

## FINANCE BILL

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### EXPLANATORY NOTE

*Clause 1* relates to the Short Title and commencement of the Bill.

Except for *clauses 12 to 15*, the Bill comes into force on the date on which it receives the Royal assent.

*Clauses 12 to 15* are to come into force on a date to be appointed by the Governor-General by Order in Council.

In the case of *clauses 13 and 14*, the Governor-General must be satisfied before appointing a date, that the Crown no longer holds more than 50 percent of the ordinary shares in GCS Limited.

In the case of *clause 15*, the Governor-General must be satisfied before appointing a date, that the Crown does not hold shares in the capital of GCS Limited.

### PART I

#### FISHING INDUSTRY BOARD

*Clause 2* provides that *Part I* is to be read with the Fishing Industry Board Act 1963.

*Clause 3* amends section 10 of the Fishing Industry Board Act 1963 to include in the list of functions of the Board activities such as those associated with the toxic shellfish monitoring programme.

*Clause 4* inserts into the Fishing Industry Board Act 1963 a new *section 14B* to provide for a special levy for the purposes of funding the industry's contribution to the toxic shellfish monitoring programme. The principal features of the special levy are—

- (a) Regulations will fix the maximum amount of the levy and prescribe the classes of persons by whom the levy is payable:
- (b) The Board will fix the rate of the levy by notice in the *Gazette*:
- (c) Different rates of levy may be fixed for different classes of persons, species of fish, and areas.

*Clause 5* amends section 35 of the Fishing Industry Board Act 1963 by expressly empowering the making of the regulations contemplated by new *section 14B*.

*Clause 6* is a transitional provision empowering the Board to impose a special levy for the purposes of funding the industry's contribution to the toxic shellfish monitoring programme during the period ending on 31 December 1994. The levy requires the approval of the Minister of Fisheries and must be fixed by notice in the *Gazette*.

The Board may impose the special levy on all or any of the following:

- (a) Any holder of a marine farming lease granted under section 8 of the Marine Farming Act 1971;
- (b) Any holder of a marine farming licence granted under the said section 8.
- (c) Any holder of a marine farming permit issued under section 67J of the Fisheries Act 1983;
- (d) Any holder of a spat catching permit issued under section 67Q of the Fisheries Act 1983;
- (e) Any holder of a fish packing house licence issued under regulation 9 of the Fish (Packing for Export) Regulations 1977;
- (f) Any holder of a fishing permit issued under section 63 of the Fisheries Act 1983;
- (g) Any holder of a special permit issued under section 64 of the Fisheries Act 1983.

Different rates of levy may be fixed for different classes of persons, or areas, species of fish, or any combination of them.

The Board must pay to the Director-General of Agriculture and Fisheries all amounts received by it in payment of the levy.

## PART II PRIVACY

*Clause 7* provides that *Part II* is to be read with the Privacy Act 1993.

*Clause 8* amends section 46 (2) of the Privacy Act 1993, which sets out the matters that may be dealt with in a code of practice issued under that Act. That subsection provides that a code of practice may—

- (a) Modify the application of any one or more of the information privacy principles by—
  - (i) Prescribing standards that are more stringent or less stringent than the standards that are prescribed by any such principle;
  - (ii) Exempting any action from any such principle, either unconditionally or subject to such conditions as are prescribed in the code;
- (b) Prescribe how any one or more of the information privacy principles are to be applied, or are to be complied with.

The amendment inserts a new paragraph (ab) into section 46 (2) of the Act providing that a code of practice may apply any one or more of the information privacy principles (but not all of those principles) without modification.

The purpose of the amendment is to resolve doubts about whether or not the Act permits the incorporation, in a code of practice, of an information privacy principle in an unmodified form.

