



ANALYSIS

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1964, No. 9

An Act to provide for the establishment and carrying on in New Zealand of private savings banks under the control of trading banks [17 September 1964]

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

1. Short Title—This Act may be cited as the Private Savings Banks Act 1964.

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

“Financial year”, in relation to a savings bank company, means the financial year determined in that behalf by the company:

“Minister” means the Minister of Finance:

“Parent bank”, in relation to a savings bank company, means the bank having control of that company:

“Private savings bank” means a savings bank carried on by a savings bank company:

“Savings bank company” means a private company within the meaning of the Companies Act 1955, which, under the control of a bank in accordance with section 8 of this Act, has for its principal object the carrying on in New Zealand of a private savings bank:

“Subsidiary” means a subsidiary within the meaning of the Companies Act 1955:

“Trading bank” or “bank” means a bank referred to in the First Schedule to this Act:

“Trustee savings bank” means a savings bank established under the Trustee Savings Banks Act 1948.

3. Banks may acquire shares in savings bank company—Notwithstanding the provisions of any enactment, contract, charter, memorandum or articles of association, or rule of law, any trading bank and any subsidiary of a trading bank may subscribe for and hold shares in a savings bank company:

Provided that any trading bank or any subsidiary of that bank shall not at any time hold shares in more than one savings bank company to which this Act applies.

4. Savings bank company may carry on private savings bank—(1) Subject to the provisions of this Act, any savings bank company may establish and carry on in New Zealand a private savings bank and for that purpose may establish branch offices and agencies.

(2) Except with the consent of the Minister, no savings bank company shall establish or carry on a private savings bank elsewhere than in New Zealand.

(3) Except as otherwise provided by this Act or regulations under this Act, no savings bank company shall carry on any business other than that of a private savings bank.

(4) The primary functions of a private savings bank shall be the receipt of money on deposit at interest and the investment of money.

(5) Every savings bank company shall have all such powers as are conferred on it under this Act and all such other powers, not inconsistent with this Act, as are reasonably necessary for or incidental to the effective performance of the functions of the private savings bank which it carries on.

5. Directions by Minister—(1) If in the opinion of the Minister the business of a savings bank company is being conducted in such a way as to be prejudicial to the safety of the funds of the depositors in its private savings bank or as to be contrary to the policy of the Government of New Zealand in respect of savings institutions, the Minister may give, in writing, such directions for the conduct of the company's business as he thinks fit, and the company shall be bound to act in accordance with those directions.

(2) If in the opinion of the Minister it is necessary or desirable in the public interest to do so, he may from time to time give, in writing, such general directions as to the investment policy of any savings bank company as he thinks fit, and the company shall be bound to act in accordance with those directions.

(3) Without limiting the generality of subsection (2) of this section, the Minister may give directions under that subsection as to the classes of advances or investments which may or may not be made by any savings bank company.

(4) Nothing in this section shall—

- (a) Authorise the Minister to give directions with respect to an advance made or proposed to be made to a particular person; or
- (b) Affect the validity of a transaction entered into in relation to an advance or affect the right of a savings bank company to recover an advance or enforce the security given in respect of an advance; or
- (c) Authorise the Minister to give a direction to invest money otherwise than in accordance with section 17 of this Act.

6. Restrictions on banks carrying on savings banks—

(1) Except as provided by this Act, no trading bank and no subsidiary of a trading bank (other than a savings bank company) shall carry on in New Zealand the business of a savings bank.

(2) Nothing in subsection (1) of this section shall be construed to limit or affect any operations normally carried on in New Zealand by any trading bank as part of its banking business.

(3) Any trading bank and any subsidiary of a trading bank (other than a savings bank company) which contrary to the provisions of this section carries on the business of a savings bank commits an offence against this Act.

7. Restrictions on operations of private savings banks—

(1) No savings bank company shall establish or carry on any branch office or agency of its private savings bank within the area of operations of any trustee savings bank referred to in Part I of the Second Schedule to this Act until that trustee savings bank has been in operation for not less than three years.

(2) No savings bank company shall establish or carry on any branch office or agency of its private savings bank within the area referred to in Part II of the Second Schedule to this Act before the first day of October, nineteen hundred and sixty-seven.

(3) For the purposes of subsection (1) of this section, the area of operations of a trustee savings bank shall be the area prescribed in that behalf in respect of the savings bank under the Trustee Savings Banks Act 1948 and a trustee savings bank shall be deemed to have commenced operations on the date specified in that behalf in relation to that savings bank in Part I of the Second Schedule to this Act.

