

[AS REPORTED FROM THE PUBLIC EXPENDITURE COMMITTEE]

House of Representatives, 15 November, 1983.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

Right Hon. Mr Muldoon

TRUSTEE BANKS

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A BILL INTITULED

An Act to consolidate and amend the law relating to trustee savings banks and to provide for such banks to be established and known as trustee banks

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

1. Short Title—(1) This Act may be cited as the Trustee Banks Act 1983.

New

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(2) This Act shall come into force on the 1st day of April 1984.

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

“Bank premises”, in relation to any trustee bank, means 15
land or buildings held by the bank for the purpose of providing offices or other facilities for the bank:

“Board” means the Board of Trustees of a trustee bank:

“Chief executive officer” means the chief executive officer of the trustee bank appointed pursuant to **section 23** 20
of this Act:

“Financial institution” means a financial institution within the meaning of the Reserve Bank of New Zealand Act 1964:

“Financial year” means a year ending on the 31st day of 25
March:

Struck Out

“Institution”—

(a) Means any incorporated or unincorporated association, body, club, committee, or society which 30
is not carried on principally for trade or profit; and

(b) Includes the Masterton Licensing Trust, the Invercargill Licensing Trust, and any licensing trust constituted under the Licensing Trusts Act 1949 or pursuant to regulations made under that Act; but 35

(c) Does not include a local authority:

“Local authority” means a local authority within the meaning of Part I of the Local Authorities Loans Act 1956, whether by virtue of section 2 of that Act or of any Order in Council thereunder, or by virtue of the 40
provisions of any other Act:

“Minister” means the Minister of Finance:

“Trustee” means a member of the Board of a trustee bank:

5 “Trustee bank” means a trustee bank established under this Act:

“Trading bank” means any bank for the time being named in the First Schedule to the Reserve Bank of New Zealand Act 1964.

PART I

10 CONSTITUTION AND FUNCTIONS OF TRUSTEE BANKS

3. Incorporation of trustee banks—(1) Every trustee savings bank established under the Trustee Savings Banks Act 1948 and in existence at the commencement of this Act is hereby declared to be a trustee bank established under this
15 Act.

(2) Every trustee bank established under this Act shall be a body corporate, having perpetual succession and a common seal, and being capable of holding real and personal property and of doing and suffering all other things that bodies corporate
20 may do and suffer.

(3) The name of a trustee bank established under this Act may from time to time with the approval of the Governor-General by Order in Council be changed to such name as may be specified in the order.

25 Cf. 1948, No. 62, s. 3 (1), (2)

4. Establishment of new trustee banks—(1) With the consent of the Governor-General in Council, there may be established a trustee bank in such city, town, district, or region, upon such terms, and subject to such conditions as are specified
30 in the Order in Council or in any subsequent Order in Council.

Struck Out

(2) Every trustee bank established under this section shall be deemed to be a trustee bank within the meaning of this Act, and the provisions of this Act, with such modifications and
35 exceptions as may from time to time be specified by the Governor-General by Order in Council, shall apply to the bank.

New

- (2) Every trustee bank established under this section shall be deemed to be a trustee bank within the meaning of this Act.
- (3) An Order in Council made under this section—
- (a) May provide for such modifications and exceptions to the provisions of this Act as may be necessary—
- (i) To facilitate the establishment of the trustee bank; and
 - (ii) To ensure its stability; and
- (b) If provision is made for any such modifications or exceptions, shall specify the period or periods during which any such modifications and exceptions apply.

Cf. 1948, No. 62, s. 3A (1), (2); 1957, No. 74, s. 2

5. Union of trustee banks—(1) The Governor-General may, by Order in Council, on written application to the Minister of each of the banks concerned, declare any 2 or more trustee banks to be united to form a new trustee bank, and assign a name to that bank.

(2) On the gazetting of such an Order in Council, the following provisions shall apply:

- (a) The original banks and their Boards shall be dissolved:
- (b) All real and personal property belonging to the original banks shall become vested in the new bank:
- (c) All money payable to the original banks shall become payable to the new bank:
- (d) All liabilities, contracts, and engagements, and all rights and authorities of any nature whatever, of the original banks shall become liabilities, contracts, engagements, rights, and authorities of the new bank:
- (e) All proceedings pending by or against the original banks may be carried on or prosecuted by or against the new bank:
- (f) All customers in the original banks shall become customers in the new bank.

