

Reprint  
as at 12 November 2018



## Finance Act 1988

Public Act 1988 No 107  
Date of assent 30 June 1988  
Commencement see section 1(2)

### Contents

	Page
Title	2
1 Short Title and commencement	2
2 Act binds the Crown	2
<b>Part 1</b>	
<b>Substantive provisions</b>	
3 Authorising Crown shareholding in Fletcher Challenge Limited	2
4 Authorising Crown shareholding in company performing functions of Government Stores Board <i>[Repealed]</i>	3
5 Amendment to Dairy Board Amendment Act 1988 <i>[Repealed]</i>	3
6 Pension to widow of late Norman Eric Kirk <i>[Repealed]</i>	3
7 Payment of fringe benefit tax on payments made by Crown into certain superannuation funds	3
<b>Part 2</b>	
<b>Merger of banking businesses of Trust Bank Wanganui and Trust Bank Eastern and Central</b>	
8 Interpretation of terms used in this Part	4

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#### Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**Part 2 of this Act is administered by the Reserve Bank of New Zealand; and the rest is administered by the Treasury.**

9	Transfer of undertaking of Trust Bank Wanganui to Trust Bank Eastern and Central	5
10	Consequential provisions on transfer of undertaking	5
11	Employees	7
12	Superannuation rights	8
13	Books and documents to remain evidence	8
14	Registers	8
15	This Part not limited by Trustee Banks Act 1983	9
16	Application of Trustee Banks Restructuring Act 1988	9

### Part 3

#### Validation, amendments, and repeals

17	Hornby Licensing Trust: validating borrowing	9
18	Dissolving National Research Advisory Council	10
19	Statutory amendments consequential on disposal of Petroleum Corporation of New Zealand Limited	10
20	Repeals	11

#### An Act to make provision with respect to public finances and other matters

##### 1 Short Title and commencement

- (1) This Act may be cited as the Finance Act 1988.
- (2) Subject to section 6(5), this Act shall come into force on the day on which it receives the Royal assent.

##### 2 Act binds the Crown

This Act binds the Crown.

### Part 1

#### Substantive provisions

##### 3 Authorising Crown shareholding in Fletcher Challenge Limited

- (1) Subject to subsection (2), the Minister of Finance—
  - (a) may from time to time, on behalf of Her Majesty the Queen, subscribe for or otherwise acquire shares in Fletcher Challenge Limited:
  - (b) out of money appropriated by Parliament for the purpose, pay for any such shares so acquired:
  - (c) on behalf of Her Majesty, exercise all or any of Her Majesty's rights as the holder of any such shares.
- (2) The Minister shall not acquire shares under subsection (1) except—
  - (a) pursuant to the contract described in subsection (4); or

- (b) by the exercise of a right to do so arising out of Her Majesty's already holding or having a right to hold shares acquired under this section.
- (3) For the avoidance of doubt,—
  - (a) to the extent that the contract described in subsection (4) requires or empowers Her Majesty to acquire shares in Fletcher Challenge Limited, the actions of the Ministers of Finance and Energy in entering into it are hereby declared to have been lawful; and
  - (b) to the extent that the contract requires or empowers Her Majesty to acquire shares in Fletcher Challenge Limited, it is hereby declared to have been and to continue to be lawful.
- (4) The contract referred to in subsections (2) and (3) is the contract dated 3 March 1988, between Her Majesty the Queen, Rosspart Investments Limited, and Fletcher Challenge Limited.
- (5) *Amendment(s) incorporated in the Act(s).*

#### **4 Authorising Crown shareholding in company performing functions of Government Stores Board**

*[Repealed]*

Section 4: repealed, on 1 December 1988, by section 19(6) of the Finance Act (No 2) 1988 (1988 No 128).

#### **5 Amendment to Dairy Board Amendment Act 1988**

*[Repealed]*

Section 5: repealed, on 16 October 2001, by section 165(4) of the Dairy Industry Restructuring Act 2001 (2001 No 51).

