

Version
as at 1 March 2024



Banking (Prudential Supervision) Act 1989

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Commencement	see section 1(2)

Act name: amended, on 1 July 2022, by section 298(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

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Part 1

Constitution of Reserve Bank of New Zealand

[Repealed]

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

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

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Functions and powers of Reserve Bank

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	<i>[Repealed]</i>	
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[Repealed]

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[Repealed]

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Title *[Repealed]*

Title: repealed, on 10 September 2008, by section 4 of the Reserve Bank of New Zealand Amendment Act 2008 (2008 No 59).

1 Title and commencement

- (1) This Act is the Banking (Prudential Supervision) Act 1989.
- (2) Except as provided in section 181(5) and (9), this Act shall come into force on 1 February 1990.

Section 1 heading: amended, on 1 July 2022, by section 298(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 1(1): amended, on 1 July 2022, by section 298(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 1(2): amended, on 24 March 1995, by section 12 of the Reserve Bank of New Zealand Amendment Act 1995 (1995 No 5).

1A Purpose

The purpose of this Act is to promote the prosperity and well-being of New Zealanders, and contribute to a sustainable and productive economy, by providing for the Reserve Bank of New Zealand, as the central bank, to be responsible for—

- (a) registering banks and undertaking prudential supervision of registered banks; and
- (b) carrying out other functions, and exercising powers, specified in this Act.

Section 1A: replaced, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

1B Overview

- (1) In this Act,—

- (a) Part 4 imposes limits on the use of the words “bank”, “banker”, and “banking”:
 - (b) Part 5 provides for the registration of banks and the prudential supervision of registered banks:
 - (c) Part 5A provides for the retention of documents by banks:
 - (d) Part 5B provides for oversight of payment systems:
 - (e) Part 5C regulates designated settlement systems:
 - (f) Part 7 deals with regulations, offences, and other miscellaneous matters.
- (2) This section is only a guide to the general scheme and effect of this Act.
- (3) In addition, the Reserve Bank of New Zealand Act 2021 provides for the Reserve Bank of New Zealand.

Section 1B: inserted, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

2 Interpretation

- (1) In this Act, unless the context otherwise requires,—

banking group has the meaning given to it in the Orders in Council made under section 81

debt security has the same meaning as in section 8 of the Financial Markets Conduct Act 2013

director, except in relation to the Bank, means—

- (a) a person occupying the position of director by whatever name called:
- (b) in the case of an entity that does not have directors as such, any trustee, manager, or other person who acts in relation to that entity in the same or a similar fashion as a director would act were that entity a company incorporated in New Zealand under the Companies Act 1993

disclosure statement means the document referred to in section 81(2)(a)

document means a document in any form, whether signed or initialled or otherwise authenticated by its maker or not; and includes—

- (a) any writing on any material:
- (b) any information recorded or stored by means of any tape-recorder, computer, or other device; and any material subsequently derived from information so recorded or stored:
- (c) any label, marking, or other writing that identifies or describes any thing of which it forms part, or to which it is attached by any means:
- (d) any book, map, plan, graph, or drawing:
- (e) any photograph, film, negative, tape, or other device in which 1 or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced

financial institution means any person including a body of persons whether incorporated or not, who carries on the business of borrowing and lending money, or providing financial services, or both, and without limiting the generality of the foregoing includes—

- (a) an insurer that issues, or is liable under, life policies within the meaning of section 6(1) of the Insurance (Prudential Supervision) Act 2010; and includes any branch, division, or office of that insurer; and
- (b) a building society as defined in section 2 of the Building Societies Act 1965; and
- (c) a registered bank; and
- (d) a specified person or class of persons (including a body or bodies of persons, whether incorporated or not) who is or are declared by the Governor-General, by Order in Council, to be a financial institution or institutions for the purposes of this Act (*see* subsection (5))

financial product has the same meaning as in section 7 of the Financial Markets Conduct Act 2013

FMA means the Financial Markets Authority established under Part 2 of the Financial Markets Authority Act 2011

Governor means a person who occupies the position of Governor of the Bank (whether the person is appointed under section 82 or 96 of the Reserve Bank of New Zealand Act 2021)

holding company means a holding company within the meaning of section 5 of the Companies Act 1993

home country supervisor means any central bank, authority, or body in any country other than New Zealand that exercises functions in relation to a parent bank or an overseas incorporated registered bank that correspond with, or are similar to, those conferred on the Bank under Part 5

home jurisdiction means,—

- (a) in the case of an overseas person that is a body corporate, the country in which that body is incorporated;
- (b) in the case of an overseas person that is an unincorporated body, the country in which that body has its head office or principal place of business

licensed insurer has the same meaning as in section 6(1) of the Insurance (Prudential Supervision) Act 2010

managed investment scheme has the same meaning as in section 9 of the Financial Markets Conduct Act 2013

Minister means the Treasurer, or other Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the

time being responsible for the administration of this Act or particular provisions of this Act

New Zealand chief executive officer, in relation to an overseas incorporated registered bank, means—

- (a) the most senior officer of that bank who is ordinarily resident in New Zealand; or
- (b) another person who may be nominated by that bank and agreed to in writing by the Bank; or
- (c) if section 82(3) applies, an employee of that bank who has been specified by the Bank under that section

non-voting security, in relation to any body, means a specified security that does not confer a voting right

overseas bank means any person that is formed, licensed, or registered as a bank in any country other than New Zealand

overseas person means—

- (a) a body corporate incorporated outside New Zealand; or
- (b) an unincorporated body that has its head office or principal place of business outside New Zealand

parent bank means an overseas bank that is a holding company of a registered bank

qualifying interest, in relation to a specified security, means—

- (a) the legal or beneficial ownership of the specified security; or
- (b) the power to exercise, or control the exercise of, any voting right attached to the specified security; or
- (c) the power to acquire or dispose of the specified security; or
- (d) the power to control the acquisition or disposition of the specified security by another person; or
- (e) the powers referred to in paragraphs (b) to (d) under, or by virtue of, any trust, agreement, arrangement, or understanding relating to the specified security

registered bank means a person whose name is entered in the register maintained under section 69 or who continues to be a registered bank by virtue of the provisions of section 76

Reserve Bank or the **Bank** means the Reserve Bank of New Zealand continued under the Reserve Bank of New Zealand Act 2021

restricted word—

- (a) means the words “bank”, “banker”, and “banking”; and
- (b) includes—

- (i) any of those words as part of any other word:
- (ii) a translation of those words into another language (whether or not the translation of those words is part of any other word)

significant influence, in relation to a registered bank, means—

- (a) the ability to directly or indirectly appoint 25% or more of the board of directors (or other persons exercising powers of management, however described) of the registered bank; or
- (b) a direct or indirect qualifying interest in 10% or more of the voting securities issued or allotted by the registered bank

specified security has the meaning given to security in section 6(1) of the Overseas Investment Act 2005

subsidiary means a subsidiary within the meaning of section 5(1)(a)(iii) and (b) of the Companies Act 1993

trade mark has the meaning given to it by section 5(1) of the Trade Marks Act 2002

voting right, in relation to any body,—

- (a) means a currently exercisable right to cast a vote at meetings of shareholders or members of that body; but
- (b) does not include a right to vote that is exercisable only in 1 or more of the following circumstances:
 - (i) during a period in which a payment or distribution (or part of a payment or distribution) in respect of the security that confers the voting right is in arrears or some other default exists:
 - (ii) on a proposal that affects rights attached to the security that confers the voting right:
 - (iii) on a proposal to put the body into liquidation or voluntary administration:
 - (iv) on a proposal for the disposal of the whole, or a material part, of the property, business, or undertaking of the body:
 - (v) during the liquidation, receivership, voluntary administration, bankruptcy, or statutory management of the body; and
- (c) does not include a right to vote that is exercisable only for a special, immaterial, or remote matter that is inconsequential to the control of the body

voting security, in relation to any body, means a specified security that confers a voting right.

- (2) For the purposes of Parts 4 and 5, a person is an **associated person** of a financial institution or a registered bank, as the case may be, if—

- (a) that person directly or indirectly controls the management of the financial institution or registered bank; or
 - (b) that person has a direct or indirect qualifying interest in 20% or more of the voting or non-voting securities issued by the financial institution or registered bank; or
 - (c) that financial institution or registered bank directly or indirectly controls the management of that person; or
 - (d) that financial institution or registered bank has a direct or indirect qualifying interest in 20% or more of the voting or non-voting securities issued by that person.
- (3) For the purposes of section 77A, **transaction** includes the—
- (a) sale or transfer of property or financial products; and
 - (b) issue or allotment of financial products; and
 - (c) entering into, or giving effect to a provision in, a contract or arrangement; and
 - (d) arriving at, or giving effect to, an understanding.
- (4) For the purposes of Part 5, a holding company of a registered bank has a **substantial interest** in a body if—
- (a) that holding company directly or indirectly controls the management of that body; or
 - (b) that holding company has a direct or indirect qualifying interest in 20% or more of the voting securities issued by that body.
- (5) An Order in Council under paragraph (d) of the definition of financial institution in subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1964 No 134 s 2; 1986 No 131 s 2

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives, unless it relates exclusively to an individual (in which case a transitional exemption applies under Schedule 1 of the Legislation Act 2019)	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 2(1) **bank note** or **note**: repealed, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 2(1) **banking group**: inserted, on 21 August 2003, by section 3(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 2(1) **charter**: repealed, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 2(1) **clearing house**: repealed, on 24 November 2009, by section 4(1) of the Reserve Bank of New Zealand Amendment Act 2009 (2009 No 53).

Section 2(1) **code of conduct**: repealed, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 2(1) **debt security**: inserted, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 2(1) **Deputy Chief Executive**: repealed, on 1 April 2019, by section 5(3) of the Reserve Bank of New Zealand (Monetary Policy) Amendment Act 2018 (2018 No 59).

Section 2(1) **Deputy Governor**: repealed, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 2(1) **designated payment system**: repealed, on 24 November 2009, by section 4(2) of the Reserve Bank of New Zealand Amendment Act 2009 (2009 No 53).

Section 2(1) **designated settlement system**: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section 2(1) **director**: inserted, on 21 August 2003, by section 3(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 2(1) **disclosure statement**: inserted, on 21 August 2003, by section 3(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 2(1) **economic objective**: repealed, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 2(1) **financial institution** paragraph (a): replaced, on 8 September 2010, by section 241(1) of the Insurance (Prudential Supervision) Act 2010 (2010 No 111).

Section 2(1) **financial institution** paragraph (d): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 2(1) **financial institution** paragraph (d): amended, on 1 November 2006, by section 4 of the Reserve Bank of New Zealand Amendment Act 2006 (2006 No 51).

Section 2(1) **financial product**: inserted, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 2(1) **financial year**: repealed, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 2(1) **FMA**: inserted, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

Section 2(1) **foreign exchange**: repealed, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 2(1) **formulating**: repealed, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 2(1) **Governor**: replaced, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 2(1) **holding company**: replaced, on 5 December 2013, by section 14 of the Companies Amendment Act 2013 (2013 No 111).

Section 2(1) **home country supervisor**: inserted, on 21 August 2003, by section 3(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 2(1) **home jurisdiction**: inserted, on 21 August 2003, by section 3(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 2(1) **licensed insurer**: inserted, on 8 September 2010, by section 241(1) of the Insurance (Prudential Supervision) Act 2010 (2010 No 111).

Section 2(1) **managed investment scheme**: inserted, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 2(1) **Minister**: replaced, on 25 June 1997, by section 2 of the Treasurer (Statutory References) Act 1997 (1997 No 20).

Section 2(1) **MPC or monetary policy committee**: repealed, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 2(1) **net income**: repealed, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 2(1) **New Zealand chief executive officer**: inserted, on 21 August 2003, by section 3(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 2(1) **non-voting security**: inserted, on 21 August 2003, by section 3(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 2(1) **operating expenses**: repealed, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 2(1) **operator**: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section 2(1) **overseas bank**: inserted, on 21 August 2003, by section 3(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 2(1) **overseas person**: inserted, on 21 August 2003, by section 3(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 2(1) **parent bank**: inserted, on 21 August 2003, by section 3(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 2(1) **participant**: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section 2(1) **payment system**: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section 2(1) **qualifying interest**: inserted, on 21 August 2003, by section 3(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 2(1) **remit**: repealed, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 2(1) **remit advice**: repealed, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 2(1) **Reserve Bank or the Bank**: inserted, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 2(1) **Reserve Bank or the Bank**: repealed, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 2(1) **restricted word**: inserted, on 21 August 2003, by section 3(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 2(1) **security**: repealed, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 2(1) **settlement system**: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section 2(1) **significant influence**: inserted, on 21 August 2003, by section 3(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 2(1) **specified operator**: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section 2(1) **specified security**: replaced, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

Section 2(1) **subsidiary**: replaced, on 5 December 2013, by section 14 of the Companies Amendment Act 2013 (2013 No 111).

Section 2(1) **trade mark**: inserted, 21 August 2003, by section 3(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 2(1) **voting right**: inserted, on 21 August 2003, by section 3(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 2(1) **voting right** paragraph (b)(iii): amended, on 1 November 2007, by section 41 of the Companies Amendment Act 2006 (2006 No 56).

Section 2(1) **voting right** paragraph (b)(v): amended, on 1 November 2007, by section 41 of the Companies Amendment Act 2006 (2006 No 56).

Section 2(1) **voting security**: inserted, on 21 August 2003, by section 3(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 2(2): replaced, on 21 August 2003, by section 3(2) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 2(2): amended, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 2(3): inserted, on 21 August 2003, by section 3(2) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 2(3)(a): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 2(3)(b): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 2(4): inserted, on 21 August 2003, by section 3(2) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 2(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

3 Interpretation of provisions relating to false or misleading information

For the purposes of this Act, a reference to information or data that is false or misleading includes a reference to information or data that is false or misleading by reason of—

- (a) the form or context in which it is published or supplied; or
- (b) the omission of any other information that is material in the form and context in which it is published or supplied.

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

Section 3A: inserted, on 21 December 2018, by section 6 of the Reserve Bank of New Zealand (Monetary Policy) Amendment Act 2018 (2018 No 59).

4 Act to bind the Crown

This Act shall bind the Crown.

Part 1

Constitution of Reserve Bank of New Zealand

[Repealed]

Part 1: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

5 Reserve Bank of New Zealand

[Repealed]

Section 5: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

6 Branches and agencies

[Repealed]

Section 6: repealed, on 1 April 2019, by section 35 of the Reserve Bank of New Zealand (Monetary Policy) Amendment Act 2018 (2018 No 59).

Part 2

Functions and powers of Reserve Bank

[Repealed]

Part 2: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Central bank

[Repealed]

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

7 Bank to act as central bank

[Repealed]

Section 7: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Monetary policy

[Repealed]

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

8 Function to formulate monetary policy through MPC

[Repealed]

Section 8: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

9 Function to implement monetary policy

[Repealed]

Section 9: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

10 Remit for MPC

[Repealed]

Section 10: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

11 Other matters relating to remit

[Repealed]

Section 11: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

12 Order providing for different economic objective or objectives

[Repealed]

Section 12: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

13 Order must include replacement remit

[Repealed]

Section 13: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

14 Effect of order on current remit

[Repealed]

Section 14: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

15 Period may be extended

[Repealed]

Section 15: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

15A Revocation of order

[Repealed]

Section 15A: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

15B Functions under sections 8 and 9 not affected

[Repealed]

Section 15B: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

15C Regular reports on monetary policy

[Repealed]

Section 15C: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

15D Longer-term report on formulation and implementation of monetary policy

[Repealed]

Section 15D: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Foreign exchange

[Repealed]

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

16 Dealing in foreign exchange by Bank

[Repealed]

Section 16: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

17 Power of Minister to direct Bank to deal in foreign exchange within guidelines

[Repealed]

Section 17: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

18 Power of Minister to fix exchange rates for foreign exchange dealing by Bank

[Repealed]

Section 18: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

19 Effect of directions on operational objectives

[Repealed]

Section 19: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

20 Effect of directions on monetary policy

[Repealed]

Section 20: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

21 Foreign exchange gains and losses

[Repealed]

Section 21: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

22 Temporary suspension of foreign exchange business

[Repealed]

Section 22: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

23 Bank to advise Minister on foreign exchange matters

[Repealed]

Section 23: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

24 Foreign reserves

[Repealed]

Section 24: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Currency

[Repealed]

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

25 Issue of currency by Bank

[Repealed]

Section 25: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

26 Power of Bank to call in currency

[Repealed]

Section 26: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

27 Legal tender

[Repealed]

Section 27: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

28 Defacing bank notes

[Repealed]

Section 28: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

29 Making or issuing of other bank notes or coins

[Repealed]

Section 29: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

30 Reproduction or imitation of currency

[Repealed]

Section 30: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Other functions and powers

[Repealed]

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

31 Bank to act as lender of last resort

[Repealed]

Section 31: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

32 Bank may provide settlement account services

[Repealed]

Section 32: repealed, on 1 April 2019, by section 35 of the Reserve Bank of New Zealand (Monetary Policy) Amendment Act 2018 (2018 No 59).

33 Policy advice

[Repealed]

Section 33: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

34 Government banking business

[Repealed]

Section 34: repealed, on 1 April 2019, by section 35 of the Reserve Bank of New Zealand (Monetary Policy) Amendment Act 2018 (2018 No 59).

35 Financial products registry services

[Repealed]

Section 35: repealed, on 1 April 2019, by section 35 of the Reserve Bank of New Zealand (Monetary Policy) Amendment Act 2018 (2018 No 59).

36 Bank may require financial institution to supply information

[Repealed]

Section 36: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

37 Failure to supply information

[Repealed]

Section 37: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

38 Requirement that information be audited

[Repealed]

Section 38: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

39 Powers

[Repealed]

Section 39: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Part 3

Management of Reserve Bank

[Repealed]

Part 3: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Governor and Deputy Governor

[Repealed]

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

40 Governor

[Repealed]

Section 40: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

41 Duties of Governor

[Repealed]

Section 41: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

42 Conditions of appointment of Governor

[Repealed]

Section 42: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

43 Deputy Governor

[Repealed]

Section 43: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

44 Term of appointment and conditions of appointment of Deputy Governor

[Repealed]

Section 44: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

45 Extension of term of Governor or Deputy Governor

[Repealed]

Section 45: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

45A Validity of appointments

[Repealed]

Section 45A: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

46 Disqualification of Governor and Deputy Governor

[Repealed]

Section 46: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

47 Incapacity of Governor and Deputy Governor

[Repealed]

Section 47: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

48 Vacancy in office of Governor

[Repealed]

Section 48: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

48A Deputy Governor may act pending appointment

[Repealed]

Section 48A: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

48B Vacancy in office of Deputy Governor

[Repealed]

Section 48B: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

49 Removal of Governor from office

[Repealed]

Section 49: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

50 Removal of Deputy Governor from office by Order in Council

[Repealed]

Section 50: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

51 Delegation

[Repealed]

Section 51: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Board of directors

[Repealed]

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

52 Board of directors

[Repealed]

Section 52: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

53 Duties of Board

[Repealed]

Section 53: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

53A Board must prepare annual report

[Repealed]

Section 53A: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

53B Board must supply reports or other information to Minister

[Repealed]

Section 53B: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

53C Bank must supply reports or information to Board

[Repealed]

Section 53C: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

54 Membership of Board

[Repealed]

Section 54: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

55 Term of office of non-executive directors

[Repealed]

Section 55: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

56 Considerations affecting appointment of non-executive directors

[Repealed]

Section 56: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

57 Extraordinary vacancies

[Repealed]

Section 57: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

58 Disqualification of non-executive directors

[Repealed]

Section 58: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

59 Removal from office of non-executive directors

[Repealed]

Section 59: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

59A Chairperson and deputy chairperson of Board

[Repealed]

Section 59A: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

60 Meetings of Board

[Repealed]

Section 60: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

60A Teleconference meeting

[Repealed]

Section 60A: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

60B Directors to be notified of meetings

[Repealed]

Section 60B: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

60C Who presides at meetings of Board

[Repealed]

Section 60C: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

61 Directors to disclose interests

[Repealed]

Section 61: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

62 Committees

[Repealed]

Section 62: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

63 Fees and expenses of non-executive directors

[Repealed]

Section 63: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Monetary policy committee

[Repealed]

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

63A Establishment of monetary policy committee

[Repealed]

Section 63A: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

63B Functions of MPC

[Repealed]

Section 63B: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

63C Membership of MPC

[Repealed]

Section 63C: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

63D Charter

[Repealed]

Section 63D: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

63E Content of charter

[Repealed]

Section 63E: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

63F Replacement charter

[Repealed]

Section 63F: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

63G Consultation about replacement charter

[Repealed]

Section 63G: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

63H Publication of charter

[Repealed]

Section 63H: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

63I Status of charter

[Repealed]

Section 63I: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

63J Code of conduct

[Repealed]

Section 63J: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

63K Content of code

[Repealed]

Section 63K: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

63L Publication and status of code

[Repealed]

Section 63L: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

63M Other matters

[Repealed]

Section 63M: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Appointment procedure

[Repealed]

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

63N Appointment procedure

[Repealed]

Section 63N: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Part 4

Use of words ‘bank’, ‘banker’, and ‘banking’

Part 4: replaced, on 21 August 2003, by section 10 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Limit on use of restricted words in name or title

Heading: inserted, on 21 August 2003, by section 10 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

64 Limit on use of restricted words in name or title

- (1) No person may—
- (a) be formed, incorporated, or registered using a name or title that includes a restricted word; or
 - (b) change a person’s name or title to a name or title that includes a restricted word; or
 - (c) carry on any activity directly or indirectly in New Zealand (whether through an agent or otherwise) using a name or title that includes a restricted word.
- (2) Subsection (1) does not apply to—
- (a) the Bank; or
 - (b) a registered bank; or
 - (c) any person who is authorised by the Bank under section 65 to use a name or title that includes a restricted word but only to the extent that the person is acting within the scope of that authorisation; or
 - (d) any person who is exempted under section 66 but only to the extent that the person is acting within the scope of that exemption.

- (3) Despite subsection (2)(b), a registered bank must not use, without an authorisation from the Bank under section 65(1)(e), a name or title that includes a restricted word in respect of a managed investment scheme of which the registered bank is a supervisor or a manager within the meaning of section 6(1) of the Financial Markets Conduct Act 2013.
- (4) Subsection (2)(b) does not extend to a person carrying on any activity by means of, or through the agency of, a registered bank.
- (5) A person commits an offence if the person contravenes this section.
- (6) The penalty for an offence against this section is set out in section 66M.
- (7) In this section (except subsection (1)(a) to (c)) and sections 65 and 66, **use**, in relation to a restricted word, means act in a manner prohibited by subsection (1)(a) to (c) (as the context requires).

Section 64: replaced, on 21 August 2003, by section 10 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 64(3): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

65 Bank may authorise use of restricted words in name or title

- (1) The Bank may authorise any of the following persons to use a name or title that includes a restricted word:
 - (a) a person licensed or registered as a bank in a country other than New Zealand:
 - (b) a class of persons licensed or registered as banks in a country other than New Zealand:
 - (c) a person that is formed, incorporated, or registered to represent the interests of—
 - (i) any registered bank; or
 - (ii) any person connected with a registered bank:
 - (d) an associated person of a registered bank:
 - (e) a registered bank or an associated person of a registered bank that intends to use a name or title that includes a restricted word in respect of a managed investment scheme of which the registered bank or the associated person is a supervisor or a manager within the meaning of section 6(1) of the Financial Markets Conduct Act 2013:
 - (f) a person that is not a financial institution.
- (2) In the case of an authorisation under subsection (1)(a), the Bank must—
 - (a) give the authorisation by notice in writing to the person; and
 - (b) impose both of the following conditions:
 - (i) the condition that the person use a particular name or title approved by the Bank; and

- (ii) the condition that the person carry on in New Zealand only those activities specified by the Bank in the notice.
- (3) In the case of an authorisation under subsection (1)(b),—
- (a) the authorisation is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and
- (b) the Bank must impose the condition that each member of the class of persons carries on in New Zealand only those activities specified by the Bank in the authorisation in respect of the class to which that member belongs.
- (4) In the case of an authorisation under subsection (1)(c) to (f), the Bank must—
- (a) give the authorisation by notice in writing to the person; and
- (b) impose the condition that the person uses a particular name or title approved by the Bank.
- (5) Nothing in subsections (2) to (4) prevents the Bank from imposing any other conditions to the authorisation that it thinks fit.
- (6) The Bank may, at any time, revoke an authorisation, or vary or remove a condition of an authorisation, or add a condition of an authorisation, by,—
- (a) in the case of an authorisation that relates to a person, notice in writing to the person; or
- (b) in the case of an authorisation that relates to a class of persons, notice in the *Gazette*.
- (7) Any authorisation given under this section applies to any other person (for example, the Registrar of Companies), but only to the extent that the acts of that person are necessary to allow the person to whom the authorisation is given to have the benefit of that authorisation.

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must publish it in the <i>Gazette</i>	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 65: replaced, on 21 August 2003, by section 10 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 65(1)(e): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 65(3): replaced, on 28 October 2021, by regulation 107 of the Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247).

66 Certain persons exempt from application of section 64

Nothing in section 64(1) applies to a person using a name or title that includes a restricted word if—

- (a) the restricted word signifies a geographic place name or the name of a natural person; and
- (b) the name or title is not used in respect of a financial institution, or could not reasonably be mistaken for the name or title of a financial institution.

Section 66: replaced, on 21 August 2003, by section 10 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

66A Application of Companies Act 1993

Nothing in sections 65 and 66 affects or limits the following sections of the Companies Act 1993:

- (a) sections 20 to 24 (which relate to company names);
- (b) section 333 (which relates to the reservation of the name of an overseas company).

Section 66A: inserted, on 21 August 2003, by section 10 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Limit on use of restricted words in advertisement

Heading: inserted, on 21 August 2003, by section 10 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

66B Limit on use of restricted words in advertisement

- (1) No specified person may use a restricted word in any advertisement unless the advertisement contains a statement that complies with subsection (2).
- (2) The statement must—
 - (a) state that the specified person is not a registered bank; and
 - (b) be communicated in a manner that ensures, as far as is reasonably practicable, that the statement attracts the attention of the persons to whom the advertisement is directed.
- (3) A specified person commits an offence if the specified person contravenes this section.
- (4) The penalty for an offence against this section is set out in section 66M.
- (5) In this section and sections 66D and 66M,—

advertisement —

 - (a) means any thing used to promote—
 - (i) the interests of a specified person; or
 - (ii) the services or products of that person; and
 - (b) includes a trade mark of a specified person; but

(c) does not include the name or title of a specified person

specified person means a person that—

- (a) is a financial institution; and
- (b) is not a registered bank.

Section 66B: inserted, on 21 August 2003, by section 10 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Powers of Bank in relation to use of restricted words

Heading: inserted, on 21 August 2003, by section 10 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

66C Power to obtain information

- (1) If the Bank believes or has reasonable grounds for believing that there has been a contravention of section 64 or section 66B, the Bank, for the purpose of determining whether there has been a contravention of either of those sections, may, by notice in writing, require any person to—
 - (a) produce to the Bank a document in the person’s possession, custody, or control;
 - (b) supply the Bank with information or an explanation about any information.
- (2) The Bank may exercise the power in subsection (1) only if the Bank has reasonable cause to believe that the person may have information or documents relevant to the purpose of that subsection.
- (3) A person to whom a notice is given must comply with the notice within the period of time specified by the Bank (which period must be reasonable in the circumstances).
- (4) A person commits an offence if, without lawful justification or excuse, the person fails to comply with this section.
- (5) The penalty for an offence against this section is set out in section 66M.

Section 66C: inserted, on 21 August 2003, by section 10 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

66D Power to require change of name, etc

- (1) If the Bank is satisfied on reasonable grounds that a person has contravened, or is contravening, section 64 or section 66B, it may, by notice in writing, require that person to—
 - (a) change that person’s name or title to a name or title that does not include a restricted word;
 - (b) cease using a restricted word in an advertisement;
 - (c) cease carrying on any activity using a name or title that includes a restricted word.