(3) The Order in Council under this section shall define the area of operations of the new trustee bank.

(4) Subject to **subsection (7)** of this section, the District Land Registrar, on receiving a written request from the new trustee bank under the seal of the bank, incorporating the *Gazette* reference of the relevant Order in Council, shall without fee make such entries in his registers and on any outstanding documents of title and generally do all such things as may be necessary to give effect to the provisions of **subsection (2)** of this section in respect of land and interests in land specified in the request.

(5) The provisions of **subsection (2) of section 4** of this Act shall apply to every new trustee bank formed under this section as if it were a new bank established under the said section.

(6) On the gazetting of an Order in Council under this section, 5 all references to any of the original banks in any security or other document which is subsisting immediately before the date of gazetting or in any notice or other communication served, given, or sent on or after that date in relation to any such security or other document shall, unless the context 10 otherwise requires, be read as references to the new bank.

(7) No Registrar of Deeds or District Land Registrar or any other person charged with the keeping of any books or registers shall be obliged, solely by the gazetting of an Order in Council under this section, to change the name of any of the original 15 banks to that of the new bank in his books or registers or in any document in his charge; but the presentation to any such Registrar or other person of any instrument—

- (a) Executed or purporting to be executed by the new bank; and
- 20 (b) Relating to any property held immediately before the date of gazetting by any of the original banks; and
- (c) Containing a recital that that property has become vested in the new bank by virtue of the provisions of this section and of the Order in Council, and 25 incorporating the *Gazette* reference of the Order in Council—

shall, in the absence of proof to the contrary, be sufficient evidence that the property is vested in the new bank.

(8) Except as provided in **subsection (7)** of this section, nothing 30 in this section shall derogate from the provisions of the Land Transfer Act 1952.

Cf. 1948, No. 62, s. 3B; 1972, No. 121, s. 3

6. Transfer of operations of trustee banks—(1) The 35 Governor-General may, by Order in Council, dissolve any trustee bank and transfer its operations to another specified trustee bank or to other specified trustee banks.

(2) An Order in Council shall not be made under **subsection (1)** of this section except on the written application to the 40 Minister of the bank to be dissolved and with the written consent of the bank or banks to which the operations are to be transferred.

- (3) On the gazetting of such an Order in Council the following provisions shall apply, subject to **subsection (5)** of this section:
- (a) The Board of the dissolved bank shall be dissolved:
 - (b) All real and personal property belonging to the dissolved bank shall become vested in the other bank specified 5
in the Order in Council:
 - (c) All money payable to the dissolved bank shall become payable to the other bank:
 - (d) All liabilities, contracts, and engagements, and all rights and authorities of any nature whatever, of the 10
dissolved bank shall become liabilities, contracts, engagements, rights, and authorities of the other bank:
 - (e) All proceedings pending by or against the dissolved bank may be carried on or prosecuted by or against the 15
other bank:
 - (f) All customers in the dissolved bank shall become customers in the other bank.
- (4) The Order in Council under this section shall define the area of operations of the other bank. 20
- (5) If the operations of any dissolved bank are to be transferred to 2 or more other trustee banks, the following provisions shall apply:
- (a) The Order in Council shall define the boundaries of each part of the area of operations which is to be 25
transferred to each of the other banks, and, subject to such apportionment between those banks as may be specified in the Order in Council and to the provisions of this subsection, **subsection (3)** of this section shall, with the necessary modifications, apply 30
accordingly:
 - (b) Subject to **paragraph (d)** of this subsection, all land and interests in land vested in the dissolved bank and situated within each part of the area of operations so transferred shall become vested in the bank to 35
which the part is transferred, except as may be otherwise provided for in the same or in a subsequent Order in Council, and any such land or interests not so vested shall, on the gazetting of the relevant Order in Council, become vested in the other bank specified 40
therein:
 - (c) Subject to **paragraph (d)** of this subsection, if any land or interest in land vested in the dissolved bank is situated outside that bank's area of operations, the Governor-General shall, by the same or a subsequent Order in 45
Council, specify in which of the other banks the land

or interest is to be vested, and, on the gazetting of the relevant Order in Council, the land or interest shall become vested in the bank specified therein:

- 5 (d) If 2 or more pieces of land, or if any interests in 2 or more pieces of land, are comprised in one document or instrument of title, the land or interests shall become vested in only one of the other banks, being such one of those banks as may be specified in the same or in a subsequent Order in Council:
- 10 (e) Before any bank forwards a written request to the District Land Registrar under **subsection (7)** of this section, the request shall be submitted to the Governor of the Reserve Bank who shall, on satisfying himself of the accuracy of the request, endorse on the request a
- 15 certificate under his hand to the effect that the land and interests in land specified in the request have become vested in the bank.
- (6) Any Order in Council made under this section may—
- 20 (a) Change the name or names of the bank or banks to which any operations of the dissolved bank are transferred:
- (b) Provide that the number of trustees on the Board of any bank or banks to which any operations of a dissolved bank are to be transferred may, for the period not exceeding 5 years after the date of dissolution, exceed
- 25 the maximum number permitted under **subsection (3)** of **section 11** of this Act:
- (c) Provide for such other matters as may be necessary or expedient for the transfer of operations.
- (7) Subject to **subsection (9)** of this section, the District Land
- 30 Registrar, on receiving a written request from any trustee bank to which operations have been so transferred, under the seal of the bank, incorporating the *Gazette* reference of the relevant Order in Council and, where applicable, the certificate referred to in **paragraph (e)** of **subsection (5)** of this section, shall without
- 35 fee make such entries in his registers and on any outstanding documents of title and generally do all such things as may be necessary to give effect to the provisions of **subsection (3)** of this section. The receipt by the District Land Registrar of such a
- 40 written request shall, in the absence of proof to the contrary, be sufficient evidence that the land and interests in land specified therein have become vested in the bank under **subsection (3)** of this section.

(8) On the gazetting of an Order in Council changing the name of a bank pursuant to **paragraph (a)** of **subsection (6)** of this section, all references to the old name of the bank in any security or other document which is subsisting immediately before the date of gazetting or in any notice or other communication served, given, or sent on or after that date in relation to any such security or other document shall, unless the context otherwise requires, be read as references to the new name of the bank. 5

(9) No Registrar of Deeds or District Land Registrar or any other person charged with the keeping of any books or registers shall be obliged, solely by the gazetting of an Order in Council changing the name of a bank pursuant to **paragraph (a)** of **subsection (6)** of this section, to change any reference to the old name of the bank to the new name in his books or registers or in any document in his charge; but the presentation to any such Registrar or other person of any instrument— 15

(a) Executed or purporting to be executed by the bank under its new name; and

(b) Relating to any property held immediately before the date of gazetting by the bank under its old name; and 20

(c) Containing a recital that the name of the bank has been changed under the provisions of this section and of the Order in Council, and incorporating the *Gazette* reference of the Order in Council— 25

shall, in the absence of proof to the contrary, be sufficient evidence that the property is vested in the bank under its new name.

(10) Except as provided in **subsection (9)** of this section, nothing in this section shall derogate from the provisions of the Land Transfer Act 1952. 30

Cf. 1948, No. 62, s. 3c; 1972, No. 121, s. 4

7. Transfer of part of business of trustee banks—

(1) Subject to this section, the Governor-General may, on the recommendation of the Minister, by Order in Council, approve the transfer of any part of the business of a trustee bank to any other trustee bank or trustee banks specified in the order upon and subject to such terms and conditions as may be specified in the order. 35

New

(1A) Before making any recommendation for the purposes of **subsection (1)** of this section, the Minister shall advise the trustee banks which will be affected by any order made under
 5 that subsection of the proposed terms thereof, and the reasons therefor, and shall give those trustee banks a reasonable opportunity to make submissions to him.

(2) Without limiting **subsection (1)** of this section, an Order in Council under this section may make provision for and pre-
 10 scribe terms and conditions relating to—

- (a) The transfer and vesting of real and personal property:
- (b) The transfer of assets, rights, interests, liabilities, contracts, and engagements:
- (c) Legal proceedings:
- 15 (d) The transfer of accounts of customers:
- (e) Such other matters as may be necessary to give effect to the transfer of the business.