#### **6 Pension to widow of late Norman Eric Kirk**

*[Repealed]*

Section 6: repealed, on 16 December 2013, by section 66 of the Members of Parliament (Remuneration and Services) Act 2013 (2013 No 93).

#### **7 Payment of fringe benefit tax on payments made by Crown into certain superannuation funds**

There may be paid out of public money, without further appropriation than this section, any amount that the Crown is required by law to pay by way of FBT (within the meaning of the Income Tax Act 2007) on payments made by the Crown into the Government Superannuation Fund or the National Provident Fund under the Government Superannuation Fund Act 1956 or the National Provident Fund Act 1950.

Section 7: amended, on 1 April 2008 (effective for 2008–09 income year and later income years, except when the context requires otherwise), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 7: amended (with effect on 1 July 1989), on 26 July 1989, by section 86(1) of the Public Finance Act 1989 (1989 No 44).

## Part 2

### Merger of banking businesses of Trust Bank Wanganui and Trust Bank Eastern and Central

#### 8 Interpretation of terms used in this Part

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

**appointed day** means the date appointed by the Governor-General in an Order in Council made under section 9 for the vesting of the undertaking of Trust Bank Wanganui in Trust Bank Eastern and Central

**excluded assets** means bank deposits held by Trust Bank Wanganui before the appointed day the value of which is equal to the value of the reserves of Trust Bank Wanganui as determined under subsection (2) and being bank deposits designated by the boards of trustees of Trust Bank Wanganui and Trust Bank Eastern and Central to be excluded assets for the purposes of this Part

**instrument** includes—

- (a) any instrument (other than an enactment) of any form or kind that creates, evidences, modifies, or extinguishes rights, interests, or liabilities or would do so if it or a copy thereof were lodged, filed, or registered under any enactment; and
- (b) any judgment, order, or process of a court

**instrument by way of security** has the meaning assigned to it in section 2 of the Chattels Transfer Act 1924

**land** has the meaning assigned to it in section 2 of the Land Transfer Act 1952

**liabilities** means liabilities, debts, charges, duties, and obligations of every description (whether present or future, actual or contingent, and whether payable or to be observed or performed in New Zealand or elsewhere)

**property** means property of every kind whether tangible or intangible, real or personal, corporeal or incorporeal and, without limiting the generality of the foregoing, includes—

- (a) choses in actions and money;
- (b) goodwill;
- (c) rights, interests and claims of every kind in or to property, whether arising from, accruing under, created or evidenced by, or the subject of, an instrument or otherwise and whether liquidated or unliquidated, actual, contingent, or prospective

**reserves**, in relation to Trust Bank Wanganui, means the Reserve Fund of the bank established and maintained under section 41 of the Trustee Banks Act 1983 and includes any other reserves of the bank

**rights** means all rights, powers, privileges, and immunities, whether actual, contingent, or prospective

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

**undertaking**, in relation to Trust Bank Wanganui, means all property, rights, and liabilities of Trust Bank Wanganui apart from—

- (a) excluded assets:
  - (b) rights and liabilities relating to excluded assets:
  - (c) reserves.
- (2) For the purposes of this Part, the value of the reserves of Trust Bank Wanganui shall be the value of the reserves as determined by resolutions of the boards of trustees of Trust Bank Wanganui and Trust Bank Eastern and Central not being a value less than the value of the Reserve Fund as shown in the audited financial statements of Trust Bank Wanganui as at 31 March 1988.
- (3) In this Part a reference to Trust Bank Eastern and Central includes a reference to that bank under any other name.

## **9 Transfer of undertaking of Trust Bank Wanganui to Trust Bank Eastern and Central**

On a date to be appointed by the Governor-General by Order in Council the undertaking of Trust Bank Wanganui shall, by virtue of this Part, vest in Trust Bank Eastern and Central.