- (2) The Bank may require any person to whom a notice is given to supply the Bank with information or documents that may be necessary for the Bank to verify that the notice has been complied with.
- (3) A person must comply with a requirement of the Bank under this section within the period of time specified by the Bank (which period must be reasonable in the circumstances).
- (4) A person commits an offence if the person fails to comply with this section.
- (5) The penalty for an offence against this section is set out in section 66M.

Section 66D: inserted, on 21 August 2003, by section 10 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

66E Power to appoint person to enter and search premises

- (1) This section applies if the Bank has reasonable cause to believe—
 - (a) that any information or documents supplied to the Bank under section 66C or section 66D(2) are false or misleading in a material particular; or
 - (b) that a person has failed to comply with any requirement to supply information or documents under section 66C or section 66D(2).
- (2) If this section applies, the Bank may appoint, in writing, any suitably qualified person to enter and search any premises.
- (3) A person appointed under subsection (2) may—
 - (a) inspect, remove, and take copies of any documents relating to the use of a restricted word that may be in the possession, custody, or control of any person; and
 - (b) if necessary, require the reproduction in usable form of any information recorded or stored in those documents.
- (4) A person commits an offence if, without lawful justification or excuse, the person hinders, obstructs, or delays the conduct of any search by a person appointed under subsection (2).
- (5) The penalty for an offence against this section is set out in section 66M.

Section 66E: inserted, on 21 August 2003, by section 10 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

66F Requirements on entering and searching premises

- (1) A person appointed under section 66E(2) must not enter and search any premises, or inspect, remove, or take copies of any documents in the possession, custody, or control of any person, or require the reproduction in usable form of any information recorded or stored in any documents, unless—
 - (a) the occupier of the premises, or the person who has possession, custody, or control of the documents, agrees; or
 - (b) the person appointed under section 66E(2) obtains a warrant under section 66I.

- (2) A person authorised to enter and search any premises under a warrant must, on first entering those premises and, if requested, at any subsequent time, produce—
- (a) evidence of that person’s authority to enter the premises; and
 - (b) evidence of that person’s identity.

Section 66F: inserted, on 21 August 2003, by section 10 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

66G Confidentiality of information or documents

- (1) This section applies to information or documents supplied or disclosed to, or obtained by, the Bank for the purposes of, or in connection with, the exercise of powers conferred by this Part.
- (2) The Bank, any officer or employee of the Bank, or a person appointed under section 66E(2) must not publish or disclose any information or documents to which this section applies except—
- (a) with the consent of the person to whom the information relates or of the person to whom the information is confidential; or
 - (b) to the extent that the information is available to the public under any Act, including the Official Information Act 1982, or is otherwise publicly available; or
 - (c) for the purposes of, or in connection with, the performance or exercise of any function, power, or duty conferred or imposed on the Bank by this Act or any other legislation; or
 - (d) in connection with any investigation or inquiry (whether or not preliminary to any proceedings) in respect of, or any proceedings for, an offence against this Act or any other Act; or
 - (e) under subpart 3 of Part 6 of the Reserve Bank of New Zealand Act 2021 (which relates to information sharing); or
 - (f) to any person who the Bank is satisfied has a proper interest in receiving the information.
- (3) The Bank, any officer or employee of the Bank, or a person appointed under section 66E(2) must not publish or disclose any information or documents under subsection (2)(e) or (f) unless the Bank is satisfied that satisfactory provision exists to protect the confidentiality of that information or those documents.
- (4) A person referred to in subsection (5) commits an offence if the person contravenes this section.
- (5) The persons are—
- (a) any officer or employee of the Bank; or
 - (b) a person appointed under section 66E(2).

- (6) The penalty for an offence against this section is set out in section 66M.

Section 66G: inserted, on 21 August 2003, by section 10 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 66G(2)(c): replaced, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 66G(2)(e): replaced, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

66H Limits on further disclosure of information or documents published or disclosed under section 66G

- (1) A person to whom any information or documents are published or disclosed under section 66G must not publish, disclose, or use that information or those documents unless the publication, disclosure, or use is,—

(a) in the case of a publication or disclosure under section 66G(2)(a), in accordance with the terms and conditions of the consent referred to in that paragraph:

(b) in the case of a publication or disclosure under section 66G(2)(c),—

(i) for the purposes of, or in connection with, the performance or exercise of any function, power, or duty referred to in that paragraph; and

(ii) in accordance with any conditions that the Bank may have imposed:

(c) in the case of a publication or disclosure under section 66G(2)(f),—

(i) authorised by the Bank and in accordance with any conditions that the Bank may have imposed; or

(ii) necessary or desirable for the performance of any function or exercise of any power conferred by any enactment.

- (2) A person commits an offence if the person contravenes this section.

- (3) The penalty for an offence against this section is set out in section 66M.

Section 66H: inserted, on 21 August 2003, by section 10 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 66H(1)(b)(i): replaced, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

66I Procedure for obtaining warrants

- (1) An issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) may issue a warrant to a person appointed under section 66E(2) if the issuing officer is satisfied, on application made in the manner provided in subpart 3 of Part 4 of that Act, that there are reasonable grounds for believing —

(a) that any information or documents supplied to the Bank under section 66C or section 66D(2) are false or misleading in a material particular; or

- (b) that a person has failed to comply with any requirement to supply information or documents under section 66C or section 66D(2).
- (2) The provisions of Part 4 of the Search and Surveillance Act 2012 (except sections 118 and 119) apply.

Section 66I: inserted, on 21 August 2003, by section 10 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 66I(1): amended, on 1 October 2012, by section 297(1) of the Search and Surveillance Act 2012 (2012 No 24).

Section 66I(2): inserted, on 1 October 2012, by section 297(2) of the Search and Surveillance Act 2012 (2012 No 24).

66J Effect of warrant

[Repealed]

Section 66J: repealed, on 1 October 2012, by section 297(3) of the Search and Surveillance Act 2012 (2012 No 24).

66K Effect of proceedings

- (1) If any person commences any proceedings in any court in respect of the exercise of any powers conferred by section 66E, until a final decision in relation to those proceedings is given, the powers may be, or may continue to be, exercised as if the proceedings had not been commenced, and no person is excused from fulfilling any obligation under that section by reason of those proceedings.
- (2) This section applies despite the provisions of any other Act or any rule of law.

Section 66K: inserted, on 21 August 2003, by section 10 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

66L Effect of final decision that exercise of powers under section 66E unlawful

- (1) This section applies if—
- (a) any power conferred by section 66E has been exercised; and
 - (b) that exercise has been declared to be unlawful in a final decision given in proceedings in respect of the exercise of that power.
- (2) The Bank must ensure that, as soon as practicable after the decision is given,—
- (a) any information supplied by a person and any documents or records obtained as a result of the unlawful exercise of the power are returned to the person previously having possession, custody, or control of those documents or records, and any copies of those documents or records are destroyed;
 - (b) any documents or records derived from, or based on, the documents or records are destroyed.
- (3) No information, documents, or records obtained as a result of the unlawful exercise of the power are admissible in evidence in any proceedings.

Section 66L: inserted, on 21 August 2003, by section 10 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Penalty for offences against this Part

Heading: inserted, on 21 August 2003, by section 10 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

66M Penalty for offences

- (1) A person who commits an offence against any of the provisions listed in subsection (2) is liable, on conviction,—
 - (a) in the case of an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$100,000; and
 - (b) in the case of a body corporate, to a fine not exceeding \$1,000,000.
- (2) The provisions are—
 - (a) section 64 (which relates to the use of restricted words in a name or title):
 - (b) section 66B (which relates to the use of restricted words in an advertisement):
 - (c) section 66C (which relates to failing to produce a document or supply information to the Bank after being required to do so):
 - (d) section 66D (which relates to failing to change a person's name or title or cease using a restricted word in an advertisement or cease carrying on any activity after being required to do so):
 - (e) section 66E (which relates to obstructing a person appointed to conduct a search):
 - (f) section 66G (which relates to breaches of confidentiality provisions):
 - (g) section 66H (which relates to further disclosures of information).

Section 66M: inserted, on 21 August 2003, by section 10 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 66M(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Part 5

Registration of banks and prudential supervision of registered banks

67A Interpretation in this Part

In this Part, unless the context otherwise requires,—

action that is likely to have a detrimental effect on financial system stability in Australia includes an action that prevents or interferes with any outsourcing arrangement

authorised deposit-taking institution has the same meaning as in section 5(1) of the Banking Act 1959 of the Parliament of the Commonwealth of Australia

outsourcing arrangement means an arrangement for business, or functions relating to any business, of an authorised deposit-taking institution to be carried on by a person other than that authorised deposit-taking institution

prescribed Australian financial authority means an Australian public authority prescribed by regulations made under section 68A.

Section 67A: inserted, on 15 December 2006, by section 5 of the Reserve Bank of New Zealand Amendment Act 2006 (2006 No 51).

67 Registration and prudential supervision

The Bank shall in accordance with this Part—

- (a) register banks; and
- (b) undertake prudential supervision of registered banks.

Compare: 1964 No 134 s 38I; 1986 No 131 s 10

68 Exercise of powers under this Part

The powers conferred on the Governor-General, the Minister, and the Bank by this Part shall be exercised for the purposes of—

- (a) promoting the maintenance of a sound and efficient financial system; or
- (b) avoiding significant damage to the financial system that could result from the failure of a registered bank.

Compare: 1964 No 134 s 38J; 1986 No 131 s 10

68A Trans-Tasman co-operation

- (1) When performing functions or duties or exercising powers under this Part or the Insurance (Prudential Supervision) Act 2010, the Bank must—
 - (a) support prescribed Australian financial authorities in meeting their statutory responsibilities relating to prudential regulation and financial system stability in Australia; and
 - (b) to the extent reasonably practicable, avoid any action that is likely to have detrimental effect on financial system stability in Australia.
- (2) Subsection (3) applies where the Bank has reasonable cause to believe that an action it proposes to take is an action that is likely to have a detrimental effect on financial system stability in Australia.
- (3) The Bank must, to the extent it considers reasonably practicable in the circumstances having regard to urgency or other similar constraint, consult with and consider the advice of every prescribed Australian financial authority it considers to be relevant in the circumstances before taking the proposed action.
- (4) No performance of a function or duty or exercise of a power is invalid by reason only of a failure to comply with the provisions of this section.

- (5) The Governor-General may, by Order in Council, on the advice of the Minister given in accordance with a recommendation of the Bank, make regulations prescribing Australian financial authorities for the purposes of this section and section 121A.
- (6) Regulations under subsection (5) are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 68A: inserted, on 15 December 2006, by section 6 of the Reserve Bank of New Zealand Amendment Act 2006 (2006 No 51).

Section 68A(1): amended, on 8 September 2010, by section 241(1) of the Insurance (Prudential Supervision) Act 2010 (2010 No 111).

Section 68A(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

68B Bank to have regard to directions about government policy objectives

[Repealed]

Section 68B: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Registration of banks

69 Register

- (1) The Bank must keep a public register of persons known as registered banks.
- (2) The Bank must determine the form of the register and may amend the form from time to time as it considers necessary.
- (2A) The register must include—
- the name of each registered bank; and
 - the current rating of each registered bank under section 80 (if any); and
 - any other prescribed information.
- (3) The Bank must take all reasonable steps to ensure that the information contained in the public register is available to members of the public at all reasonable times.

Section 69: replaced, on 1 November 2006, by section 7 of the Reserve Bank of New Zealand Amendment Act 2006 (2006 No 51).

Section 69(2A): inserted, on 4 September 2013, by section 4 of the Reserve Bank of New Zealand Amendment Act 2013 (2013 No 62).

70 Application for registration

- (1) Any person may apply to the Bank to be registered as a registered bank.
- (2) Applications to be registered as a registered bank shall be—
 - (a) made in such manner as may be specified by the Bank; and
 - (b) accompanied by payment of such fee as may be determined by the Bank from time to time with the approval of the Minister.
- (3) Every person who makes an application under this section shall furnish to the Bank such information as may be required by the Bank to assist it in determining the application.
- (4) A person commits an offence if the person provides false or misleading information to the Bank for the purposes of an application.
- (5) The penalty for an offence against this section is set out in section 156AC.
- (6) A determination under subsection (2)(b) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1964 No 134 s 38C(3), (4), (5); 1986 No 131 s 10

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must publish it in the <i>Gazette</i>	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 70(2)(b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 70(4): inserted, on 21 August 2003, by section 11 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 70(5): inserted, on 21 August 2003, by section 11 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 70(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

71 Voluntary removal of name from register

- (1) A registered bank may, by notice in writing, require the Bank to remove the name of that registered bank from the register on a date specified in the notice, not being a date earlier than 28 days, or such shorter period as the Bank may agree to, after the date the notice is given.
- (2) The registered bank shall, within 7 days of giving that notice, give public notice of the fact that it had given the notice to the Bank.
- (3) The Bank must—
 - (a) remove the name of the registered bank from the register on the date specified in the notice; and

- (b) within 7 days after that date, arrange for the publication in the *Gazette* of a notice that indicates the removal of that name.
- (4) Except with the consent of the Bank, a registered bank shall not give a notice under subsection (1) if—
- (a) a notice has been given to that registered bank under section 99(2)(a); or
 - (b) a person has been appointed under section 99(2)(b) to exercise, in relation to that registered bank, the powers conferred by that paragraph; or
 - (c) a person has been appointed under section 101 to carry out an investigation of the affairs of that registered bank; or
 - (d) a direction is in force under section 113 in relation to that registered bank; or
 - (e) the registered bank is subject to statutory management.
- (5) The Bank may refuse to remove the name of a registered bank from the register if—
- (a) a notice has been given to the registered bank under section 99(2)(a); or
 - (b) a person has been appointed under section 99(2)(b) to exercise, in relation to that registered bank, the powers conferred by that paragraph; or
 - (c) a person has been appointed under section 101 to carry out an investigation into the affairs of that registered bank; or
 - (d) a direction is in force under section 113 in relation to that registered bank; or
 - (e) the registered bank is subject to statutory management.

Section 71(3): replaced, on 21 August 2003, by section 12 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 71(4)(a): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 71(4)(b): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 71(4)(d): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 71(5)(a): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 71(5)(b): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 71(5)(d): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

72 Offence for person who is not registered bank to hold itself out to be registered bank

- (1) A person commits an offence if the person—
- (a) is not a registered bank; and

- (b) uses any name, title, trade mark, style, designation, or description that represents or implies that the person is a registered bank.
- (2) The penalty for an offence against this section is set out in section 156AC.
- Section 72: replaced, on 21 August 2003, by section 13 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

73 Determination of applications

- (1) The Bank shall not register any person as a registered bank unless it is satisfied that the business carried on, or proposed to be carried on, by the applicant consists of, or to a substantial extent consists of, or will, or will to a substantial extent, consist of, the borrowing and lending of money, or the provision of other financial services, or both.
- (2) In determining an application under section 70, the Bank must have regard to all of the following:
- (a) the incorporation and ownership structure of the applicant; and
 - (b) the size and nature of the applicant's business or proposed business, or any part of the applicant's business or proposed business; and
 - (c) the ability of the applicant to carry on its business or proposed business in a prudent manner; and
 - (d) the standing of the applicant in the financial markets; and
 - (e) the suitability for their positions of the directors and senior managers of the applicant; and
 - (f) the standing of the owner of the applicant in the financial markets; and
 - (g) any other matters that may be prescribed in regulations.
- (3) For the purposes of subsection (2)(g), the Governor-General may, from time to time, by Order in Council, on the advice of the Minister given in accordance with a recommendation of the Bank, make regulations prescribing additional matters to which the Bank shall have regard in considering applications for registration.
- (4) The Bank shall give notice in the *Gazette* of the registration of any person as a registered bank under this section.
- (5) Regulations under subsection (3) are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1964 No 134 s 38D(1), (2), (4); 1986 No 131 s 10

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 73(2): replaced, on 21 August 2003, by section 14 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 73(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

73A Further matters to which Bank must have regard if applicant is overseas person

In determining an application from an overseas person, the Bank must, in addition to the matters set out in section 73(2), have regard to all of the following:

- (a) the law and regulatory requirements of the applicant's home jurisdiction that relate to—
 - (i) the recognition and priorities of claims of creditors or classes of creditors in the event of the insolvency of the applicant; and
 - (ii) the disclosure by the applicant of financial and other information of the kind that a registered bank must disclose under section 81; and
 - (iii) the accounting and auditing standards applicable to the applicant; and
 - (iv) the duties and powers of directors of the applicant; and
 - (v) the licensing, registration, authorisation, and supervision of the applicant; and
- (b) the nature and extent of the financial and other information disclosed to the public by the applicant.

Section 73A: inserted, on 21 August 2003, by section 15 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

73B Further matters to which Bank must have regard if applicant is subsidiary of overseas person

In determining an application from a subsidiary of an overseas person, the Bank must, in addition to the matters set out in section 73(2), have regard to all of the following:

- (a) the law and regulatory requirements of the home jurisdiction of the overseas person that relate to—
 - (i) the disclosure by the overseas person of financial and other information of the kind that a registered bank must disclose under section 81; and
 - (ii) the accounting and auditing standards applicable to the overseas person; and
 - (iii) the duties and powers of the directors of the overseas person; and
 - (iv) the licensing, registration, authorisation, and supervision of the overseas person; and

- (b) the nature and extent of the financial and other information disclosed to the public by the overseas person.

Section 73B: inserted, on 21 August 2003, by section 15 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

74 Conditions of registration

- (1) A person may be registered as a registered bank unconditionally or subject to any conditions that the Bank may impose.
- (2) The Bank may, by notice in writing to a registered bank,—
 - (a) impose conditions of registration (whether or not the registration of the bank is subject to conditions); or
 - (b) vary, remove, add to, or substitute any conditions of registration.
- (3) The Bank must not exercise a power referred to in subsection (2) unless—
 - (a) the Bank gives the registered bank not less than 7 days' notice in writing of the Bank's intention to do so; and
 - (b) the notice contains, or is accompanied by, a statement of the Bank's reasons; and
 - (c) the registered bank has a reasonable opportunity to make submissions to the Bank; and
 - (d) the Bank has regard to those submissions.
- (4) The Bank may impose conditions that relate to any of the following matters:
 - (a) the matters to which the Bank must have regard under sections 73 to 73B in determining an application for registration, including any matters prescribed by regulations made under section 73(2)(g); and
 - (b) the matters referred to in section 78, including any matters prescribed by regulations made under that section; and
 - (c) the matters referred to in section 81, including any matters prescribed by an Order in Council made under that section.
- (5) A registered bank commits an offence if the registered bank fails to comply with a condition of registration imposed by the Bank under this section.
- (6) The penalty for an offence against this section is set out in section 156AB.

Section 74: replaced, on 21 August 2003, by section 16 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

75 Publication of principles

[Repealed]

Section 75: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

76 Registration of certain persons

- (1) Every person, that immediately before the commencement of this Act, was a registered bank, or deemed to be a registered bank, pursuant to Part 5A of the Reserve Bank of New Zealand Act 1964, shall continue to be a registered bank as if that person had been registered under this Act.
- (2) If that person was registered, or deemed to have been registered, under that Act subject to any conditions, those conditions shall continue to apply as if they had been imposed under section 74 of this Act.
- (3) Nothing in subsection (1) or subsection (2) limits any other provisions of this Part.

77 Cancellation of registration

- (1) The Minister may, by notice in writing to the Bank given in accordance with a recommendation of the Bank, direct the Bank to cancel the registration of a registered bank.
- (2) The Bank shall not make a recommendation under subsection (1) unless it is satisfied—
 - (a) that the registered bank was registered on information that was false or misleading in a material particular; or
 - (b) that, in relation to a registered bank,—
 - (i) there has been a change in any of the matters to which the Bank must have regard under section 73 (including a change in any of the matters prescribed by regulations made under section 73(2)(g)); and
 - (ii) the Bank considers the change to be materially adverse to the registered bank's standing or financial position; or
 - (ba) that, in relation to a registered bank,—
 - (i) there has been a transfer of direct or indirect control of the registered bank; and
 - (ii) the Bank considers the transfer to be materially adverse to the registered bank's standing or financial position; or
 - (bb) that, in relation to a registered bank,—
 - (i) there has been a change in any of the matters to which the Bank must have regard under section 73A or section 73B; and
 - (ii) the Bank considers the change to be materially adverse; or
 - (c) if the registered bank is a body corporate—
 - (i) that an order has been made for the winding up of that body corporate; or
 - (ii) that a resolution has been passed for the voluntary winding up of that body corporate; or

- (iii) that a receiver has been appointed in respect of that body corporate; or
 - (d) *[Repealed]*
 - (e) that a condition of registration has not been complied with; or
 - (f) that the registered bank has not carried on its business in a prudent manner; or
 - (g) that the registered bank has failed to comply with an obligation imposed under this Act or imposed by regulations made under this Act.
- (3) The Bank shall not make a recommendation under subsection (1) unless—
 - (a) the Bank gives the registered bank not less than 7 days' notice in writing of the Bank's intention to consider making the recommendation; and
 - (b) the notice contains or is accompanied by a statement of the Bank's reasons; and
 - (c) the registered bank has a reasonable opportunity to make submissions to the Bank; and
 - (d) the Bank has regard to those submissions.
- (4) A copy of any written submission made by the registered bank shall be sent to the Minister together with any recommendation by the Bank.
- (5) The Bank must, as soon as practicable after receiving a notice from the Minister under subsection (1),—
 - (a) inform the registered bank in writing of—
 - (i) the fact that the Minister has directed the Bank to cancel the registration of the registered bank; and
 - (ii) the grounds on which the Bank's recommendation to cancel the registration of the registered bank was made; and
 - (iii) the date of cancellation of the registration of the registered bank; and
 - (b) publish a notice of the cancellation in the *Gazette*.

Compare: 1964 No 134 s 38F(1), (2), (3)(a)–(e), (g), (4), (5); 1986 No 131 s 10

Section 77(1): replaced, on 21 August 2003, by section 17(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 77(2)(b): replaced, on 21 August 2003, by section 17(2) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 77(2)(ba): inserted, on 21 August 2003, by section 17(2) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 77(2)(bb): inserted, on 21 August 2003, by section 17(2) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 77(2)(d): repealed, on 21 August 2003, by section 17(3)(a) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 77(2)(g): amended, on 21 August 2003, by section 17(3)(b) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 77(3): replaced, on 24 March 1995, by section 4 of the Reserve Bank of New Zealand Amendment Act 1995 (1995 No 5).

Section 77(5): replaced, on 21 August 2003, by section 17(4) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

77A Changes of ownership

- (1) A person must obtain the written consent of the Bank before giving effect to a transaction if,—
 - (a) in the case of a person who does not have a significant influence over a registered bank, the transaction would result in that person acquiring a significant influence over that registered bank; or
 - (b) in the case of a person who has, with the consent of the Bank, acquired a significant influence over a registered bank, the transaction would result in that person increasing the level of the person's significant influence over that registered bank beyond the level permitted in the existing consent; or
 - (c) in the case of a person who acquired a significant influence over a registered bank before the commencement of the Reserve Bank of New Zealand Amendment Act 2003, the transaction would result in that person increasing the person's significant influence over that registered bank beyond the existing level.
- (2) The Bank may, in giving its consent,—
 - (a) specify the level of significant influence that a person may have or acquire over any registered bank without the need for a further consent; and
 - (b) impose any terms and conditions the Bank thinks fit.
- (3) The Bank may, at any time, by notice in writing, vary or revoke—
 - (a) a consent given under this section; or
 - (b) any term or condition of a consent.
- (4) A person commits an offence if the person fails to comply with subsection (1).
- (5) The penalty for an offence against this section is set out in section 156AA.
- (6) For the purposes of this section, a reference to a registered bank is a reference to a registered bank that is not an overseas person.

Section 77A: inserted, on 21 August 2003, by section 18 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

77B Effect of section 77A on contracts, etc

Nothing in section 77A invalidates any contract, or transfer of ownership, made without the written consent of the Bank.

Section 77B: inserted, on 21 August 2003, by section 18 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

78 Carrying on business in prudent manner

- (1) In—
- (a) having regard, under section 73(2)(c), to the ability of an applicant for registration as a registered bank to carry on its business or proposed business in a prudent manner; or
 - (b) determining under section 77(2)(f) or section 113(1)(e) that a registered bank has not carried on its business in a prudent manner,—
- the Bank shall confine its consideration to the following matters:
- (c) capital in relation to the size and nature of the business or proposed business:
 - (d) loan concentration or proposed loan concentration and risk exposures or proposed risk exposures:
 - (e) separation of the business or proposed business from other business and from other interests of any person owning or controlling the applicant or registered bank:
 - (f) internal controls and accounting systems or proposed internal controls and accounting systems:
 - (fa) risk management systems and policies or proposed risk management systems and policies:
 - (fb) arrangements for any business, or functions relating to any business, of the applicant or registered bank to be carried on by any person other than the applicant or the registered bank:
 - (g) such other matters as may from time to time be prescribed in regulations.
- (2) The Governor-General may, from time to time, by Order in Council, on the advice of the Minister given in accordance with a recommendation of the Bank, make regulations prescribing additional matters for the purposes of subsection (1)(g).
- (3) The Governor may, from time to time, issue, in such manner as the Governor may determine, guidelines for the purpose of interpreting any of the matters referred to in paragraphs (c) to (g) of subsection (1).
- (4) Regulations under subsection (2) are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 78(1)(b): amended, on 21 August 2003, by section 19(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 78(1)(fa): inserted, on 21 August 2003, by section 19(2) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 78(1)(fb): inserted, on 21 August 2003, by section 19(2) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 78(3): amended, on 24 March 1995, by section 5 of the Reserve Bank of New Zealand Amendment Act 1995 (1995 No 5).

Section 78(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

79 Annual fee

[Repealed]

Section 79: repealed, on 1 January 1996, by section 6(1) of the Reserve Bank of New Zealand Amendment Act 1995 (1995 No 5).

80 Credit rating of registered banks

- (1) The Bank may, by notice in writing to any registered bank or to all registered banks or to all members of any class of registered banks, require each of those banks to—
 - (a) obtain a rating of its creditworthiness or financial condition by a person or organisation nominated or approved by the Bank; and
 - (b) maintain a current rating of the type referred to in paragraph (a).
- (2) The Bank may require a registered bank to publish the registered bank's current rating, and all the qualifications to that rating, in the manner and with the frequency that the Bank directs.
- (3) A person commits an offence if the person fails to comply with this section.
- (4) The penalty for an offence against this section is set out in section 156AC.

Section 80: replaced, on 21 August 2003, by section 20 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Financial disclosure by registered banks

81 Public disclosure of information or data by registered banks

- (1) The Governor-General may, by Order in Council made on the advice of the Minister that is given in accordance with a recommendation of the Bank, prescribe information or data that must be published by—
 - (a) all registered banks; or
 - (b) any class of registered banks specified in the order.
- (2) A registered bank to which an Order in Council applies must publish the information or data specified in the order—
 - (a) in a document to be known as a disclosure statement; and
 - (b) in the manner and with the frequency specified in the order.

