Annual Report*

38. Each State enterprise's draft annual report, audited accounts, associated notes, and statement of accounting policy, must be presented to the shareholders within three months of the end of each financial year together with recommendations for dividend payments. The annual report would also contain information allowing an informed comparison to be made between the forecasts contained in the previous statement of corporate intent for that year and actual performance.

39. The statement of corporate intent will define the range and type of information to be tabled in the House of Representatives in the half-yearly and annual reports. The Bill provides that State enterprises will not be required to include commercially sensitive information in these reports.

*Annual Review*

40. Following the receipt of the annual report, there will be a review of the State enterprise's performance by the shareholders which will focus on the enterprise's financial performance in relation to its forecast performance and financial targets. During the course of the annual review, the shareholders will consider the enterprise's dividend recommendation and agree on the dividend to be paid.

*Auditor*

41. The Bill specifies that the Audit Office will be the auditor of the State enterprises (and their subsidiaries) listed in the *First Schedule*, apart from the Bank of New Zealand. In performing its audit role, the Audit Office will act both as the auditor under the Companies Act 1955 and in terms of the Public Finance Act 1977. The Audit Office does, however, use private sector auditing firms to act as its agent in auditing some State enterprises.

42. The Bill also provides that an additional auditor can be appointed, if approved by the responsible Minister. This provision is designed to give flexibility to State enterprises in meeting their particular circumstances, while meeting Parliament's concern that the Audit Office audit State enterprises.

*Official Information and Ombudsmen*

43. The Official Information Act 1982 and the Ombudsmen Act 1975 apply (by way of the *Fourth Schedule*) to the new State enterprises listed in the *Second Schedule* to the Bill. To allow for the continued accountability of these organisations to the public and the House of Representatives through existing channels, the Government has decided that these Acts should apply to the new State enterprises. *Clause 24* of the Bill, however, provides for a review of the application of the Official Information and Ombudsmen Acts to State enterprises after a period of two years. This allows for an examination, after the transitional period is over, of the appropriateness of applying these Acts to State enterprises and whether constraints or difficulties imposed by the Acts outweigh the value of continued public accountability and access to redress which they provide.

44. Protection of sensitive commercial information is provided for under the Official Information Act 1982. In addition, *clause 19* of the Bill allows for the exclusion from information tabled in the House of Representatives of any information which could be properly withheld under the Official Information Act 1982.



*Market Environment*

45. A fundamental principle of the new operating framework for State enterprises is that they should neither enjoy advantages nor suffer disadvantages in relation to private sector commercial organisations. This should result in improved competitiveness in important sectors of the economy to the benefit of consumers.

46. The Commerce Act 1986 ensures that State enterprises will be subject to the same disciplines as private organisations in respect of monopoly or anti-competitive behaviour.

47. State enterprises, which in a deregulated market may seek to exploit dominant positions in those markets by foreclosing competition through anti-competitive behaviour, will be at risk to private actions by affected organisations or enforcement action by the Commerce Commission. Similarly State enterprises, like private sector organisations, will be prohibited from engaging in certain classes of restrictive trade practices either as individuals or in collusion with other traders. Merger and takeover notification requirements will likewise apply.

48. The Commerce Act 1986 also provides a last resort mechanism for the administration of price control by the Commerce Commission to firms abusing uncompetitive market conditions.

*Clauses of the Bill*

*Clause 1* relates to the Short Title and commencement. The transitional provisions relating to the new State enterprises are to come into force on 1 April 1987 and will apply until 31 December 1987. All other provisions of the Bill are to come into force on the day after the date on which the Bill receives the Governor-General's assent.

*Clause 2:* The term "State enterprise" is defined as an organisation that is named in the *First Schedule* to the Bill. These organisations are the new State enterprises (being the eight companies taking over the trading activities of the Post Office, Electricity Division, State Coal Mines, Department of Lands and Survey, Forest Service, and the Civil Aviation Division) and Air New Zealand Limited, Bank of New Zealand, Development Finance Corporation of New Zealand Limited, New Zealand Railways Corporation, Petroleum Corporation of New Zealand Limited, Tourist Hotel Corporation of New Zealand, and The Shipping Corporation of New Zealand Limited.

*Clause 3* provides that the Act shall bind the Crown.

## PART I

*Principles*

*Clauses 4 to 8* state principles relating to—

- (a) The principal objective of every State enterprise, which is to operate as a successful business and, to this end, to be as profitable and efficient as comparable privately owned businesses, to be a good employer and have a sense of social responsibility:
- (b) The appointment of directors of State enterprises and their role:
- (c) The responsibility of Ministers in regard to State enterprises:
- (d) Non-commercial activities undertaken by State enterprises:
- (e) Industrial relations and personnel.

These principles, which apply to all State enterprises, are discussed more fully in the introductory section of this Explanatory Note.

## PART II

### *Formation and Ownership of New State Enterprises*

*Clause 9* empowers the Minister of Finance and the responsible Minister in each case to subscribe for and hold all the shares in new State enterprises (being the eight new companies being formed to take over the State trading activities referred to above). Each Minister shall hold an equal number of shares.

The proposed memorandum and articles of association for these new State enterprises will be submitted to the Select Committee considering the Bill.

*Clause 10* requires the Ministers to continue to hold all the shares in every new State enterprise. The clause does, however, permit these enterprises to issue to other persons redeemable non-convertible preference shares that do not confer any voting rights.

*Clause 11* empowers a new State enterprise to issue securities called "State enterprise equity bonds" to any persons if authorised to do so by resolution of the House of Representatives. Equity bonds shall not confer any voting rights, shall be transferable and, for the purposes of the relevant provisions of the Companies Act 1955 and the Income Tax Act 1976, shall be treated as ordinary shares. Other terms relating to these equity bonds will be included in the authorising resolution.