## **10 Consequential provisions on transfer of undertaking**

Without limiting the generality of section 9 the following provisions shall have effect on and after the appointed day:

- (a) a reference (express or implied) to Trust Bank Wanganui in any instrument made, given, passed or executed before the appointed day shall be read and construed as a reference to Trust Bank Eastern and Central:
- (b) the relationship between Trust Bank Wanganui and a customer or depositor shall become the same relationship between Trust Bank Eastern and Central and that customer or depositor and the same rights and liabilities, including rights of set-off, shall exist between Trust Bank Eastern and Central and a customer or depositor as existed immediately before the appointed day between Trust Bank Wanganui and that customer or depositor:
- (c) all contracts, agreements, conveyances, deeds, leases, licences, and other instruments, undertakings, and notices (whether or not in writing), entered into by, made with, given to or by, or addressed to Trust Bank

Wanganui (whether alone or with any other person) before the appointed day and subsisting immediately before the appointed day shall, to the extent that they were previously binding on and enforceable by, against, or in favour of Trust Bank Wanganui be binding on and enforceable by, against or in favour of Trust Bank Eastern and Central as fully and effectually in every respect as if, instead of Trust Bank Wanganui Trust Bank Eastern and Central had been the person by whom they were entered into, with whom they were made or to or by whom they were given or addressed, as the case may be:

- (d) an instruction, order, direction, mandate, or authority given to Trust Bank Wanganui and subsisting immediately before the appointed day shall be deemed to have been given to Trust Bank Eastern and Central:
- (e) a security held by Trust Bank Wanganui as security for a debt or other liability to Trust Bank Wanganui incurred before the appointed day shall be available to Trust Bank Eastern and Central as security for the discharge of that debt or liability and, where the security extends to future or prospective debts or liabilities, shall be available as security for the discharge of debts or liabilities to Trust Bank Eastern and Central incurred on or after the appointed day; and, in relation to a security, Trust Bank Eastern and Central shall be entitled to all the rights and priorities (howsoever arising) and shall be subject to all liabilities to which Trust Bank Wanganui would have been entitled or subject if this Act had not been passed:
- (f) all the rights and liabilities of Trust Bank Wanganui as bailor or bailee of documents or chattels shall be vested in and assumed by Trust Bank Eastern and Central:
- (g) a negotiable instrument or order for payment of money which before the appointed day is drawn on or given to or accepted or indorsed by Trust Bank Wanganui or payable at a place of business of Trust Bank Wanganui shall, unless the context otherwise requires, have the same effect on and after the appointed day as if it had been drawn on or given to or accepted or indorsed by Trust Bank Eastern and Central instead of Trust Bank Wanganui or was payable at the place of business of Trust Bank Eastern and Central:
- (h) a reference (express or implied) to the holder for the time being of a particular office (other than the office of trustee, secretary, or auditor) within Trust Bank Wanganui in any instrument made, given, passed, or executed before the appointed day shall be read and construed as a reference to the person for the time being holding office as the chief executive of Trust Bank Eastern and Central or such other officer of Trust Bank Eastern and Central as is designated from time to time by the chief executive or by any other person acting under delegation from the chief executive:

- (i) nothing effected or authorised by this Part—
  - (i) shall affect the existence or status of Trust Bank Wanganui or, except as provided in this Act, any of its powers; or
  - (ii) shall be regarded as placing Trust Bank Wanganui or Trust Bank Eastern and Central or any other person in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
  - (iii) shall be regarded as giving rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; or
  - (iv) shall be regarded as placing Trust Bank Wanganui or Trust Bank Eastern and Central or any other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property or the disclosure of any information; or
  - (v) shall release any surety wholly or in part from all or any obligation; or
  - (vi) shall invalidate or discharge any contract or security; or
  - (vii) shall affect the area of operations of Trust Bank Wanganui; or
  - (viii) shall affect the right of the trustees of Trust Bank Wanganui to receive any remuneration they would have been entitled to receive if this Act had not been passed:
- (j) any action, arbitration or proceedings or cause of action which immediately before the appointed day is pending or existing by, against, or in favour of Trust Bank Wanganui or to which Trust Bank Wanganui is a party may be prosecuted, and without amendment of any writ, pleading or other document, continued and enforced by, against, or in favour of Trust Bank Eastern and Central.