8. Savings bank company to be controlled by bank—(1) No savings bank company shall commence or continue to carry on business unless effective control of the company is vested in its parent bank.

(2) For the purposes of this section, effective control of a savings bank company shall be deemed to be vested in its parent bank if, but only if, the savings bank company is a subsidiary of its parent bank.

9. Commencement of business—No savings bank company shall commence to carry on a private savings bank until authorised in that behalf by the Governor-General by Order in Council.

10. Head office—The head office of each savings bank company shall be in the same city as the principal office in New Zealand of its parent bank.

11. Guarantee to depositors—(1) If the money for the time being available to any savings bank company is not sufficient to meet the claims of depositors in the private savings bank carried on by the company for payment of money standing to their credit, the parent bank of the company shall pay to the company such sums as may be necessary to meet the deficiency.

(2) Every trading bank and every savings bank company controlled by that bank shall execute an instrument of guarantee, in a form approved by the Minister, under which the trading bank guarantees the payment to the savings bank company of any amount required to be paid under subsection (1) of this section.

(3) Every instrument executed under subsection (2) of this section shall be deposited with the Registrar of Companies.

12. Savings bank company ceasing business—(1) If any savings bank company intends to cease to carry on a private savings bank, it shall forthwith give notice of the fact to the Minister.

(2) No savings bank company shall cease to carry on a private savings bank less than six months after having given notice of its intention to do so under subsection (1) of this section and unless all money owing to depositors in the savings bank has been paid to the depositors.

(3) If any savings bank company—

(a) Ceases to carry on business without having given notice of intention to do so under subsection (1) of this section; or

(b) Acts in contravention of or fails to comply with subsection (2) of this section,—

it and its parent bank each commit an offence and the company and its parent bank shall each be liable on summary conviction to a fine not exceeding five thousand pounds.

(4) Where a savings bank company ceases to carry on a private savings bank contrary to the provisions of subsection (2) of this section, any amount due to any depositor in the savings bank shall constitute a debt owing to him by the parent bank of the company, and shall be recoverable accordingly in any Court of competent jurisdiction.

13. Interest on deposits—(1) Subject to the provisions of this Act, interest shall be paid by every savings bank company on the amount for the time being deposited by each depositor with the private savings bank of that company.

(2) No interest shall be paid on any amount standing to the credit of any depositor in any one account in excess of two thousand pounds or such smaller amount as may for the time being be prescribed by regulations under this Act.

(3) No interest shall be paid on any fraction of a pound.

(4) Interest shall be computed with monthly rests on such day of each month as may be fixed in that behalf by the company and approved by the Minister.

(5) Every savings bank company shall declare a date as the end of the yearly period in respect of which interest shall accrue and all interest computed under this section shall in each year accrue until the date declared as aforesaid or until the date of the closing of the account, whichever is the earlier, and shall then be added to and form part of the principal money.

(6) Every date declared under subsection (5) of this section shall be notified in writing by the savings bank company concerned to the Minister, and no such date shall be altered without the consent of the Minister.

(7) Nothing in subsections (4), (5), and (6) of this section shall apply with respect to money deposited in an investment account.

(8) Except as provided by regulations under this Act, no depositor shall have more than one account of any prescribed class of accounts:

Provided that if regulations under this Act authorise any depositor to have more than one account of a prescribed class (other than special purpose accounts), he shall not be entitled to any greater amount of interest than he would be if all the deposits were in one account of that class.

14. Rates of interest—(1) The Governor-General may from time to time, by Order in Council, fix the rates of interest to be paid by savings bank companies on money for the time being deposited with private savings banks.

(2) Any such order may fix different rates with respect to different classes of deposits to be therein defined, or according to the amount of the deposit.

(3) Every such order shall, according to its tenor, take effect on the date of its publication in the *Gazette* or on such later date as may be specified in the order.

15. Money to be available for payment of depositors—Every savings bank company shall at all times keep in cash or in its current account or in such other resources immediately available as may be approved in that behalf by the Minister sums amounting in the aggregate to not less than the following proportion of the total amount for the time being standing to the credit of the depositors in its private savings bank, namely:

(a) Where the total of that amount does not exceed ten million pounds, five per cent of that amount:

- (b) Where the total of that amount exceeds ten million pounds, five per cent of the first ten million pounds of that amount and two and a half per cent of the excess over ten million pounds.