(3) An Order in Council made under this section shall, upon gazetting, be binding upon all persons and for all purposes.

20 *New*

(3A) No Order in Council made under this section shall derogate from or limit any rights which any person would have had but for this section.

(4) An Order in Council made under this section may alter
 25 or amend the terms of any other Order in Council defining or prescribing the area of operations of any trustee bank to which the Order in Council made under this section relates.

Struck Out

8. Functions of trustee banks—The functions of every
 30 trustee bank shall be—

- (a) To carry on in New Zealand for the benefit of individuals and institutions the business of banking in such forms as may be authorised from time to time by the Governor-General by Order in Council:
- 35 (b) To carry on in New Zealand such other functions related to the business of banking as may be authorised from time to time by the Governor-General by Order in Council.

New

8. Functions of trustee banks—The functions of every trustee bank shall be—

- (a) To carry on the business of banking in the following forms— 5
 - (i) The receipt of money on current account or on deposit:
 - (ii) The payment and collection of cheques:
 - (iii) The investment and lending of money:
 - (iv) The provision of banking services to facilitate 10 the forms of business described in **subparagraphs (i) to (iii)** of this paragraph:
- (b) To carry on the business of banking in such other forms as may be authorised from time to time by the Governor-General by Order in Council: 15
- (c) To carry on such functions related to the business of banking as may be authorised from time to time by the Governor-General by Order in Council.

Cf. 1948, No. 62, s. 4 (1); 1972, No. 121, s. 5

9. Powers of trustee banks—(1) A trustee bank shall have 20 all such powers, rights, and authorities as are conferred upon it by this Act and all such other powers not inconsistent with this Act as may be reasonably necessary to enable it to carry on its functions.

(2) Any power, right, or authority that a trustee bank has 25 pursuant to this section may be exercised—

- (a) As a principal, agent, attorney, contractor, trustee, or otherwise:
- (b) By or through a trustee, agent, attorney, subsidiary or associated company, or otherwise. 30

Cf. 1948, No. 62, s. 4 (2)

Struck Out

10. Trustee banks may carry on business jointly—

(1) Subject to **subsection (2)** of this section, any 2 or more trustee banks may, with the approval of the Governor-General by 35 Order in Council, carry on jointly any business which such banks are empowered to carry on under this Act.

(2) An Order in Council under this section may be made upon such terms and conditions as may be specified in the order. 40

New

10 **10. Trustee banks may carry on business jointly**—(1) Any
 2 or more trustee banks may carry on jointly any business
 which trustee banks are empowered to carry on under this
 5 Act.

(2) Nothing in **subsection (1)** of this section shall be construed
 as authorising any trustee bank or trustee banks to carry on
 a trade practice for the purposes of sections 22 (7) (a) and
 27 (3) (c) of the Commerce Act 1975.

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PART II

MANAGEMENT OF TRUSTEE BANKS

11. Board of Trustees—(1) Subject to the provisions of this
 Act, there shall be a Board of Trustees of every trustee bank
 established under this Act.

15 (2) The management of the business of a trustee bank shall
 vest in the Board of the bank.

(3) Subject to **subsection (4)** of this section, the Board of a
 trustee bank shall consist of not less than 7 nor more than 10
 trustees who shall be appointed by the Governor-General.

20 (4) The maximum number of trustees of the Board of the
 Auckland Savings Bank shall be 12 and the maximum number
 of trustees of the Board of the Eastern and Central Savings
 Bank shall be 14.

25 (5) The powers of a Board shall not be affected by any
 vacancy in its membership.

(6) Every person holding office immediately before the
 commencement of this Act as a trustee of a trustee savings
 bank established under the Trustee Savings Banks Act 1948
 shall continue in office as a trustee of that bank as if he had
 30 been appointed under this Act.

(7) The term of office of every trustee referred to in **subsection
 (6)** of this section shall expire on the date on which, but for
 the passing of this Act, his term would have expired.