## 11 Employees

Notwithstanding any other provisions of this Part—

- (a) on the appointed day each employee of Trust Bank Wanganui shall become an employee of Trust Bank Eastern and Central but, for the purposes of every enactment, law, award, determination, contract, and agreement relating to the employment of each such employee, the contract of employment of that employee shall be deemed to have been unbroken and the period of service with Trust Bank Wanganui shall be deemed to have been a period of service with Trust Bank Eastern and Central:
- (b) the terms and conditions of employment of each such employee shall, until varied, be identical with the terms and conditions of that employ-

ee's employment with Trust Bank Wanganui immediately before the appointed day and be capable of variation in the same manner:

- (c) no such employee shall be entitled to receive any payment or other benefit by reason only of that employee ceasing by virtue of this Part to be an employee of Trust Bank Wanganui.

## 12 Superannuation rights

On and after the appointed day—

- (a) property held on trust or vested in any person under any provident, benefit, superannuation, or retirement fund or scheme for the employees of Trust Bank Wanganui or their dependants or other persons immediately before the appointed day, shall be deemed to be held on trust or vested in that person for those employees in their capacity as employees of Trust Bank Eastern and Central or their dependants or other persons on the same terms and conditions; and
- (b) every reference in any instrument constituting that fund or scheme to Trust Bank Wanganui or an employee of Trust Bank Wanganui or a dependant of that employee or any other person shall be read and construed as a reference to Trust Bank Eastern and Central or to that employee as an employee of Trust Bank Eastern and Central, or a dependant of that employee or any other person, as the case may be; and
- (c) a superannuation scheme to which this section applies that was, immediately before the appointed day, an approved superannuation scheme within the meaning of the Superannuation Schemes Act 1976 shall continue to be an approved superannuation scheme.

## 13 Books and documents to remain evidence

- (1) Any document, matter, or thing, which, if this Part had not been passed, would have been admissible in evidence in respect of any matter for or against Trust Bank Wanganui shall, on and after the appointed day, be admissible in evidence in respect of the same matter for or against Trust Bank Eastern and Central.
- (2) In this section, **document** has the same meaning as in section 2(1) of the Evidence Amendment Act (No 2) 1980.

## 14 Registers

- (1) The Registrar of Deeds, District Land Registrar, or any other person charged with the keeping of any books or registers is not obliged solely by reason of the foregoing provisions of this Part to change the name of Trust Bank Wanganui to that of Trust Bank Eastern and Central 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 Trust Bank Eastern and Central—



- (a) executed or purporting to be executed by Trust Bank Eastern and Central; and
- (b) relating to any property held immediately before the appointed day by Trust Bank Wanganui; and
- (c) containing a recital that that property has become vested in Trust Bank Eastern and Central by virtue of the provisions of this Part—

shall, in the absence of evidence of the contrary, be sufficient proof that the property is vested in Trust Bank Eastern and Central.

Section 14(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

### **15 This Part not limited by Trustee Banks Act 1983**

- (1) Nothing in the Trustee Banks Act 1983 shall be construed as—
  - (a) preventing the vesting of the undertaking of Trust Bank Wanganui in Trust Bank Eastern and Central under this Part; or
  - (b) limiting or affecting this Part.
- (2) Notwithstanding anything contained in the Trustee Banks Act 1983, Trust Bank Eastern and Central is authorised to carry on business in the area of operations of Trust Bank Wanganui prescribed under section 28 of that Act.

### **16 Application of Trustee Banks Restructuring Act 1988**

- (1) The excluded assets, or any assets into which they may become converted, and the reserves of Trust Bank Wanganui shall, with effect from the appointed day, be deemed to constitute the undertaking of Trust Bank Wanganui within the meaning and for the purposes of the Trustee Banks Restructuring Act 1988 and in the application of the provisions of that Act in relation to Trust Bank Wanganui and its successor company the provisions of that Act shall apply only in respect of those assets and reserves.
- (2) For the purposes of the Trustee Banks Restructuring Act 1988 the undertaking of Trust Bank Eastern and Central shall, on and after the appointed day, include the undertaking of Trust Bank Wanganui as vested in Trust Bank Eastern and Central by virtue of this Part and in the application of the provisions of that Act in relation to Trust Bank Eastern and Central and its successor company those provisions shall apply in respect of its undertaking including that undertaking.