*Clause 12* empowers the Minister of Finance and the responsible Minister for a new State enterprise to direct the Board of Directors in regard to certain provisions of the statement of corporate intent for that enterprise.

The clause also empowers the Minister of Finance to determine the amount of dividend payable by a new State enterprise in respect of any financial year or years.

The Ministers must consult with the Board before exercising their powers under this clause, and after doing so must lay a copy of the relevant notice to the Board before the House of Representatives.

## PART III

### *Accountability*

*Clause 13* requires the Board of every State enterprise (not just the new State enterprises) to deliver to the shareholding Ministers every year a draft statement of corporate intent. The clause specifies the information which must be included in each statement of corporate intent.

As soon as reasonably practicable after receiving a draft statement of corporate intent, the shareholding Ministers must comment thereon to the Board and, within one month of receiving such comments, the Board shall deliver the completed statement to the shareholding Ministers. The Ministers must, in turn, lay the statement before the House of Representatives.

The clause also provides for the modification of a statement of corporate intent from time to time. Any such modification must also be laid before the House of Representatives.

*Clause 14* requires each State enterprise to deliver to the shareholding Ministers each year a report of its operations for that year and audited consolidated financial statements. This annual report and audited financial statements must be laid before the House of Representatives.

*Clause 15* requires each State enterprise to deliver half-yearly reports to the shareholding Ministers. These reports must also be laid before the House of Representatives.

*Clause 16* requires the laying before the House of Representatives of the statements and reports referred to above and specifies the time limits for doing so.

*Clause 17* requires the Board of each State enterprise to supply to the shareholding Ministers such information relating to its affairs as the Ministers from time to time request after consultation with the Board. A Board is not required to supply any information on an individual employee or customer if the information supplied would enable the identification of the person concerned. This information is not required to be laid before the House of Representatives.

*Clause 18* provides that the Audit Office shall be the auditor of every State enterprise (other than the Bank of New Zealand) and of every subsidiary of every such State enterprise.

This clause also provides that a State enterprise may, after consultation with the Audit Office and if its responsible Minister so approves, appoint an additional auditor.

*Clause 19* provides protection from disclosure of sensitive information in documents that will be made public.

#### PART IV

##### *Miscellaneous Provisions*

*Clause 20* provides that nothing in the Bill affects the validity or enforceability of any transaction carried out in breach of any of the provisions of the Bill.

*Clause 21* contains provisions relating to the exercise of the rights attaching to the shares held by Ministers in State enterprises. These include a provision to the effect that the shares are deemed to be held by the person for the time being holding the office of the Minister concerned, and that a shareholding Minister may appoint a representative to attend meetings of shareholders.

*Clause 22* contains a number of provisions relating to the transfer of Crown assets to the new State enterprises. In particular, the clause empowers Ministers to enter into agreements to transfer assets and liabilities of the Crown to a State enterprise for such consideration, and on such terms and conditions, as the Ministers think appropriate.

It is envisaged that the businesses presently conducted by the six State agencies referred to above will be transferred to the eight new State enterprises by means of agreements for sale and purchase. These agreements will be laid before the House of Representatives.

*Clause 23* modifies the application of the Companies Act 1955 to the new State enterprises so that the new enterprises may have only two shareholders (rather than seven as is required for other public companies), and need not hold statutory meetings of shareholders.

*Clause 24:* The Ombudsmen Act 1975 and the Official Information Act 1982 will each apply to all the new State enterprises (see the *Fourth Schedule* to the Bill).

This clause also provides that the effect of these Acts on the operation of State enterprises shall be reviewed after 1 April 1989 by a select committee appointed by the House of Representatives for this purpose.

*Clause 25* makes amendments and transitional provisions relating to the new State enterprises.

The transitional provisions apply in respect of the period beginning on 1 April 1987 and ending with the close of 31 December 1987. It is proposed that one or more "State Enterprises Restructuring Bills" will be introduced into the House of Representatives for enactment in 1987. These Bills will contain the permanent amendments and repeals of the legislation that is temporarily amended by the transitional provisions in the Bill.

The transitional provisions make the changes to existing legislation that are essential to enable the new State enterprises to commence operations on 1 April 1987. Other changes that are desirable, but not essential, will be included in the State Enterprises Restructuring Bills.

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*Right Hon. Geoffrey Palmer*

## STATE-OWNED ENTERPRISES

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### A BILL INTITULED

**An Act to promote improved performance in respect of Government trading activities and, to this end, to—**

- 5
- (a) Specify principles governing the operation of State enterprises; and
  - (b) Authorise the formation of companies to carry on certain Government activities and control the ownership thereof; and

**(c) Establish requirements about the accountability of  
State enterprises, and the responsibility of  
Ministers**

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

**1. Short Title and commencement**—(1) This Act may be  
cited as the State-Owned Enterprises Act 1986.

(2) **Section 25** of, and the **Fifth Schedule** to, this Act shall come  
into force on the 1st day of April 1987. 10

(3) Subject to **subsection (2)** of this section, this Act shall come  
into force on the day after the date on which it receives the  
Governor-General's assent.