- (3) The information or data that may be prescribed in an Order in Council includes, without limitation, information or data about—
- (a) the corporate matters of a registered bank; and
 - (b) the financial matters of a registered bank; and
 - (c) the prudential matters of a registered bank; and
 - (d) any other matters relating to the business, operation, and management of a registered bank.
- (4) An Order in Council under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- (5) *[Repealed]*

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must publish it in the <i>Gazette</i>	LA19 ss 67(d)(i), 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 81: replaced, on 21 August 2003, by section 21 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 81(4): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 81(5): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

81AA Further matters that may be prescribed

- (1) An Order in Council made under section 81 may, in addition to the matters referred to in section 81(3), require a registered bank to disclose information or data—
- (a) about an associated person of the registered bank if the associated person is incorporated, domiciled, or resident in New Zealand;
 - (b) about an associated person of the registered bank if the information or data is publicly available in the country in which the associated person is incorporated, domiciled, or resident and if that country is not New Zealand;
 - (c) about any individual member of its banking group, whether or not the member is incorporated, domiciled, or resident in New Zealand;
 - (d) about a body incorporated in New Zealand, or an overseas company registered under section 337 of the Companies Act 1993, in which a holding company of the registered bank has a substantial interest.
- (2) An Order in Council made under section 81 may also—

- (a) prescribe information that is required to be contained in financial statements:
 - (b) require the publication of financial statements and notes to those statements for any period or periods specified in the order:
 - (c) require the information to be published in consolidated form:
 - (d) require financial information that is required to be published to be taken from audited financial statements:
 - (e) require the information that is required to be published to be audited and to be accompanied by an auditor's report:
 - (f) require a disclosure statement to contain any statements specified in the order that are made by—
 - (i) the directors of the registered bank or persons authorised in writing by the directors of the bank; and
 - (ii) in the case of an overseas incorporated registered bank, its New Zealand chief executive officer:
 - (g) incorporate by reference a framework, standard, specification, or requirement that is published by, or on behalf of, any body or person in any country—
 - (i) in whole or in part; and
 - (ii) with any modifications, additions, or variations specified in the Order in Council.
- (3) Schedule 1 of the Non-bank Deposit Takers Act 2013 applies to any material incorporated by reference in an Order in Council made under section 81 of this Act as if references in that schedule to regulations were references to an Order in Council made under section 81.

Section 81AA: inserted, on 21 August 2003, by section 21 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 81AA(2)(a): replaced, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 81AA(2)(g): inserted, on 10 September 2008, by section 16(1) of the Reserve Bank of New Zealand Amendment Act 2008 (2008 No 59).

Section 81AA(3): replaced, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

81AB Disclosure statement not required to include information or data about customers or clients of registered banks

- (1) Despite sections 81 and 81AA, a registered bank is not required to publish in a disclosure statement any information or data about the affairs of a particular customer or client of—
- (a) the registered bank; or
 - (b) an associated person of the registered bank; or

- (c) a company in which a holding company of the registered bank has a substantial interest.
- (2) Nothing in subsection (1) applies to the publication by a registered bank of information or data about transactions with related parties of—
 - (a) the registered bank; or
 - (b) an associated person of the registered bank; or
 - (c) a company in which a holding company of the registered bank has a substantial interest.
- (3) Subsection (1) does not extend to the publication of the following matters:
 - (a) the amount of any loan or risk exposure (without disclosing the identity of the particular customer or client to whom it relates); or
 - (b) the number of loans or risk exposures that fall within a specified range of amounts and the actual amounts of those loans or risk exposures; or
 - (c) the number of loans or risk exposures that fall within a specified range of percentages or are above a specified percentage, as the case may be, of the capital or equity of the registered bank, or an associated person of the registered bank, or the banking group or a company in which a holding company of a registered bank has a substantial interest, and the actual amounts involved.

Section 81AB: inserted, on 21 August 2003, by section 21 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

81AC Duty to supply information or data to registered bank

- (1) This section applies to—
 - (a) an associated person of a registered bank; and
 - (b) a body incorporated in New Zealand, or an overseas company registered under section 337 of the Companies Act 1993, in which a holding company of a registered bank has a substantial interest.
- (2) A person to whom this section applies must, on being required by a registered bank to do so for the purpose of enabling the registered bank to comply with an Order in Council made under section 81, supply the registered bank with any information or data that the registered bank may be required to disclose under section 81AA if that information or data—
 - (a) is in the possession, custody, or control of that person; and
 - (b) is not in the possession, custody, or control of the registered bank.
- (3) A person to whom this section applies commits an offence if, without lawful justification or excuse, the person fails to comply with a requirement of a registered bank under this section.
- (4) The penalty for an offence against this section is set out in section 156AC.

Section 81AC: inserted, on 21 August 2003, by section 21 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

81A Bank to consult

- (1) Before making a recommendation under section 81(1) (including a recommendation to amend any Order in Council made under that subsection) the Bank must—
 - (a) consult with—
 - (i) the FMA; and
 - (ii) registered banks that will be affected by any Order in Council made under that subsection; and
 - (iii) such other persons as the Bank considers will be substantially affected by any Order in Council made under that subsection or organisations representing those persons; and
 - (b) ensure that the persons referred to in paragraph (a) have a reasonable opportunity to make submissions to the Bank; and
 - (c) have regard to those submissions.
- (2) Failure to comply with subsection (1) does not affect the validity of any Order in Council under section 81(1).
- (3) *[Repealed]*

Section 81A: inserted, on 24 March 1995, by section 7 of the Reserve Bank of New Zealand Amendment Act 1995 (1995 No 5).

Section 81A(1)(a)(i): amended, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

Section 81A(3): repealed, on 1 April 2019, by section 35 of the Reserve Bank of New Zealand (Monetary Policy) Amendment Act 2018 (2018 No 59).

82 Disclosure statements must be signed

- (1) Every disclosure statement that a registered bank is required to publish under section 81 must be dated and signed,—
 - (a) in the case of a body corporate, by every director of the body corporate or by each director's agent authorised in writing to do so; and
 - (b) in the case of an overseas incorporated registered bank, by its New Zealand chief executive officer or that person's agent authorised in writing to do so.
- (2) Every overseas incorporated registered bank must notify the Bank in writing of the name and address of its New Zealand chief executive officer and any subsequent changes to those details.
- (3) If an overseas incorporated registered bank fails to comply with subsection (2), the Bank may, after giving the registered bank 14 days' notice in writing of its intention to do so, specify a particular employee of that registered bank to be its New Zealand chief executive officer for the purposes of this Act.

- (4) If the Bank exercises the power conferred by subsection (3), it must give notice in writing to the registered bank as soon as practicable.

Section 82: replaced, on 21 August 2003, by section 22 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

83 Bank may require disclosure statement to be corrected

Where the Bank considers that a disclosure statement published by a registered bank—

- (a) contains information that is false or misleading; or
- (b) does not contain information which it is required to contain, whether or not the information contained in the disclosure statement is false or misleading as a result of the omission,—

the Bank may, by notice in writing to the registered bank, require the registered bank to—

- (c) publish a disclosure statement that does not contain false or misleading information; or
- (d) publish a disclosure statement that contains the information that was previously omitted; or
- (e) take such other corrective action as the Bank may specify in the notice.

Section 83(d): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Advertising by registered banks

[Repealed]

Heading: repealed, on 24 March 1995, by section 8 of the Reserve Bank of New Zealand Amendment Act 1995 (1995 No 5).

84 Interpretation

[Repealed]

Section 84: repealed, on 24 March 1995, by section 8 of the Reserve Bank of New Zealand Amendment Act 1995 (1995 No 5).

85 Content of advertisements by registered banks

[Repealed]

Section 85: repealed, on 24 March 1995, by section 8 of the Reserve Bank of New Zealand Amendment Act 1995 (1995 No 5).

86 Regulations

[Repealed]

Section 86: repealed, on 24 March 1995, by section 8 of the Reserve Bank of New Zealand Amendment Act 1995 (1995 No 5).

87 Offence to advertise in contravention of regulations

[Repealed]

Section 87: repealed, on 24 March 1995, by section 8 of the Reserve Bank of New Zealand Amendment Act 1995 (1995 No 5).

88 Bank may prohibit advertisements by registered banks

[Repealed]

Section 88: repealed, on 24 March 1995, by section 8 of the Reserve Bank of New Zealand Amendment Act 1995 (1995 No 5).

Provisions applying to disclosure statements

Heading: replaced, on 24 March 1995, by section 9 of the Reserve Bank of New Zealand Amendment Act 1995 (1995 No 5).

89 Offence to fail to publish required information in disclosure statement

- (1) A registered bank commits an offence if, without lawful justification or excuse, the registered bank fails to publish information that it is required to publish in a disclosure statement under section 81.
- (2) The penalty for an offence against this section is set out in section 156AC.

Section 89: replaced, on 21 August 2003, by section 23 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

89A Offence to publish false or misleading disclosure statements

- (1) If a disclosure statement that includes information that is false or misleading is published by a registered bank, all of the following persons commit an offence:
 - (a) the registered bank; and
 - (b) every director of the registered bank who signed the disclosure statement or on whose behalf the disclosure statement was signed; and
 - (c) in the case of an overseas incorporated registered bank, the New Zealand chief executive officer who signed the disclosure statement or on whose behalf the disclosure statement was signed.
- (2) It is a defence to a prosecution for an offence against this section if—
 - (a) the defendant proves that the information was immaterial; or
 - (b) in the case of a defendant who is director of a registered bank or a New Zealand chief executive officer of an overseas incorporated registered bank, that defendant proves that he or she had reasonable grounds to believe, and believed, up to the publication of the disclosure statement, that the information was true.
- (3) The penalty for an offence against this section is set out in section 156AC.

Section 89A: inserted, on 21 August 2003, by section 23 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

89B Offence to fail to make most recent disclosure statement publicly available

- (1) A registered bank commits an offence if, without lawful justification or excuse, the registered bank fails to make its most recent disclosure statement publicly available in the manner set out in an Order in Council made under section 81.
- (2) The penalty for an offence against this section is set out in section 156AB.

Section 89B: inserted, on 21 August 2003, by section 23 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

89C Other offences in relation to disclosure statements

- (1) A registered bank commits an offence if the registered bank fails to comply with a requirement of the Bank under section 83 for the registered bank to—
 - (a) publish a disclosure statement that does not contain false or misleading information; or
 - (b) publish a disclosure statement that contains information that was previously omitted; or
 - (c) take the corrective action specified by the Bank in a notice given under that section.
- (2) The penalty for an offence against this section is set out in section 156AC.

Section 89C: inserted, on 21 August 2003, by section 23 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

90 Civil liability

Subject to section 91, the following persons are liable to pay compensation to any person who sustains a loss by reason of subscribing for any debt security issued by a registered bank in reliance on false or misleading information contained in a disclosure statement, namely,—

- (a) the registered bank; and
- (b) every person holding office as a director of the registered bank at the time of the publication of the disclosure statement; and
- (c) the New Zealand chief executive officer of an overseas incorporated registered bank at the time of the publication of the disclosure statement.

Section 90: replaced, on 24 March 1995, by section 9 of the Reserve Bank of New Zealand Amendment Act 1995 (1995 No 5).

Section 90(a): replaced, on 21 August 2003, by section 24 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 90(b): replaced, on 21 August 2003, by section 24 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 90(c): inserted, on 21 August 2003, by section 24 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

91 Defences

A person is not liable under section 90 in relation to false or misleading information that is included in a disclosure statement if that person proves that—

- (a) the disclosure statement was published without his or her knowledge or consent and, on becoming aware of the publication, he or she forthwith gave notice to the Bank that it was published without his or her knowledge or consent and, as soon as practicable, also gave reasonable public notice that it was published without his or her knowledge or consent; or
- (b) after publication of the disclosure statement and before the securities were subscribed for, he or she, on becoming aware of the false or misleading information, withdrew his or her consent to the disclosure statement, forthwith gave notice to the Bank of the withdrawal of that consent and, as soon as practicable, also gave reasonable public notice of the withdrawal of that consent; or
- (c) he or she had reasonable grounds to believe and did, up to the time of the subscription for the securities, believe that the statement was true.

Section 91: replaced, on 24 March 1995, by section 9 of the Reserve Bank of New Zealand Amendment Act 1995 (1995 No 5).

92 Fair Trading Act 1986 not affected

Nothing in sections 89 to 91 limits or affects the Fair Trading Act 1986.

Section 92: replaced, on 24 March 1995, by section 9 of the Reserve Bank of New Zealand Amendment Act 1995 (1995 No 5).

Supply of information

93 Supply of information by registered banks for purposes of prudential supervision

- (1) For the purposes of this Part, the Bank may, by notice in writing to any registered bank or by notice in the *Gazette* that applies to any specified class of registered banks, require the registered bank or, as the case may be, registered banks of that class to supply to the Bank any information, data, or forecasts about—
 - (a) the corporate matters of the registered bank:
 - (b) the financial matters of the registered bank:
 - (c) the prudential matters of the registered bank:
 - (d) any other matters relating to the business, operation, or management of the registered bank.
- (2) A registered bank may be required to supply information, data, or forecasts—
 - (a) relating to business carried on by the registered bank in New Zealand or elsewhere (whether that business is carried on as principal, broker, agent, or intermediary); and
 - (b) in a consolidated form (if specified by the Bank).
- (3) A notice may specify—

- (a) the periods for which, and the form in which, the information, data, or forecasts must be supplied; and
 - (b) the time by which, and the place in New Zealand at which, the information, data, or forecasts must be supplied.
- (4) The Bank may, by a subsequent notice, vary, revoke, or amend a notice.
- (5) A registered bank commits an offence if, without lawful justification or excuse, the registered bank—
- (a) fails to comply in any respect with any requirements of the Bank under this section; or
 - (b) supplies information or data that the registered bank is required to supply under this section that is false or misleading in a material particular.
- (6) The penalty for an offence against this section is set out in section 156AB.

Section 93: replaced, on 21 August 2003, by section 25 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

93A Scope of notice under section 93

The Bank may, by notice under section 93, require a registered bank or a specified class of registered banks to supply, without limitation, information, data, or forecasts in relation to—

- (a) any associated person of a registered bank; or
- (b) a body incorporated in New Zealand, or an overseas company registered under section 337 of the Companies Act 1993, in which a holding company of a registered bank has a substantial interest.

Section 93A: inserted, on 21 August 2003, by section 25 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

93B Certain persons may be required to supply information to registered banks

- (1) A person referred to in section 93A(a) or (b) must, on being required by a registered bank to do so, supply the registered bank with information, data, or forecasts relating to that person in order to enable the registered bank to comply with a notice under section 93.
- (2) A person commits an offence if, without lawful justification or excuse, the person fails to comply with this section.
- (3) The penalty for an offence against this section is set out in section 156AB.

Section 93B: inserted, on 21 August 2003, by section 25 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

93C Supply of information by other persons for purposes of prudential supervision

- (1) If the Bank has reasonable grounds to believe that a person has information, data, or forecasts that the Bank could require a registered bank or a class of

registered banks to supply under section 93, it may, by notice in writing to that person, require that person to supply the information, data, or forecasts to the Bank.

- (2) A notice may specify—
 - (a) the periods for which, and the form in which, the information, data, or forecasts must be supplied; and
 - (b) the time by which, and the place in New Zealand at which, the information, data, or forecasts must be supplied.
- (3) The Bank may, by a subsequent notice, vary, revoke, or amend a notice.
- (4) A person commits an offence if, without lawful justification or excuse, the person—
 - (a) fails to comply with any requirements of the Bank under this section; or
 - (b) supplies information or data that the person is required to supply under this section that is false or misleading in a material particular.
- (5) The penalty for an offence against this section is set out in section 156AB.

Section 93C: inserted, on 21 August 2003, by section 25 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

94 Requirement that information, data, or forecasts be audited

- (1) The Bank may, by notice in writing, require a registered bank or other person to obtain an audit, by an auditor approved by the Bank, of any information, data, or forecasts that the registered bank or other person, as the case may be, is required to supply under section 93 or section 93C.
- (2) A person commits an offence if, without lawful justification or excuse, the person fails to comply with this section.
- (3) The penalty for an offence against this section is set out in section 156AA.

Section 94: replaced, on 21 August 2003, by section 25 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

95 Bank may require report relating to registered banks, etc

- (1) The Bank may, by notice in writing to a registered bank, require that registered bank to supply the Bank with a report or series of reports, prepared by a person approved by the Bank, on—
 - (a) the corporate matters of the registered bank:
 - (b) the financial matters of the registered bank:
 - (c) the prudential matters of the registered bank:
 - (d) any other matters relating to the business, operation, or management of the registered bank:
 - (e) any of the matters referred to in paragraphs (a) to (d) in relation to—
 - (i) any associated person of the registered bank:

- (ii) a body incorporated in New Zealand, or an overseas company registered under section 337 of the Companies Act 1993, in which a holding company of the registered bank has a substantial interest.
- (2) A person referred to in subsection (1)(e)(i) or (e)(ii) must, if required to do so by a registered bank, supply information relating to that person in order to enable the registered bank to comply with a notice under this section.
- (3) A person commits an offence if, without lawful justification or excuse, the person fails to comply with this section.
- (4) The penalty for an offence against this section is set out in section 156AC.

Section 95: replaced, on 21 August 2003, by section 25 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

95A Bank may require report under section 95 to be published

- (1) The Bank may, by notice in writing to a registered bank, require that the report or series of reports, as the case may be, that has been prepared under section 95 in relation to the registered bank be published by that registered bank in the form specified in the notice.
- (2) A registered bank commits an offence if, without lawful justification or excuse, the registered bank fails to comply with this section.
- (3) The penalty for an offence against this section is set out in section 156AC.

Section 95A: inserted, on 21 August 2003, by section 25 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

96 Disclosure of information to Bank by auditors

Every person who holds, or at any time has held, office as required by any enactment, as an auditor of a registered bank or an associated person of a registered bank, shall disclose to the Bank information relating to the affairs of that registered bank or associated person obtained in the course of holding that office if, in the opinion of that person,—

- (a) the registered bank or associated person is insolvent or is likely to become insolvent or is in serious financial difficulties; and
- (b) the disclosure of that information is likely to assist, or be relevant to, the exercise by the Bank of its powers under this Part.

Compare: 1964 No 134 s 38M(1); 1986 No 131 s 10; 1989 No 11 s 13

Section 96: amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 96(a): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

97 Auditor to inform of intention to disclose

Every auditor shall, before disclosing any information to the Bank under section 96, take reasonable steps to inform the registered bank or associated per-

son of the intention to disclose the information and the nature of the information.

Compare: 1964 No 134 s 38M(5); 1986 No 131 s 10

Section 97 heading: amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 97: amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

98 Protection of auditors

- (1) No civil, criminal, or disciplinary proceedings shall lie against any auditor arising from the disclosure in good faith of information to the Bank pursuant to section 96.
- (2) No tribunal, body, or authority, having jurisdiction in respect of the professional conduct of any auditor shall make any order against, or do any act in relation to, that person in respect of such disclosure.
- (3) No information received by the Bank pursuant to section 96 shall be admissible in evidence in any proceedings against the auditor concerned.
- (4) Nothing in subsection (3) of this section shall limit the admissibility of any information obtained in any other way.

Compare: 1964 No 134 s 38M(2); 1986 No 131 s 10; 1989 No 11 s 15

Access to information by home country supervisor

Heading: inserted, on 21 August 2003, by section 26 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

98A Access to information by home country supervisor

- (1) This section applies to—
 - (a) a registered bank; and
 - (b) any member of the registered bank's banking group (being a member that has a physical presence in New Zealand).
- (2) For the purpose of the exercise by a home country supervisor of its supervisory functions, the Bank may authorise a home country supervisor to—
 - (a) conduct an inspection of any person to whom this section applies; or
 - (b) require any person to whom this section applies to supply to the home country supervisor any information, data, or forecasts relating to that person.
- (3) The information, data, or forecasts that a home country supervisor may be authorised to obtain may include, without limitation, information about the affairs of a particular customer or client of a person to whom this section applies.

- (4) The Bank may grant an authorisation only if it is satisfied that sufficient provision exists to protect the confidentiality of the information, data, or forecasts obtained or required by the home country supervisor.
- (5) An authorisation may be—
 - (a) granted for the period or periods that the Bank thinks fit; and
 - (b) varied, revoked, or amended by the Bank at any time.
- (6) The Bank must give notice in writing to a person to whom this section applies if the Bank—
 - (a) grants an authorisation in relation to that person; or
 - (b) varies, revokes, or amends that authorisation.
- (7) This section has effect despite anything to the contrary in any other enactment or rule of law.
- (8) For the purposes of this section, a member of a registered bank's banking group has a physical presence in New Zealand if that member—
 - (a) has an office in New Zealand; or
 - (b) has an agent in New Zealand.

Section 98A: inserted, on 21 August 2003, by section 26 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

98B Duties of person on receipt of notice under section 98A

- (1) A person to whom section 98A applies must, on receipt of a notice from the Bank under that section, comply with that notice by, as the case may be,—
 - (a) permitting the home country supervisor to conduct an inspection of that person; or
 - (b) supplying the home country supervisor with the required information, data, or forecasts within the time, and at the place, specified in the notice.
- (2) A person commits an offence if, without lawful justification or excuse, the person—
 - (a) fails to comply in any respect with any requirements notified by the Bank under this section; or
 - (b) supplies any information or data that the person is required to supply under this section that is false or misleading in a material particular.
- (3) The penalty for an offence against this section is set out in section 156AA.

Section 98B: inserted, on 21 August 2003, by section 26 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

*Powers to obtain information and documents***99 Powers to obtain information and documents**

- (1) This section applies if the Bank has reasonable cause to believe—
 - (a) that any information or data published in a disclosure statement by a registered bank under section 81 or section 83 is false or misleading in a material particular; or
 - (b) that a registered bank has failed to publish information or data that it is required to publish in a disclosure statement under section 81 or section 83; or
 - (c) that any information or data supplied to the Bank by a registered bank under section 93 is false or misleading in a material particular; or
 - (d) that any information or data supplied by a person to a registered bank under section 93B or to the Bank under section 93C, as the case may be, is false or misleading in a material particular; or
 - (e) that a registered bank or a person, as the case may be, has failed to comply with any requirement to supply information, data, or forecasts under section 93 or section 93B or section 93C; or
 - (f) that a registered bank has failed to comply with section 95.
- (2) If this section applies, the Bank may,—
 - (a) by notice in writing to the registered bank or person, require that registered bank or person to supply to the Bank, within the time specified in the notice, the information or data specified in the notice; or
 - (b) appoint, in writing, any suitably qualified person to enter and search any premises and inspect, remove, and take copies of any documents in the possession, custody, or control of any person and, if necessary, require the reproduction in usable form of any information recorded or stored in those documents.
- (3) A person commits an offence if, without lawful justification or excuse, the person hinders, obstructs, or delays, in the conduct of an inspection under this section, any person duly authorised to make that inspection.
- (4) A registered bank or person commits an offence if, without lawful justification or excuse, the registered bank or person—
 - (a) fails to comply with any requirement of the Bank under subsection (2)(a); or
 - (b) supplies any information or data that is required to be supplied under subsection (2)(a) that is false or misleading in a material particular.
- (5) The penalty for an offence against this section is set out,—
 - (a) in the case of an offence against subsection (3), in section 156AB; and
 - (b) in the case of an offence against subsection (4), in section 156AC.

Section 99: replaced, on 21 August 2003, by section 27 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

100 Requirements on entering and searching premises

- (1) No person appointed pursuant to section 99(2)(b) shall enter and search any premises, or inspect, remove, or take copies of any documents, or extracts from documents, in the possession of, or under the control of, any person, or require the reproduction in usable form of any information recorded or stored in any documents, unless—
 - (a) the occupier of the premises, or the person who has possession of the documents, agrees; or
 - (b) that person obtains a warrant under section 106.
- (2) Every person authorised to enter and search any premises pursuant to a warrant obtained under section 106 shall, on first entering those premises, and, if requested, at any subsequent time, produce—
 - (a) evidence of that person's authority to enter the premises; and
 - (b) evidence of that person's identity.

Compare: 1964 No 134 s 38N(2), (7); 1986 No 131 s 10; 1989 No 11 s 18

Section 100(1): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Investigations

101 Investigation of affairs of registered bank

Where the Bank is satisfied that it is necessary or desirable for the purpose of determining whether or not to exercise the powers conferred under section 113 or section 117 that an investigation of the affairs of any registered bank or associated person of a registered bank should be carried out, the Bank may appoint, in writing, any person to carry out an investigation of the affairs of that registered bank or associated person of that registered bank.

Compare: 1964 No 134 s 38O(1); 1986 No 131 s 10; 1989 No 11 s 19

Section 101: amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

102 Powers of person appointed to carry out investigation

- (1) Any person appointed under section 101 may, for the purposes of carrying out an investigation of the affairs of a registered bank or associated person of a registered bank,—
 - (a) by notice in writing, require that registered bank or associated person, or any officer or employee of that registered bank or associated person, or any other person, to—
 - (i) supply any information or data relating to the business, operation, and management of the registered bank or associated person:

- (ii) produce for inspection any documents of, or relating to, the business, operation, and management of that registered bank or associated person in the custody, or under the control, of that registered bank or associated person, officer, employee, or person:
 - (iii) where necessary, reproduce in usable form any information recorded or stored in such documents:
 - (b) take copies of any documents produced for inspection under paragraph (a):
 - (c) require any officer or employee of that registered bank or associated person, or any other person, to answer any question relating to the business, operation, and management of that registered bank or associated person.
- (1A) Any questioning under subsection (1)(c) may be carried out by any person appointed under section 101, or a barrister or solicitor acting on behalf of that person, who may require the person who is subject to the questioning to take an oath or make an affirmation.
- (2) Subject to section 104, any person appointed under section 101 may, for the purposes of carrying out an investigation of the affairs of the registered bank or associated person, at any time,—
- (a) enter and search any premises:
 - (b) inspect, remove, and take copies of any documents, or extracts from documents, relating to the business, operation, and management of that registered bank or associated person in the possession, or under the control, of any person:
 - (c) if necessary, require any person to reproduce in usable form any information recorded or stored in those documents.

Compare: 1964 No 134 s 38O(2), (4); 1986 No 131 s 10; 1989 No 11 s 21

Section 102(1): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 102(1)(a): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 102(1)(a)(i): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 102(1)(a)(ii): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 102(1)(c): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 102(1A): inserted, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 102(2): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 102(2)(b): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

103 Offences in relation to investigations

- (1) Every person commits an offence against this Act who, without lawful justification or excuse,—
 - (a) hinders, obstructs, or delays any person appointed to carry out an investigation under section 101 in carrying out that investigation; or
 - (b) refuses to answer any question put to him or her under section 102; or
 - (c) supplies any information, or provides an answer to any question, required to be supplied or provided pursuant to section 102 which is false or misleading in a material particular.
- (2) Every registered bank or associated person of the registered bank commits an offence against this Act if, without lawful justification or excuse,—
 - (a) it fails to comply with any requirement of a person appointed to carry out an investigation under section 101; or
 - (b) it supplies any information or data, or provides an answer to any question, required to be supplied or provided pursuant to section 102(1) which is false or misleading in a material particular.
- (3) The penalty for an offence against this section is set out in section 156AC.

Compare: 1964 No 134 s 38O(11), (12), (13); 1986 No 131 s 10; 1989 No 11 s 20

Section 103(1)(b): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 103(1)(c): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 103(2): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 103(2)(b): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 103(3): replaced, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

104 Requirements to be complied with by person carrying out investigation

- (1) Any person who exercises any powers conferred by section 102(1) shall, if requested, produce the instrument of that person's appointment under section 101.
- (2) No person who exercises any powers conferred by section 102(2) shall enter and search any premises, or inspect, remove, and take copies of any documents or extracts from documents, or require the reproduction in usable form of any information recorded or stored in documents, unless—
 - (a) the occupier of the premises, or the person who has possession of the documents, agrees; or
 - (b) that person obtains a warrant under section 106.

- (3) Every person authorised to enter and search any premises pursuant to a warrant obtained under section 106 shall, on first entering those premises and, if requested, at any subsequent time, produce—
- (a) evidence of that person's authority to enter the premises; and
 - (b) evidence of that person's identity.