Further, the amendment will affect the application of section 79 of the Privacy Act 1993. That section provides that, in respect of breaches of certain information privacy principles occurring before 1 July 1996, the Privacy Commissioner has only a power of recommendation, and proceedings before the Complaints Review Tribunal (with the attendant array of remedies set out in sections 85 and 88 of the Act) are not available. However, those restrictions do not apply in respect of a failure to comply with a code of practice. Thus, to the extent that, in accordance with the amendment, an information privacy principle is applied in a code of practice without modification, the full range of

the enforcement provisions of the Privacy Act 1993 will be able to be invoked in relation to a breach of that principle, regardless of the date of the breach.

### PART III

#### OTHER PROVISIONS

##### *Application of Part II of Commerce Act 1986 to Certain Agreements relating to Pharmaceuticals*

*Clause 9* re-enacts, in an amended form, section 29 of the Health Reforms (Transitional Provisions) Act 1993. That section exempts from Part II of the Commerce Act 1986 certain agreements (relating to pharmaceutical requirements for which payments are to be made) involving regional health authorities, the public health commission, and certain subsidiaries of regional health authorities and the public health commission.

The clause makes 4 substantive amendments, all of which are intended to clarify aspects of the section. First, it is made clear that "agreement" includes a covenant. Secondly, it is made clear that the subsidiaries concerned may be subsidiaries of 1 or more regional health authorities or of the public health commission, rather than just of 1 or more regional health authorities *and* the public health commission. Thirdly, it is made clear that payments may be made by any regional health authority, the public health commission, or any subsidiary, rather than jointly by 1 or more regional health authorities, the public health commission, *and* 1 or more subsidiaries. Fourthly, it is made clear that the application of the exemption to an agreement is not dependent on whether or not payments for the pharmaceuticals to which it relates are in fact made. As long as the agreement provides that payments *may* be made, the exemption will apply.

*Subclause (1)* contains definitions of a number of terms used in the clause, some of which were defined outside section 29 of the Health Reforms (Transitional Provisions) Act 1993; but effects no substantive changes beyond those specified above.

*Subclause (6)* repeals section 29 of the Health Reforms (Transitional Provisions) Act 1993.

##### *Accident Rehabilitation and Compensation Insurance Corporation*

*Clause 10* validates the payment of \$14,625,000 (representing one quarter of a sum calculated at 2 cents for every litre of motor spirit in respect of which duty is payable under the Customs Act 1966) from the Crown Bank Account to the Accident Rehabilitation and Compensation Insurance Corporation for the purposes of section 109 of the Accident Rehabilitation and Compensation Insurance Act 1992.

Section 109 requires the Crown to pay to the Corporation in respect of each financial year, in equal quarterly instalments, a sum determined by Order in Council and calculated on that basis; but an instalment was paid from the Crown Bank Account to the Corporation to cover the first quarter of the financial year ending on 30 June 1994 before the required Order in Council was made. Accordingly its payment was unlawful and needs to be validated.

The Accident Rehabilitation and Compensation Insurance (Motor Spirits Excise Duty) Order 1993 (S.R. 1993/367) specifies, in respect of that financial year, the total sum payable by the Crown to the Corporation for the purposes of section 109.

*Clause 11* provides for the payment of \$120,003,000 by the Accident Rehabilitation and Compensation Insurance Corporation to the Crown. The payment relates to the year ending on 30 June 1995 and represents the costs of health and disability services provided in respect of work-related injuries and

motor vehicle-related injuries that have been purchased by Regional Health Authorities for that year. The payment comprises \$41,176,000 in respect of work-related injuries and \$78,827,000 in respect of motor vehicle-related injuries. Section 54 of the Accident Rehabilitation and Compensation Insurance Amendment Act (No. 2) 1993 contains a similar provision for the year ending 30 June 1994.

*GCS Limited*

*Clause 12* omits GCS Limited from the First and Second Schedules to the State-Owned Enterprises Act 1986. Section 11 of that Act prohibits the sale by the Crown of shares held in a State enterprise named in the Second Schedule to that Act. The omission of the company from the Second Schedule removes this restriction on the sale of shares.

The effect of omitting the company from the First Schedule to that Act is that the company will no longer be a State enterprise subject to that Act.