**2. Interpretation**—In this Act, unless the context otherwise  
requires,— 15

“Board” means—

(a) In relation to a State enterprise that is a  
company, the directors of the State enterprise:

(b) In relation to a State enterprise that is not a  
company, the persons occupying the positions in or 20  
in relation to the State enterprise that are  
comparable with those of directors of a company:

“Company” means a company formed and registered  
under the Companies Act 1955, or an existing  
company within the meaning of that Act: 25

“Crown” means Her Majesty the Queen in right of New  
Zealand:

“Minister” means a Minister of the Crown:

“Organisation” includes a company, a body corporate, a  
partnership, and a joint venture: 30

“Responsible Minister”, in relation to a State enterprise,  
means the Minister for the time being responsible for  
that State enterprise:

“Rules” means—

(a) In relation to a State enterprise that is a 35  
company, the memorandum of association and  
articles of association of the State enterprise:

(b) In relation to a State enterprise that is not a  
company, the documents relating to the State  
enterprise that are comparable to the memorandum 40  
of association and articles of association of a  
company:

“Share” means—

(a) In relation to a company that has a share capital, a share in that capital of any class:

5 (b) In relation to an organisation (other than a company) that has a capital, an interest in or right to the whole or any part of that capital, other than an interest or right as a creditor:

(c) In relation to a company or other organisation that does not have a capital,—

10 (i) An interest in or right to any part of the assets of the company or organisation, other than an interest or right as a creditor; or

15 (ii) Where there are no assets, a direct or contingent obligation to contribute money to or bear losses of the company or organisation;—

and “shareholder” has a corresponding meaning:

20 “Shareholding Ministers” means the Minister of Finance and the responsible Minister:

“State enterprise” means an organisation that is named in the **First** Schedule to this Act:

25 “Statement of corporate intent”, in relation to a State enterprise, means the current statement of corporate intent for the State enterprise prepared pursuant to **section 13** of this Act:

“Subsidiary” has the same meaning as in section 158 of the Companies Act 1955.

**3. Act to bind the Crown**—This Act shall bind the Crown.

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PART I  
PRINCIPLES

**4. Principal objective to be successful business**—(1) The principal objective of every State enterprise shall be to operate as a successful business and, to this end, to be—

35 (a) As profitable and efficient as comparable businesses that are not owned by the Crown; and

(b) A good employer; and

40 (c) An organisation that exhibits a sense of social responsibility by having regard to the interests of the community in which it operates and by endeavouring to accommodate or encourage these when able to do so.

(2) 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— 5

- (a) Good and safe working conditions; and
- (b) An equal opportunities employment programme; and
- (c) The impartial selection of suitably qualified persons for appointment; and
- (d) Opportunities for the enhancement of the abilities of 10 individual employees.

**5. Directors and their role**—(1) The directors of a State enterprise shall be persons who, in the opinion of those appointing them, will assist the State enterprise to achieve its principal objective. 15

(2) All decisions relating to the operation of a State enterprise shall be made by or pursuant to the authority of the board of the State enterprise in accordance with its statement of corporate intent.

(3) The board of a State enterprise shall be accountable to 20 the shareholding Ministers in the manner set out in **Part III** of this Act and in the rules of the State enterprise.

**6. Responsibility of Ministers**—The shareholding Ministers of a State enterprise shall be responsible to the House of Representatives for the performance of the functions 25 given to them by this Act, any other Act, or the rules of the State enterprise.

**7. Non-commercial activities**—Where the Crown wishes a State enterprise to provide goods or services to any persons, the Crown and the State enterprise shall enter into an 30 agreement under which the State enterprise will provide the goods or services in return for the payment by the Crown of the whole or part of the price thereof.

**8. Industrial relations and personnel**—Every State enterprise named in the **Second** Schedule to this Act shall 35 comply with those provisions of the State Services Conditions of Employment Act 1977 that apply to it.



PART II

FORMATION AND OWNERSHIP OF NEW STATE ENTERPRISES

**9. Ministers may hold shares in certain companies on behalf of the Crown**—(1) The Minister of Finance and the  
5 responsible Minister may from time to time, on behalf of the Crown, subscribe for or otherwise acquire all the shares in the companies named, or to be formed with the names specified, in the **Second Schedule** to this Act.

(2) The number of shares in a company held by each  
10 shareholding Minister pursuant to **subsection (1)** of this section shall be the same.

(3) Any money required to be paid by a shareholding Minister on subscribing or applying for, or being allotted, shares pursuant to **subsection (1)** of this section shall be paid out  
15 of money appropriated by Parliament for the purpose.

**10. Ministers to hold all shares in new State enterprises**—(1) No Minister who is a shareholder in a company named in the **Second Schedule** to this Act shall—

(a) Sell or otherwise dispose of any shares in the company  
20 held in the Minister's name; or

(b) Permit shares in the company to be allotted to any person other than a shareholding Minister.

(2) Nothing in **subsection (1)** of this section shall apply to redeemable preference shares that—

(a) Are not convertible into shares of any other class; and  
25 (b) Do not confer any rights to vote at any general meeting of shareholders.

**11. State enterprise equity bonds**—(1) Notwithstanding **section 10** of this Act or any other enactment, a company  
30 named in the **Second Schedule** to this Act may issue State enterprise equity bonds to any person or persons in accordance with **subsection (2)** of this section, if authorised to do so at any time or times by resolution of the House of Representatives.

(2) The terms of issue of State enterprise equity bonds shall be as follows:

(a) The bonds shall not confer any rights to vote at general meetings of shareholders:

(b) The bonds shall be transferable:

(c) For the purposes of Parts III, V, and VI of the Companies Act 1955 and the Income Tax Act 1976 the bonds shall be treated as ordinary shares:  
40

- (d) Such other terms as are specified in the authorising resolution.

**12. Powers of shareholding Ministers in respect of new State enterprises**—(1) Notwithstanding any other provision of this Act or the rules of any company, — 5

- (a) The shareholding Ministers may from time to time, by written notice to the board, direct the board of a company named in the **Second** Schedule to this Act to include in, or omit from, a statement of corporate intent for that company any provision or provisions 10 of a kind referred to in **paragraphs (a) to (i) of section 13 (2)** of this Act; and

- (b) The Minister of Finance may, by written notice to the board, determine the amount of dividend payable by any company named in the **Second** Schedule to this 15 Act in respect of any financial year or years,— and any board to whom such a notice is given shall comply with the notice.