Compare: 1964 No 134 s 38O(3), (5), (9); 1986 No 131 s 10; 1989 No 11 s 22

Miscellaneous provisions

105 Confidentiality of information

- (1) This section applies to—
- (a) information, data, and forecasts supplied or disclosed to, or obtained by,—
 - (i) the Bank;
 - (ii) a person appointed under section 99(2)(b), section 101, or section 119—
under, or for the purposes of, or in connection with the exercise of powers conferred by, this Part;
 - (b) information and data derived from or based upon information, data, and forecasts referred to in paragraph (a);
 - (c) information relating to the exercise, or possible exercise, of the powers conferred by this Part.
- (2) Information, data, and forecasts to which this section applies shall not be published or disclosed by the Bank, any officer or employee of the Bank, or a person appointed under section 99(2)(b), section 101, or section 119, except—
- (a) with the consent of the person to whom the information relates;
 - (b) to the extent that the information is available to the public under any Act, other than the Official Information Act 1982, or is otherwise publicly available information;
 - (c) in statistical or summary form arranged in such a manner as to prevent any information published or disclosed from being identified by any person as relating to any particular person;
 - (d) for the purposes of, or in connection with, the performance or exercise of any function, power, or duty conferred or imposed on the Bank by this Act or any other legislation;
 - (e) in connection with any proceedings for an offence against this Act;
 - (f) under subpart 3 of Part 6 of the Reserve Bank of New Zealand Act 2021 (which relates to information sharing);
 - (g) to any person whom the Bank is satisfied has a proper interest in receiving such information.

- (3) No information, data, or forecasts shall be published or disclosed pursuant to paragraph (f) or paragraph (g) of subsection (2) unless the Bank is satisfied that satisfactory provision exists to protect the confidentiality of the information, data, or forecasts published or disclosed.
- (4) No officer or employee of the Bank and no person appointed under section 99(2)(b), section 101, or section 119 shall use any information, data, or forecasts to which this section applies for a purpose not connected with the purpose for which such information, data, or forecasts was, or were, supplied, disclosed, or obtained.
- (5) No person to whom any information, data, or forecasts to which this section applies is or are published or disclosed pursuant to subsection (2)(d) shall publish, disclose, or use such information, data, or forecasts except—
 - (a) for the purposes of, or in connection with, the performance or exercise of any function, power, or duty referred to in that paragraph; and
 - (b) in accordance with such conditions as may be specified by the Bank.
- (6) No person to whom any information, data, or forecasts to which this section applies is or are published or disclosed pursuant to subsection (2)(a) or subsection (2)(g), shall publish, disclose, or use such information, data, or forecasts unless the publication, disclosure, or use is—
 - (a) authorised by the Bank; or
 - (b) necessary or desirable in connection with the exercise of any function or power conferred by any enactment.
- (7) A person referred to in subsection (7A) commits an offence if the person contravenes this section.
- (7A) The persons are—
 - (a) any officer or employee of the Bank; or
 - (b) a person appointed under section 99(2)(b), section 101, or section 119.
- (7B) The penalty for an offence against this section is set out in section 156AA.
- (8) Nothing in the Official Information Act 1982 or any other Act, other than this Act, applies to information, data, and forecasts to which this section applies whether or not such information, data, and forecasts has or have been published or disclosed to any person pursuant to this section.

Compare: 1964 No 134 s 38P; 1986 No 131 s 10; 1989 No 11 s 23

Section 105(1)(a)(ii): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 105(2): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 105(2)(b): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 105(2)(d): replaced, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 105(2)(f): replaced, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 105(4): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 105(5)(a): replaced, on 1 July 2022, by section 299(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 105(7): replaced, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 105(7A): inserted, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 105(7B): inserted, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

106 Procedure for obtaining warrants

- (1) An issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) who is satisfied, on application made in the manner provided in subpart 3 of Part 4 of that Act, that there are reasonable grounds for believing—
 - (aaa) that any information or data published in a disclosure statement by a registered bank under section 81 or section 83 is false or misleading in a material particular; or
 - (aa) that a registered bank has failed to publish information that it is required to publish in a disclosure statement under section 81 or section 83; or
 - (a) that any information or data supplied to the Bank by a registered bank pursuant to section 93 is false or misleading in a material particular; or
 - (b) that a registered bank has failed to comply with any requirement to supply information, data, or forecasts pursuant to section 93; or
 - (ba) that any information or data supplied by a person to a registered bank under section 93B or to the Bank under section 93C, as the case may be, is false or misleading in a material particular; or
 - (bb) that a person has failed to comply with any requirement to supply information, data, or forecasts to a registered bank under section 93B, or to the Bank under section 93C as the case may be; or
 - (c) that a registered bank has failed to comply with section 95—may issue a warrant, in terms of section 107, to a person appointed pursuant to section 99(2)(b).
- (2) An issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) who is satisfied, on an application made in the manner provided in subpart 3 of Part 4 of that Act, that there are reasonable grounds for believing that it is necessary for the purpose of determining whether to exercise the powers conferred under section 113 or section 117 that an investigation of the affairs of a registered bank should be carried out, may issue a warrant, in terms of section 107, to a person appointed under section 101.

- (3) Part 4 of the Search and Surveillance Act 2012 (except sections 118 and 119) applies.

Compare: 1964 No 134 ss 38N(3), (5), 38O(6); 1986 No 131 s 10; 1989 No 11 s 24

Section 106(1): amended, on 1 October 2012, by section 297(4) of the Search and Surveillance Act 2012 (2012 No 24).

Section 106(1): amended, on 21 August 2003, by section 28(3) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 106(1)(aaa): inserted, on 21 August 2003, by section 28(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 106(1)(aa): inserted, on 21 August 2003, by section 28(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 106(1)(ba): inserted, on 21 August 2003, by section 28(2) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 106(1)(bb): inserted, on 21 August 2003, by section 28(2) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 106(2): amended, on 1 October 2012, by section 297(5) of the Search and Surveillance Act 2012 (2012 No 24).

Section 106(2): amended, on 21 August 2003, by section 28(4) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 106(3): replaced, on 1 October 2012, by section 297(6) of the Search and Surveillance Act 2012 (2012 No 24).

107 Effect of warrant

- (1) Every warrant issued under section 106 authorises the person named in it, at any time and, if necessary, by force, to—
- (a) enter and search the premises named in it:
 - (b) inspect, remove, and take copies of documents or extracts from documents relating to the business, operation and management of the registered bank in the possession, or under the control, of any person:
 - (c) where necessary, require any information recorded or stored in those documents to be reproduced in usable form.
- (2) The warrant shall continue in force for a period of 1 month or until the purpose for which it was granted has been satisfied, whichever is the lesser.
- (3) Every person named in the warrant shall, as soon as practicable after removing any documents or extracts from documents from any premises, supply a copy of the documents or extracts to the person from whom the documents or extracts were removed.

Compare: 1964 No 134 ss 38N(4), (6), (8), 38O(7), (8), (10)

108 Effect of proceedings

- (1) Where any person commences any proceedings in any court in respect of the exercise of any powers conferred by section 99 or section 101 or section 102, until a final decision in relation to those proceedings is given, the powers may be, or may continue to be, exercised as if no such proceedings had been com-

menced, and no person shall be excused from fulfilling any obligation under those sections by reason of those proceedings.

- (2) This section shall apply notwithstanding the provisions of any other Act or any rule of law.

Compare: 1964 No 134 ss 38N(11), 38O(14); 1986 No 131 s 10; 1989 No 11 s 26

109 Effect of final decision that exercise of powers under section 99 unlawful

In any case where it is declared in a final decision given in any proceedings in respect of the exercise of powers conferred by section 99 that the exercise of any powers conferred by that section is unlawful, to the extent to which the exercise of those powers is declared unlawful,—

- (a) the Bank shall ensure that forthwith after the decision of the court is given—
- (i) any information and data supplied by the registered bank pursuant to subsection (2)(a) of that section is destroyed:
 - (ii) any documents or extracts from documents obtained pursuant to an inspection made under subsection (2)(b) of that section are returned to the person previously having possession of those documents or previously having them under his or her control and any copies of such documents or extracts are destroyed:
 - (iii) any information derived from or based upon any such information and data or documents or extracts is destroyed:
- (b) no information and data supplied by the registered bank pursuant to subsection (2)(a) of that section, and no documents or extracts from documents obtained pursuant to an inspection made under subsection (2)(b) of that section, shall be—
- (i) admissible in evidence in any proceedings:
 - (ii) used in connection with the exercise of any power conferred by section 113 or section 117.

Compare: 1964 No 134 s 38N(12); 1986 No 131 s 10; 1989 No 11 s 27

Section 109(a)(i): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 109(a)(ii): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 109(b): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 109(b)(ii): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

110 Effect of final decision that exercise of powers under section 101 or section 102 unlawful

In any case where it is declared in a final decision given in any proceedings in respect of the exercise of powers conferred by section 101 or section 102 that

the exercise of any powers conferred by those sections is unlawful, to the extent to which the exercise of those powers is declared unlawful,—

- (a) the Bank shall ensure that forthwith after the decision of the court is given—
 - (i) any information or data obtained pursuant to section 102(1)(a) is destroyed:
 - (ii) any documents produced for inspection pursuant to section 102(1)(a) are returned to the person previously having possession of the documents or previously having the documents under his or her control and any copies of such documents or extracts from documents are destroyed:
 - (iii) any documents or extracts from documents obtained pursuant to an inspection made under section 102(2) are returned to the person previously having possession of those documents or previously having them under his or her control and any copies of such documents or extracts from documents are destroyed:
 - (iv) any information derived from or based upon any such information, documents, or extracts is destroyed:
- (b) no information or data obtained or documents produced for inspection pursuant to section 102(1)(a) and no documents or extracts from documents obtained pursuant to an inspection made under section 102(2) shall be—
 - (i) admissible in evidence in any proceedings:
 - (ii) used in connection with the exercise of any power conferred by section 113 or section 117.

Compare: 1964 No 134 s 38O(15); 1986 No 131 s 10; 1989 No 11 s 28

Section 110(b)(ii): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Reserve Bank may give directions

Heading: replaced, on 21 August 2003, by section 29 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

111 Bank may require registered bank to consult

[Repealed]

Section 111: repealed, on 21 August 2003, by section 29 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

112 Bank may give advice and assistance

[Repealed]

Section 112: repealed, on 21 August 2003, by section 29 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

113 Bank may give directions

- (1) The Bank may give a registered bank or an associated person of a registered bank a direction, in writing, if it has reasonable grounds to believe that—
 - (a) the registered bank or associated person is insolvent or is likely to become insolvent; or
 - (b) the registered bank or associated person is about to suspend payment or is unable to meet its obligations as and when they fall due; or
 - (c) the affairs of the registered bank or associated person are being conducted in a manner prejudicial to the soundness of the financial system; or
 - (d) the circumstances of the registered bank or associated person are such as to be prejudicial to the soundness of the financial system; or
 - (e) the business of the registered bank has not been, or is not being, conducted in a prudent manner; or
 - (f) any of the following persons has failed to comply with any requirement imposed by or under this Act or regulations made under this Act:
 - (i) the registered bank;
 - (ii) a director of the registered bank;
 - (iii) in the case of an overseas incorporated registered bank, its New Zealand chief executive officer; or
 - (g) any of the following persons has been convicted of an offence against this Act:
 - (i) the registered bank;
 - (ii) a director of the registered bank;
 - (iii) in the case of an overseas incorporated registered bank, its New Zealand chief executive officer; or
 - (h) the registered bank has failed to comply with a condition of its registration.
- (2) The Bank must obtain the consent of the Minister before giving a direction under this section.
- (3) A direction given under this section must state the grounds on which it is given.
- (4) The Bank may, with the consent of the Minister,—
 - (a) amend or modify a direction; or
 - (b) replace a direction with another direction; or
 - (c) revoke a direction.
- (5) To avoid doubt, the Bank may exercise the power conferred by subsection (1) by giving a direction to a registered bank in respect of an associated person of that registered bank, and vice versa.

Section 113: replaced, on 21 August 2003, by section 30 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

113A Scope of directions

A direction given under section 113 may require a registered bank or an associated person of a registered bank to—

- (a) consult with the Bank immediately, and from time to time, about the circumstances of the registered bank or of an associated person of the registered bank and the methods of resolving any difficulties facing the registered bank or the associated person; or
- (b) carry on business, or any part of its business, in accordance with the direction; or
- (c) cease to carry on its business, or any part of its business, in accordance with the direction; or
- (d) ensure that any officer or employee of the registered bank or associated person ceases to take part in the management or conduct of its business except with the permission of the Bank and so far as that permission extends; or
- (e) remove or replace any of the directors of an associated person of the registered bank; or
- (f) remove or replace its auditor or appoint an auditor approved by the Bank; or
- (g) take the action that is specified in the direction to address a breach of any condition of its registration; or
- (h) take the action that is specified in the direction to address any circumstances of financial difficulties; or
- (i) take any other action that may be specified in the direction.

Section 113A: inserted, on 21 August 2003, by section 30 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

113B Power to remove, replace, or appoint directors

- (1) This section applies if the Bank has reasonable grounds to believe that—
 - (a) any of the circumstances referred to in section 113(1) exists; and
 - (b) it is necessary to remove, replace, or appoint a director of a registered bank or of an associated person of a registered bank.
- (2) If this section applies, the Bank may—
 - (a) remove or replace a director of any registered bank or of an associated person of any registered bank; or
 - (b) appoint any person as a director of any registered bank or of an associated person of any registered bank.
- (3) The Bank must—

- (a) obtain the consent of the Minister before exercising the power conferred by subsection (2); and
 - (b) exercise that power by giving notice in writing to—
 - (i) the director or the person concerned; and
 - (ii) if applicable, the Registrar of Companies.
- (4) A notice given under subsection (3)(b)(ii) is sufficient compliance with section 159 of the Companies Act 1993 as long as the notice is accompanied by the form of consent and certificate required under section 152 of that Act.
- (5) This section has effect despite any enactment, rule of law, or the terms of the constitution of, or the instrument or contract creating, a registered bank or an associated person of a registered bank.

Section 113B: inserted, on 21 August 2003, by section 30 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

114 Offence to contravene directions

- (1) Every person commits an offence against this Act who, being a registered bank or associated person, without lawful justification or excuse, contravenes, or fails to comply with, a direction under section 113.
- (2) Every person commits an offence against this Act who, being an officer or employee of a registered bank or of an associated person, without lawful justification or excuse, obstructs, hinders or prevents that registered bank or associated person giving effect to any direction given under section 113.
- (3) The penalty for an offence against this section is set out in section 156AC.

Compare: 1964 No 134 s 38Q(11), (12); 1986 No 134 s 10; 1989 No 11 s 35

Section 114(3): inserted, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

115 Offence to disclose giving of direction

- (1) Subject to subsections (2) and (3), every person commits an offence against this Act who discloses that a direction has been given under section 113 or that a notice has been given under section 113B.
- (2) Nothing in subsection (1) applies to the disclosure or publication of the fact that a direction or notice has been given where the disclosure or publication is made—
 - (a) to any professional or financial adviser of the registered bank or associated person to which the direction or notice relates;
 - (b) with the written consent of the Bank, for the purposes of the sale or other disposition, or the possible sale or other disposition, of the whole or any part of the capital, or business undertaking, of the registered bank or associated person;
 - (c) by the Bank or with the written consent of the Bank,—

- (i) to the public; or
 - (ii) to any person who has a proper interest in knowing that the direction or notice has been given.
- (3) Nothing in subsection (1) applies to the disclosure or publication of the fact that a direction has been given requiring the actions set out in section 113A(d) or section 113A(e) or section 113A(f) for the purpose of giving effect to that direction.
- (4) The penalty for an offence against this section is set out in section 156AA.

Compare: 1964 No 134 s 38Q(14), (15); 1986 No 131 s 10; 1989 No 11 s 36

Section 115 heading: amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 115(1): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 115(2): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 115(2)(a): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 115(2)(c)(ii): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 115(3): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 115(4): inserted, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

116 Miscellaneous provisions with respect to directions and dispositions

- (1) A direction given under section 113 is taken to have been given on delivery to the head office, registered office, principal place of business in New Zealand, or address for service of the registered bank or associated person of the registered bank.
- (2) If the Bank has reasonable grounds to believe that 1 or more of the circumstances listed in section 113(1) exist, it may, with the consent of the Minister, by notice in writing to the parties, approve any sale or other disposition of the whole or part of the capital or business undertaking of the registered bank or associated person of the registered bank specified in the notice.
- (3) If the Bank grants an approval under subsection (2), the provisions of any enactment requiring any consent, licence, permission, or clearance or other authority do not apply as a condition of the legality or validity of the sale or other disposition.
- (4) For the purposes of this section, **address for service**, in relation to a registered bank, means the address for service specified in a disclosure statement published in accordance with section 81.

Section 116: replaced, on 21 August 2003, by section 31 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

*Statutory management of registered banks***117 Statutory management of registered banks and associated persons**

- (1) The Governor-General may, from time to time, by Order in Council, on the advice of the Minister given in accordance with a recommendation of the Bank,—
 - (a) declare that—
 - (i) any registered bank:
 - (ii) any associated person of a registered bank—
is subject to statutory management; and
 - (b) appoint 1 or more persons as statutory manager or statutory managers of that registered bank or associated person for a specified period.
- (1A) If any question arises as to whether, on the date on which a statutory manager was appointed, an act was done or a transaction was entered into or effected before or after the appointment, that act or transaction must, in the absence of proof to the contrary, be treated as having been done or entered into or effected, as the case may be, after the appointment of the statutory manager.
- (2) If an Order in Council is made under subsection (1), every subsidiary of a registered bank declared to be subject to statutory management, except any subsidiary declared to be a subsidiary to which the order does not apply, is subject to statutory management and the appointment of a statutory manager for the specified period in respect of that registered bank also applies to those subsidiaries.
- (2A) If a registered bank acquires a subsidiary after it has been declared to be subject to statutory management under subsection (1), that subsidiary is not subject to statutory management unless a further Order in Council is made declaring that subsidiary to be subject to statutory management.
- (3) Where a registered bank or an associated person of a registered bank that is declared to be subject to statutory management or a subsidiary of a registered bank that becomes subject to statutory management under subsection (2), is incorporated outside New Zealand or is an unincorporated body having its head office or principal place of business outside New Zealand, the provisions of this Part relating to statutory management shall apply to the property, rights, assets and liabilities relating to its New Zealand business.
- (4) Every Order in Council made under subsection (1) must specify the date on which, and the time at which, the Order in Council comes into force.
- (5) The date and time as specified must not be earlier than the date on which, and the time at which, the Order in Council is made.
- (6) A person appointed under subsection (1)(b) has all the rights and powers conferred, and all the duties imposed, on a person appointed under section 101

and, without limitation, the following provisions apply, with any necessary modifications, as if that person were appointed under section 101:

- (a) section 102 (which relates to powers to carry out an investigation of the affairs of a registered bank); and
 - (b) section 103 (which sets out offences in relation to investigations); and
 - (c) section 104 (which sets out the requirements that must be complied with by a person carrying out an investigation).
- (7) Subsections (1)(a) and (2) are subject to section 139J(4).
- (8) An Order in Council under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1964 No 134 s 38R(2), (3); 1986 No 131 s 10; 1989 No 11 s 38

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives, unless it relates exclusively to an individual (in which case a transitional exemption applies under Schedule 1 of the Legislation Act 2019)	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 117(1)(b): amended, on 21 August 2003, by section 32(2) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 117(1A): inserted, on 21 August 2003, by section 32(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 117(2): replaced, on 21 August 2003, by section 32(3) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 117(2A): inserted, on 21 August 2003, by section 32(3) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 117(4): inserted, on 26 April 1999, by section 2 of the Reserve Bank of New Zealand Amendment Act 1999 (1999 No 22).

Section 117(5): inserted, on 26 April 1999, by section 2 of the Reserve Bank of New Zealand Amendment Act 1999 (1999 No 22).

Section 117(6): inserted, on 21 August 2003, by section 32(4) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 117(7): inserted, on 10 December 2013, by section 4 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

Section 117(8): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

118 Grounds on which registered bank may be declared to be subject to statutory management

- (1) The Bank must not make a recommendation under section 117 unless—
- (a) it is satisfied on reasonable grounds that 1 or more of the circumstances listed in section 113(1)(a) to (e) exist; or

- (b) a registered bank or an associated person of a registered bank has failed to comply with a direction given under section 113.
- (2) The Bank shall, as soon as practicable after the making of an Order in Council declaring a registered bank or associated person to be subject to statutory management, give written notice to the registered bank or associated person stating the grounds on which the recommendation made by the Bank was made.

Compare: 1964 No 134 s 38R(4), (6); 1986 No 131 s 10; 1989 No 11 s 39

Section 118(1): replaced, on 21 August 2003, by section 33 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

119 Advisory committee

- (1) Where an Order in Council is made under section 117 declaring a registered bank or an associated person to be subject to statutory management, the Minister may, by notice in writing to the statutory manager of that registered bank or associated person, on the recommendation of the Bank, appoint the persons specified in the recommendation as an advisory committee.
- (2) The functions of an advisory committee shall be—
- (a) to advise the statutory manager on the conduct of the statutory management, including the exercise of the powers conferred by this Part:
- (b) to do such other things as may be specified by the Minister, from time to time, by notice in the *Gazette*.
- (3) The members of an advisory committee shall be appointed for such period as is specified in the notice of appointment.
- (4) The Minister may, by notice in writing, on the recommendation of the Bank, extend the term of appointment of a member of an advisory committee.
- (5) The Minister may, by notice in writing, on the recommendation of the Bank, appoint a person to be an additional member of an advisory committee.
- (6) The Minister may terminate the appointment of a member of an advisory committee for inability to perform the functions of the office, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Minister.
- (7) A member of an advisory committee may resign office by notice in writing to the Minister.
- (8) A notice under subsection (1) or subsection (5) must specify the date on which it comes into force (which date must not be earlier than the date on which the Minister signed the notice).
- (9) Every notice given under this section must be published in the *Gazette* as soon as practicable.

Compare: 1964 No 134 s 38S(1)–(8); 1986 No 131 s 10; 1989 No 11 s 60

Section 119(1): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 119(4): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 119(5): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 119(6): amended, on 1 January 2002, by section 70(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 119(8): inserted, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 119(9): inserted, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

120 Statutory manager to comply with directions of Bank

Subject to section 142, every statutory manager of a registered bank shall comply with any directions given in writing by the Bank relating to the exercise of the powers of that statutory manager under this Part.

Compare: 1964 No 134 s 38U; 1986 No 131 s 10

121 Considerations affecting exercise of powers by statutory manager

- (1) In exercising the powers conferred by this Part a statutory manager of a registered bank shall have regard to—
 - (a) the need to maintain public confidence in the operation and soundness of the financial system:
 - (b) the need to avoid significant damage to the financial system:
 - (c) to the extent not inconsistent with the considerations referred to in paragraphs (a) and (b), the need to resolve as quickly as possible the difficulties of that registered bank:
 - (d) to the extent not inconsistent with the considerations referred to in paragraphs (a), (b) and (c), preserving the position of creditors and maintaining the ranking of claims of creditors:
 - (e) the advice of the Bank.
- (2) Every statutory manager shall—
 - (a) consult with the Bank, to the extent required by the Bank, as to the exercise of those powers:
 - (b) provide the reports that the Bank may require as to the state of the affairs, business, and statutory management of the registered bank to persons specified by the Bank (including, but not limited to, the Bank) in the form and with the frequency that the Bank may require:
 - (c) provide the information that an advisory committee appointed under section 119 may reasonably require as to the affairs, business, and statutory management of the registered bank.
- (3) A statutory manager may refuse to supply information to an advisory committee under subsection (2)(c) if the Bank considers that the refusal is appropriate and gives its written approval to the statutory manager accordingly.

Compare: 1964 No 134 s 38T; 1986 No 131 s 10; 1989 No 11 s 41

Section 121(2)(b): replaced, on 21 August 2003, by section 34(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 121(2)(c): inserted, on 21 August 2003, by section 34(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 121(3): inserted, on 21 August 2003, by section 34(2) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

121A Statutory manager to avoid actions likely to have detrimental effect

- (1) A statutory manager who has reasonable cause to believe that an action he or she proposes to take is an action that is likely to have a detrimental effect on financial system stability in Australia must—
 - (a) notify the Bank as soon as practicable; and
 - (b) obtain the Bank’s written consent before taking that action.
- (2) The statutory manager is not required to comply with subsection (1) if the statutory manager is satisfied that it is not reasonably practicable to do so in the circumstances, having regard to urgency or other similar constraint.
- (3) Where the Bank receives a notification under subsection (1), it must provide details of the notification to every prescribed Australian financial authority it considers to be relevant in the circumstances before granting written consent to the statutory manager.
- (4) The Bank is not required to comply with subsection (3) if the Bank is satisfied that it is not reasonably practicable to do so in the circumstances, having regard to urgency or other similar constraint.
- (5) No performance of a function or duty or exercise of a power is invalid by reason only of a failure to comply with the provisions of this section.
- (6) A statutory manager may consult a prescribed Australian financial authority about whether an action the statutory manager proposes to take is likely to have a detrimental effect on financial system stability in Australia.

Section 121A: inserted, on 15 December 2006, by section 8 of the Reserve Bank of New Zealand Amendment Act 2006 (2006 No 51).

122 Moratorium

- (1) Where a registered bank is declared under section 117 to be subject to statutory management, no person shall—
 - (a) commence or continue any action or other proceedings, including proceedings by way of counterclaim, against that registered bank:
 - (b) issue any execution, attach any debt, or otherwise enforce or seek to enforce any judgment or order obtained in respect of that registered bank:
 - (c) take any steps to put that registered bank into liquidation or voluntary administration:

- (d) enter into possession, sell, or appoint a receiver of the property of that registered bank or property in respect of which the registered bank has an equity of redemption:
 - (e) exercise or continue any power or rights under, or in pursuance of, any mortgage, charge, debenture, instrument, or other security over the property of that registered bank:
 - (f) claim or recover, pursuant to any retention of title clause, hire purchase agreement, mortgage, lease, or security, any property in the possession of the registered bank:
 - (g) determine or forfeit any tenancy, retake or re-enter any premises, or exercise or continue any power or rights under or in pursuance of any lease, against that registered bank:
 - (h) exercise any right of set-off against that registered bank.
- (2) Notwithstanding subsection (1), an action or proceeding may be commenced or continued against a registered bank for the purpose of determining whether any right or liability exists if the leave of the statutory manager or the High Court is first obtained.
- (3) Notwithstanding subsection (1), a statutory manager may waive the application in whole or in part of that subsection (except paragraph (c)) to any creditor or class of creditors in respect of the whole or part of any claim of, or security held by, that creditor or class of creditors.
- (4) Subject to this Act, nothing in subsection (1) affects the existence of any security over the property of any registered bank or its priority over other debts.
- (5) Nothing in subsection (1)(a), (b), and (d) to (h) limits or prevents any person from taking any of the actions specified in those paragraphs in relation to an obligation incurred or a right granted under a deed, instrument, trust, or contract entered into by a registered bank after the date on which, and the time at which, that registered bank was declared to be subject to statutory management.
- (6) *[Repealed]*
- (7) In the case of a netting agreement to which sections 310A to 310O of the Companies Act 1993 or sections 255 to 263 of the Insolvency Act 2006 apply,—
- (a) nothing in subsection (1)(h) applies to any right of set-off provided for in the netting agreement; and
 - (b) nothing in subsection (1) limits or prevents the exercise of any of the following rights under the netting agreement:
 - (i) the termination, in accordance with the netting agreement, of all or any transactions that are subject to the netting agreement by reason of the occurrence of an event specified in the netting agreement, being an event (including the appointment of a statutory

- manager) occurring not later than the commencement of statutory management; or
- (ii) the taking of an account, in accordance with the netting agreement, of all money due between the parties to the netting agreement in respect of transactions affected by the termination; and
 - (c) nothing in subsection (1) limits or prevents the exercise of any right referred to in paragraphs (d) to (f) of that subsection in respect of any property of that registered bank to the extent that the right is exercised to enforce, or to assist in enforcing, the due performance, by that registered bank, of obligations entered into by that registered bank under a recognised multilateral netting agreement (within the meaning of section 310A of the Companies Act 1993).
- (8) In the case of netting under the rules of a designated FMI to which subpart 5 of Part 3 of the Financial Market Infrastructures Act 2021 applies,—
- (a) nothing in subsection (1) limits or prevents the exercise of any rights relating to the calculation of a netted balance under those rules; and
 - (b) nothing in subsection (1) limits or prevents the exercise of any right referred to in paragraphs (d) to (f) of that subsection in respect of any property of that registered bank if the right that is exercised—
 - (i) is provided under the rules of the designated FMI; and
 - (ii) has been granted to secure, or to assist in securing, the due performance, by that registered bank, of obligations entered into by that registered bank under those rules.
- (9) In subsection (8) and this subsection,—
- (a) **designated FMI**, **netting**, and **participant** have the meanings given in section 5 of the Financial Market Infrastructures Act 2021; and
 - (b) **netted balance** means any amount calculated in accordance with the rules of a designated FMI as the net debit payable by, or on behalf of, a participant of the designated FMI to, or on behalf of, another participant of that designated FMI for all or any claims or obligations to which those rules apply; and
 - (c) **rules** is to be read in accordance with section 35 of the Financial Market Infrastructures Act 2021.
- (9A) Nothing in subsection (1) limits or prevents the exercise of any rights to enforce a security interest over collateral to the extent that the security interest secures payment or performance of an obligation under or in relation to a qualifying derivative if—
- (a) the counterparties to the derivative are—
 - (i) 2 qualifying counterparties; or
 - (ii) a qualifying counterparty and an overseas person; and

- (b) before the exercise of the rights, the collateral is transferred or otherwise dealt with so as to be in the possession or under the control of—
 - (i) the enforcing counterparty; or
 - (ii) another person (who is not the grantor) on behalf of the enforcing counterparty, under the terms of an arrangement evidenced in writing; and
 - (c) the rights are exercised after the specified time.
- (9B) *See* sections 122A to 122E for definitions and other matters relating to subsection (9A).
- (10) Subsection (1) is subject to section 139J(1) to (3).