*Clause 13* omits GCS Limited from Part II of the First Schedule to the Ombudsmen Act 1975. The company will thus cease to be an organisation to which that Act applies.

*Clause 14* omits GCS Limited from the First Schedule to the Official Information Act 1982. The company will thus cease to be an organisation to which that Act applies.

*Clause 15* omits GCS Limited from the Fourteenth Schedule to the Income Tax Act 1976. The company will thus cease to be a State enterprise for the purpose of that Act.

*Health Reforms (Transitional Provisions)*

*Clause 16* rectifies a technical error in the Health Reforms (Transitional Provisions) Act 1993. The Fourth Schedule to that Act repealed inadvertently, on 1 July 1993, section 8 (1) (b) of the Health Research Council Act 1990.

This clause accordingly reinstates section 8 (1) (b), as from the commencement of that Fourth Schedule, and ensures that the membership of the Health Research Council and the validity of the Council's actions were not affected by the inadvertent repeal.

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Right Hon. W. F. Birch

## FINANCE

### ANALYSIS

Title	public health commission, and certain subsidiaries
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<b>PART I</b>	
FISHING INDUSTRY BOARD	
2. Part to be read with Fishing Industry Board Act 1963	10. Validation of payment of motor spirits excise duty to Accident Rehabilitation and Compensation Insurance Corporation
3. Functions of Board	
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6. Transitional special levy relating to toxic shellfish monitoring programme	<i>GCS Limited</i>
<b>PART II</b>	
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OTHER PROVISIONS	
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9. Application of Part II of Commerce Act 1986 to regional health authorities,	14. Amendment to Official Information Act 1982
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	<i>Health Reforms (Transitional Provisions)</i>
	16. Amendment to Health Reforms (Transitional Provisions) Act 1993

### A BILL INTITULED

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

BE IT ENACTED by the Parliament of New Zealand as follows:

5 **1. Short Title and commencement**—(1) This Act may be cited as the Finance Act 1994.

(2) Except as provided in subsection (3) of this section, this Act shall come into force on the day on which it receives the Royal assent.

(3) Sections 12 to 15 of this Act shall come into force on a date to be appointed by the Governor-General by Order in Council, and one or more Orders in Council may be made bringing different provisions into force on different dates.

(4) A date may be appointed pursuant to subsection (3) of this section for bringing section 13 and section 14 of this Act into force only if the Governor-General is satisfied, at the time of the making of the Order in Council, that at least 50 percent of the ordinary shares in GCS Limited are no longer held by Ministers of the Crown on behalf of the Crown. 5  
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(5) A date may be appointed pursuant to subsection (3) of this section for bringing section 15 of this Act into force only if the Governor-General is satisfied, at the time of the making of the Order in Council, that none of the ordinary shares in the capital of GCS Limited is held by Ministers of the Crown on behalf of the Crown. 15

## PART I

### FISHING INDUSTRY BOARD

**2. Part to be read with Fishing Industry Board Act 1963**—This Part of this Act shall be read together with and deemed part of the Fishing Industry Board Act 1963\* (in this Part of this Act referred to as the principal Act). 20

\*1963, No. 70 (R.S. Vol. 26, p. 371)

**3. Functions of Board**—Section 10 (1) of the principal Act is hereby amended by inserting, after paragraph (fb) (as substituted by section 7 of the Fishing Industry Board Amendment Act 1975), the following paragraph: 25

“(fc) To promote, both alone and in collaboration with other agencies, monitoring programmes and other activities associated with water quality or the quality of fish intended for consumption in New Zealand or for export; and to contribute towards the costs of such programmes and activities:” 30

**4. Special levy in respect of toxic shellfish monitoring programme**—The principal Act is hereby amended by inserting, after section 14A (as inserted by section 9 (1) of the Fishing Industry Board Amendment Act 1978), the following section: 35

“14B. (1) In addition to the levy payable under section 14 or section 14A of this Act, there shall be paid to the Board, by persons of such classes as may be prescribed by regulations made under this Act, such levy, not exceeding in any case the 40

maximum amount prescribed by such regulations, as the Board may from time to time fix for the purposes of funding the fishing industry's contribution to the toxic shellfish monitoring programme.