Cf. 1948, No. 62, s. 6

35 **12. Duties of Boards**—In managing the business of a trustee
 bank, the Board of the bank shall so far as practicable—

(a) Promote and maintain the solvency and stability of the
 bank in the interests of the bank and its customers:

40 (b) Carry on the business of the bank so as to ensure the
 profitability of the bank:

(c) Maintain at all times adequate reserve assets to discharge
 the obligations of the bank to its customers.

13. Personal liability of trustees—No trustee shall be personally liable for any act or default done or made by him, or by the Board, or by any other trustee in the course of the operations of the Board, unless he acted in bad faith or without reasonable care. 5

14. Term of office of trustees—(1) Subject to this Act, every trustee shall hold office for a period commencing on a date specified in his appointment and ending with the close of the 31st day of May in the fifth year after the year in which his appointment takes effect. 10

(2) A trustee shall be eligible for reappointment from time to time.

(3) Every trustee, unless he sooner vacates his office under **section 15** of this Act, shall continue in office until either he is reappointed or his successor comes into office, notwithstanding 15 that the term for which he was appointed may have expired.

(4) Where it is not intended to appoint a successor to a retiring trustee or to reappoint him, the Minister shall notify the trustee in writing to that effect, and the term of office of the trustee shall terminate on the date when his term of office 20 would have expired or when he receives the notification (whichever is later).

(5) Where it appears to be desirable, to ensure a sufficient level of experience on the Board, that not more than 2 trustees shall retire in any year the Governor-General may, by Order 25 in Council, extend the term of appointment of any trustee due to retire for such period, not exceeding 4 years, as may be specified in the order.

Cf. 1948, No. 62, s. 7; 1964, No. 10, s. 5

15. Extraordinary vacancies—(1) A trustee may at any time 30 resign his office by notice in writing to the Minister.

(2) A trustee shall be deemed to have resigned his office if at any time—

- (a) He is prohibited from acting as a trustee by virtue of **section 17** of this Act; or 35
- (b) He fails to attend 3 consecutive ordinary meetings of the Board, unless his non-attendance has been previously consented to by the Board.

(3) Any trustee may be removed from office at any time by the Governor-General for disability, bankruptcy, neglect of 40 duty, or misconduct, proved to the satisfaction of the Governor-General.

(4) If any trustee dies, or resigns, or is removed from office, his office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy.

(5) In the case of any extraordinary vacancy the Governor-
5 General may appoint some fit person to be a trustee for the residue of the term of office of the vacating trustee.

Cf. 1948, No. 62, s. 8

16. President and Deputy President—(1) At a meeting of the Board to be held in June in each year the Board shall elect
10 from among the trustees a President and a Deputy President of the trustee bank.

(2) Any person elected as the President or Deputy President shall hold office, while he continues to be a trustee, until the election of his successor in accordance with this section, and
15 may be re-elected.

(3) The Deputy President, with the consent of the President, or (in the case of the illness, absence, or other incapacity of the President) without such consent, shall have and may exercise all the powers, duties, and functions of the President.

(4) Where the President or the Deputy President vacates office
20 in accordance with **section 15** of this Act, the Board, at its next meeting after the vacancy occurs, shall elect from among the trustees a President or a Deputy President, as the case may require, to fill the vacancy. If the Deputy President is elected
25 President under this subsection, a Deputy President shall be elected as aforesaid at the same meeting.

(5) The fact that the Deputy President exercises any power, duty, or function of the President shall be conclusive proof of his authority to do so, and no acts done by the Deputy
30 President as such shall in any proceedings be questioned on the ground that the occasion for his acting had not arisen or had ceased.

Cf. 1948, No. 62, s. 9; 1964, No. 10, s. 6

17. Disqualification from appointment—The following
35 persons shall not be capable of being appointed, or reappointed, or holding office as a trustee of a trustee bank:

(a) A bankrupt who has not obtained his final order of discharge, or whose order of discharge has been suspended for a term not yet expired, or is subject
40 to a condition not yet fulfilled:

Struck Out

(b) A person convicted of any offence punishable by imprisonment for a term exceeding 6 months:

New

- (b) A person who is convicted of any offence punishable by imprisonment for a term of 2 years or more; or
 (ba) A person who is convicted of any offence punishable by imprisonment for a term of less than 2 years and is sentenced to imprisonment for that offence: 5
- (c) A mentally disordered person within the meaning of the Mental Health Act 1969:
 (d) A person who does not reside in the area of operation of the trustee bank: 10
 (e) A person who contravenes **section 22** of this Act.

