

RESERVE BANK OF NEW ZEALAND AMENDMENT BILL

AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE

This bill was formerly part of the Banking and Insolvency (Netting and Payments Finality) Bill as reported from the Commerce Committee. The committee of the whole House has divided the bill into 4 separate bills as follows:

- The Companies Amendment Bill (No. 2), comprising Part 1
 - The Corporations (Investigation and Management) Amendment Bill, comprising Part 2
 - The Insolvency Amendment Bill (No. 2), comprising Part 3
 - This bill, comprising Part 4.
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No. 162—3D

Price Code: J

KEY TO SYMBOLS USED IN REPRINTED BILL

AS REPORTED FROM A SELECT COMMITTEE

Struck Out (Unanimous)

Subject to this Act,

Text struck out unanimously

New (Unanimous)

Subject to this Act,

Text inserted unanimously

(Subject to this Act,)

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

Rt Hon Bill Birch

RESERVE BANK OF NEW ZEALAND AMENDMENT

ANALYSIS

Title	35. Statutory manager may suspend payment of money owing
1. Short Title	36. Management of registered bank to vest in statutory manager
33. Statutory management of registered banks and associated persons	37. Application of certain provisions of Companies Act 1993
34. Moratorium	38. Termination of statutory management

A BILL INTITULED

An Act to amend the Reserve Bank of New Zealand Act 1989

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

5 **1. Short Title**—This Act may be cited as the Reserve Bank of New Zealand Amendment Act 1999, and is part of the Reserve Bank of New Zealand Act 1989 (“the principal Act”).

10 **33. Statutory management of registered banks and associated persons**—Section 117 of the principal Act is amended by adding the following subsections:

“(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.

15 “(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.”

20 **34. Moratorium**—(1) Section 122 of the principal Act is amended by inserting in subsections (5) and (6), after the word “which” in each place where it appears, the expression “, and the time at which,”.

(2) Section 122 of the principal Act is amended by adding the following subsection:

Struck Out (Unanimous)

“~~(7) Nothing in subsection (1) limits or prevents the operation of a netting agreement to which **sections 310A to 310L** of the Companies Act 1993 or **sections 93A to 93G** of the Insolvency Act 1967 apply. In particular,—~~

New (Unanimous)

“(7) In the case of a netting agreement to which **sections 310A to 310M** of the Companies Act 1993 or **sections 93A to 93G** of the Insolvency Act 1967 apply,—

- “(a) Nothing in subsection (1) (h) applies to any right of set-off provided for in *(a)* the netting agreement; and
- “(b) Nothing in subsection (1) limits or prevents the exercise of any of the following rights under *(a)* the netting agreement: 15
- “(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 20
- “(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 25
- “(c) Nothing in subsection (1) limits or prevents the exercise, by a recognised clearing house (within the meaning of **section 310A** of the Companies Act 1993), of any right referred to in subsection (1) (d) to (f) in respect of any property of that registered bank if the right that is exercised 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 a recognised multilateral netting agreement (within the meaning of that section).” 30 35

35. Statutory manager may suspend payment of money owing—(1) Section 127 (3) of the principal Act is amended by inserting, after the word “which”, the expression “, and the time at which,”.

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New (Unanimous)

(2) Section 127 of the principal Act is amended by adding the following subsection:

10 “(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 93c** of the Insolvency Act 1967, as the case may be. However, subsection (1) applies to the payment of the netted balance.”

15 **36. Management of registered bank to vest in statutory manager**—Section 128 (1) of the principal Act is amended by inserting, after the word “date”, the expression “, and at and from the time,”.

20 **37. Application of certain provisions of Companies Act 1993**—(1) Section 139 (1) of the principal Act is amended by inserting, after the expression “301”, the expression “, **310E, 310G,**”.

25 (3) Section 139 (1) of the principal Act is amended by repealing paragraph (c), and substituting the following paragraph:

“(c) 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.”

30 **38. Termination of statutory management**—Section 144 of the principal Act is amended—

35 (a) By omitting from paragraphs (a), (b), and (c) of subsection (4) the words “on the specified date” in each place where they appear, and substituting in each case the words “at the specified time”:

(b) By omitting from subsection (5) the word “date” in the first place where it appears, and substituting the word “time”:

- (c) By inserting in subsection (5) (a) and (b), after the word “date” in each place where it appears, the words “and time”:
- (d) By inserting in subsection (6) (a), after the word “which”, the expression “, and at the same time as that specified as the time at which,”: 5
- (e) By inserting in subsection (6) (b) and (c), after the word “date” in each place where it appears, the words “and at the time”.