(2) Before giving any notice under this section, the shareholding Ministers or the Minister of Finance, as the case 20 may be, shall consult the board concerned as to the matters to be referred to in the notice.

(3) Within 20 sitting days after a notice is given to a board pursuant to this section, the responsible Minister for the company concerned or the Minister of Finance shall lay a copy 25 of the notice before the House of Representatives.

### PART III

#### ACCOUNTABILITY

**13. Statement of corporate intent**—(1) The board of every State enterprise shall deliver to the shareholding Ministers a 30 draft statement of corporate intent not later than 1 month after the commencement of each financial year of the State enterprise.

(2) Each statement of corporate intent shall specify for the group comprising the State enterprise and its subsidiaries (if 35 any), and in respect of the financial year in which it is delivered and each of the immediately following 2 financial years, the following information:

- (a) The objectives of the group;  
 (b) The nature and scope of the activities to be undertaken: 40  
 (c) The ratio of consolidated shareholders' funds to total assets, and definitions of those terms:

- (d) The accounting policies:
  - (e) The performance targets and other measures by which the performance of the group may be judged in relation to its objectives:
  - 5 (f) An estimate of the amount or proportion of accumulated profits and capital reserves that is intended to be distributed to the Crown:
  - (g) The kind of information to be provided to the shareholding Ministers by the State enterprise during  
10 the course of those financial years, including the information to be included in each half-yearly report:
  - (h) The procedures to be followed before any member of the group subscribes for, purchases, or otherwise  
15 acquires shares in any company or other organisation:
  - (i) Any activities for which the board seeks compensation from the Crown (whether or not the Crown has agreed to provide such compensation):
  - 20 (j) The board's estimate of the commercial value of the Crown's investment in the group and the manner in which, and the times at which, this value is to be reassessed:
  - (k) Such other matters as are agreed by the shareholding Ministers and the board.
- 25 (3) As soon as reasonably practicable after receiving a draft statement of corporate intent, the shareholding Ministers shall comment thereon to the board. Within 1 month after receiving these comments, the board shall deliver the completed statement of corporate intent to the shareholding Ministers.
- 30 (4) A statement of corporate intent for a State enterprise may be modified at any time by written notice from the board to the shareholding Ministers, so long as the board has first given written notice to the shareholding Ministers of the proposed modification and received their comments thereon.
- 35 **14. Annual report, accounts, and dividend**—(1) Within 3 months after the end of each financial year of a State enterprise, the board of the State enterprise shall deliver to the shareholding Ministers—
- 40 (a) A report of the operations of the State enterprise and those of its subsidiaries during that financial year; and
  - (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 State enterprise and its subsidiaries and the financial results of their operations during that financial year; and

- (c) The auditor's report on those financial statements. 5
- (2) Every report under **subsection (1) (a)** of this section shall—
- (a) Contain such information as is necessary to enable an informed assessment of the operations of the State enterprise and its subsidiaries, including a comparison of the performance of the State enterprise and subsidiaries with the relevant statement of corporate intent; and 10
- (b) State the dividend payable to the Crown by the State enterprise for the financial year to which the report relates. 15

**15. Half-yearly reports**—(1) Within 2 months after the end of the first half of each financial year of a State enterprise, the board of the State enterprise shall deliver to the shareholding Ministers a report of its operations during that half-year. 20

(2) Each report required by this section shall include the information required by the statement of corporate intent to be included therein.

**16. Information to be laid before House of Representatives**—(1) The responsible Minister for a State enterprise shall lay before the House of Representatives the rules of the State enterprise, and any change to those rules, within 20 sitting days after the date of those rules or that change or the date on which the State enterprise became such, whichever is the later. 25 30

(2) Within 4 months after the commencement of a financial year of a State enterprise, the responsible Minister for the State enterprise shall lay before the House of Representatives the following documents relating to that State enterprise:

- (a) The statement of corporate intent for that year and the succeeding 2 years; and 35
- (b) The annual report and audited financial statements for the preceding financial year; and
- (c) The auditor's report on those financial statements.

(3) Where a statement of corporate intent for a State enterprise has been modified pursuant to **section 13 (4)** of this Act, the responsible Minister shall lay before the House of Representatives a copy of the notice making the modification 40

within 20 sitting days after the date on which the Minister receives the notice.

(4) Within 20 sitting days after a half-yearly report is given to a responsible Minister pursuant to **section 15** of this Act, the responsible Minister shall lay a copy of the report before the House of Representatives.

**17. Other information**—(1) Subject to **subsection (2)** of this section, the board of a State enterprise shall supply to the shareholding Ministers such information relating to the affairs of the State enterprise as the Minister of Finance or the responsible Minister from time to time requests after consultation with the board (whether or not the information is of a kind referred to in the statement of corporate intent).

(2) The board of a State enterprise shall not be obliged by **subsection (1)** of this section to supply to any Minister any information on an individual employee or customer of the State enterprise or any other person if the information supplied would enable the identification of the person concerned.

**18. Audit Office to be auditor of State enterprises and subsidiaries**—(1) Notwithstanding sections 163 to 165 of the Companies Act 1955, the Audit Office shall be the auditor of every State enterprise (other than those named in the **Third Schedule** to this Act), and of every subsidiary of every such State enterprise, and for the purposes of that Act shall have and may exercise the functions, duties, and powers of an auditor appointed under that Act and all such powers as it has under the Public Finance Act 1977 in respect of public money and public stores.

(2) Every State enterprise shall 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 the foregoing provisions of this section, a State enterprise may, after consultation with the Audit Office and if its responsible Minister so approves, appoint a person or firm that is qualified for appointment as an auditor of a company to be an additional auditor of the State enterprise.