Compare: 1964 No 134 s 38V; 1986 No 131 s 10; 1989 No 11 s 42

Section 122(1)(c): replaced, on 1 July 1994, by section 2 of the Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

Section 122(1)(c): amended, on 1 November 2007, by section 41 of the Companies Amendment Act 2006 (2006 No 56).

Section 122(1)(d): amended, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

Section 122(1)(g): amended, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

Section 122(5): replaced, on 21 August 2003, by section 35(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 122(6): repealed, on 21 August 2003, by section 35(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 122(7): inserted, on 26 April 1999, by section 3(2) of the Reserve Bank of New Zealand Amendment Act 1999 (1999 No 22).

Section 122(7): amended, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

Section 122(7)(c): replaced, on 21 August 2003, by section 35(2) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 122(8): inserted, on 21 August 2003, by section 35(3) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 122(8): amended, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section 122(8)(b)(i): amended, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section 122(8)(b)(i): amended, on 24 November 2009, by section 5 of the Reserve Bank of New Zealand Amendment Act 2009 (2009 No 53).

Section 122(9): replaced, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section 122(9A): inserted, on 31 August 2019, by section 4 of the Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019 (2019 No 46).

Section 122(9B): inserted, on 31 August 2019, by section 4 of the Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019 (2019 No 46).

Section 122(10): inserted, on 10 December 2013, by section 5 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

122A Definitions of terms relating to qualifying derivatives

(1) For the purposes of sections 122(9A), 122B, 122C, 122D, and 122E,—

collateral means any 1 or more of the following:

- (a) a financial product:
- (b) gold, silver, or platinum:
- (c) a document of title, a chattel paper, an investment security, money, a negotiable instrument, or an intangible (with terms and expressions used in this paragraph having the same meanings as in section 16(1) of the Personal Property Securities Act 1999):
- (d) if a person (an **intermediary**) maintains an account to which interests in property, or rights to payment or delivery of property, of a kind specified in any of paragraphs (a) to (c) may be credited or debited, the rights of a person in whose name the intermediary maintains the account, to the extent that those rights relate to the interests in that property or the rights to payment or delivery of that property:
- (e) the proceeds of property of a kind specified in any of paragraphs (a) to (d)

default time means the close of the day after the date on which the statutory management commenced

derivative means a derivative within the meaning of section 8(4) of the Financial Markets Conduct Act 2013 (but disregarding any declaration referred to in section 8(5)(b) of that Act)

intermediated collateral means collateral of the kind referred to in paragraph (d) of the definition of collateral in this subsection

overseas person means—

- (a) a natural person who is not ordinarily resident in New Zealand; or
- (b) an entity (within the meaning of section 6(1) of the Financial Markets Conduct Act 2013) that is incorporated or established outside New Zealand

possession includes possession within the meaning of section 18 of the Personal Property Securities Act 1999 (subject to section 122B and regulations made under section 173(1)(fc) and (fd))

proceeds has the same meaning as in section 16(1) of the Personal Property Securities Act 1999 but applied with all necessary modifications, including treating references to collateral in the definition in that section as references to property of a kind specified in any of paragraphs (a) to (d) of the definition of collateral in this subsection

qualifying counterparty means—

- (a) a registered bank; or

- (b) the Accident Compensation Corporation (as continued by section 259 of the Accident Compensation Act 2001); or
- (c) the Guardians of New Zealand Superannuation established under section 48 of the New Zealand Superannuation and Retirement Income Act 2001; or
- (d) a specified operator within the meaning of section 5 of the Financial Market Infrastructures Act 2021; or
- (e) any prescribed entity; or
- (f) any other entity of a prescribed class

qualifying derivative, in relation to enforcing a security interest over collateral, means a derivative to which both of the following apply:

- (a) the derivative is subject to—
 - (i) a netting agreement to which sections 310A to 310O of the Companies Act 1993 or sections 255 to 263 of the Insolvency Act 2006 apply; or
 - (ii) netting under the rules of a designated FMI to which subpart 5 of Part 3 of the Financial Market Infrastructures Act 2021 applies; and
- (b) the enforcing counterparty's interest in the collateral is evidenced in writing

security interest has the same meaning as in section 17 of the Personal Property Securities Act 1999

specified time means—

- (a) the default time; or
- (b) an earlier or a later time specified by the Bank in a notice issued under section 122C.

- (2) For the purposes of the definition of overseas person, a natural person is **ordinarily resident in New Zealand** if that person—
 - (a) is domiciled in New Zealand; or
 - (b) is living in New Zealand and the place where that person usually lives, and has been living for the immediately preceding 12 months, is in New Zealand, whether or not that person has on occasions been away from New Zealand during that 12-month period.

Section 122A: inserted, on 31 August 2019, by section 5 of the Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019 (2019 No 46).

Section 122A(1) **qualifying counterparty** paragraph (d): replaced, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section 122A(1) **qualifying derivative** paragraph (a)(ii): replaced, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

122B Matters relating to possession or control of collateral

- (1) For the purposes of section 122(9A)(b),—
 - (a) collateral must be taken not to be in the possession or under the control of the enforcing counterparty if,—
 - (i) under the security interest, the grantor is free to deal with the collateral in the ordinary course of business until the enforcing counterparty's interest in the collateral becomes fixed and enforceable; or
 - (ii) regulations made under section 173(1)(fc) so provide:
 - (b) intermediated collateral must be taken to be in the possession of the enforcing counterparty if that counterparty is the person in whose name the intermediary maintains the account:
 - (c) intermediated collateral must be taken to be under the control of the enforcing counterparty if subsection (3) applies:
 - (d) collateral must be taken to be in the possession or under the control of the enforcing counterparty if regulations made under section 173(1)(fc) so provide.
- (2) Subsection (1)(a)(i) applies even if the enforcing counterparty's interest in the collateral becomes fixed and enforceable before the enforcement of the security interest over that collateral.
- (3) For the purposes of subsection (1)(c), this subsection applies if—
 - (a) the intermediary is not the grantor (but may be the enforcing counterparty or any other person); and
 - (b) there is an agreement in force between the intermediary and 1 or more other persons, 1 of which is the enforcing counterparty or the grantor; and
 - (c) the agreement has 1 or more of the following effects:
 - (i) the person in whose name the intermediary maintains the account is not able to transfer or otherwise deal with the collateral:
 - (ii) the intermediary must not comply with instructions given by the grantor in relation to the collateral without seeking the consent of the enforcing counterparty (or a person who has agreed to act on the instructions of the enforcing counterparty):
 - (iii) the intermediary must comply, or must comply in 1 or more specified circumstances, with instructions (including instructions to debit the account) given by the enforcing counterparty in relation to the collateral without seeking the consent of the grantor (or any person who has agreed to act on the instructions of the grantor).

- (4) Subsections (1)(a)(i), (b), and (c), (2), and (3) and the definition of possession in section 122A(1) are subject to regulations made under section 173(1)(fc) and (fd).
- (5) The fact that a grantor retains a right of 1 or more of the following kinds does not by itself stop section 122(9A)(b) from being satisfied:
 - (a) a right to receive and withdraw income in relation to the collateral:
 - (b) a right to receive notices in relation to the collateral:
 - (c) a right to vote in relation to the collateral:
 - (d) a right to substitute other collateral that the parties agree is of equivalent value for the collateral:
 - (e) a right to withdraw excess collateral:
 - (f) a right to determine the value of collateral.

Section 122B: inserted, on 31 August 2019, by section 5 of the Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019 (2019 No 46).

122C Bank may reduce or extend stay on exercise of rights to enforce security interest over collateral

- (1) This section and section 122D apply for the purposes of section 122(9A) in respect of a registered bank that is in statutory management (A).
- (2) The Reserve Bank may, before the default time, issue a notice that states that the rights referred to in section 122(9A) may only be exercised on and after a time specified in the notice.
- (3) The time that is specified may be—
 - (a) before the default time; or
 - (b) after the default time if the Bank is satisfied of all of the matters set out in section 122D.
- (4) The notice may relate to all rights referred to in section 122(9A) in respect of A's property or to a class or classes of those rights.
- (5) Despite section 140(2)(b), this section applies to an associated person or a subsidiary of a registered bank only if the associated person or subsidiary is itself a registered bank.

Section 122C: inserted, on 31 August 2019, by section 5 of the Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019 (2019 No 46).

122D Matters Bank must be satisfied of under section 122C(3)(b)

The matters referred to in section 122C(3)(b) are that—

- (a) A is able to meet all of the following liabilities as and when those liabilities become due and payable:

- (i) A's liabilities under all netting agreements to which sections 310A to 310O of the Companies Act 1993 or sections 255 to 263 of the Insolvency Act 2006 apply;
 - (ii) A's liabilities in respect of security interests over collateral to the extent that the security interests secure payment or performance of obligations under or in relation to qualifying derivatives;
 - (iii) A's liabilities that are subject to netting under the rules of a designated FMI to which subpart 5 of Part 3 of the Financial Market Infrastructures Act 2021 applies; and
- (b) A is able to pay its debts as they become due in the normal course of business; and
- (c) either—
- (i) A complies with the minimum capital requirements (if any) to which it is subject under conditions imposed under section 74; or
 - (ii) there are satisfactory arrangements in place to ensure that A meets all of its liabilities referred to in paragraph (a) as and when those liabilities become due and payable and those arrangements will remain in place until A complies with the requirements referred to in subparagraph (i) or the statutory management is terminated, whichever occurs first.

Section 122D: inserted, on 31 August 2019, by section 5 of the Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019 (2019 No 46).

Section 122D(a)(iii): replaced, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

122E Publication and status of notice under section 122C

- (1) The Bank must, as soon as practicable,—
 - (a) publish any notice issued under section 122C on an Internet site maintained by, or on behalf of, the Bank; and
 - (b) notify the issue of the notice in the *Gazette*.
- (2) The notice may take effect at any time after it is published under subsection (1)(a).
- (3) *[Repealed]*
- (4) The notice cannot be varied or revoked.

Section 122E: inserted, on 31 August 2019, by section 5 of the Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019 (2019 No 46).

Section 122E(3): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

123 Statutory manager may incorporate company under Companies Act 1993 to acquire business of branch of foreign institution

- (1) Where a registered bank, which is a branch of a body corporate incorporated outside New Zealand or, as the case may be, any unincorporated body having its head office or principal place of business outside New Zealand, is declared to be subject to statutory management, the statutory manager may—
 - (a) form and register a body corporate under the Companies Act 1993 or any other Act:
 - (b) subscribe for or acquire, as trustee for that body corporate or unincorporated body, as the case may be, all or any of the shares of the body corporate:
 - (c) allot or issue all or any of the shares in that body corporate as fully or partly paid, as the case may be, up to the value, after deducting the value of any liabilities vested, of any property, rights, and assets vested in that body corporate pursuant to subsection (2).
- (2) The Governor-General may, by Order in Council, on the advice of the Minister, given in accordance with a recommendation of the Bank, declare that the whole or any part of any property, rights, assets, and liabilities of any such branch relating to the business carried on by that branch shall vest in that body corporate on a date specified in the order and the property, rights, assets, and liabilities shall vest in that body corporate on the date specified.
- (3) Nothing in subsection (2) shall reduce, extinguish, or affect any obligation or liability of a body corporate incorporated outside New Zealand or, as the case may be, an unincorporated body having its head office or principal place of business outside New Zealand.
- (4) Every body corporate formed and registered under subsection (1) shall, for the purposes of this Part, be deemed to be a registered bank subject to statutory management as if that body corporate had been declared to be subject to statutory management pursuant to section 117, and the statutory manager of it, in its capacity as a branch, shall be the statutory manager of that body corporate as if that statutory manager had been appointed pursuant to that section and the provisions of this Part shall apply accordingly.
- (5) An Order in Council under subsection (2) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1964 No 134 s 38W(1), (3)–(5); 1986 No 131 s 10

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 123 heading: amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 123(1)(a): amended, on 1 July 1994, by section 2 of the Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

Section 123(1)(b): replaced, on 1 July 1994, by section 2 of the Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

Section 123(1)(c): amended, on 1 July 1994, by section 2 of the Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

Section 123(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

124 Vesting of property subject to security

- (1) An order may be made under section 123 vesting any property, rights, and assets of a branch in a body corporate formed and registered pursuant to that section notwithstanding the existence, or the terms and conditions, of any security over that property, or those rights or assets, in favour of any other person.
- (2) Any property, rights or assets which are declared to vest pursuant to an order made under that section in the body corporate, being property, rights or assets subject to a security in favour of any other person, shall continue to be subject to that security.

Compare: 1964 No 134 s 38W(6), (7); 1986 No 131 s 10

125 Proof of vesting

- (1) Neither the Registrar of Deeds nor the Registrar-General of Land, or any other person charged with the keeping of any books or registers, shall be obliged solely by reason of section 123 to change the name of any body corporate or unincorporated body referred to in that section to that of any company formed and registered pursuant to that section in those books or registers or in any document.
- (2) The presentation to any Registrar or other person of any instrument, whether or not comprising an instrument of transfer, by the company—
 - (a) executed or purporting to be executed by the company; and
 - (b) relating to any property held before the date specified in an Order in Council made pursuant to that section by that body corporate or unincorporated body; and
 - (c) containing a recital that the property has become vested in the company, by virtue of the provisions of that section—

shall, in the absence of evidence to the contrary, be sufficient proof that the property is vested in the company.

Compare: 1964 No 134 s 38W(8), (9); 1986 No 131 s 10

Section 125(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

126 Prohibition against removal of assets

- (1) Except with the consent of the statutory manager, no person shall transfer or remove from New Zealand any property or assets of a registered bank which is declared to be subject to statutory management.
- (2) A person commits an offence if the person contravenes subsection (1).
- (2A) The penalty for an offence against this section is set out in section 156AC.
- (3) Nothing in subsection (2) shall prevent the issue of an injunction or the making of any order to prevent any property or assets being removed from New Zealand.
- (4) Subsection (1) is subject to section 139J(1) to (3).

Compare: 1964 No 134 s 38X; 1986 No 131 s 10; 1989 No 11 s 43

Section 126(2): replaced, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 126(2A): inserted, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 126(4): inserted, on 10 December 2013, by section 6 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

127 Statutory manager may suspend payment of money owing

- (1) The statutory manager of a registered bank may, despite the terms of any contract,—
 - (a) suspend in whole or in part the repayment of any deposit, or the payment of any debt, or the discharge of any obligation, to any person; and
 - (b) cancel the obligation to provide funding to any person.
- (2) A suspension or cancellation by a statutory manager under subsection (1) does not constitute a breach or repudiation of any contract entered into by the registered bank with any person.
- (3) Nothing in subsection (1) shall authorise the suspension by the statutory manager of the repayment of any deposit, or the payment of any debt, or the discharge of any obligation, or the cancellation by the statutory manager of any obligation to provide funding, to any person where the obligation to repay the deposit, or to pay the debt, or the obligation, was incurred by the registered bank, or by the statutory manager, after the date upon which, and the time at which, the registered bank became subject to statutory management.
- (4) Nothing in subsection (1) authorises the suspension by the statutory manager of the payment of any amount that would be included in the calculation of a netted balance in accordance with section 310C of the Companies Act 1993 or section 257 of the Insolvency Act 2006 or section 156R, as the case may be. However, subsection (1) applies to the payment of the netted balance.

(5) Subsection (1) is subject to section 139J(1) to (3).

Compare: 1964 No 134 s 38Y; 1986 No 131 s 10; 1989 No 11 s 44

Section 127(1): replaced, on 21 August 2003, by section 36(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 127(2): replaced, on 21 August 2003, by section 36(1) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 127(3): amended, on 21 August 2003, by section 36(2) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 127(3): amended, on 26 April 1999, by section 4(1) of the Reserve Bank of New Zealand Amendment Act 1999 (1999 No 22).

Section 127(4): inserted, on 26 April 1999, by section 4(2) of the Reserve Bank of New Zealand Amendment Act 1999 (1999 No 22).

Section 127(4): amended, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

Section 127(4): amended, on 21 August 2003, by section 36(3) of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 127(5): inserted, on 10 December 2013, by section 7 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

128 Management of registered bank to vest in statutory manager

(1) Subject to this Part, where a registered bank is declared to be subject to statutory management, the management of that registered bank shall, on and after the date, and at and from the time, specified in the order, vest in the statutory manager.

(2) Where a registered bank is declared to be subject to statutory management, it shall not be lawful or competent for any director, manager, or other person to be engaged in the management or conduct of its business, or to act as an officer or as the agent, or servant, of the registered bank, except with the permission of the statutory manager and so far as that permission extends.

(3) Subsection (2) is subject to section 139J(1) to (3).

Compare: 1964 No 134 s 38Z; 1986 No 131 s 10; 1989 No 11 s 45

Section 128(1): amended, on 26 April 1999, by section 5 of the Reserve Bank of New Zealand Amendment Act 1999 (1999 No 22).

Section 128(3): inserted, on 10 December 2013, by section 8 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

129 Powers of statutory manager

(1) Subject to this Part, a statutory manager shall have all such powers, rights, and authorities as may be necessary for the purposes of this Part.

(2) Without limiting subsection (1), a statutory manager has, and may exercise,—

(a) all the powers, rights, and privileges that the registered bank has under any contract or otherwise:

(b) in the case of a body corporate, all the powers of the members in general meeting and the board of directors of that body corporate:

- (c) in the case of a partnership, all the powers exercisable by a partner or partners.
- (3) Without limiting subsection (1), a statutory manager has, and may exercise, all of the powers conferred on a liquidator of a company by section 269 of the Companies Act 1993 in the same manner as if the statutory manager was the liquidator of a company in liquidation under that Act, and all the provisions of that section shall apply in respect of the disclaimer of any property of the registered bank as if that property was property of a company to which that section applied.

Compare: 1964 No 134 s 38AB; 1986 No 131 s 10; 1989 No 11 s 46

Section 129(3): replaced, on 1 July 1994, by section 2 of the Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

130 Statutory manager empowered to carry on business of registered bank

Subject to this Part, a statutory manager of a registered bank may carry on all or any part of the business of the registered bank and has, and may exercise, in relation to the registered bank, all such powers, rights, and authorities as may be necessary to carry on that business.

Compare: 1964 No 134 s 38AC; 1986 No 131 s 10; 1989 No 11 s 47

131 Statutory manager may pay creditors and compromise claims

Subject to this Part, a statutory manager of a registered bank shall, for the purposes of carrying on the business of the registered bank, have power to—

- (a) pay, in whole or in part, any creditor or class of creditors of the registered bank:
- (b) make any compromise or arrangement with any creditor, or person claiming to be a creditor, of the registered bank:
- (c) compromise all calls, debts and claims subsisting, or supposed to subsist, between the registered bank and any other person, and all questions relating to the assets of the registered bank, and give a complete or partial discharge.

Compare: 1964 No 134 s 38AD; 1986 No 131 s 10; 1989 No 11 s 48

132 Sale of registered bank

- (1) Subject to this Part, the statutory manager of a registered bank may sell or otherwise dispose of the whole or any part of the business undertaking of the registered bank to such person and upon such terms and conditions as the statutory manager thinks fit.
- (2) Without limiting any other powers of the statutory manager, for the purposes of subsection (1), the statutory manager shall have power to—
- (a) form and register a body corporate under the Companies Act 1993 or any other Act:

- (b) subscribe for or acquire all or any of the shares of that body corporate:
 - (c) transfer to that body corporate the whole or any part of the business undertaking of the registered bank:
 - (d) allot or issue all or any of the shares in that body corporate to any person, credited as fully or partly paid, as the case may be, up to the value of the business undertaking transferred to that body corporate:
 - (e) sell all or any of the shares, or the whole or any part of the business undertaking, of that body corporate to such person and upon such terms and conditions as the statutory manager thinks fit.
- (3) The statutory manager shall not sell or otherwise dispose of—
- (a) the whole or any substantial part of the business undertaking of a registered bank pursuant to subsection (1):
 - (b) any of the shares of any body corporate formed and registered pursuant to subsection (2)(a):
 - (c) the whole or any substantial part of the business undertaking of any body corporate formed and registered pursuant to subsection (2)(a),—
- unless the statutory manager has consulted with the Bank and the Bank, with the consent of the Minister, has given approval in writing to the sale or other disposition and the terms and conditions of it.

Compare: 1964 No 134 s 38AE(1)–(3); 1986 No 131 s 10; 1989 No 11 s 50(1), (2)

Section 132(2)(a): amended, on 1 July 1994, by section 2 of the Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

Section 132(2)(b): amended, on 1 July 1994, by section 2 of the Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

Section 132(2)(d): amended, on 1 July 1994, by section 2 of the Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

133 Consents not required under other Acts

The provisions of any enactment or agreement requiring any consent, licence, permission, clearance or other authority shall not have any application in respect of—

- (a) the sale or other disposition of the whole or any part of the business undertaking of a registered bank pursuant to section 132(1):
- (b) the sale or other disposition pursuant to section 132(2)(e) of any of the shares of any body corporate formed and registered pursuant to subsection (2)(a) of that section:
- (c) the sale or other disposition pursuant to section 132(2)(e) of the whole or any part of the business undertaking of that body corporate—

being a sale or disposition to which the Bank has, with the consent of the Minister, given its approval under section 132(3).

Compare: 1964 No 134 s 38AE(4); 1986 No 131 s 10; 1989 No 11 s 50(3)

134 Sale of property or assets subject to a security

- (1) A statutory manager may—
 - (a) sell or otherwise dispose of any property or assets of a registered bank pursuant to section 132(1); or
 - (b) sell or otherwise dispose of any property or assets of a registered bank to any body corporate formed and registered pursuant to section 132(2)(a); or
 - (c) sell or otherwise dispose of any shares, or property or assets, of a body corporate formed and registered pursuant to section 132(2)(a)—
notwithstanding the existence, or the terms and conditions, of any security over the property or those assets in favour of any other person.
- (2) If the statutory manager of a registered bank sells or otherwise disposes of any property or assets of that bank under section 132(1), being property or assets subject to a security interest, other than a security interest of the kind described in subsection (6), the person entitled to the security interest must be paid out of the proceeds of sale or other disposition in priority to all other claims other than the costs of the statutory manager in selling or disposing of the property or assets.
- (3) Where a statutory manager of a registered bank sells or otherwise disposes of any property or assets of that registered bank to any body corporate formed and registered pursuant to section 132(2)(a), being property or assets subject to a security in favour of any other person, the property or those assets shall continue to be subject to that security.
- (4) If a statutory manager of a registered bank sells or otherwise disposes of any shares in a body corporate formed and registered under section 132(2)(a), any property or assets of which are subject to a security interest, other than a security interest of the kind described in subsection (6), the person entitled to the security interest must be paid out of the proceeds of sale or other disposition in priority to all other claims other than the costs of the statutory manager in selling or disposing of the shares.
- (5) If a statutory manager of a registered bank sells or otherwise disposes of any property or assets of a body corporate formed and registered under section 132(2)(a), being property or assets subject to security interest, other than a security interest of the kind described in subsection (6), the person entitled to the security interest must be paid out of the proceeds of sale or other disposition in priority to all other claims other than the costs of the statutory manager in selling or disposing of the property or assets.
- (6) The kind of security interest referred to in this section is a security interest that—

- (a) is over all or any part of the bank's or body corporate's (as the case may be) accounts receivable and inventory or all or any part of either of them; and
 - (b) is not a purchase money security interest that has been perfected at the time specified in section 74 of the Personal Property Securities Act 1999; and
 - (c) is not a security interest that has been perfected under the Personal Property Securities Act 1999 at the time the registered bank was declared to be subject to statutory management and that arises from the transfer of an account receivable for which new value is provided by the transferee for the acquisition of that account receivable (whether or not the transfer of the account receivable secures payment or performance of an obligation); and
 - (d) is not a security interest referred to in subsection (8).
- (7) In this section, **account receivable**, **inventory**, **new value**, **purchase money security interest**, **proceeds**, and **security interest** have the same meanings as in the Personal Property Securities Act 1999.
- (8) For the purposes of subsection (6)(d), the security interest is a security interest over accounts receivable, inventory, or both to the extent that the security interest secures payment or performance of an obligation under or in relation to a qualifying derivative and—
- (a) the counterparties to the derivative are—
 - (i) 2 qualifying counterparties; or
 - (ii) a qualifying counterparty and an overseas person; and
 - (b) before the exercise of rights to enforce the security interest, the collateral is transferred or otherwise dealt with so as to be in the possession or under the control of—
 - (i) the enforcing counterparty; or
 - (ii) another person (who is not the grantor) on behalf of the enforcing counterparty, under the terms of an arrangement evidenced in writing.
- (9) Terms and expressions defined in section 122A and used in subsection (8) have in that subsection the same meanings as in that section.
- (10) Section 122B applies with all necessary modifications for the purposes of subsection (8)(b) (and those modifications include treating references to section 122(9A)(b) as references to subsection (8)(b) of this section).

Compare: 1964 No 134 s 38AE(5)–(9); 1986 No 131 s 10; 1989 No 11 s 51

Section 134(2): replaced, on 1 May 2002, by section 191(1) of the Personal Property Securities Act 1999 (1999 No 126).

Section 134(4): replaced, on 1 May 2002, by section 191(1) of the Personal Property Securities Act 1999 (1999 No 126).

Section 134(5): replaced, on 1 May 2002, by section 191(1) of the Personal Property Securities Act 1999 (1999 No 126).

Section 134(6): inserted, on 1 May 2002, by section 191(1) of the Personal Property Securities Act 1999 (1999 No 126).

Section 134(6)(b): amended, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

Section 134(6)(c): amended, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

Section 134(6)(d): inserted, on 31 August 2019, by section 6(1) of the Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019 (2019 No 46).

Section 134(7): inserted, on 1 May 2002, by section 191(1) of the Personal Property Securities Act 1999 (1999 No 126).

Section 134(8): inserted, on 31 August 2019, by section 6(2) of the Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019 (2019 No 46).

Section 134(9): inserted, on 31 August 2019, by section 6(2) of the Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019 (2019 No 46).

Section 134(10): inserted, on 31 August 2019, by section 6(2) of the Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019 (2019 No 46).