16. Borrowing by savings bank companies—(1) With the consent of the Minister, every savings bank company may borrow from its parent bank by way of overdraft, or otherwise, or from any person or persons, such amounts, upon such terms, and subject to such conditions as the Minister thinks fit:

Provided that where any money is paid by a trading bank to a savings bank company under section 11 of this Act, the consent of the Minister shall not be required in respect of any such payment; but the savings bank company shall advise the Minister in writing when any such payment is made.

(2) No money shall be borrowed by a savings bank company otherwise than in accordance with this section.

17. Investments by savings bank company—(1) Subject to the provisions of this Act, any savings bank company may invest any money deposited in its private savings bank or belonging to the company in any of the following ways:

(a) In New Zealand Government securities:

(b) On mortgages of estates or interests in land in New Zealand (with or without collateral securities over any other property):

(c) In the debentures, stock, or other securities of any local authority that are authorised investments for the investment of trust funds under the provisions of section 4 of the Trustee Act 1956:

(d) On deposit in New Zealand in any trading bank (including the parent bank) or in the Post Office Savings Bank:

(e) On advances for the development of any industry for the time being carried on in New Zealand, or for the establishment in New Zealand of any new industry; which advances may be made without security or with such security, of any kind whatsoever, as the company thinks fit:

(f) In such other manner as may be prescribed by regulations under this Act.

(2) Where an advance is made under paragraph (e) of subsection (1) of this section to any company, the savings

bank company, for the purpose of safeguarding its interests, may subscribe for, acquire, and hold shares in the company, whether those shares are fully paid up or not. In respect of any such shares the savings bank company shall have the same rights and be subject to the same obligations as other shareholders of the same class.

(3) A savings bank company shall invest such proportion of the money deposited in its private savings bank (other than money deposited in investment accounts) as may be prescribed by Order in Council in New Zealand Government securities of a kind prescribed in that behalf by Order in Council.

(4) Subject to section 15 of this Act, a savings bank company shall not invest any money deposited in investment accounts in its private savings bank otherwise than in New Zealand Government securities.

(5) No investment shall be made by a savings bank company otherwise than in accordance with this section.

(6) In no case shall the total of—

- (a) The amount in hand held in New Zealand by a savings bank company (including the resources immediately available referred to in section 15 of this Act); and
- (b) The amount held in New Zealand in its current account with the parent bank; and
- (c) The nominal value of all investments made in New Zealand by the company—

be less than the total amount of deposits in the private savings bank of the company.

18. Information to be supplied to Minister—Every savings bank company shall furnish to the Minister such information and particulars in relation to the company and its business and affairs as the Minister may from time to time require:

Provided that nothing in this section shall authorise the Minister to require any company to disclose any information which, in accordance with accepted banking practice, a banker is not obliged to disclose without the consent of the customer concerned.

19. Accounts and balance sheet—(1) Every savings bank company shall cause full and faithful accounts to be kept of all money received and disbursed, and of all assets and liabilities, and of all profits and losses in respect of the operations of the company.

(2) Every savings bank company shall within two months after the end of each financial year cause to be prepared, in a form approved by the Minister, a balance sheet and statement of accounts (including a profit and loss account) showing fully the financial position of the company at the end of the year and the financial result of its transactions for the year.

(3) The balance sheet and statement of accounts, after being signed by a director, or by a principal officer of the company approved in that behalf by the Minister, shall be audited by an auditor appointed for the purpose by the company, being a person qualified for appointment as auditor of a company under the Companies Act 1955 and not being a director or officer of the company.

(4) The auditor shall certify the balance sheet in such form as may be approved by the Minister.

(5) The balance sheet so certified by the auditor shall, with the statement of accounts, be transmitted to the Minister not later than three months after the end of the financial year of the company; and copies of the balance sheet and statements of account shall be published by the company in the *Gazette*.

20. Inspection of books and accounts—The books and accounts of every savings bank company shall be kept in New Zealand and shall be available for inspection during ordinary office hours by any person authorised in writing in that behalf by the Minister:

Provided that nothing in this section shall authorise the inspection of any books or accounts containing information which, in accordance with accepted banking practice, a banker is not obliged to disclose without the consent of the customer concerned.

21. Deposits in private savings banks to be authorised trustee investment—(1) Subsection (1) of section 2 of the Trustee Act 1956 is hereby amended by inserting in the definition of the term “bank”, after the words “Post and Telegraph Act 1928”, the words “any private savings bank established under the Private Savings Banks Act 1964”.