**19. Protection from disclosure of sensitive information**—Nothing in this Act shall be construed as requiring the inclusion in any statement of corporate intent, annual report, financial statements, or half-yearly report referred to in **sections 13 to 15** of this Act of any information that

could be properly withheld if a request for that information were made under the Official Information Act 1982.

#### PART IV

##### MISCELLANEOUS PROVISIONS

**20. Saving of transactions in breach of principles—** 5  
Nothing in this Act shall affect the validity or enforceability of any act, omission, contract, deed, right, or obligation carried out, entered into, obtained, or incurred by a State enterprise in breach of any of the provisions of this Act.

**21. Provisions relating to Ministers' shareholding—** 10  
(1) Shares in a State enterprise held in the name of a person described as the Minister of Finance or the responsible Minister shall be held by the person for the time being holding the office of Minister of Finance or responsible Minister, as the case may be. 15

(2) Notwithstanding any other enactment or rule of law, it shall not be necessary to complete or register a transfer of shares of the kind referred to in **subsection (1)** of this section consequent upon a change in the person holding the office of Minister of Finance or responsible Minister, as the case may 20 be.

(3) Each shareholding Minister may exercise all the rights and powers attaching to the shares in a State enterprise held by that Minister.

(4) A shareholding Minister may at any time or times, by 25 written notice to the secretary of a State enterprise, authorise (on such terms and conditions as are specified in the notice) such person as the Minister thinks fit to act as the Minister's representative at any or all of the meetings of shareholders of the State enterprise or of any class of such shareholders, and 30 any person so authorised shall be 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.

**22. Sale of Crown assets and liabilities to State enterprises—**(1) Notwithstanding any other enactment, deed, 35 agreement, or understanding, the shareholding Ministers may, on behalf of the Crown,—

(a) Enter into agreements to transfer, and transfer, assets and liabilities of the Crown (being assets and liabilities used or incurred in respect of the activities 40 to be carried on by the State enterprise) to a State

enterprise named in the **Second** Schedule to this Act or any subsidiary thereof; and

- 5 (b) Authorise any such State enterprise or any subsidiary of such a State enterprise to act on behalf of the Crown in providing goods or services previously provided by the Crown—

for such consideration, and on such terms and conditions, as the shareholding Ministers think appropriate in the circumstances.

- 10 (2) The responsible Minister shall lay before the House of Representatives any agreement or authority entered into pursuant to **subsection (1)** of this section within 20 sitting days after the date thereof.

- 15 (3) Liabilities of the Crown to third parties may be transferred to a State enterprise pursuant to an agreement under **subsection (1)** of this section whether or not the enactment, deed, agreement, or understanding under which the liability arises permits such transfer or requires any consent to such a transfer. Where any liability is so transferred—

- 20 (a) The Crown shall remain liable to the third party as if the liability had not been transferred:
- 25 (b) The State enterprise shall indemnify the Crown against any costs or losses incurred by the Crown in respect of that liability after the date of the transfer:
- (c) Any satisfaction or performance of the liability by the State enterprise shall be deemed to be also satisfaction or performance by the Crown:
- 30 (d) Any satisfaction or performance of a liability of the third party under the enactment, deed, agreement, or understanding to the benefit of the State enterprise shall be deemed to be also to the benefit of the Crown:
- 35 (e) Neither the transfer, nor any agreement to make the transfer, shall give or create any rights to terminate, alter, or in any way affect the rights or liabilities of the Crown or the State enterprise under the enactment, deed, agreement, or understanding:
- 40 (f) The laying of the agreement before the House of Representatives shall be deemed to be notice of the transfer, and the third party shall thereafter deal with the State enterprise in place of the Crown.
- (4) Where rights or obligations to provide goods or services to third parties are transferred to a State enterprise pursuant

to this section and those goods or services have previously been provided by the Crown on terms and conditions wholly or partly prescribed by statute or regulation, the goods or services shall from the date of transfer be deemed to be provided pursuant to contracts between the State enterprise and the third parties. Each such contract— 5

(a) Shall be deemed to include the terms and conditions contained in such statutes or regulations, until otherwise amended pursuant to **paragraph (b)** of this subsection; and 10

(b) May be varied at any time by the State enterprise by at least one month's notice to the third party given in such manner as the State enterprise considers appropriate.

(5) A District Land Registrar shall, on written application by any person authorised by a Minister and on payment of the prescribed fee, register a State enterprise as the proprietor of any estate or interest in land that is registered in the land registration district and is to be transferred to the State enterprise under any agreement made pursuant to this section and shall make such entries in the register and on any outstanding documents of title and generally do all such things as may be necessary to give effect to this section. 15 20

(6) Nothing in sections 40 to 42 of the Public Works Act 1981 shall apply to the transfer of land to a State enterprise pursuant to this section, but those sections shall after that transfer apply to that land as if the State enterprise were the Crown and the land had not been transferred pursuant to this section and as if all references in those sections to the Commissioner of Works were references to the State enterprise. 25 30

(7) Notwithstanding the other provisions of this section, the only Crown land within the meaning of the Land Act 1948 that may be transferred to a State enterprise pursuant to this section shall be— 35

(a) Land approved by the Governor-General in Council, and shown on plans deposited in the office of the Surveyor-General, for the purposes of this subsection:

(b) Urban land approved by the Governor-General in Council for the purposes of this subsection: 40

(c) Land that is leased pursuant to section 66 of the Land Act 1948 but in respect of which the pastoral classification has been uplifted:



- (d) Land subject to leases in perpetuity and to renewable leases under section 63 of the Land Act 1948 or to similar leases under any former Land Act:
- 5 (e) Land subject to deferred payment licences under section 65 of the Land Act 1948 or under any former Land Act:
- (f) Land subject to leases under special legislation administered (at the date on which this section comes into force) by the Department of Lands and Survey, except for any such land which is excluded from this subsection by the Governor-General in Council:
- 10 (g) Land that, at the date on which this section comes into force, is subject to a lease, licence, or right granted pursuant to any of sections 67, 68, 69, 165, and 166 of the Land Act 1948 and that has been approved by the Governor-General in Council for the purposes of this subsection.
- 15 (8) In this section—
- “Assets” includes—
- 20 (a) Any estate or interest in any Crown land or other land, including all rights of occupation of land or buildings:
- (b) All buildings, plant, equipment, and machinery:
- 25 (c) All securities within the meaning of the Securities Act 1978:
- (d) All rights and benefits under statutes, deeds, agreements, or licences:
- (e) All patents, trade marks, copyright and other intellectual property rights:
- 30 (f) All planning and environmental consents, water rights, and other statutory rights and consents including all applications for and objections against applications for such consents and rights:
- (g) Any other real or personal property:
- 35 “Liabilities” includes—
- (a) Liabilities and obligations under any statute, contract, agreement, or understanding; and
- (b) Deposits and other debt securities within the meaning of the Securities Act 1978; and
- 40 (c) Contingent liabilities:
- “Transfer” includes—
- (a) Assign and convey:
- (b) Confer estates in fee simple of land held in allodium by the Crown:

(c) Grant leases, rights, and interests in any real or personal property:

(d) In the case of liabilities, the assumption thereof by a State enterprise.

(9) This section shall have effect notwithstanding anything to the contrary in the Commerce Act 1986, the Land Settlement Promotion and Land Acquisition Act 1952, the Land Act 1948, or any other enactment. 5

**23. Application of Companies Act 1955 to new State enterprises**—(1) Notwithstanding the Companies Act 1955, the Minister of Finance and a responsible Minister may incorporate a limited liability public company that is named in the **Second Schedule** to this Act as if the reference to the figure “7” in section 13 (1) of the Companies Act 1955 were a reference to the figure “2”. 10 15

(2) In the application of the Companies Act 1955 to a company named in the **Second Schedule** to this Act, the following provisions of the Companies Act 1955 shall be construed as if references therein to 7 members were references to 2 members: 20

(a) Section 41, as to carrying on business when the number of members is reduced below the legal minimum:

(b) Section 217 (d), as to winding up by the Court when the number of members is reduced below the legal minimum: 25

(c) Section 219 (a) (i), as to the presentation of a winding-up petition by a contributory when the number of members is reduced below the legal minimum.

(3) Nothing in section 134 of the Companies Act 1955 (which relates to statutory meetings) shall apply to a company named in the **Second Schedule** to this Act. 30

**24. Review of Ombudsmen and Official Information Acts in relation to State enterprises**—The effect of the Ombudsmen Act 1975 and the Official Information Act 1982 on the operation of State enterprises shall be reviewed after the 1st day of April 1989 by a select committee appointed by the House of Representatives for this purpose. The committee shall report to the House of Representatives before the 1st day of April 1990, and shall state in its report— 35

(a) Whether, in its view, either or both of those Acts should continue to apply to State enterprises; and 40

(b) If it considers that either or both Acts should so continue, the changes (if any) that should be made to either or

both of those Acts so far as they apply to State enterprises.

**25. Amendments and transitional provisions relating to new State enterprises**—(1) The enactments specified in the 5 **Fourth** Schedule to this Act are hereby amended in the manner indicated in that Schedule.

(2) During the period beginning on the 1st day of April 1987 and ending with the close of the 31st day of December 1987,—

10 (a) The enactments specified in the **Fifth** Schedule to this Act shall have effect as if they had been amended in the manner indicated in that Schedule; and

(b) The Town and Country Planning Act 1977 and the Public Works Act 1981 shall have effect as if every State 15 enterprise named in the **Second** Schedule to this Act were the Crown.

(3) Where, by virtue of **subsection (2)** of this section, a State enterprise has any power, right, or authority that it would not otherwise have, the responsible Minister may at any time or times, by written notice to the board of the State enterprise,—

20 (a) Direct the State enterprise not to exercise that power, right, or authority; or

(b) Impose conditions on the exercise of that power, right, or authority,—  
either generally or in any particular case or cases.

25 (4) Every State enterprise shall comply with a notice given to its board under **subsection (3)** of this section.

(5) Notwithstanding anything in the Companies Act 1955, the Reserve Bank of New Zealand Act 1964, or any other enactment or rule of law, a company in which all the shares 30 are subscribed for by Ministers may be formed and registered under the Companies Act 1955 with the name “Post Office Bank Limited”.

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**SCHEDULES**

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**Section 2****FIRST SCHEDULE  
STATE ENTERPRISES**

Air New Zealand Limited  
Airways Corporation of New Zealand Limited  
Bank of New Zealand  
Coal Corporation of New Zealand Limited  
Development Finance Corporation of New Zealand Limited  
Electricity Corporation of New Zealand Limited  
Forestry Corporation Limited  
Land Corporation Limited  
New Zealand Railways Corporation  
Petroleum Corporation of New Zealand Limited  
New Zealand Post Limited  
Post Office Bank Limited  
Post Office Telecom Limited  
Tourist Hotel Corporation of New Zealand  
The Shipping Corporation of New Zealand Limited

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**Section 9****SECOND SCHEDULE  
NEW STATE ENTERPRISES**

Airways Corporation of New Zealand Limited  
Coal Corporation of New Zealand Limited  
Electricity Corporation of New Zealand Limited  
Forestry Corporation Limited  
Land Corporation Limited  
New Zealand Post Limited  
Post Office Bank Limited  
Post Office Telecom Limited

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**Section 18****THIRD SCHEDULE  
STATE ENTERPRISE NOT AUDITED BY AUDIT OFFICE**

Bank of New Zealand

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## Section 25 (1)