135 Proof of transactions

- (1) The presentation to any Registrar of Deeds, or the Registrar-General of Land, or any other person charged with the keeping of any books or registers, of any instrument transferring or otherwise disposing of any property or assets of a registered bank or any shares in, or property or assets of, any company incorporated pursuant to section 132(2)(a)—
 - (a) executed or purporting to be executed by or on behalf of the registered bank or company; and
 - (b) containing a recital that the transfer or other disposition of the property or assets of the registered bank, or the shares in, or property or assets of, the company, is made pursuant to section 132—

shall, in the absence of evidence to the contrary, be sufficient proof that the transfer or other disposition is made under the authority of that section.

- (2) The presentation to any Registrar of Deeds, or the Registrar-General of Land, or any other person charged with the keeping of any books or registers of a certificate signed by the statutory manager that the amount secured by a charge over any property or assets of a registered bank or any company formed and registered pursuant to section 132(2)(a) has been paid shall, in the absence of evidence to the contrary, be sufficient proof that the amount secured by the charge has been repaid.

Compare: 1964 No 134 s 38AE(10), (11); 1986 No 131 s 10; 1989 No 11 s 72

Section 135(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 135(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

136 Liquidation of registered banks

- (1) Subject to this Part, a statutory manager of a registered bank may, with the prior approval of the Bank,—
- (a) in the case of a registered bank which may be put into liquidation under the Companies Act 1993, apply under that Act to put the registered bank into liquidation:
 - (b) in the case of a registered bank which is an individual, petition under the Insolvency Act 2006 to have that registered bank declared bankrupt:
 - (c) in the case of a registered bank constituted under any other Act, take such steps as are provided for in that Act for the winding up, liquidation, or dissolution of that registered bank.
- (2) The Governor-General may, by Order in Council, on the advice of the Minister given in accordance with a recommendation of a statutory manager of a registered bank, not being a registered bank referred to in subsection (1), order that the registered bank to which the recommendation relates shall be wound up in such manner as may be specified in the order and, in any such case, the registered bank shall be wound up in the manner specified.
- (3) A statutory manager shall not make a recommendation under subsection (2) without the prior approval of the Bank.
- (4) Nothing in this section limits or affects any other enactment which provides for the winding up, liquidation, or dissolution of any body corporate or any class of body corporate.
- (5) An Order in Council under subsection (2) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 136: replaced, on 1 July 1994, by section 2 of the Reserve Bank of New Zealand Amendment Act 1993 (1993 No 118).

Section 136(1)(a): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 136(1)(b): amended, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

Section 136(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

137 Provisions applying where liabilities included in sale

- (1) Where all or any part of any liability of a registered bank is included in the sale or other disposition of the business undertaking of that registered bank, or any part of it, pursuant to section 132—
 - (a) the registered bank shall, as from the date of such sale or other disposition, be relieved from all its obligations in respect of that liability, or part of it; and
 - (b) the person entitled to performance in respect of that liability shall be entitled to enforce performance of that liability or part of it against the person to whom the business undertaking is sold or otherwise disposed of in the same manner and to the same extent as that person was entitled to enforce performance against the registered bank; and
 - (c) the inclusion of part of a liability shall not relieve the registered bank from any obligation in respect of any part of the liability not included in the sale or other disposition.
- (2) Where all or any part of any liability of a body corporate formed and registered under section 123(1), or all or any part of any liability relating to the business carried on by a branch of any body corporate incorporated outside New Zealand or, as the case may be, any unincorporated body having its head office or principal place of business outside New Zealand, is included in such a sale or other disposition, nothing in subsection (1)(a) shall relieve any body corporate incorporated outside New Zealand or, as the case may be, any unincorporated body having its head office or principal place of business outside New Zealand from any obligation in respect of that liability.

Compare: 1964 No 134 s 38AG; 1986 No 131 s 10; 1989 No 11 s 53

138 Power to trace property improperly disposed of

- (1) In any case where, whether before or after the passing of this Act,—
 - (a) any property has been acquired by a person in circumstances which cause it to be just and equitable that that person should hold it upon trust for any registered bank that has been declared to be subject to statutory management; or
 - (b) any property has been improperly disposed of, whether or not the property has become subject to a trust,—

the court may, if it thinks fit, make an order—

 - (c) that the property be transferred or delivered to the statutory manager:
 - (d) that any person who acquired or received the property, or his or her administrator, shall pay to the statutory manager a sum not exceeding the value of that property.
- (2) For the purpose of giving effect to any such order, the court may make such further order as it thinks fit.

- (3) No order made pursuant to this section shall deprive any other person of any estate or interest in the property if the estate or interest was acquired in good faith and for valuable consideration.
- (4) Nothing in this section restricts the operation of the Companies Act 1993.

Compare: 1989 No 11 s 54

Section 138(4): replaced, on 1 July 1994, by section 3 of the Reserve Bank of New Zealand Amendment Act 1993 (1993 No 118).

Section 138(4): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

139 Application of certain provisions of Companies Act 1993

- (1) Sections 275, 292 to 301, 310G, 310I, and 312 of the Companies Act 1993 shall apply to a registered bank that is subject to statutory management under this Act in all respects, and with such modifications as may be necessary, as if—
- the registered bank was a company in liquidation under that Act; and
 - the statutory manager of the registered bank was the liquidator of the company; and
 - the date on which, and the time at which, the registered bank became subject to statutory management was the date on which, and the time at which, the liquidation commenced.
- (2) Nothing in section 263 of the Companies Act 1993 shall apply to a registered bank by virtue of the application of section 312 of that Act.
- (3) To avoid doubt, the reference in section 275(4) of the Companies Act 1993 to clause 1(a) of Schedule 7 of the Companies Act 1993 must be read as a reference to section 148(1) of this Act.

Section 139: replaced, on 1 July 1994, by section 4 of the Reserve Bank of New Zealand Amendment Act 1993 (1993 No 118).

Section 139(1): amended, on 20 September 2007, by section 4(1) of the Reserve Bank of New Zealand Amendment Act 2007 (2007 No 76).

Section 139(1): amended, on 26 April 1999, by section 6(1) of the Reserve Bank of New Zealand Amendment Act 1999 (1999 No 22).

Section 139(1)(c): replaced, on 26 April 1999, by section 6(2) of the Reserve Bank of New Zealand Amendment Act 1999 (1999 No 22).

Section 139(3): inserted, on 20 September 2007, by section 4(2) of the Reserve Bank of New Zealand Amendment Act 2007 (2007 No 76).

Interpretation relating to covered bonds

Heading: inserted, on 10 December 2013, by section 9 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

139A Interpretation

In this section and in sections 139B to 139J, unless the context otherwise requires,—

cover pool, in relation to a covered bond programme, means assets that—

- (a) are owned by the relevant covered bond SPV; and
- (b) secure the obligations of that SPV under the covered bond programme

cover pool monitor means a person that meets the requirements of section 139I(1)

covered bond means a bond, note, or other debt security that has the following features:

- (a) it represents an unsecured obligation of the issuer; and
- (b) the principal and interest owing under the bond, note, or other debt security are guaranteed by a covered bond SPV; and
- (c) the obligations under that guarantee are secured by assets that are owned by that SPV

covered bond programme means any programme of covered bonds under which, on the security of a single cover pool, covered bonds may be issued

covered bond SPV has the meaning given to it by section 139B

issuer has the meaning given to it by section 139C

own includes holding a beneficial, or legal, interest or entitlement, and **owned** and **owner** have corresponding meanings

registered covered bond programme means a covered bond programme that has been registered under section 139G

SPV means a special purpose vehicle.

Section 139A: inserted, on 10 December 2013, by section 9 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

139B Meaning of covered bond SPV

In sections 139A to 139J, **covered bond SPV** means, in relation to a covered bond programme, a person that—

- (a) is, or will be, the owner of an asset that has been, or will be, sold, assigned, or otherwise transferred to it by, or on behalf of, an issuer or an associated person of an issuer; and
- (b) has granted, or may grant, a security interest in that asset for the benefit of the secured creditors under the covered bond programme; and
- (c) carries on a business of acting as covered bond guarantor under the covered bond programme (including any business incidental to that purpose); and
- (d) (other than as described in paragraph (c)) does not carry on any other kind of business.

Section 139B: inserted, on 10 December 2013, by section 9 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

139C Meaning of issuer

- (1) For the purposes of sections 139A to 139J, **issuer**—
 - (a) means—
 - (i) a registered bank that issues or intends to issue covered bonds, or guarantees such covered bonds:
 - (ii) an entity, or a member of a class of entities, specified in regulations made under section 139F(3)(a) that issues or intends to issue covered bonds, or guarantees such covered bonds; and
 - (b) includes a bank referred to in paragraph (a)(i) that—
 - (i) has had its registration cancelled under section 77; and
 - (ii) has a registered covered bond programme.
- (2) However, if an issuer (**issuer A**) transfers all of the rights and obligations relating to a covered bond programme to another issuer (**issuer B**), issuer B is, from the time of the transfer, the issuer for the purposes of sections 139A to 139J.
- (3) To avoid doubt, subsection (2) does not affect the rights or obligations of issuer A before the transfer.

Section 139C: inserted, on 10 December 2013, by section 9 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

Registration of covered bond programmes

Heading: inserted, on 10 December 2013, by section 9 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

139D Register of registered covered bond programmes

- (1) The Bank must keep a public register of registered covered bond programmes.
- (2) The Bank—
 - (a) must determine the form and content of the register and may amend that form and content as it considers necessary; and
 - (b) may, based on the assets in, or that may be included in, the relevant cover pool, designate registered covered bond programmes to particular classes of registered covered bond programmes, as specified by the Bank.
- (3) The Bank must take all reasonable steps to ensure that the information contained in the public register is available to members of the public at all reasonable times.
- (4) A registered covered bond programme must remain on the register despite—
 - (a) any defects in the registration process; or
 - (b) any failure by an issuer to comply with any of the requirements of section 139H.

- (5) However, despite subsection (4), the Bank may remove a registered covered bond programme from the register—
- (a) if—
 - (i) all obligations under that programme have been fulfilled; or
 - (ii) the security interest over the cover pool has been enforced; or
 - (iii) the issuer has requested the removal; and
 - (b) if, in all cases, the Bank has received evidence, acceptable to the Bank, that both the relevant bond trustee and security trustee consent to the removal.
- (6) To avoid doubt,—
- (a) registration occurs at the time and date that the Bank enters the details relating to the covered bond programme on the register:
 - (b) a defect in the registration process of a covered bond programme does not affect a person's ability to enforce his, her, or its rights in relation to that covered bond programme or any covered bond issued under that covered bond programme:
 - (c) the failure of an issuer to register a covered bond programme or to comply with any requirement under section 139H does not affect any other person's ability to enforce his, her, or its rights in relation to that covered bond programme or any covered bond issued under that covered bond programme.

Section 139D: inserted, on 10 December 2013, by section 9 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

139E Requirement, and application, for registration of covered bond programme

- (1) Only an issuer may apply to the Bank to register a covered bond programme.
- (2) An application must be—
 - (a) made in the manner specified by the Bank; and
 - (b) accompanied by a fee (if any), as determined by the Bank with the approval of the Minister.
- (3) The issuer must provide the Bank with any information that the Bank requires to enable it to determine the application.
- (4) An issuer must not issue, or permit the issue of, a covered bond other than under a registered covered bond programme.
- (5) An issuer commits an offence if, without lawful justification or excuse, the issuer—
 - (a) issues a covered bond other than under a registered covered bond programme; or

- (b) permits the issue of a covered bond other than under a registered covered bond programme; or
 - (c) provides information for the purposes of an application that is false or misleading in any material particular.
- (6) The penalty for an offence against this section is set out in section 156AB.
- (7) A determination under subsection (2)(b) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must publish it in the <i>Gazette</i>	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 139E: inserted, on 10 December 2013, by section 9 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

Section 139E(2)(b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 139E(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

139F Determination of application for registration of covered bond programme

- (1) The Bank must not register a covered bond programme unless it is satisfied that the requirements set out in subsection (2) are met.
- (2) The requirements are as follows:
 - (a) that the cover pool assets are, or will be, owned by an identified covered bond SPV that—
 - (i) is a company (within the meaning given in section 2(1) of the Companies Act 1993); or
 - (ii) is a person or partnership specified in regulations made under subsection (3); and
 - (b) that a cover pool monitor has been appointed; and
 - (c) that a register of cover pool assets will be maintained; and
 - (d) that the covered bond programme specifies, or refers to documents that specify, procedures and internal controls that ensure—
 - (i) the up-to-date and accurate keeping of that register; and
 - (ii) that the assets in the cover pool remain consistent with any asset class designation under section 139D(2)(b); and
 - (e) that the covered bond programme specifies a test, or tests, to determine, in accordance with any procedures specified in that programme, whether

- the value of the cover pool assets is at least equal to the principal amount outstanding on the covered bonds; and
- (f) that the covered bond programme provides for the covered bond SPV to perform, or arrange to have performed on its behalf, the requirements of section 139H(1)(a) and (b)(i)—
- (i) in the event that any amounts become due and payable by the covered bond SPV under the covered bond programme; and
- (ii) until the security interest over the cover pool assets has been enforced; and
- (g) that the issuer is in compliance with all other requirements imposed in relation to covered bonds by, or under,—
- (i) section 74; or
- (ii) regulations made under subsection (3).
- (3) The Governor-General may, by Order in Council, on the advice of the Minister given in accordance with a recommendation of the Bank, make regulations—
- (a) specifying entities, or classes of entities, for the purposes of section 139C(1)(a)(ii):
- (b) specifying persons or partnerships, or classes of persons or partnerships, for the purposes of subsection (2)(a)(ii):
- (c) prescribing additional requirements for the purposes of subsection (2)(g)(ii):
- (d) prescribing conditions in relation to the entities, persons, or partnerships referred to in paragraphs (a) and (b).
- (4) Regulations under subsection (3) are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 139F: inserted, on 10 December 2013, by section 9 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

Section 139F(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

139G Bank must approve or decline application

- (1) Having considered an application made under section 139E(2), the Bank must either approve or decline the application.

- (2) If the Bank is satisfied that an issuer meets the requirements of section 139F(2), the Bank must approve the application and register the covered bond programme.
- (3) The Bank must otherwise decline the application.
- (4) If the Bank approves the application, it must give its decision to the issuer—
 - (a) in writing; and
 - (b) within 60 working days after receiving all of the information required by the Bank to determine the application.
- (5) If the Bank proposes to decline the application, the Bank must, within 60 working days after receiving all of the information required to determine the application,—
 - (a) give the issuer notice, in writing, of that proposed decision and the reasons for it; and
 - (b) invite the issuer to provide, within 10 working days after the date of the notice, submissions or further information in response to that proposed decision; and
 - (c) take account of any submissions and further information it receives from the issuer; and
 - (d) give its final decision to the issuer—
 - (i) in writing; and
 - (ii) within 5 working days after the expiry of the time specified in paragraph (b) (whether or not the Bank receives any submissions or further information).
- (6) Nothing in this section prevents the Bank and the issuer from agreeing to modify the time limits specified in subsections (4) and (5).

Section 139G: inserted, on 10 December 2013, by section 9 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

139H Requirements relating to registered covered bond programmes

- (1) Every issuer must, in relation to a registered covered bond programme,—
 - (a) ensure that the test or tests specified in section 139F(2)(e) are carried out at intervals of not more than 12 months and notify the Bank if the result of such test or tests is that the value of the cover pool assets is less than the principal amount outstanding on the covered bonds; and
 - (b) ensure that—
 - (i) a register of cover pool assets is maintained; and
 - (ii) it complies with the procedures and internal controls referred to in section 139F(2)(d); and
 - (c) notify the Bank—

- (i) of every covered bond issued; and
 - (ii) of any material changes to the registered covered bond programme that would be likely to result in the registered covered bond programme failing to comply with the requirements of section 139F(2); and
 - (iii) if the covered bond programme or the cover pool no longer complies with any asset class designation under section 139D(2)(b); and
- (d) provide the Bank with any further information it requests in relation to the covered bond programme; and
- (e) ensure that—
- (i) the registered covered bond programme complies with the requirements of section 139F(2); and
 - (ii) the reports referred to in section 139I(1)(c)(ii) are provided to any bond trustee and security trustee appointed under the covered bond programme; and
 - (iii) the Bank is provided with a copy of—
 - (A) every report prepared by the cover pool monitor in accordance with section 139I(1)(c)(iii) and (iv); and
 - (B) if requested by the Bank, any other report prepared by the cover pool monitor in accordance with section 139I(1)(c)(ii).
- (2) However, if any amounts become due and payable by the covered bond SPV under the covered bond programme,—
- (a) the issuer is not required to comply with subsection (1); and
 - (b) the covered bond SPV must provide the Bank with any information it requests in relation to that covered bond programme.
- (3) If an issuer fails to comply with any of the requirements of subsection (1), the Bank may, by notice in writing to the issuer, require the issuer to take such corrective action as the Bank may specify in the notice.
- (4) An issuer commits an offence if the issuer, without lawful justification or excuse, fails to comply with a notice issued under subsection (3).
- (5) The penalty for an offence against this section is set out in section 156AB.

Section 139H: inserted, on 10 December 2013, by section 9 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

Cover pool monitor

Heading: inserted, on 10 December 2013, by section 9 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

139I Cover pool monitor

- (1) A **cover pool monitor** must be—
- (a) independent of the issuer; and
 - (b) 1 or more of the following:
 - (i) a licensed auditor under the Auditor Regulation Act 2011;
 - (ii) (if the issuer ensures that appropriate arrangements are in place to ensure that the functions of the cover pool monitor are performed by, or under the supervision of, a licensed auditor) a registered audit firm under the Auditor Regulation Act 2011;
 - (iii) a member of any other class of persons or firms that has been approved by the Bank; and
 - (c) required, under its contract of appointment, to—
 - (i) assess, at a given point in time, and in accordance with any agreed procedures specified in the covered bond programme,—
 - (A) the arithmetical accuracy of the tests carried out in accordance with section 139H(1)(a); and
 - (B) the issuer's compliance with the requirements of section 139H(1)(b); and
 - (ii) provide the issuer with reports on the matters required under paragraph (c)(i) at intervals of not more than 12 months; and
 - (iii) provide reports at intervals of not more than 3 months if the cover pool monitor is not satisfied—
 - (A) as to the arithmetical accuracy of the tests carried out in accordance with section 139H(1)(a); or
 - (B) that the issuer has complied with the requirements of section 139H(1)(b); and
 - (iv) if subparagraph (iii) applies, continue to provide 3-monthly reports until the cover pool monitor is satisfied that the issuer has remedied those matters; and
 - (v) report on any other matters required by regulations made under subsection (2).
- (2) The Governor-General may, by Order in Council, on the advice of the Minister given in accordance with a recommendation of the Bank, make regulations specifying additional matters that the cover pool monitor must be required to report on, and the information to be provided with such a report, for the purposes of subsection (1)(c)(v).

- (3) For the purposes of this section, **independent** means independent of both the issuer and any associated person of the issuer.
- (4) However, to avoid doubt, a person's appointment as auditor does not affect his, her, or its independence.
- (5) Regulations under subsection (2) are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 139I: inserted, on 10 December 2013, by section 9 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

Section 139I(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Statutory management, etc, of issuer

Heading: inserted, on 10 December 2013, by section 9 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

139J Limitation on application of statutory management, etc, provisions to covered bond SPV

- (1) Subsections (2) and (3) apply in relation to the following provisions:
 - (a) sections 122(1), 126(1), 127(1), and 128(2) of this Act;
 - (b) section 248 of the Companies Act 1993;
 - (c) sections 42(1), 43(1), 44(1), and 45(2) of the Corporations (Investigation and Management) Act 1989.
- (2) Nothing in a provision referred to in subsection (1)—
 - (a) prevents the transfer of the legal title to assets in a cover pool from an issuer to a covered bond SPV;
 - (b) prevents the transfer, under a contract, of any documentation or data relating to assets in a cover pool from the issuer to a covered bond SPV or a person acting on behalf of that SPV;
 - (c) prevents a covered bond SPV, or a person acting on behalf of that SPV, from exercising a power of attorney granted by the issuer in relation to assets in a cover pool;
 - (d) affects the issuer's obligation to pay moneys collected on behalf of, and held on trust for, a covered bond SPV, to that SPV;
 - (e) prevents the enforcement of any of the above rights by, or on behalf of, a covered bond SPV.

- (3) However, subsection (2) applies only if—
- (a) the covered bond SPV is the owner of the assets in the cover pool; and
 - (b) the covered bond programme is registered under section 139G.
- (4) A covered bond SPV is not—
- (a) an associated person for the purposes of section 117(1)(a) of this Act, section 38(1)(a) of the Corporations (Investigation and Management) Act 1989, or section 170(1)(b) of the Insurance (Prudential Supervision) Act 2010; or
 - (b) a subsidiary for the purposes of section 117(2) of this Act, section 38(2) of the Corporations (Investigation and Management) Act 1989, or section 170(2) of the Insurance (Prudential Supervision) Act 2010; or
 - (c) a related company for the purposes of section 271 of the Companies Act 1993.

Section 139J: inserted, on 10 December 2013, by section 9 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

Miscellaneous provisions

140 Application of this Part to joint statutory managers, associated persons, and subsidiaries

- (1) Where an Order in Council is made under section 117 appointing 2 or more persons as statutory managers of a registered bank, the order shall state whether the powers conferred by this Part shall be exercised by those persons acting together or may be exercised individually.
- (2) For the purposes of this Part, unless the context otherwise requires,—
- (a) references to a statutory manager shall, where 2 or more persons are appointed as statutory managers include references to those statutory managers:
 - (b) where an associated person of a registered bank is declared to be subject to statutory management, or a subsidiary of a registered bank becomes subject to statutory management under section 117(2), references in sections 119 to 139 and in sections 141 to 156 to a registered bank shall be read as references to that associated person or subsidiary, as the case may be.

Compare: 1964 No 134 s 38R(11), (12); 1986 No 131 s 10; 1989 No 11 s 56

141 Termination of appointment of statutory manager

- (1) The Minister may, by notice in writing to the statutory manager of a registered bank that is given in accordance with the recommendation of the Bank, terminate the appointment of that statutory manager for inability to perform the functions of the office or for bankruptcy or if the Minister is of the opinion that the

statutory manager has failed to perform the statutory manager's duties satisfactorily.

- (2) A statutory manager of a registered bank may resign office by notice in writing to the Minister.
- (3) Where the appointment of a statutory manager is terminated under subsection (1) or a statutory manager resigns office, or dies, the Minister may, by notice published in the *Gazette*, appoint a person to replace that statutory manager for a specified period.
- (3A) Where a notice is published in the *Gazette* under subsection (3) appointing 2 or more persons as statutory managers, the notice shall state whether the powers conferred by this Part shall be exercised by those persons acting together or may be exercised individually.
- (4) A statutory manager continues in office until his or her successor is appointed despite—
 - (a) his or her resignation; or
 - (b) his or her period of appointment having expired.
- (5) A registered bank continues to be subject to statutory management under section 117 even though its statutory manager—
 - (a) has had his or her appointment terminated, or
 - (b) has resigned from office; or
 - (c) has died, or
 - (d) has ceased to hold office because of the expiry of his or her period of appointment.
- (6) The Bank must publish a notice given by the Minister under this section in the *Gazette* as soon as practicable.

Compare: 1964 No 134 s 38AH; 1986 No 131 s 10; 1989 No 11 s 57

Section 141(1): replaced, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 141(3): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 141(3A): inserted, on 8 April 1992, by section 2 of the Reserve Bank of New Zealand Amendment Act 1992 (1992 No 32).

Section 141(3A): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 141(4): replaced, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 141(5): inserted, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 141(6): inserted, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

142 Statutory manager may apply to High Court for directions

- (1) A statutory manager of a registered bank may apply to the High Court for directions concerning the business or property of the registered bank or the management or administration of that business or property, or the exercise of any powers under this Part.
- (2) On any application under subsection (1) the High Court may give directions concerning the business or property of the registered bank, or the management or administration of that business or property, or the exercise of any powers under this Part and every person shall be bound by any such directions.

Compare: 1964 No 134 s 38AI; 1986 No 131 s 10; 1989 No 11 s 58

143 Prior winding up, liquidation, or receivership to cease

- (1) Where a registered bank, or any subsidiary or associated person of a registered bank, becomes subject to statutory management, and that registered bank, subsidiary, or associated person is already being wound up or is already in liquidation, receivership, or voluntary administration,—
 - (a) the winding up, liquidation, receivership, or voluntary administration of that registered bank, subsidiary, or associated person must, for so long as it continues to be subject to statutory management, cease; and
 - (b) the person appointed as liquidator, receiver, or administrator must be discharged.
- (2) Where the statutory management of any registered bank, subsidiary, or associated person referred to in subsection (1) is terminated by, or as the result of the making of, an Order in Council under section 144(1), the liquidation or receivership or voluntary administration of that registered bank, subsidiary, or associated person shall, unless the Order in Council terminating the statutory management otherwise provides, and subject to such terms and conditions as the order may specify, revive as if it had not ceased by reason of this section.
- (3) Where any liquidation, receivership, or voluntary administration revives under subsection (2), the person specified in the order as such must be the liquidator, receiver, or administrator of that registered bank, subsidiary, or associated person for the time being.

Compare: 1989 No 11 s 61

Section 143 heading: amended, on 1 July 1994, pursuant to section 6 of the Reserve Bank of New Zealand Amendment Act 1993 (1993 No 118).

Section 143(1): replaced, on 1 November 2007, by section 41 of the Companies Amendment Act 2006 (2006 No 56).

Section 143(2): amended, on 1 November 2007, by section 41 of the Companies Amendment Act 2006 (2006 No 56).

Section 143(3): replaced, on 1 November 2007, by section 41 of the Companies Amendment Act 2006 (2006 No 56).

143A Continuation of statutory management

- (1) This section applies to a registered bank, an associated person of a registered bank, or a subsidiary of a registered bank, that has been removed from the New Zealand register under section 317 of the Companies Act 1993 while subject to statutory management under this Act.
- (2) If a person to whom this section applies is restored to the New Zealand register under section 328 of the Companies Act 1993, the person continues to be subject to statutory management from the date that person is so restored.

Section 143A: inserted, on 21 August 2003, by section 37 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

144 Termination of statutory management

- (1) The Governor-General may, by Order in Council, on the advice of the Minister given in accordance with a recommendation of the Bank, declare that—
 - (a) any registered bank:
 - (b) any associated person of a registered bank:
 - (c) any subsidiary of a registered bank,—subject to statutory management, shall cease to be subject to statutory management.
- (2) Any registered bank, or associated person of a registered bank, or subsidiary of a registered bank shall cease to be subject to statutory management if that registered bank, or associated person, or subsidiary, as the case may be, is put into liquidation on the application of the statutory manager.
- (3) Any person who is affected by the making of an Order in Council under section 117 may, at any time, request the Bank to make a recommendation under subsection (1).
- (4) Where an Order in Council is made under subsection (1) or, a registered bank, associated person, or subsidiary is put into liquidation—
 - (a) that person shall cease to be subject to statutory management at the specified time; and
 - (b) the appointment of any statutory manager appointed in respect of that person shall terminate at the specified time; and
 - (c) the appointment of any person as a member of an advisory committee under section 119 in relation to the statutory management of that person shall terminate at the specified time.
- (5) For the purposes of subsection (4) **specified time** means,—
 - (a) in any case where an Order in Council is made pursuant to subsection (1), the date and time specified in the order:
 - (b) in any case where a liquidator is appointed, the date and time of the liquidator's appointment.

- (6) Where an Order in Council is made under subsection (1) declaring that a registered bank shall cease to be subject to statutory management,—
- (a) every subsidiary of that registered bank, except any subsidiary specified in the order, shall cease to be subject to statutory management on the same date as that specified as the date upon which, and at the same time as that specified as the time at which, the registered bank ceases to be subject to statutory management;
 - (b) the appointment of any person appointed as a statutory manager of every such subsidiary shall terminate on the date and at the time referred to in paragraph (a);
 - (c) the appointment of any person appointed as a member of an advisory committee under section 119 in relation to the statutory management of that subsidiary shall terminate on the date and at the time referred to in paragraph (a).
- (7) An Order in Council under subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1964 No 134 s 38AJ; 1986 No 131 s 10; 1989 No 11 s 62

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives, unless it relates exclusively to an individual (in which case a transitional exemption applies under Schedule 1 of the Legislation Act 2019)	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 144(2): replaced, on 1 July 1994, by section 7(1) of the Reserve Bank of New Zealand Amendment Act 1993 (1993 No 118).