(2) Where any provision of any enactment authorises the investment of money on deposit in a trustee savings bank, that provision shall be deemed to include authority to invest money on deposit in a private savings bank.

22. Offences—Any savings bank company which carries on a savings bank contrary to the provisions of this Act, or which wilfully fails to comply with any direction of the Minister

under and in accordance with this Act, or which wilfully supplies false information to any person under this Act knowing it to be false, commits an offence and shall be liable on summary conviction to a fine not exceeding one thousand pounds, and, if the offence is a continuing one, to a further fine not exceeding one hundred pounds for every day during which the offence has continued.

23. Contravention of Act by company not to prejudice rights of depositors—A contravention of or non-compliance with any provision of this Act, or of any regulation made or condition imposed thereunder, by a savings bank company shall not prejudice any contract or obligation for repayment to a depositor of any money deposited by him with the private savings bank of the company or for the payment of interest lawfully payable thereon.

24. Other legislation—(1) Subject to the provisions of this Act, no savings bank company and no private savings bank shall be deemed to be a bank within the meaning of the Banking Act 1908.

(2) Nothing in paragraph (c) of subsection (2) of section 31, section 48A (as inserted by section 2 of the Companies Amendment Act 1960), or subsection (2) of section 458 of the Companies Act 1955 shall apply to a savings bank company.

(3) The provisions of sections 19 to 22 of the Banking Act 1908 shall apply with respect to private savings banks.

(4) Subject to the provisions of this Act and of regulations under this Act, the provisions of the Bills of Exchange Act 1908 shall apply to savings bank companies in all respects as if those companies were bankers.

25. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Prescribing and regulating the keeping of accounts of depositors in private savings banks:
- (b) Prescribing the mode of making deposits and withdrawing money, and the conditions relating thereto:
- (c) Prescribing the hours of business and holidays to be observed in private savings banks:
- (d) Prescribing the classes of accounts which may be opened and operated in private savings banks, and the conditions relating thereto:

- (e) Applying, with the necessary modifications, the provisions of section 129 of the Post Office Act 1959 to Home Lay-by Accounts opened in private savings banks:
- (f) Providing for the payment of amounts standing to the credit of a depositor at his death to persons nominated in that behalf by the depositor and prescribing conditions relating to any such payment or nomination:
- (g) Prohibiting, restricting, or controlling the automatic transfer of money from an account of any person in a private savings bank to an account of the same person in the parent bank of that savings bank:
- (h) Prescribing conditions in respect of the purchase of New Zealand Government securities by savings bank companies, including the rates of interest payable under any such securities:
- (i) Prescribing the returns to be made by savings bank companies:
- (j) Prescribing the premises or classes of premises in which private savings banks may be established or carried on:
- (k) Regulating the capital expenditure of savings bank companies in respect of private savings banks:
- (l) Prescribing the persons or classes of persons who may be depositors in private savings banks:
- (m) Prescribing limits in respect of deposits by savings bank companies with their parent banks or other trading banks and regulating the disposition of cash reserves of savings bank companies:
- (n) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

SCHEDULES

Section 2

FIRST SCHEDULE

TRADING BANKS

Australia and New Zealand Bank Limited.
Bank of New South Wales.
Bank of New Zealand.
The Commercial Bank of Australia Limited.
The National Bank of New Zealand Limited.

SECOND SCHEDULE

Section 7

PART I

TRUSTEE SAVINGS BANKS IN WHOSE AREA OF OPERATIONS PRIVATE SAVINGS BANKS MAY NOT OPERATE FOR PERIOD LIMITED BY SECTION 7

Name of Trustee Savings Bank	Date Savings Bank deemed to Have Commenced Operations
Bay of Plenty Savings Bank	5 June 1964
Canterbury Savings Bank	1 August 1962
Hawke's Bay Savings Bank	21 November 1962
Manawatu Savings Bank	29 August 1963
South Canterbury Savings Bank	14 August 1964
Wanganui Savings Bank	6 November 1963

PART II

AREAS WITHIN WHICH PRIVATE SAVINGS BANKS MAY NOT OPERATE UNTIL 1 OCTOBER 1967

THE counties of Buller, Inangahua, Grey, and Westland as constituted at the commencement of this Act, including any city, borough, or town district that is surrounded by or contiguous to the district of any such county.

This Act is administered in the Treasury.