FOURTH SCHEDULE  
ENACTMENTS AMENDED

| Title of Act  | Amendment  |
|---|--|
| 1973, No. 28—The Shipping Corporation of New Zealand Act 1973 | By repealing sections 8 and 9.   |
| 1973, No. 32—The Development Finance Corporation Act 1973     | By repealing sections 24 and 25.   |
| 1974, No. 59—The Tourist Hotel Corporation Act 1974           | By repealing section 19.   |
| 1975, No. 9—The Ombudsmen Act 1975                            | By inserting in Part II of the First Schedule, in their appropriate alphabetical order, the following names:<br>“Airways Corporation of New Zealand Limited<br>“Coal Corporation of New Zealand Limited<br>“Electricity Corporation of New Zealand Limited<br>“Forestry Corporation Limited<br>“Land Corporation Limited<br>“New Zealand Post Limited<br>“Post Office Bank Limited<br>“Post Office Telecom Limited”. |
| 1978, No. 103—The Securities Act 1978 (R.S. Vol. 15, p. 605)  | By inserting in section 5 (2) (a) (ii), after the words “Act 1983”, the words “or Post Office Bank Limited”.   |
| 1979, No. 34—The Bank of New Zealand Act 1979                 | By repealing sections 26 and 29.   |
| 1981, No. 119—The New Zealand Railways Corporation Act 1981   | By repealing section 43.   |
| 1982, No. 156—The Official Information Act 1982               | By inserting in the First Schedule, in their appropriate alphabetical order, the following names:<br>“Airways Corporation of New Zealand Limited<br>“Coal Corporation of New Zealand Limited<br>“Electricity Corporation of New Zealand Limited<br>“Forestry Corporation Limited<br>“Land Corporation Limited<br>“New Zealand Post Limited<br>“Post Office Bank Limited<br>“Post Office Telecom Limited”.            |

## Section 25 (2)

FIFTH SCHEDULE  
TRANSITIONAL PROVISIONS

*(Having effect in respect of the period beginning on 1 April 1987 and ending with the close of 31 December 1987)*

## PART I

*Civil Aviation Act 1964*

1. The Civil Aviation Act 1964 shall have effect as if, after section 32, there were inserted the following section:

“32A. **Application of Act to Airways Corporation of New Zealand Limited**—Every reference in sections 11 and 27 of this Act to the Minister shall be deemed to include a reference to the Airways Corporation of New Zealand Limited.”

## PART II

*Coal Mines Act 1979*

2. The Coal Mines Act 1979 shall have effect as if, after section 121, there were inserted the following section:

“121A. **Application of Act to Coal Corporation of New Zealand Limited**—Where any coal mining business previously carried on by the Crown is transferred to the Coal Corporation of New Zealand Limited pursuant to an agreement under section 22 of the State-Owned Enterprises Act 1986—

“(a) Notwithstanding any other enactment, the Coal Corporation of New Zealand Limited shall be deemed to have all such rights, powers, and authorities to carry on that business as if it were the Crown; and

“(b) Sections 15A to 15F of the Ministry of Energy Act 1977 shall not apply in respect of that business.”

## PART III

*Forests Act 1949*

3. The Forests Act 1949 shall have effect as if, after section 19, there were inserted the following section:

“19A. **Act not to apply to land transferred to Forestry Corporation Limited**—Notwithstanding the provisions of this Act, all State forest land that is agreed to be transferred to the Forestry Corporation Limited pursuant to section 22 of the State-Owned Enterprises Act 1986 shall, as from the date on which the agreement comes into effect, cease to be State forest land and shall cease to be subject to this Act.”

## PART IV

*Electricity Act 1968*

4. The Electricity Act 1968 shall have effect as if this Act had effected the repeal of the following provisions of that Act, namely:

(a) The provisos to sections 11 (1), 11 (2) (j), and 11 (2) (k):

(b) Part V.

5. The Electricity Act 1968 shall have effect as if, after section 55, there were inserted the following section:

FIFTH SCHEDULE—*continued*

**“55A. Application of Act to Electricity Corporation of New Zealand Limited—**(1) The following provisions of this Act shall apply as if every reference therein to the Crown, Her Majesty, Minister, Ministry, or Secretary were a reference to the Electricity Corporation of New Zealand Limited:

“(a) The definitions of the terms ‘authorised officer’ and ‘electrical supply authority’ in section 2:

“(b) Section 6 (a) and (f):

“(c) Section 7 (2) and (3):

“(d) Section 7A:

“(e) Section 11 (1) and (2):

“(f) Sections 12 to 15, 15A, 16, 17, 17A, 19, and 19A:

“(g) Section 35 (2) (b):

“(h) Sections 50 to 52A:

“(i) Section 53 (1), (2), and (2A).

“(2) Sections 20, 20A, 20B, and 21 to 26 shall not apply to the Electricity Corporation of New Zealand Limited.”

*Other Enactments*

6. The following enactments shall apply as if, for every reference therein to a Minister of the Crown, there were substituted a reference to the Electricity Corporation of New Zealand Limited:

(a) The Southland Electric Power Supply Act 1936:

(b) The Lake Taupo Compensation Claims Act 1947:

(c) Section 42 of the Finance Act 1950:

(d) Sections 4, 4A, and 5 of the Manapouri · Te Anau Development Act 1963, and all *Gazette* notices made thereunder:

(e) Section 31 of the Water and Soil Conservation Amendment Act 1973:

(f) The Clutha Development (Clyde Dam) Empowering Act 1982:

(g) Section 11 (1) to (4) of the Geothermal Energy Act 1953:

(h) Section 3 of the Electrical Registration Act 1979:

(i) Any other enactment that is declared by the Governor-General by Order in Council to be subject to this section.