Section 144(4): amended, on 1 July 1994, by section 7(2) of the Reserve Bank of New Zealand Amendment Act 1993 (1993 No 118).

Section 144(4)(a): amended, on 26 April 1999, by section 7(a) of the Reserve Bank of New Zealand Amendment Act 1999 (1999 No 22).

Section 144(4)(b): amended, on 26 April 1999, by section 7(a) of the Reserve Bank of New Zealand Amendment Act 1999 (1999 No 22).

Section 144(4)(c): amended, on 26 April 1999, by section 7(a) of the Reserve Bank of New Zealand Amendment Act 1999 (1999 No 22).

Section 144(5): amended, on 26 April 1999, by section 7(b) of the Reserve Bank of New Zealand Amendment Act 1999 (1999 No 22).

Section 144(5)(a): amended, on 26 April 1999, by section 7(c) of the Reserve Bank of New Zealand Amendment Act 1999 (1999 No 22).

Section 144(5)(b): replaced, on 1 July 1994, by section 7(3) of the Reserve Bank of New Zealand Amendment Act 1993 (1993 No 118).

Section 144(5)(b): amended, on 26 April 1999, by section 7(c) of the Reserve Bank of New Zealand Amendment Act 1999 (1999 No 22).

Section 144(6)(a): amended, on 26 April 1999, by section 7(d) of the Reserve Bank of New Zealand Amendment Act 1999 (1999 No 22).

Section 144(6)(b): amended, on 26 April 1999, by section 7(e) of the Reserve Bank of New Zealand Amendment Act 1999 (1999 No 22).

Section 144(6)(c): amended, on 26 April 1999, by section 7(e) of the Reserve Bank of New Zealand Amendment Act 1999 (1999 No 22).

Section 144(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

145 Obligations incurred by statutory manager

- (1) Any obligations incurred by a statutory manager of a registered bank in the course of his or her duties as statutory manager are incurred by that statutory manager on behalf of the registered bank, and the statutory manager does not incur personal liability for those obligations.
- (2) In the winding up or liquidation of a registered bank or an associated person of a registered bank or a subsidiary of a registered bank, all amounts required to satisfy obligations incurred by the statutory manager on behalf of the registered bank, associated person, or subsidiary must be paid in priority to all other debts.

Section 145: replaced, on 21 August 2003, by section 38 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

146 Indemnity

[Repealed]

Section 146: repealed, on 21 August 2003, by section 39 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

147 Registered bank not entitled to be informed about exercise of powers

Except as otherwise provided in this Part, no registered bank, associated person, or subsidiary, and no director, officer, or employee of a registered bank, associated person, or subsidiary, has a right to be consulted or informed as to the exercise, or possible exercise, of any powers conferred by this Part or to make representations to any person as to the exercise, or possible exercise, of those powers.

Compare: 1989 No 11 s 64

148 Expenses of statutory management

- (1) All costs, charges, and expenses properly incurred by a statutory manager or a member of an advisory committee in the exercise of the manager's or the member's functions and powers under this Part (including such remuneration as may be approved by the Bank) shall be payable out of the property of the registered bank or associated person of the registered bank or a subsidiary of the registered bank in respect of which the statutory manager or member is appointed in priority to all other claims.

- (2) The statutory manager may, with the approval of the Bank, apportion the costs, charges, and expenses referred to in subsection (1) between the registered bank and any associated person or subsidiary of the registered bank that is also subject to statutory management in the amounts that the statutory manager considers just and equitable.

- (3) This section prevails over section 145.

Compare: 1964 No 134 s 38AL; 1986 No 131 s 10; 1989 No 11 s 65

Section 148(1): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 148(2): inserted, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 148(3): inserted, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

149 Advances to statutory manager and members of advisory committee

- (1) With the consent of the Minister, there may be advanced out of a Crown Bank Account, without further appropriation than this section, to a statutory manager of a registered bank or a member of an advisory committee, such amounts as the Minister may approve in respect of costs, charges, and expenses (including remuneration) due to, or incurred by, that person.
- (2) All money so advanced to that person shall be refunded to the Crown out of money payable to that person, and the Crown shall have all the rights of the person to whom the advance was made to receive and recover that money. Money refunded to the Crown shall be credited upon receipt to a Crown Bank Account.

Compare: 1989 No 11 s 66

Section 149(1): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

Section 149(2): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

150 Duty to deliver books and property to statutory manager

- (1) Every person having possession, custody, or control of any books, or records, or documents, or other property belonging to any registered bank subject to statutory management, shall forthwith after it becomes subject to statutory management, deliver or give possession of those books, records, documents, or other property to the statutory manager.
- (2) If any person fails for 7 days to comply with the requirements of subsection (1), that person commits an offence against this Act.
- (3) If any person fails to comply with subsection (1), the statutory manager may, at any time, certify the failure to the court (whether or not an offence has been committed under subsection (2)), and the court may inquire into the matter and, after hearing any witnesses who may be produced against, or by, or on behalf of the alleged offender, and after hearing any statement which may be offered

in defence, may punish the offender as if the offender were liable under subpart 4 of Part 2 of the Contempt of Court Act 2019 for breach of a court order.

- (4) It shall not be a defence to any proceedings under this section that the person in possession or control of any property is, or was, a trustee of the property for the registered bank, or entitled to a lien or other charge over the property, or was a receiver or manager of the property.
- (5) The penalty for an offence against this section is set out in section 156AC.

Compare: 1989 No 11 s 67

Section 150(1): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 150(2): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 150(3): amended, on 26 August 2020, by section 29 of the Contempt of Court Act 2019 (2019 No 44).

Section 150(5): inserted, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

151 Offence to destroy, alter, or conceal records

- (1) Every person commits an offence against this Act who—
- (a) with intent to defeat the purposes of this Part, destroys, alters, or conceals any book, document, or record of, or relating to, a registered bank that is subject to statutory management or sends or attempts to send out of New Zealand any such book, document, or record; or
- (b) fails or refuses to answer, to the best of that person's knowledge and ability, any question which that person may be asked by the statutory manager in relation to any such book, or document, or record, or any property, or wilfully gives a false or misleading answer to that question.
- (1A) The penalty for an offence against this section is set out in section 156AC.
- (2) If, in any prosecution for an offence alleged to have been committed against this section, it is proved that the person charged with the offence has destroyed, altered, or concealed any book, document, or record, or has sent, or attempted to send, out of New Zealand, any such book, document, or record, the onus of proving that in so doing that person had not acted in contravention of this section shall lie on that person.

Compare: 1989 No 11 s 68

Section 151(1): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 151(1)(b): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 151(1A): inserted, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

152 Regulations relating to powers of Bank and statutory manager

- (1) The Governor-General may, from time to time, by Order in Council, make regulations under section 173 conferring on the Bank, or a statutory manager of a registered bank, ancillary or additional powers necessary or desirable for the purposes of this Part.
- (2) The regulations shall be laid before the House of Representatives within 12 sitting days after the date on which they are made if the House of Representatives is then in session, and, if not, shall be laid before the House of Representatives within 12 days after the commencement of the next ensuing session.
- (3) *[Repealed]*
- (4) *[Repealed]*

Compare: 1964 No 134 s 38AM; 1986 No 131 s 10

Section 152(3): repealed, on 1 January 2016, by section 14 of the Legislation (Confirmable Instruments) Amendment Act 2015 (2015 No 120).

Section 152(4): repealed, on 1 January 2016, by section 14 of the Legislation (Confirmable Instruments) Amendment Act 2015 (2015 No 120).

152A Regulations are confirmable instruments

[Repealed]

Section 152A: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

153 Application of other Acts

- (1) Subject to subsection (2), all the provisions of the Companies Act 1993 and all rules and regulations under that Act shall, so far as they are applicable, and with the necessary modifications, apply to a registered bank that is a company within the meaning of section 2 of that Act and that is subject to statutory management.
- (2) *[Repealed]*
- (3) *[Repealed]*
- (4) Nothing in sections 120, 207P to 209B, and 214 of the Companies Act 1993 shall apply to a registered bank that is subject to statutory management.
- (5) Nothing in the Receiverships Act 1993 shall apply to a company that is subject to statutory management.
- (6) Subject to subsection (7), all the provisions of the Building Societies Act 1965 and all rules and regulations under that Act shall, so far as they are applicable, and with the necessary modifications, apply to a registered bank that is a building society within the meaning of section 2 of that Act and that is subject to statutory management.
- (7) Nothing in sections 76 and 91 to 106 of the Building Societies Act 1965 shall apply to a building society that is subject to statutory management.

- (8) The Governor-General may, from time to time, by Order in Council, on the advice of the Minister given in accordance with the recommendation of the Bank, declare that the provisions of any Act under which any other registered bank that is subject to statutory management is incorporated, constituted, or registered corresponding with the provisions referred to in subsections (4), (7), and (9) shall not apply to that registered bank.
- (9) To avoid doubt, the Bank or any other person is not a director (within the meaning of section 126 of the Companies Act 1993) of any registered bank or an associated person of the registered bank by reason only of the Bank or that other person exercising the powers conferred by this Part.
- (10) An Order in Council under subsection (8) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives, unless it relates exclusively to an individual (in which case a transitional exemption applies under Schedule 1 of the Legislation Act 2019)	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 153: replaced, on 1 July 1994, by section 9 of the Reserve Bank of New Zealand Amendment Act 1993 (1993 No 118).

Section 153(1): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 153(2): repealed, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 153(3): repealed, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 153(4): amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 153(4): amended, on 18 June 2007, by section 17 of the Companies Amendment Act (No 2) 2006 (2006 No 62).

Section 153(8): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 153(9): inserted, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 153(10): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

154 Appointment of auditors

- (1) The statutory manager of a registered bank must appoint 1 or more persons (whether as individuals or as the members from time to time of any firm or firms) to be the auditor of that registered bank.
- (1A) The person or persons appointed to be the auditor under subsection (1) must be—

- (a) licensed auditors (within the meaning of section 6(1) of the Auditor Regulation Act 2011); and
 - (b) approved by the Bank.
- (2) Every such appointment shall be for a term not exceeding 2 years, but any person appointed as auditor shall continue in office until a successor comes into office.
 - (3) Any person appointed as auditor shall be eligible for reappointment.
 - (4) Any auditor may be removed from office at any time by the Minister, by notice in writing to the auditor, for inability to perform the functions of the office, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister.
 - (5) The auditor shall be paid such fees as are fixed by the statutory manager with the approval of the Bank.
 - (6) Every auditor shall have a right of access at all times to the books and papers of the registered bank, and shall be entitled to require from its officers and employees such information and explanations as the auditor thinks necessary for the performance of the auditor's duties.
 - (7) Any person holding office as auditor of a registered bank at the time that it is declared to be subject to statutory management shall cease to hold that office but may be appointed under this section as auditor of the registered bank.
 - (8) A notice given under subsection (4) must be published in the *Gazette* as soon as practicable.

Section 154(1): replaced, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 154(1): amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 154(1A): inserted, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 154(4): amended, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 154(4): amended, on 1 January 2002, by section 70(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 154(8): inserted, on 21 August 2003, by section 41 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

155 Annual accounts

- (1) Within 3 months after the end of each financial year or such later date as may be approved by the Bank, the statutory manager of a registered bank shall prepare the following statements showing the financial position of the registered bank and its subsidiaries at the end of that year and the results of their trading for that year:
 - (a) a statement of financial position and statement of financial performance of the registered bank; and

- (b) a consolidated statement of assets and liabilities and consolidated statement of trading of the registered bank and its subsidiaries.
- (2) The statement of financial position, and the consolidated statement of assets and liabilities, shall each be signed by the statutory manager.
- (3) The accounts specified in subsection (1) shall be audited and reported on by the auditor.

Section 155(1)(a): amended, on 1 October 1997, pursuant to section 6(1) of the Financial Reporting Amendment Act 1997 (1997 No 17).

Section 155(1)(a): amended, on 1 October 1997, pursuant to section 6(2) of the Financial Reporting Amendment Act 1997 (1997 No 17).

Section 155(2): amended, on 1 October 1997, pursuant to section 6(1) of the Financial Reporting Amendment Act 1997 (1997 No 17).

156 Annual report by statutory manager

- (1) The statutory manager of a registered bank shall, after the end of each financial year, prepare a report on the conduct of the management and the affairs of the registered bank and its subsidiaries.
- (2) The report, together with the accounts and the auditor's report on them, shall be submitted to the Minister and the Bank within 7 days after the completion of the auditor's report.
- (3) The report, accounts, and the auditor's report on them shall within 14 days after submission to the Minister be filed—
 - (a) in the case of a registered bank which is a company, with the Registrar of Companies:
 - (b) in the case of a registered bank which is a building society, with the Registrar of Building Societies:
 - (c) in the case of any other body corporate, with the person exercising functions corresponding with those of the Registrar of Companies or the Registrar of Building Societies.

Penalties for offences against this Part

Heading: inserted, on 21 August 2003, by section 40 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

156AA Penalty for miscellaneous offences

- (1) A person who commits an offence under any of the provisions listed in subsection (2) is liable, on conviction,—
 - (a) in the case of an individual, to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$50,000:
 - (b) in the case of a body corporate, to a fine not exceeding \$500,000.
- (2) The provisions are—

- (a) section 77A (which relates to failing to comply with the requirement for consent to be sought from the Bank in the event of a significant change of ownership):
- (b) section 94 (which relates to failing to comply with a requirement from the Bank that information, data, or forecasts be audited):
- (c) section 98B(2)(a) (which relates to failing to comply with the requirements notified by the Bank in relation to a home country supervisor):
- (d) section 98B(2)(b) (which relates to supplying any information or data to a home country supervisor that is false or misleading in a material particular):
- (e) section 105 (which relates to the misuse of confidential information):
- (f) section 115 (which relates to the unauthorised disclosure of the fact that a direction has been given).

Section 156AA: inserted, on 21 August 2003, by section 40 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 156AA(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

156AB Penalty for offences relating to supply of information, etc

- (1) A person who commits an offence under any of the provisions listed in subsection (2) is liable, on conviction,—
 - (a) in the case of an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$100,000:
 - (b) in the case of a body corporate, to a fine not exceeding \$1,000,000.
- (2) The provisions are—
 - (a) section 74 (which relates to failing to comply with a condition of registration):
 - (b) section 89B (which relates to failing to make the most recent disclosure statement publicly available):
 - (c) section 93 (which relates to a registered bank failing to comply with provisions concerning the supply of information for the purposes of prudential supervision and to supplying information that is false or misleading in a material particular):
 - (d) section 93B (which relates to a person failing, after being required by a registered bank to do so, to supply the registered bank with information, data, or forecasts relating to that person in order to enable the registered bank to comply with a notice under section 93):
 - (e) section 93C (which relates to a person failing to comply with provisions concerning the supply of information for the purposes of prudential supervision and to supplying information that is false or misleading in a material particular):

- (f) section 99(3) (which relates to hindering, obstructing, or delaying the conduct of an inspection).
- (g) section 139E(5)(a) (which relates to issuing a covered bond other than under a registered covered bond programme):
- (h) section 139E(5)(b) (which relates to permitting the issue of a covered bond other than under a registered covered bond programme):
- (i) section 139E(5)(c) (which relates to providing false or misleading information to the Bank in relation to an application to register a covered bond programme):
- (j) section 139H(4) (which relates to failing to comply with a notice issued by the Bank in relation to the requirements relating to a registered covered bond programme).

Section 156AB: inserted, on 21 August 2003, by section 40 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 156AB(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 156AB(2)(g): inserted, on 10 December 2013, by section 10 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

Section 156AB(2)(h): inserted, on 10 December 2013, by section 10 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

Section 156AB(2)(i): inserted, on 10 December 2013, by section 10 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

Section 156AB(2)(j): inserted, on 10 December 2013, by section 10 of the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103).

156AC Penalty for offences relating to registration of banks, disclosure statements, prudential supervision of registered banks, etc

- (1) A person who commits an offence under any of the provisions listed in subsection (2) is liable, on conviction,—
 - (a) in the case of an individual, to imprisonment for a term not exceeding 18 months or to a fine not exceeding \$200,000:
 - (b) in the case of a body corporate, to a fine not exceeding \$2,000,000.
- (2) The provisions are—
 - (a) section 70 (which relates to providing false or misleading information for the purposes of an application for registration):
 - (b) section 72 (which relates to falsely holding out to be a registered bank):
 - (c) section 80 (which relates to failing to obtain or maintain a current credit rating):
 - (d) section 81AC (which relates to failing to supply information or data to a registered bank to enable the registered bank to comply with an Order in Council made under section 81):

- (e) section 89 (which relates to failing to publish information that is required to be published in a disclosure statement):
- (f) section 89A (which relates to publishing a disclosure statement that includes information that is false or misleading):
- (g) section 89C(1)(a) (which relates to failing to publish a disclosure statement that does not contain false or misleading information after being required to do so under section 83):
- (h) section 89C(1)(b) (which relates to failing to publish a disclosure statement that contains information that was previously omitted after being required to do so under section 83):
- (i) section 89C(1)(c) (which relates to failing to take the corrective action specified by the Bank in a notice given under section 83 after being required to do so under that section):
- (j) section 95 (which relates to failing to supply a report required by the Bank):
- (k) section 95A (which relates to failing to forward a report prepared under section 95 as required by the Bank):
- (l) section 99(4) (which relates to failing to comply with a requirement from the Bank to supply information for the purposes of an inspection and to supplying information that is false or misleading in a material particular):
- (m) section 103(1) (which relates to hindering, obstructing, or delaying an investigation, etc):
- (n) section 103(2) (which relates to failing to comply with a requirement of a person appointed to carry out an investigation, etc)
- (o) section 114(1) (which relates to failing to comply with a direction):
- (p) section 114(2) (which relates to obstructing or hindering, etc, a registered bank from giving effect to a direction):
- (q) section 126 (which relates to transferring or removing from New Zealand any property or assets of a registered bank that is subject to statutory management):
- (r) section 150 (which relates to failing to deliver books, records, etc, to a statutory manager):
- (s) section 151(1)(a) (which relates to destroying, altering, etc, any book, document, or record relating to a registered bank that is subject to statutory management):
- (t) section 151(1)(b) (which relates to failing or refusing to answer a statutory manager's question about any book, document, etc, relating to a registered bank that is subject to statutory management, and giving a false answer to that question).

Section 156AC: inserted, on 21 August 2003, by section 40 of the Reserve Bank of New Zealand Amendment Act 2003 (2003 No 46).

Section 156AC(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Part 5A

Retention of documents by banks

Part 5A: inserted, on 30 June 1995, by section 2 of the Reserve Bank of New Zealand Amendment Act (No 2) 1995 (1995 No 34).

156A Retention of documents by banks

- (1) For the purposes of this section, **bank** means—
 - (a) a registered bank;
 - (b) the Reserve Bank of New Zealand;
 - (c) any other person carrying on in New Zealand the business of banking.
- (2) Subject to this section, every bank—
 - (a) shall retain, until the expiration of the period specified in subsection (3)(a), every cheque or bank draft that is drawn on that bank and that is presented to it for payment; and may thereafter destroy it;
 - (b) shall retain, until the expiration of the period specified in subsection (3)(a), every bill of exchange or promissory note that is made payable at that bank and that is presented to it for payment; and may thereafter destroy it;
 - (c) shall retain, until the expiration of the period specified in subsection (3)(b), every voucher used in connection with account transactions at a bank or branch of a bank (including every deposit or withdrawal slip); and may thereafter destroy it.
- (3) For the purposes of subsection (2),—
 - (a) the period applicable in respect of a document to which paragraph (a) or paragraph (b) of that subsection applies shall be,—
 - (i) in the case of a document payable on demand, the period of 7 years beginning with the date of the document; and
 - (ii) in the case of any other document, the period of 7 years beginning with the due date of the document; and
 - (b) the period applicable in respect of a voucher to which paragraph (c) of that subsection applies, shall be the period of 7 years beginning with the date of the transaction to which the voucher relates.
- (4) It is sufficient compliance with the duty to retain imposed by subsection (2) if—

- (a) a copy of the document has been made by the bank on microfilm, microfiche, tape, disc, electronic or photographic storage media, or other means; and
 - (b) the copy is able to be reproduced therefrom in a form that can be produced in evidence under the Evidence Act 2006; and
 - (c) the copy is retained by the bank for the same period as the document is required to be retained pursuant to that subsection.
- (5) It is sufficient compliance with the duty to retain imposed by subsection (2), in the case of a cheque that has been presented for payment in accordance with section 7D(1)(b)(iii) of the Cheques Act 1960, if—
- (a) the paying bank arranges, in accordance with the rules of an inter-bank clearing system (within the meaning of section 7A of that Act), for the retention, on behalf of the paying bank, of the cheque or a copy of it in accordance with subsection (4); and
 - (b) the paying bank is entitled to obtain possession of the cheque or the copy; and
 - (c) the cheque or copy is retained on behalf of the paying bank for the period specified in subsection (3)(a).
- (6) No document shall be destroyed pursuant to this section at any time after a demand for the delivery of the document has been made to the bank by the person entitled to it.
- (7) A copy of a document made pursuant to this section is admissible in evidence in legal proceedings to the same extent as the document of which it is a copy would have been admissible.
- (8) This section applies to cheques, drafts, bills, and promissory notes received by a bank and vouchers in the possession of a bank either before or after the coming into operation of this section.

Section 156A: inserted, on 30 June 1995, by section 2 of the Reserve Bank of New Zealand Amendment Act (No 2) 1995 (1995 No 34).

Section 156A(4)(b): amended, on 1 August 2007, by section 216 of the Evidence Act 2006 (2006 No 69).

Part 5B

Oversight of payment systems

[Repealed]

Part 5B: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

General

[Repealed]

Heading: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156B Exercise of powers under this Part

[Repealed]

Section 156B: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Supply of information relating to payment systems

[Repealed]

Heading: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156C Requirement to supply information relating to payment system

[Repealed]

Section 156C: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156D Offence to fail to supply information

[Repealed]

Section 156D: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156E Requirement that information be audited

[Repealed]

Section 156E: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156F Offence not to comply with requirement for audit

[Repealed]

Section 156F: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Disclosure of information relating to payment systems

[Repealed]

Heading: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156G Disclosure of information

[Repealed]

Section 156G: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156H Limits on further disclosure of information

[Repealed]

Section 156H: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156I Application of other enactments to information published or disclosed under section 156G

[Repealed]

Section 156I: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Penalties for offences against this Part

[Repealed]

Heading: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156J Penalties for offences

[Repealed]

Section 156J: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Part 5C

Designated settlement systems

[Repealed]

Part 5C: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

General

[Repealed]

Heading: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156K Exercise of powers under this Part

[Repealed]

Section 156K: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156L Limit on FMA's powers in relation to Bank

[Repealed]

Section 156L: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Designation

[Repealed]

Heading: repealed, on 24 November 2009, by section 6 of the Reserve Bank of New Zealand Amendment Act 2009 (2009 No 53).

156M Definitions for this Part

[Repealed]

Section 156M: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Designation

[Repealed]

Heading: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156N Designation of settlement system

[Repealed]

Section 156N: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

*Effect of designation**[Repealed]*

Heading: repealed, on 24 November 2009, by section 6 of the Reserve Bank of New Zealand Amendment Act 2009 (2009 No 53).

156O Joint regulators' recommendations subject to procedure in sections 156Y to 156ZA*[Repealed]*

Section 156O: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

*Effect of designation**[Repealed]*

Heading: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156P Application of this Part to pure payment systems*[Repealed]*

Section 156P: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156Q Rules of designated settlement system are valid and enforceable*[Repealed]*

Section 156Q: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156R Settlements must not be reversed, etc*[Repealed]*

Compare: 2006 No 57 Schedule 1 Article 2

Section 156R: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156S Limits on application of section 156R(1)*[Repealed]*

Section 156S: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156T Netting is valid and enforceable*[Repealed]*

Section 156T: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

**156U Interrelationship between netting and Companies Act 1993 and
Insolvency Act 2006**

[Repealed]

Section 156U: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Procedure for making designation

[Repealed]

Heading: repealed, on 24 November 2009, by section 6 of the Reserve Bank of New Zealand Amendment Act 2009 (2009 No 53).