5 “(2) Different rates of levy may be fixed in respect of different classes of persons, species of fish, or areas, or any combination of them.

“(3) The rates of the levy shall be fixed from time to time by the Board by notice in the *Gazette*.

10 “(4) The levy payable under this section shall be recoverable as a debt due to the Board in any Court of competent jurisdiction.”

**5. Regulations**—Section 35 (1) of the principal Act is hereby amended by inserting, after paragraph (a), the following paragraph:

15 “(aa) Prescribing the maximum amount of any levy that may be imposed under **section 14B** of this Act, the persons or classes of persons by whom the levy is payable, and the methods to be adopted in the collection of  
20 any such levy:”.

**6. Transitional special levy relating to toxic shellfish monitoring programme**—(1) For the purposes of funding the fishing industry's contribution towards the costs of the toxic shellfish monitoring programme in respect of the period  
25 beginning on the commencement of this section and ending with the close of the 31st day of December 1994, the Board may, by notice in the *Gazette* given in accordance with **subsection (3)** of this section, impose a special levy payable by all or any of the following:

30 (a) Any holder of a marine farming lease granted under section 8 of the Marine Farming Act 1971:

(b) Any holder of a marine farming licence granted under the said section 8:

35 (c) Any holder of a marine farming permit issued under section 67J of the Fisheries Act 1983:

(d) Any holder of a spat catching permit issued under section 67Q of the Fisheries Act 1983:

(e) Any holder of a fish packing house licence issued under regulation 9 of the Fish (Packing for Export) Regulations 1977:

40 (f) Any holder of a fishing permit issued under section 63 of the Fisheries Act 1983:

- (g) Any holder of a special permit issued under section 64 of the Fisheries Act 1983;—  
being persons authorised to farm or take specified species of fish or, in the case of fishing packing house licences, to process fish. 5
- (2) Different rates of levy may be fixed in respect of different classes of persons, species of fish, or areas, or any combination of them.
- (3) The notice under subsection (1) of this section—
- (a) Shall not be given without the prior approval of the Minister; and 10
- (b) Shall specify—
- (i) The persons or classes of persons by whom the levy is payable; and
- (ii) The rates of the levy. 15
- (4) The levy payable under this section shall be recoverable as a debt due to the Board in any Court of competent jurisdiction.
- (5) The Board shall pay to the Director-General all amounts received by it in payment of the levy payable under this section; and the Director-General shall cause it to be paid into a Crown Bank Account and be separately accounted for. 20

## PART II

### PRIVACY

**7. Part to be read with Privacy Act 1993**—This Part of this Act shall be read together with and deemed part of the Privacy Act 1993\*. 25

\*1993, No. 28

Amendment: 1993, No. 59

**8. Codes of practice**—Section 46 (2) of the Privacy Act 1993 is hereby amended by inserting, after paragraph (a), the following paragraph: 30

“(ab) Apply any one or more of the information privacy principles (but not all of those principles) without modification.”.

## PART III

### OTHER PROVISIONS 35

*Application of Part II of Commerce Act 1986 to Certain Agreements relating to Pharmaceuticals*

**9. Application of Part II of Commerce Act 1986 to regional health authorities, public health commission,**



**and certain subsidiaries**—(1) In this section, unless the context otherwise requires,—

“Agreement”—

5 (a) Includes any agreement, arrangement, contract, covenant, deed, or understanding, whether oral or written, whether express or implied, and whether or not enforceable at law; and

10 (b) Without limiting the generality of paragraph (a) of this definition, includes any contract of service and any agreement, arrangement, contract, covenant, or deed, creating or evidencing a trust:

“Authority” means a regional health authority established by Order in Council in accordance with section 32 of the Health and Disability Services Act 1993:

15 “The commission” means the Public Health Commission established by section 27 of the Health and Disability Services Act 1993:

20 “Pharmaceuticals” means substances or things that are medicines, therapeutic medical devices, or products or things related to pharmaceuticals:

“Reached” includes entered into, granted, and made; and “reaching” has a corresponding meaning:

25 “Specified body” means a body that is an authority, the commission, or any person wholly owned by a specified body or 2 or more specified bodies:

“Subsidiary” has the meaning given to that term by section 158 of the Companies Act 1955 or, as the case may require, sections 5 and 6 of the Companies Act 1993.