7. The following enactments shall have effect as if they did not apply to the Electricity Corporation of New Zealand Limited:

(a) The Electric Linemen Act 1959:

(b) The Electric Linemen Regulations 1960:

(c) The Electrical Registration Regulations 1980:

(d) Sections 15A to 15F of the Ministry of Energy Act 1977.

PART V

*Land Act 1948*

8. The Land Act 1948 shall have effect as if this Act had effected the repeal of sections 13, 16, and 17.

9. Section 15 (1) of the Land Act 1948 shall have effect as if, after the word “Department,” there were inserted the words “or to the Land Corporation Limited,”.

10. The Land Act 1948 shall have effect as if, after section 52, there were inserted the following section:

FIFTH SCHEDULE—*continued*

**“52A. Application of Act to leases, etc., of land transferred to Corporation—**Where any land is transferred to the Land Corporation Limited pursuant to section 22 of the State-Owned Enterprises Act 1986 and at the date of transfer there is a lease, licence, or tenancy in respect of that land to which any or all of the following provisions of the Land Act 1948 apply, those provisions shall continue to apply to that lease, licence, or tenancy as if every reference in those provisions to a Commissioner of Crown Lands, the Land Settlement Board, the Board, or the Department were a reference to the Land Corporation Limited:

“(a) Sections 50, 50A to 50F, 56, 60, 60A, 60B, and 65:

“(b) Subsections (1), (2), and (4) of section 67:

“(c) Sections 68, 68A, 69, and 81 to 84:

“(d) Subsections (4) to (6) of section 85:

“(e) Sections 86, 87, 87A, 88 to 91, 91A, and 92 to 105:

“(f) Sections 111 to 115:

“(g) Sections 122 to 124, 124A, 125, 126, 127, 131, 132, 132A, and 133 to 151:

“(h) Sections 153 to 158, 160, 164A, 164B, 170, 170B, 171, and 174.”

11. Section 66A of the Land Act 1948 shall have effect as if, for the word “Board” wherever it occurs, there were substituted in each case the words “Land Corporation Limited”.

12. Section 85 (2) of the Land Act 1948 shall have effect as if, after the words “belonging to the Crown”, there were inserted the words “or the Land Corporation Limited”.

13. Subsections (1) and (3) of section 87 of the Land Act 1948 shall have effect as if, after the words “belonging to the Crown” wherever they appear, there were inserted in each case the words “or the Land Corporation Limited”.

14. Section 87 (2) of the Land Act 1948 shall have effect as if, after the words “owing to the Crown”, there were inserted the words “or the Land Corporation Limited”.

15. Section 142 (1) of the Land Act 1948 shall have effect as if, after the words “belonging to the Crown”, there were inserted the words “or the Land Corporation Limited”.

16. Section 146 (3) of the Land Act 1948 shall have effect as if, after the words “Her Majesty”, there were inserted the words “or the Land Corporation Limited”.

## PART VI

*Post Office Act 1959*

17. The Post Office Act 1959 shall have effect as if this Act had effected the repeal of sections 9, 16, 71 (2), 76 (2), 80, 107, 114, 115, and 117 of that Act.

18. The definition of the term “officer” in section 3 of the Post Office Act 1959 shall have effect as if, after the words “Post Office” wherever they occur, there were inserted in each case the words “New Zealand Post Limited, Post Office Telecom Limited, and Post Office Bank Limited, as the case may be”.



FIFTH SCHEDULE—*continued*

19. Section 40 of the Post Office Act 1959 shall have effect as if, for the words “every postal article”, there were substituted the words “all mail”.

20. Section 41 (1) of the Post Office Act 1959 shall have effect as if, for the words “postal article”, there were substituted the word “mail”.

21. Section 74 (3) of the Post Office Act 1959 shall have effect—

(a) As if for the words “Post Office”, there were substituted the words “New Zealand Post Limited”; and

(b) As if the words “out of the Post Office Account” were omitted.

22. Sections 116 and 123 (3) of the Post Office Act 1959 shall have effect as if for the words “the Post Office Account”, there were substituted the words “Post Office Bank Limited”.

23. Section 147 of the Post Office Act 1959 shall have effect as if there were added the words “as if Post Office Telecom Limited were the Crown”.

24. Sections 152 (5) and 153 (2) of the Post Office Act 1959 shall have effect as if the words “by the Postmaster-General” were omitted in each case.

25. Section 159 of the Post Office Act 1959 shall have effect as if there were added the following subsection:

“(8) Nothing in this section shall apply to Post Office Telecom Limited”.

26. The Post Office Act 1959 shall have effect as if there were inserted, after section 250, the following section:

“251. **Application of Act to new corporations**—(1) Sections 12 to 15, 19, 20, 40, 42, 45, 46, 70, 74 (1), 74 (3), 75, 76, and 77 (2) of this Act shall apply as if every reference therein to the Post Office, Postmaster-General, Director-General were a reference to New Zealand Post Limited.

“(2) Sections 79, 81, 82, 85, 86 (a), 94, 106, 108, 110, 111, 142 to 151, 152 (1) to (4), 153 (1), 154 to 158, 160 (1), 239A, and 247 of this Act shall apply as if every reference therein to the Post Office, Postmaster-General, Director-General were a reference to Post Office Telecom Limited.

“(3) Sections 113, 118, 119, 121 to 124 of this Act shall apply as if every reference therein to the Post Office, Postmaster-General, Post Office Savings Bank were a reference to Post Office Bank Limited.

“(4) Section 35 of this Act shall have effect as if there were added, after the words “or the Postmaster-General”, the words “or New Zealand Post Limited”.

*Other Enactments*

27. Regulations 55, 56, 109, and 111 to 113 of the Electrical Supply Regulations 1984 shall apply as if every reference therein to the Post Office were a reference to Post Office Telecom Limited.