**156V Underlying transactions, settlements, and limits on effect of sections 156Q,
156R, and 156T**

[Repealed]

Section 156V: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156W Interrelationship with other enactments

[Repealed]

Section 156W: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156X Transfer of property in accordance with rules is effective

[Repealed]

Section 156X: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Procedure for making designation

[Repealed]

Heading: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156Y Application for designation

[Repealed]

Section 156Y: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156Z Consideration of application

[Repealed]

Section 156Z: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156ZA Decision on application

[Repealed]

Section 156ZA: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Amendments to rules

[Repealed]

Heading: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156ZB Joint regulators must be notified of proposed amendments to rules

[Repealed]

Section 156ZB: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156ZC Proposed amendments to rules may be disallowed

[Repealed]

Section 156ZC: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Variation and revocation of designation

[Repealed]

Heading: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156ZD Variation of designation

[Repealed]

Section 156ZD: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156ZE Revocation of designation

[Repealed]

Section 156ZE: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156ZF Settlement and netting not affected by variation or revocation of designation

[Repealed]

Section 156ZF: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156ZG Application for variation or revocation of designation

[Repealed]

Section 156ZG: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156ZH Either joint regulator may independently begin review of designation

[Repealed]

Section 156ZH: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156ZI Matters joint regulators may have regard to in recommending variation or revocation of designation

[Repealed]

Section 156ZI: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156ZJ Procedure for variation or revocation of designation

[Repealed]

Section 156ZJ: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Obligations to give notice and supply information

[Repealed]

Heading: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156ZK Contact person must be notified of insolvency event

[Repealed]

Section 156ZK: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156ZL Supply of information relating to designated settlement system

[Repealed]

Section 156ZL: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Disclosure of information

[Repealed]

Heading: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156ZM Disclosure of information between joint regulators

[Repealed]

Section 156ZM: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156ZN Disclosure of information to third parties

[Repealed]

Section 156ZN: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156ZO Limits on further disclosure of information

[Repealed]

Section 156ZO: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156ZP Application of other enactments to information published or disclosed under section 156ZN

[Repealed]

Section 156ZP: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Penalties for offences against this Part

[Repealed]

Heading: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

156ZQ Penalties for offences

[Repealed]

Section 156ZQ: repealed, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Part 5D**Deposit takers**

[Repealed]

Part 5D: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

Preliminary provisions

[Repealed]

Heading: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157A Exercise of powers under this Part

[Repealed]

Section 157A: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157B Interpretation

[Repealed]

Section 157B: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157C Deposit taker defined

[Repealed]

Section 157C: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157D Application of Part

[Repealed]

Section 157D: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157E Bank to consult before recommending making of regulations under this Part

[Repealed]

Section 157E: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157F Principles to be taken into account under this Part

[Repealed]

Section 157F: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157G Exemptions from Part

[Repealed]

Section 157G: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157H Effect of exemption

[Repealed]

Section 157H: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

Credit ratings

[Repealed]

Heading: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157I Deposit taker must have current credit rating

[Repealed]

Section 157I: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157J Bank may approve rating agencies

[Repealed]

Section 157J: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157K Regulations relating to credit ratings

[Repealed]

Section 157K: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

Governance requirements

[Repealed]

Heading: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157L Governance requirements

[Repealed]

Section 157L: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

Risk management

[Repealed]

Heading: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157M Deposit taker must have and comply with risk management programme

[Repealed]

Section 157M: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157N Risk management programme must be provided to trustee and must be amended if required by trustee

[Repealed]

Section 157N: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157O Trustee may require deposit taker to have risk management programme audited

[Repealed]

Section 157O: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

Minimum capital requirement

[Repealed]

Heading: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157P Regulations may impose requirement that trust deed sets out minimum capital that deposit taker is required to maintain

[Repealed]

Section 157P: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157Q Deposit takers and trustees must ensure trust deed sets out minimum capital deposit taker is required to maintain

[Repealed]

Section 157Q: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157R Deposit taker must maintain not less than minimum capital prescribed

[Repealed]

Section 157R: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

Capital ratio requirement

[Repealed]

Heading: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157S Regulations may impose requirement that trust deed includes capital ratio

[Repealed]

Section 157S: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157T Deposit takers and trustees must ensure capital ratio included in trust deed

[Repealed]

Section 157T: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157U Deposit taker must maintain capital ratio required to be included in trust deed

[Repealed]

Section 157U: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

*Restrictions on related party exposures**[Repealed]*

Heading: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157V Regulations may impose requirement that trust deed includes maximum limit on exposures to related parties*[Repealed]*

Section 157V: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157W Regulations may incorporate by reference framework for calculation of maximum limit on exposures to related parties*[Repealed]*

Section 157W: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157X Deposit takers and trustees must ensure maximum limit on exposures to related parties is included in trust deed*[Repealed]*

Section 157X: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157Y Deposit taker must not exceed maximum limit on related party exposures*[Repealed]*

Section 157Y: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

*Liquidity requirements**[Repealed]*

Heading: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157Z Regulations may impose requirement that liquidity requirements be included in trust deed*[Repealed]*

Section 157Z: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZA Deposit takers and trustees must ensure liquidity requirements are included in trust deeds*[Repealed]*

Section 157ZA: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZB Deposit takers must comply with liquidity requirements in trust deeds

[Repealed]

Section 157ZB: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

Other matters relating to trust deeds

[Repealed]

Heading: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZC Amendment to trust deed must be treated as if authorised to be made

[Repealed]

Section 157ZC: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZD Trustee may execute amendment to trust deed

[Repealed]

Section 157ZD: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

Obligations of trustees to Bank

[Repealed]

Heading: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZE Bank may require trustee to attest as to deposit taker's compliance with requirements

[Repealed]

Section 157ZE: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZF Trustee must report to Bank non-compliance or likely non-compliance by deposit taker

[Repealed]

Section 157ZF: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZG Obligation on trustees to disclose information to Bank in certain circumstances

[Repealed]

Section 157ZG: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZH Protection of trustees

[Repealed]

Section 157ZH: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

Investigation and enforcement powers of Bank

[Repealed]

Heading: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZI Bank may require report relating to deposit taker

[Repealed]

Section 157ZI: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZJ Power to obtain information and documents

[Repealed]

Section 157ZJ: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZK Limitation on information to be provided

[Repealed]

Section 157ZK: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZL Limitations on entering and searching place

[Repealed]

Section 157ZL: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZM Search warrant may be issued

[Repealed]

Section 157ZM: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZN Privileges

[Repealed]

Section 157ZN: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

Confidentiality of information

[Repealed]

Heading: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZO Confidentiality of information

[Repealed]

Section 157ZO: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZP Person who does not comply with section 157ZO commits offence

[Repealed]

Section 157ZP: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZQ Application of Official Information Act 1982, etc

[Repealed]

Section 157ZQ: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

Offences and penalties

[Repealed]

Heading: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZR Offences by deposit takers against this Part

[Repealed]

Section 157ZR: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZS Other offences by deposit takers against this Part

[Repealed]

Section 157ZS: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZT Defence for deposit takers charged with offences against this Part

[Repealed]

Section 157ZT: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZU Power of court to discharge deposit taker

[Repealed]

Section 157ZU: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZV Liability of directors

[Repealed]

Section 157ZV: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZW Offences by trustees against this Part

[Repealed]

Section 157ZW: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZX Penalties for offences

[Repealed]

Section 157ZX: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

Miscellaneous

[Repealed]

Heading: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZY Matters relating to regulation-making powers under this Part

[Repealed]

Section 157ZY: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

157ZZ Bank must review and report on operation of this Part

[Repealed]

Section 157ZZ: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

Part 6**Financial and accountability matters**

[Repealed]

Part 6: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

157 Financial year

[Repealed]

Section 157: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Income and expenditure

[Repealed]

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

158 Meaning of notional surplus income

[Repealed]

Section 158: repealed, on 10 September 2008, by section 18 of the Reserve Bank of New Zealand Amendment Act 2008 (2008 No 59).

159 Funding agreements

[Repealed]

Section 159: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

160 Contents of funding agreements

[Repealed]

Section 160: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

161 Funding agreements to be ratified by House of Representatives

[Repealed]

Section 161: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

162 Determination of annual dividend

[Repealed]

Section 162: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Accountability documents

[Repealed]

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

162AA Purpose of accountability documents

[Repealed]

Section 162AA: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

162AB Assessment of regulatory impacts of policies

[Repealed]

Section 162AB: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

*Statement of intent**[Repealed]*

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

162A Obligation to provide statement of intent*[Repealed]*

Section 162A: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

162B Content of statement of intent*[Repealed]*

Section 162B: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

162C Process for providing statement of intent to Minister*[Repealed]*

Section 162C: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

162D Amendments by Bank to statement of intent*[Repealed]*

Section 162D: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

162E Statement of intent stands referred to House of Representatives*[Repealed]*

Section 162E: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

*Annual reports**[Repealed]*

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

163 Annual reports and accounts*[Repealed]*

Section 163: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

163A Bank not Crown entity*[Repealed]*

Section 163A: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

164 Contents of financial statements

[Repealed]

Section 164: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

165 Management statements

[Repealed]

Section 165: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Financial stability reports

[Repealed]

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

165A Financial stability reports

[Repealed]

Section 165A: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Audits

[Repealed]

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

166 Auditor-General to be auditor of Bank

[Repealed]

Section 166: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

167 Performance audit

[Repealed]

Section 167: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Part 7

Miscellaneous provisions

168 Bank to be good employer

[Repealed]

Section 168: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

169 Bank to exhibit sense of social responsibility

[Repealed]

Section 169: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

170 Application of Banking Act 1982 to Bank

[Repealed]

Section 170: repealed, on 30 June 1995, by section 2(4) of the Banking Act Repeal Act 1995 (1995 No 32).

171 Conflict with other Acts

[Repealed]

Section 171: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

172 Obligations under this Act not limited

An obligation or limitation imposed on a person by any other Act or instrument or by any trust or agreement shall not prevent or excuse that person from complying with any provision of this Act or any regulation made under it or with any direction, notice, requirement or condition given or imposed under that provision.

Compare: 1964 No 134 s 49

173 Regulations

- (1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
 - (a) providing for such matters as are necessary to enable the Minister or the Bank to exercise any powers and functions conferred on the Minister or the Bank by this Act or by any regulations made for any of the purposes of this Act:
 - (b) providing for the granting, refusal, and revocation of consents, permissions, and exemptions in respect of any matters to which any regulations made under this Act relate; and authorising the imposition, variation, and revocation of conditions subject to which such consents, permissions, and exemptions may be granted:
 - (c) providing for the furnishing of information and the production of books or documents to the Minister or the Bank or any other person for any of the purposes of any such regulations (whether or not the effect of doing so may be to require the furnishing of information, or the production of books or documents, that will reveal the identity or affairs of any particular person); and providing for the verification of any such information; and providing that any such books or documents may be copied, and may be retained or impounded, by any person or persons to whom they are produced:

- (d) authorising the Minister or the Bank or any other person to exercise any discretionary power or authority for the purposes of any such regulations:
 - (e) providing for the delegation of any of the powers or functions of the Minister (including the power of delegation) or the Bank under any such regulations:
 - (f) providing for and regulating the issue, registration, transfer, control, and redemption of any financial products issued by the Bank:
 - (fa) prescribing information for the purposes of section 69(2A)(c):
 - (fb) prescribing entities and classes of entities for the purposes of the definition of qualifying counterparty in section 122A:
 - (fc) providing for when collateral must or must not be taken to be in the possession or under the control of a person for the purposes of section 122(9A)(b) or any enactment that applies section 122B (and those matters may be specified with reference to different kinds of collateral or any other circumstances):
 - (fd) providing that section 122B(1)(a)(i), (b), or (c) does not apply to specified kinds of collateral or in any other specified circumstances:
 - (g) prescribing forms for the purposes of this Act or of any such regulations, in any case where a form is not prescribed by this Act:
 - (h) providing for and regulating the giving or service of notices for the purposes of this Act or of any such regulations, and the effect of such notices:
 - (i) *[Repealed]*
 - (j) prescribing offences against any such regulations, and prescribing fines not exceeding in respect of any such offence \$5,000 and, in the case of a continuing offence, \$200 for every day on which the offence has continued:
 - (k) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.
- (2) Regulations under subsection (1)(fb) to (fd) must be made on the recommendation of—
- (a) the Minister; and
 - (b) the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is responsible for the administration of the Companies Act 1993.
- (3) The Ministers may make a recommendation under subsection (2) only if the Ministers have—
- (a) had regard to the matters set out in subsection (4); and

- (b) consulted the persons (or representatives of the persons) that the Ministers consider will be substantially affected by the regulations, and those persons have had the opportunity to comment to the Ministers.
- (4) The Ministers must have regard to the following under subsection (3)(a):
- (a) the purposes of this Act, the Companies Act 1993, the Corporations (Investigation and Management) Act 1989, the Personal Property Securities Act 1999, the Property Law Act 2007, and the Receiverships Act 1993:
- (b) the effect of the regulations on—
- (i) the maintenance of a sound and efficient financial system; and
- (ii) the creditors of qualifying counterparties; and
- (iii) the integrity of statutory management, corporate insolvency, and personal property securities law.
- (5) Regulations under this section—
- (a) are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and
- (b) if they are made in reliance on section 152, must be confirmed by an Act (*see* subpart 3 of Part 5 of the Legislation Act 2019).

Compare: 1964 No 134 s 50; 1977 No 68 s 6

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 173(1)(f): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 173(1)(fa): inserted, on 4 September 2013, by section 5 of the Reserve Bank of New Zealand Amendment Act 2013 (2013 No 62).

Section 173(1)(fb): inserted, on 31 August 2019, by section 7(1) of the Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019 (2019 No 46).

Section 173(1)(fc): inserted, on 31 August 2019, by section 7(1) of the Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019 (2019 No 46).

Section 173(1)(fd): inserted, on 31 August 2019, by section 7(1) of the Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019 (2019 No 46).

Section 173(1)(i): repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 173(2): inserted, on 31 August 2019, by section 7(2) of the Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019 (2019 No 46).

Section 173(3): inserted, on 31 August 2019, by section 7(2) of the Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019 (2019 No 46).

Section 173(4): inserted, on 31 August 2019, by section 7(2) of the Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019 (2019 No 46).

Section 173(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

174 Consents under regulations

- (1) If a transaction is entered into or an instrument is executed without the prior consent of the Minister or the Bank required by any regulations made under this Act, the Minister or the Bank, as the case may be, may, at any time, consent to the entry into the transaction or the execution of the instrument.
- (2) Subject to the terms of the consent, any transaction, or instrument, and any relationship, or interests created by it, which would be invalid or unenforceable without that consent, shall, on the giving of that consent, be valid or enforceable as if the consent had been given before the transaction was entered into or the instrument executed.
- (3) Consent may be given—
 - (a) in respect of such transactions, instruments, or persons or classes of transactions, instruments, or persons as the Minister or the Bank may determine, or in respect of any specified transaction, instrument, or person:
 - (b) wholly or partly and either unconditionally or subject to such conditions as the Minister or the Bank thinks fit.
- (4) A consent to the entry into any transaction or the execution of any instrument shall be deemed to be a consent given under the regulations requiring consent.

Compare: 1964 No 134 s 50A; 1968 No 135 s 3; 1970 No 2 s 3

175 Offences against regulations

- (1) Every person commits an offence against this Act who—
 - (a) with intent to deceive, makes any false or misleading statement or any material omission in—
 - (i) any offer or declaration made for the purposes of any regulations under this Act; or
 - (ii) any communication with, or application to, the Minister or the Bank or any other person (whether in writing or otherwise) for the purposes of those regulations:
 - (b) resists, obstructs, or deceives any person who is exercising or attempting to exercise any power or function under any such regulations:
 - (c) without lawful excuse, acts in contravention of, or fails to comply in any respect with, any provision of any such regulations or any direction, notice, requirement, or condition given or imposed under any such regulations.

(2) Nothing in subsection (1) limits section 173(j).

Compare: 1964 No 134 s 51

175A Privilege against self-incrimination no excuse

[Repealed]

Section 175A: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

175B Admissibility of self-incriminating statements

[Repealed]

Section 175B: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

176 Penalties for offences

Every person who commits an offence against this Act for which no penalty is provided except in this section is liable on conviction—

(a) in the case of an individual, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding \$10,000:

(b) in the case of a body corporate, to a fine not exceeding \$25,000.

Compare: 1964 No 134 s 52(1); 1977 No 68 s 7(1)

Section 176: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 176: amended, on 24 March 1995, by section 10 of the Reserve Bank of New Zealand Amendment Act 1995 (1995 No 5).

177 Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence against this Act,—

(a) *[Repealed]*

(b) in any other case, ends on the date that is 6 years after the date on which the offence was committed.

Section 177: replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 177(a): repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

178 Evidence

[Repealed]

Section 178: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

179 Protection from liability

[Repealed]

Section 179: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

179A Indemnity

[Repealed]

Section 179A: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

180 Amendment to Income Tax Act 1976

[Repealed]

Section 180: repealed, on 1 April 1995, by section YB 3(1) of the Income Tax Amendment Act 1994 (1994 No 164).

181 Amendments to Securities Act 1978

[Repealed]

Section 181: repealed, on 1 April 2019, by section 35 of the Reserve Bank of New Zealand (Monetary Policy) Amendment Act 2018 (2018 No 59).

182 Amendments to Superannuation Schemes Act 1989

[Repealed]

Section 182: repealed, on 1 April 2019, by section 35 of the Reserve Bank of New Zealand (Monetary Policy) Amendment Act 2018 (2018 No 59).

183 Amendments to Trustee Banks Restructuring Act 1988

[Repealed]

Section 183: repealed, on 21 May 1999, by section 5 of the Trustee Banks Restructuring Act Repeal Act 1999 (1999 No 53).

184 Amendment to Securities Amendment Act 1988

[Repealed]

Section 184: repealed, on 1 April 2019, by section 35 of the Reserve Bank of New Zealand (Monetary Policy) Amendment Act 2018 (2018 No 59).

185 Consequential amendments

[Repealed]

Section 185: repealed, on 1 April 2019, by section 35 of the Reserve Bank of New Zealand (Monetary Policy) Amendment Act 2018 (2018 No 59).

186 Repeals and savings

[Repealed]

Section 186: repealed, on 1 April 2019, by section 35 of the Reserve Bank of New Zealand (Monetary Policy) Amendment Act 2018 (2018 No 59).

187 References to trading banks to be read as references to registered banks

Every reference in any other Act to the expression “trading bank” shall be read as a reference to a registered bank.

Compare: 1986 No 131 s 15

188 Savings

[Repealed]

Section 188: repealed, on 1 April 2019, by section 35 of the Reserve Bank of New Zealand (Monetary Policy) Amendment Act 2018 (2018 No 59).

189 Procedure for applying this Act to persons subject to statutory management under Reserve Bank of New Zealand Act 1964

[Repealed]

Section 189: repealed, on 1 April 2019, by section 35 of the Reserve Bank of New Zealand (Monetary Policy) Amendment Act 2018 (2018 No 59).

190 Transitional provisions in relation to Part 5A and Part 5C of Reserve Bank of New Zealand Act 1964

[Repealed]

Section 190: repealed, on 1 April 2019, by section 35 of the Reserve Bank of New Zealand (Monetary Policy) Amendment Act 2018 (2018 No 59).

191 Transitional provisions in relation to office holders

[Repealed]

Section 191: repealed, on 1 April 2019, by section 35 of the Reserve Bank of New Zealand (Monetary Policy) Amendment Act 2018 (2018 No 59).

192 Transitional provision in relation to accounts of Bank

[Repealed]

Section 192: repealed, on 1 April 2019, by section 35 of the Reserve Bank of New Zealand (Monetary Policy) Amendment Act 2018 (2018 No 59).

Schedule 1 Transitional, savings, and related provisions

s 3A

Schedule 1: replaced, on 21 December 2018, by section 36 of the Reserve Bank of New Zealand (Monetary Policy) Amendment Act 2018 (2018 No 59).

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Provisions relating to Reserve Bank of New Zealand (Monetary Policy) Amendment Act 2018

[Repealed]

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Part 1

Provisions relating to Reserve Bank of New Zealand (Monetary Policy) Amendment Act 2018

[Repealed]

Schedule 1 Part 1: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

1 Interpretation

[Repealed]

Schedule 1 clause 1: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

2 First remit for MPC*[Repealed]*

Schedule 1 clause 2: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

3 First remit issued with agreement*[Repealed]*

Schedule 1 clause 3: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

4 First remit issued without agreement*[Repealed]*

Schedule 1 clause 4: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

5 First charter*[Repealed]*

Schedule 1 clause 5: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

6 First charter issued with agreement*[Repealed]*

Schedule 1 clause 6: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

7 First charter issued without agreement*[Repealed]*

Schedule 1 clause 7: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

8 First code of conduct*[Repealed]*

Schedule 1 clause 8: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

9 First appointment of external and internal members*[Repealed]*

Schedule 1 clause 9: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

10 First Treasury observer*[Repealed]*

Schedule 1 clause 10: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

11 Minimum number of meetings of MPC

[Repealed]

Schedule 1 clause 11: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

12 Transitional provisions for office holders

[Repealed]

Schedule 1 clause 12: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Part 2

Provision relating to Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019

Schedule 1 Part 2: inserted, on 31 August 2019, by section 8 of the Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019 (2019 No 46).

13 Provision relating to enforcing security interest over collateral for qualifying derivative

The amendments made by subpart 1 of Part 1 of the Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019 apply to—

- (a) a qualifying derivative entered into before the commencement of this clause if, on that commencement, any obligations remain under or in relation to the derivative (whether the obligations are contingent or otherwise); and
- (b) a qualifying derivative entered into on or after the commencement of this clause.

Schedule 1 clause 13: inserted, on 31 August 2019, by section 8 of the Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019 (2019 No 46).

Schedule 2
Remit and monetary policy committee
[Repealed]

ss 11, 63M

Schedule 2: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

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1 Interpretation

[Repealed]

Schedule 2 clause 1: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Part 1 Remit

[Repealed]

Schedule 2 Part 1: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

2 Bank's advice on remit to be issued under section 10

[Repealed]

Schedule 2 clause 2: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

3 Process for developing advice

[Repealed]

Schedule 2 clause 3: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

4 Period during which remit is in force

[Repealed]

Schedule 2 clause 4: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

5 Publication and presentation of remit

[Repealed]

Schedule 2 clause 5: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

6 Remit may be replaced or issued

[Repealed]

Schedule 2 clause 6: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

7 Status of remit

[Repealed]

Schedule 2 clause 7: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 2

MPC and its members

[Repealed]

Schedule 2 Part 2: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Appointment of members

[Repealed]

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

8 Appointment of internal and external members

[Repealed]

Schedule 2 clause 8: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

9 Board must consult Governor

[Repealed]

Schedule 2 clause 9: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

10 Validity of appointments and acts done by MPC

[Repealed]

Schedule 2 clause 10: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

11 Qualifications of internal and external members

[Repealed]

Schedule 2 clause 11: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

12 Requirements before appointment

[Repealed]

Schedule 2 clause 12: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

13 Term of appointment

[Repealed]

Schedule 2 clause 13: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

14 Extension of term

[Repealed]

Schedule 2 clause 14: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

15 Criteria for appointment of internal or external members

[Repealed]

Schedule 2 clause 15: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

When members cease to hold office

[Repealed]

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

16 Internal or external member ceases to hold office

[Repealed]

Schedule 2 clause 16: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

17 Internal or external member may continue in office at end of term

[Repealed]

Schedule 2 clause 17: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

18 Resignation of internal or external member

[Repealed]

Schedule 2 clause 18: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

19 Removal of internal or external member

[Repealed]

Schedule 2 clause 19: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

20 Other provisions relating to removal

[Repealed]

Schedule 2 clause 20: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

21 No compensation for loss of office

[Repealed]

Schedule 2 clause 21: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

22 Effect of removal on other positions

[Repealed]

Schedule 2 clause 22: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Treasury observer

[Repealed]

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

23 Treasury observer

[Repealed]

Schedule 2 clause 23: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

24 Conditions of performing role as Treasury observer

[Repealed]

Schedule 2 clause 24: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

25 Replacing Treasury observer

[Repealed]

Schedule 2 clause 25: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

26 Function of Treasury observer

[Repealed]

Schedule 2 clause 26: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

*Chairperson and deputy chairperson of MPC**[Repealed]*

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

27 Chairperson*[Repealed]*

Schedule 2 clause 27: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

28 Duties of chairperson*[Repealed]*

Schedule 2 clause 28: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

29 Deputy Governor may act as chairperson*[Repealed]*

Schedule 2 clause 29: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

*Accountability for duties**[Repealed]*

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

30 Accountability of members to Minister*[Repealed]*

Schedule 2 clause 30: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

*Collective duties**[Repealed]*

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

31 Formulating monetary policy*[Repealed]*

Schedule 2 clause 31: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

32 Compliance with charter*[Repealed]*

Schedule 2 clause 32: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Individual duties of members

[Repealed]

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

33 Member must act consistently with remit, charter, code, and Act

[Repealed]

Schedule 2 clause 33: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

34 Member must act with honesty and integrity

[Repealed]

Schedule 2 clause 34: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

35 Member must act in good faith

[Repealed]

Schedule 2 clause 35: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

36 Member must act with reasonable care, diligence, and skill

[Repealed]

Schedule 2 clause 36: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

37 Member must disclose if member is likely to become disqualified

[Repealed]

Schedule 2 clause 37: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

38 Use of information by external member

[Repealed]

Schedule 2 clause 38: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

39 Other individual duties of chairperson

[Repealed]

Schedule 2 clause 39: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

*Meeting procedures**[Repealed]*

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

40 Regular meetings*[Repealed]*

Schedule 2 clause 40: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

41 Methods of holding meetings*[Repealed]*

Schedule 2 clause 41: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

42 Quorum*[Repealed]*

Schedule 2 clause 42: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

43 Emergency procedures*[Repealed]*

Schedule 2 clause 43: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

44 Voting at meetings*[Repealed]*

Schedule 2 clause 44: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

45 Unanimous written resolutions*[Repealed]*

Schedule 2 clause 45: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

46 Meeting record*[Repealed]*

Schedule 2 clause 46: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Procedure generally

[Repealed]

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

47 Procedure generally

[Repealed]

Schedule 2 clause 47: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Remuneration of external members

[Repealed]

Heading: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

48 Remuneration of external members

[Repealed]

Schedule 2 clause 48: repealed, on 1 July 2022, by section 299(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Schedule 3

General provisions relating to material incorporated by reference

[Repealed]

ss 81AA(3), 157S(3), 157W(3)

Schedule 3: repealed, on 1 May 2014, by section 92(1) of the Non-bank Deposit Takers Act 2013 (2013 No 104).

Schedule 4

General provisions relating to search warrants issued under Part 5D

[Repealed]

s 157ZM(2)

Schedule 4: repealed, on 1 October 2012, by section 298(7) of the Search and Surveillance Act 2012 (2012 No 24).

Reserve Bank of New Zealand Amendment Act 1993

Public Act	1993 No 118
Date of assent	28 September 1993
Commencement	see section 1(2)

1 Short Title and commencement

- (1) This Act may be cited as the Reserve Bank of New Zealand Amendment Act 1993, and shall be read together with and deemed part of the Reserve Bank of New Zealand Act 1989 (hereinafter referred to as “the principal Act”).
- (2) This Act shall come into force on 1 July 1994.

5 Transitional provisions

Nothing in section 4 applies to or affects—

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

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

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

Reserve Bank of New Zealand Amendment Act 2003

Public Act	2003 No 46
Date of assent	20 August 2003
Commencement	see section 2

1 Title

- (1) This Act is the Reserve Bank of New Zealand Amendment Act 2003.
- (2) In this Act, the Reserve Bank of New Zealand Act 1989 is called “the principal Act”.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 3 Miscellaneous

Transitional provisions

50 Savings relating to authorisations or consents under Part 4 of principal Act

Any authorisations or consents relating to the use of a restricted word that were granted under section 65 of the principal Act before the commencement of this Act remain in force.

51 Temporary exemption from Part 4 of principal Act

- (1) This section applies to any person who,—
 - (a) immediately before the commencement of this Act, was lawfully entitled to use, or was lawfully using, a name or title that included a restricted word; and
 - (b) after the commencement of this Act, can no longer lawfully use that name or title.
- (2) A person to whom this section applies may, despite anything in Part 4 of the principal Act, continue to use that name or title for a period of 6 months commencing on the date of commencement of this Act.

52 Existing applications

An application for registration as a registered bank under the principal Act that has been made, but not determined or withdrawn, before the date of commencement of this Act must continue to be dealt with in accordance with the

principal Act and any regulations made under that Act as if this Act had not been enacted.

Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013

Public Act	2013 No 103
Date of assent	3 December 2013
Commencement	see section 2

1 Title

This Act is the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013.

2 Commencement

This Act comes into force on the 7th day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Reserve Bank of New Zealand Act 1989 (the **principal Act**).

Part 2

Transitional provisions and amendments to other Acts

11 Transitional provisions

- (1) The amendments made by this Act apply in relation to existing covered bond programmes and issuers on and from the date that is 9 months after this Act comes into force.
- (2) However, despite subsection (1), an issuer may, in relation to an existing covered bond programme, make an application under section 139E of the principal Act (as inserted by section 9 of this Act) at any time on or after the date on which this Act comes into force and, in that case,—
 - (a) section 139E(4) and (5)(a) and (b) of the principal Act (as inserted by section 9 of this Act) apply on and from the date on which the application is approved or declined under section 139G of the principal Act (as inserted by section 9 of this Act); and
 - (b) all other amendments made by this Act apply on and from the date of the application.
- (3) To avoid doubt, on and from the date specified in subsection (1),—
 - (a) all amendments made by this Act apply in relation to existing covered bond programmes; and

- (b) covered bonds must not be issued under an existing covered bond programme unless the programme is registered under section 139G of the principal Act (as inserted by section 9 of this Act).
- (4) In this section, **existing covered bond programme** means a covered bond programme that was established before this Act came into force.

Notes

1 *General*

This is a consolidation of the Reserve Bank of New Zealand Act 1989 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247): regulation 107

Reserve Bank of New Zealand Act 2021 (2021 No 31): sections 298, 299

Financial Market Infrastructures Act 2021 (2021 No 13): section 163(1)

Secondary Legislation Act 2021 (2021 No 7): section 3

Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019 (2019 No 46): Part 1 subpart 1

Contempt of Court Act 2019 (2019 No 44): section 29

Reserve Bank of New Zealand (Monetary Policy) Amendment Act 2018 (2018 No 59)

Land Transfer Act 2017 (2017 No 30): section 250

Legislation (Confirmable Instruments) Amendment Act 2015 (2015 No 120): section 14

Companies Amendment Act 2013 (2013 No 111): section 14

Non-bank Deposit Takers Act 2013 (2013 No 104): section 92(1)

Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013 (2013 No 103)

Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102): section 126

Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150

Reserve Bank of New Zealand Amendment Act 2013 (2013 No 62)

Search and Surveillance Act 2012 (2012 No 24): sections 297, 298

Criminal Procedure Act 2011 (2011 No 81): section 413

Financial Markets Authority Act 2011 (2011 No 5): sections 82, 84(3)

Insurance (Prudential Supervision) Act 2010 (2010 No 111): section 241(1)

Reserve Bank of New Zealand Amendment Act 2009 (2009 No 53)
Reserve Bank of New Zealand Amendment Act 2008 (2008 No 59)
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