18. Meetings of Board—(1) Meetings of the Board shall be held at such times and places as the Board determines.

(2) The President or any 3 trustees may at any time call a special meeting of the Board. 15

(3) At any meeting of the Board a majority of the trustees for the time being holding office shall form a quorum.

(4) All questions before the Board shall be decided by a majority of the valid votes recorded thereon.

(5) The President shall preside as Chairman at all meetings of the Board at which he is present. 20

(6) In the absence of the President from any meeting of the Board, the Deputy President, if present, shall preside as Chairman. In the absence from any meeting of both the President and the Deputy President, the trustees present shall appoint one of their number to be the Chairman of that meeting. 25

(7) At any meeting of the Board the Chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote. 30

New

(7A) Subject to **subsection (7B)** of this section, the chief executive officer is entitled to attend and speak at any meeting of the Board.

(7B) The chief executive officer is not entitled— 35

(a) To attend a meeting of the Board when the Board deliberates on or decides any matter that directly affects the chief executive officer; or

(b) To vote at any meeting of the Board which he attends.

(8) Subject to the provisions of this Act and of any regulations (*and rules made thereunder*) made under this Act, the Board may regulate its procedure in such manner as it thinks fit.

5 Cf. 1948, No. 62, ss. 10, 11

19. Trustees to disclose interest—(1) Any trustee who is directly or indirectly interested (other than as a member, director, or officer of a subsidiary of the trustee bank) in any arrangement or agreement made or entered into, or proposed
10 to be made or entered into, by the bank shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.

(2) A disclosure of interest by a trustee shall be recorded in the minutes of the Board; and, unless otherwise provided by
15 resolution of the Board, the trustee—

- (a) Shall not be entitled to vote in respect of, or take part in the deliberations or decisions of the Board relating to, the arrangement or agreement in which he is interested; but
20 (b) May form part of the quorum of the Board for the purposes of any such deliberation or decision.

Cf. 1979, No. 34, s. 19

20. Interested trustees may affix seal—(1) Notwithstanding any rule of law, a trustee of a trustee bank who is interested
25 in any arrangement or agreement of or relating to the bank may affix, or attest the affixing of, the common seal of the bank to any document relating to the arrangement or agreement to the same extent as if he were not so interested (whether or not he is entitled to vote in respect of that
30 arrangement or agreement at a meeting of the Board).

(2) This section shall apply in respect of every affixing or attestation of the affixing, of the common seal of a bank to a document, whether performed before or after the commencement of this section.

35 Cf. 1955, No. 63, s. 199A; 1980, No. 43, s. 9

21. Remuneration and travelling expenses of trustees—
(1) There shall be paid by every trustee bank to the trustees such remuneration by way of fees and allowances as may be determined by the Board of each trustee bank within the limits
40 prescribed from time to time by regulations made under this Act either generally or in respect of any particular trustee or class of trustee.

(2) There shall be paid by every trustee bank to the trustees travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply as if the trustees of a trustee bank were members of a statutory Board within the meaning of that Act. 5

22. Trustees not to benefit from bank's business—

(1) Except as provided in this Act, it shall not be lawful for any trustee of a trustee bank—

- (a) To borrow any money from the trustee bank; or
- (b) To act as an officer of the trustee bank; or 10
- (c) To receive in his capacity as a trustee any remuneration from the trustee bank.

(2) **Subsection (1)** of this section shall not apply to any loan made by a trustee bank to a trustee of the bank if:

- (a) The loan was made not later than 3 months before the 15 date of appointment of the trustee; and
- (b) The loan was made in the normal course of business of the trustee bank; and
- (c) The loan was of a type or class of loans which had been approved by the trustee bank in respect of the 20 customers of the bank or any class of customers; and
- (d) The terms and conditions of the loan were the same as the terms and conditions applying to loans of that type or class.