30 (2) This subsection applies to an agreement (whether reached before or after the commencement of this Act) if, and only if,—

(a) At least 1 party to it was a specified body at the time it was reached; and

35 (b) It was reached after consultation between the Minister of Health and 1 or more of the parties to it; and

(c) It relates to pharmaceuticals for which full or part payments may be made by 1 or more specified bodies.

40 (3) It is hereby declared that nothing in Part II of the Commerce Act 1986 applies, or has ever applied, to—

(a) Any agreement to which subsection (2) of this section applies; or

(b) Any act, matter, or thing, done by any person in relation to reaching, or to give effect to, such an agreement.

(4) For the purposes of section 2 (7) of the Commerce Act 1986 (which relates to interconnected bodies corporate), neither the commission nor any authority or crown health enterprise (within the meaning of section 2 of the Health and Disability Services Act 1993) shall be regarded as, or as having ever been, a subsidiary of the Crown. 5

(5) No person other than the Commerce Commission may commence any proceedings against an authority under section 81 or section 82 of the Commerce Act 1986 in respect of any act, matter, or thing, that has been done or will be done before the 1st day of July 1994. 10

(6) Section 29 of the Health Reforms (Transitional Provisions) Act 1993 is hereby consequentially repealed.

*Accident Rehabilitation and Compensation Insurance Corporation*

**10. Validation of payment of motor spirits excise duty to Accident Rehabilitation and Compensation Insurance Corporation—All—** 15

(a) Actions of the Crown in paying to the Accident Rehabilitation and Compensation Insurance Corporation from the Crown Bank Account the sum of \$14,625,000, inclusive of goods and services tax, (being the first quarterly instalment payable under section 109 of the Accident Rehabilitation and Compensation Insurance Act 1992 in respect of the financial year ending with the close of the 30th day of June 1994); and 20

(b) Actions of the Corporation in crediting that sum (purportedly pursuant to subsection (4) of that section) to the Motor Vehicle Account established under section 108 of that Act,— 30

shall, notwithstanding that the payment was made without the authority of an Order in Council made under section 109 of that Act, be deemed to have been, and continue to be, as valid and effectual as they would have been if the Accident Rehabilitation and Compensation Insurance (Motor Spirits Excise Duty) Order 1993 had been in force when the sum was paid. 35

**11. Corporation payment to Crown Bank Account for public health care costs in respect of year ending 30 June 1995—**(1) In respect of the year ending with the close of the 30th day of June 1995, the Accident Rehabilitation and Compensation Insurance Corporation shall, not later than that day, pay to a Crown Bank Account nominated by the Minister 40

of Finance the sum of \$120,003,000 (inclusive of goods and services tax) in respect of the costs of health and disability services purchased by the Regional Health Authorities in respect of—

- 5 (a) Motor vehicle injuries; and  
 (b) Work injuries (including subsequent work injuries); and  
 (c) Injuries referred to in **paragraph (a)** or **paragraph (b)** of this subsection that are suffered by overseas visitors.
- 10 (2) Of the amount specified in **subsection (1)** of this section,—  
 (a) Notwithstanding section 100 (3) (a) of the Accident Rehabilitation and Compensation Insurance Act 1992, the Corporation shall debit \$41,176,000 (inclusive of goods and services tax) to the Employers' Account established under section 100 of that Act;  
 15 and  
 (b) Notwithstanding section 108 (3) (a) of that Act, the Corporation shall debit \$78,827,000 (inclusive of goods and services tax) to the Motor Vehicle Account established under section 108 of that Act;—  
 20 and section 121 (4) of that Act shall have effect accordingly.  
 (3) The Corporation is hereby authorised—  
 (a) To apply the funds in the said Employers' Account towards payment of the amount referred to in **paragraph (a)** of **subsection (2)** of this section;  
 25 (b) To apply the funds in the said Motor Vehicle Account towards payment of the amount referred to in **paragraph (b)** of that subsection.