## **Part 3**

### **Validation, amendments, and repeals**

#### **17 Hornby Licensing Trust: validating borrowing**

- (1) Notwithstanding that the Hornby Licensing Trust may not have obtained the consent of the Minister of Finance (as required by section 37(2) of the Licens-

ing Trusts Act 1949) to the raising of the loans described in subsection (2) of this section—

- (a) the actions of the Trust in raising the loans are hereby declared to have been as valid and effectual; and
  - (b) the loans are hereby declared to be and continue to be as valid,—  
as if consent had been obtained.
- (2) The loans concerned are—
- (a) a loan of \$2,000,000 raised from the Development Finance Corporation on 27 January 1987; and
  - (b) a loan of \$3,000,000 raised from Westpac Securities Limited on 31 March 1988.

### **18 Dissolving National Research Advisory Council**

- (1) The National Research Advisory Council is hereby dissolved.
- (2) The following enactments are hereby repealed:
  - (a) the National Research Advisory Council Act 1963;
  - (b) the National Research Advisory Council Amendment Act 1976;
  - (c) the National Research Advisory Council Amendment Act 1986.
  - (d) *[Repealed]*
  - (e) *[Repealed]*
- (3) *Amendment(s) incorporated in the Act(s).*
- (4) *[Repealed]*

Section 18(2)(d): repealed, on 10 April 1998, by section 48(1) of the Crown Research Institutes Act 1992 (1992 No 47).

Section 18(2)(e): repealed, on 1 April 2005 (effective for 2005–06 tax year and later tax years, except when the context requires otherwise), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 18(4): repealed, on 2 August 1990, by section 14(2)(b) of the Foundation for Research, Science, and Technology Act 1990 (1990 No 72).

### **19 Statutory amendments consequential on disposal of Petroleum Corporation of New Zealand Limited**

- (1) *[Repealed]*
- (2) *Amendment(s) incorporated in the Act(s).*
- (3) Notwithstanding subsection (2), the Petroleum Corporation of New Zealand Limited shall, as soon as is practicable after the commencement of this section, send to the Minister of Energy a report on its operations for the year ending with 31 March 1988 together with a copy of its financial statements for the year; and the Minister shall lay copies of the report and statements before the House of Representatives.

Section 19(1): repealed, on 1 April 2005 (effective for 2005–06 tax year and later tax years, except when the context requires otherwise), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

## **20 Repeals**

- (1) *Amendment(s) incorporated in the Act(s).*
- (2) The repeal by subsection (1) of sections 13(4) and 14(3) of the Finance Act 1987 does not affect the rights, assets, liabilities or debts of the Minister of Energy or Housing New Zealand Corporation.
- (3) The repeal by subsection (1) of sections 15 to 18 of the Finance Act 1987 does not affect the validity of anything validated by any of those sections.

Section 20(2): amended, on 1 July 2001, by section 24(1) of the Housing Corporation Amendment Act 2001 (2001 No 37).

## Reprints notes

### 1 *General*

This is a reprint of the Finance Act 1988 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### 2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### 3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### 4 *Amendments incorporated in this reprint*

Land Transfer Act 2017 (2017 No 30): section 250

Members of Parliament (Remuneration and Services) Act 2013 (2013 No 93): section 66

Income Tax Act 2007 (2007 No 97): section ZA 2(1)

Income Tax Act 2004 (2004 No 35): section YA 2

Dairy Industry Restructuring Act 2001 (2001 No 51): section 165(4)

Housing Corporation Amendment Act 2001 (2001 No 37): section 24(1)

Crown Research Institutes Act 1992 (1992 No 47): section 48(1)

Foundation for Research, Science, and Technology Act 1990 (1990 No 72): section 14(2)(b)

Public Finance Act 1989 (1989 No 44): section 86(1)

Finance Act (No 2) 1988 (1988 No 128): section 19(6)