(3) Nothing in **subsection (1)** of this section shall apply to any 25 loan made by a trustee bank to a trustee of the bank—

- (a) By way of overdraft on current account; or
- (b) In respect of the use of any credit card or bank card issued by the trustee bank to its customers, if—
 - (i) The loan was of a type or class of loans which 30 had been approved by the trustee bank in respect of customers of the bank or any class of customers; and
 - (ii) The terms and conditions of the loan are the same as the terms and conditions applying to loans of that type or class. 35

(4) Any loan made under **subsection (3)** of this section shall be subject to such limit as may be prescribed in regulations made under this Act, and, unless so prescribed, shall not exceed **(\$1,000) \$5,000**.

23. Officers of trustee bank—(1) The Board may from time 40 to time appoint—

- (a) A chief executive officer whose title shall be General Manager or such other title as the Board may from time to time determine; and

(b) Such other officers and employees as the business of the trustee bank may require.

(2) The Board may, subject to the terms of any contract of service or award, remove the chief executive officer or any
5 officer or employee at its discretion.

(3) The Board may from time to time determine the duties to be performed by the chief executive officer.

(4) Subject to the provisions of any enactment, or instrument for the time being binding on the Board (including any
10 instrument or direction given by the Minister), the Board may determine the remuneration, allowances, and conditions of employment of the chief executive officer, officers, and employees of the trustee bank.

(5) The Board may pay such remuneration and allowances
15 out of the funds of the trustee bank.

Cf. 1948, No. 62, s. 14

Struck Out

24. Superannuation or provident funds—The Board of every trustee bank, with the approval of the Minister and upon
20 and subject to such conditions as he may impose, may establish a scheme for the purpose of providing superannuation or provident allowances for officers of the bank, and may amend or determine any such scheme, whether established before or after the commencement of this Act.

25

New

24. Superannuation or provident funds—The Board of every trustee bank, with the approval of the Minister and upon
and subject to such conditions as the Minister may impose, may establish schemes for the purpose of providing
30 superannuation or provident allowances for officers or employees of the bank, and may amend or determine any such schemes, whether established before or after the commencement of this Act.

Cf. 1948, No. 62, s. 15

35

Struck Out

25. Grants to officers on retirement—(1) On the retirement from the service of any trustee bank of any officer, the Board may pay to that officer by way of gratuity any amount the Board may determine not exceeding an amount equal to 1
40 year's pay at the rate payable at the time of his retirement.

Struck Out

(2) On the death of any such officer (whether before or after his retirement, but before that officer has received a gratuity under **subsection (1)** of this section) the Board may pay to the dependants of that officer or any of them by way of gratuity 5 any amount the Board may determine not exceeding an amount equal to 1 year's pay at the rate payable at the time of his retirement (or if he died before retirement) at the time of his death.

New

10

25. Grants to officers or employees on retirement—

(1) On the retirement from the service of any trustee bank of any officer or employee whose length of service has not been less than 10 years, the Board may pay to that officer or employee by way of gratuity an amount not exceeding an 15 amount equal to his pay for a period of 6 months, or such longer period or periods as the Minister from time to time determines, at the rate payable to him at the time of his retirement.

(2) On the death of any such officer or employee (whether 20 before or after his retirement, but before he has received a gratuity under **subsection (1)** of this section), the Board may pay to his dependants or any of them by way of gratuity an amount not exceeding an amount equal to his pay for a period of 6 months, or such longer period or periods as the Minister 25 from time to time determines, at the rate payable to him at the time of his retirement or (if he died before retirement) at the time of his death.

(3) On the retirement from the service of any trustee bank of any officer or employee whose total length of service is less 30 than 10 years, or on the death of any such officer or employee (whether before or after his retirement), the Board may pay to him or to his dependants or any of them, by way of gratuity, such amount as may be approved from time to time or in any particular case by the Minister. 35

Cf. 1948, No. 62, s. 16; 1975, No. 23, s. 3

26. Delegation of powers—(1) A Board may from time to time appoint committees comprising such trustees, or such trustees and other persons as the Board shall determine.

(2) A Board may delegate to any committee appointed under 40 **subsection (1)** of this section any of its powers other than the power of delegation conferred by this subsection.

