

Hon. Dr Finlay

MARINE INSURANCE AMENDMENT

ANALYSIS

Title	
1. Short Title	3. Failure to execute policy
2. Abolition of requirement that contract be embodied in policy before action brought	4. Limitation on length of time policies abolished

A BILL INTITULED

An Act to amend the Marine Insurance Act 1908

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

1. **Short Title**—This Act may be cited as the Marine Insurance Amendment Act 1975, and shall be read together with and deemed part of the Marine Insurance Act 1908* (hereinafter referred to as the principal Act).
- 10 2. **Abolition of requirement that contract be embodied in policy before action brought**—Section 22 of the principal Act is hereby repealed.
- 15 3. **Failure to execute policy**—(1) The principal Act is hereby amended by repealing section 26 (as amended by section 3 (2) (a) to (c) of the Stamp Duties Amendment Act 1960), and substituting the following section:

*1957 Reprint, Vol. 9, p. 291

“26. (1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$200 who, as an insurer or as the agent of an insurer, directly or indirectly receives or takes credit in account for any premium or consideration for any contract of marine insurance, and does not before or within 30 days after receiving or taking credit for such premium or consideration duly execute, or procure to be duly executed, a policy of such insurance complying with the provisions of this Act. 5

“(2) This section does not apply to contracts of reinsurance of risks. 10

“(3) This section applies to the agent of an insurer, whether such insurer resides or carries on business in New Zealand or elsewhere.

“(4) Failure to comply with any of the provisions of sections 23 to 26 of this Act shall not of itself invalidate any contract of marine insurance.” 15

(2) Section 3 of the Stamp Duties Amendment Act 1960 is hereby consequentially amended by repealing paragraphs (a) to (c) of subsection (2). 20

4. Limitation on length of time policies abolished—

(1) Section 27 of the principal Act is hereby amended by repealing subsection (2) (as amended by section 3 (2) (d) of the Stamp Duties Amendment Act 1960).

(2) Section 3 (2) (d) of the Stamp Duties Amendment Act 1960 is hereby consequentially repealed. 25

MARINE INSURANCE AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill, which amends the Marine Insurance Act 1908, implements a report of the Contracts and Commercial Law Reform Committee on the effects of the decision in *Atkinson v. South British Insurance Co. Ltd.* [1968] N.Z.L.R. 45.

Clause 1 relates to the Short Title.

Clause 2, by repealing section 22 of the principal Act, does away with the requirement that a contract of marine insurance must be embodied in a policy of marine insurance before an action can be brought on it.

Clause 3 substitutes a new section 26 in the principal Act. The new section, like the existing section, requires every insurer or agent of an insurer who receives or takes credit in account for any premium or consideration for any contract of marine insurance to duly execute, or procure to be duly executed, within 30 days, a policy of marine insurance. The new section makes it clear that the policy must comply with the other requirements of the Act. Failure to comply with this provision is an offence.

Subsection (2) of the new section provides that the section does not apply to contracts of reinsurance of risks.

Subsection (2) of the existing section is not re-enacted. That subsection provides that, in any case where a contract of marine insurance is not expressed in a duly executed policy, it is an offence for any person to make a payment upon a loss under that contract or to settle a claim made in respect of it.

Subsection (4) of the new section makes it clear that failure to comply with any of the provisions of sections 23 to 26 of the principal Act does not of itself invalidate any contract of marine insurance.

Clause 4 repeals section 27 (2) of the principal Act so that there will now be no limit on the period of cover that can be provided by a time policy. The basic existing limit is 12 months.