*GCS Limited*

**12. Amendment to State-Owned Enterprises Act 1986—**

- 30 (1) The First Schedule to the State-Owned Enterprises Act 1986 (as amended by section 8 of the Finance Act 1991) is hereby amended by omitting the name "GCS Limited".  
 (2) Notwithstanding the coming into force of **subsection (1)** of this section, section 22 of the State-Owned Enterprises Act 1986  
 35 shall, so long as Ministers of the Crown continue to hold shares in GCS Limited (in this section called "the Corporation"), continue to apply in relation to the Corporation as if—  
 (a) The Corporation were a State enterprise; and  
 (b) The Minister of Finance and the Minister for State Owned  
 40 Enterprises were the shareholding Ministers for the Corporation.  
 (3) The Second Schedule to the State-Owned Enterprises Act 1986 (as amended by section 8 of the Finance Act 1991) is hereby amended by omitting the name "GCS Limited".

(4) Each Minister of the Crown who holds shares in the Corporation on behalf of Her Majesty the Queen may exercise all or any of Her Majesty's rights and powers as the holder of those shares.

(5) Section 8 of the Finance Act 1991 is hereby 5  
consequentially repealed.

**13. Amendment to Ombudsmen Act 1975**—(1) The Ombudsmen Act 1975 is hereby amended by omitting from Part II of the First Schedule (as amended by section 9 (1) of the Finance Act 1991) the name "GCS Limited". 10

(2) The Second Schedule to the Finance Act 1991 is hereby consequentially amended by repealing the item relating to the Ombudsmen Act 1975.

**14. Amendment to Official Information Act 1982**—(1) The Official Information Act 1982 is hereby amended by 15  
omitting from the First Schedule (as substituted by section 23 (1) of the Official Information Amendment Act 1987 and amended by section 9 (1) of the Finance Act 1991) the name "GCS Limited".

(2) The Second Schedule to the Finance Act 1991 is hereby 20  
consequentially amended by repealing the item relating to the Official Information Act 1982.

**15. Amendment to Income Tax Act 1976**—(1) The Income Tax Act 1976 is hereby amended by omitting from the Fourteenth Schedule (as substituted by section 23 (1) of the 25  
State Services Conditions of Employment Amendment Act 1987 and amended by section 9 (1) of the Finance Act 1991) the name "GCS Limited".

(2) The Second Schedule to the Finance Act 1991 is hereby 30  
consequentially amended by repealing the item relating to the Income Tax Act 1976.

*Health Reforms (Transitional Provisions)*

**16. Amendment to Health Reforms (Transitional Provisions) Act 1993**—(1) The Fourth Schedule to the Health Reforms (Transitional Provisions) Act 1993 is hereby amended, 35  
as from the commencement of that Fourth Schedule, by repealing the item relating to paragraph (b) of section 8 (1) of the Health Research Council Act 1990.

(2) Without limiting subsection (1) of this section, it is hereby 40  
declared that the repeal of paragraph (b) of section 8 (1) of the Health Research Council Act 1990 by section 32 of the Health

Reforms (Transitional Provisions) Act 1993 shall be deemed not to have affected—

- (a) The membership of the Health Research Council; or
- 5 (b) The validity of any appointment made under section 8 (1) (b) of the Health Research Council Act 1990 (as substituted by section 3 of the Health Research Council Amendment Act 1991) in the period beginning on the 1st day of July 1993 and ending with the commencement of this subsection; or
- 10 (c) The validity of any action taken by the Council or any member of the Council in the period beginning on the 1st day of July 1993 and ending with the commencement of this subsection.