(3) A Board may from time to time delegate to the chief executive officer any of its powers, other than the powers relating to the appointment, removal, duties, remuneration, and conditions of employment of the chief executive officer.

5 (4) Subject to any general or specific directions given or conditions imposed by the Board, the chief executive officer may from time to time delegate to any officer or employee any of his powers, including any powers delegated to him by the Board.

10 (5) Subject to any general or specific directions given or conditions imposed by the Board or, as the case may require, by the chief executive officer, the committee or person to whom any power is delegated pursuant to this section may exercise that power in the same manner and with the same effect as
15 if it had been conferred on it or him directly by this Act and not by delegation.

(6) Until a delegation made under this section is revoked, it shall continue in force according to its tenor; and, in the event of the chief executive officer by whom any delegation has been
20 made ceasing to hold office, the delegation shall continue to have effect as if made by the person for the time being holding office as chief executive officer.

(7) Where a committee or person purports to act pursuant to a delegation made under this section, it or he shall be
25 presumed to be acting in accordance with the terms of the delegation in the absence of evidence to the contrary.

(8) Any delegation under **subsection (4)** of this section may be made to a specified person or to persons of a specified class, or may be made to the holder or holders for the time being
30 of a specified office or appointment, or class of offices or appointments.

(9) Any delegation made under this section may be revoked at any time; and no delegation of any power under this section shall prevent the exercise of that power by the Board or, as
35 the case may require, by the chief executive officer.

(10) The Board may at any time and from time to time discharge, alter, continue, or reconstitute any such committee, or discharge any member of a committee, and if it thinks fit, appoint such other member in his stead.

40 (11) The Board may appoint a member of any committee appointed under this section to be the Chairman thereof, and that power may be exercised by such committee, where the Board on the appointment of the committee does not appoint a Chairman. Any such committee may from time to time
45 appoint a Deputy Chairman to act in the absence of the Chairman.

Struck Out

(12) Any person affected by any decision made by any committee or person in the exercise of any powers conferred by delegation under this section may, within one month after the communication of the decision to him, appeal therefrom to the Board. 5

(13) The Board shall review every decision appealed from as aforesaid, and may at any time, of its own motion, review any other decision made by any committee or person in the exercise of any powers conferred by delegation under this section, and in any such case the Board may confirm, vary, or revoke the decision. 10

27. Offices and branches—(1) The head office of each trustee bank shall be situated within its area of operations.

(2) Subject to this Act a trustee bank may establish such branches, agencies, and offices, within its area of operations, as it thinks fit. 15

Cf. 1948, No. 62, s. 5; 1972, No. 121, s. 6 (1)

28. Areas of operations of trustee banks—(1) Subject to subsection (3) of this section, the area of operations of a trustee bank shall be the area prescribed from time to time in that behalf in relation to the bank by Order in Council. 20

(2) Subject to subsection (3) of this section, no trustee bank shall establish or carry on any branch office or agency otherwise than in the area of operations of that bank for the time being prescribed under this section. 25

Struck Out

(3) Nothing in this section shall limit or prevent a trustee bank from carrying on business (whether through a branch office or agency) in the area of operations of any other trustee bank— 30

(a) Pursuant to an Order in Council made under section 10 of this Act:

(b) By or through any organisation, association, or body (whether incorporated or unincorporated) representing or acting on behalf of any 2 or more trustee banks. 35

New

(3) Nothing in this section limits or prevents a trustee bank, with the prior consent under seal of any other trustee bank, from carrying on business in the area of operations of that other trustee bank (whether through a branch office, or agency)—

- 5 (a) Pursuant to **section 10** of this Act; or
 (b) By or through any organisation, association, or body (whether incorporated or unincorporated) representing or acting on behalf of any 2 or more trustee banks.
- 10

Cf. 1948, No. 62, s. 5A; 1964, No. 10, s. 3 (1)

29. Contracts—(1) Any contract which, if made between private persons, must be by deed shall, if made by a trustee bank, be in writing under the seal of the bank.

15

(2) Any contract which, if made between private persons, must be in writing signed by the parties to be charged therewith shall, if made by a trustee bank, be either under the seal of the bank or signed by 2 members of the Board on behalf of and by direction of the Board of the bank.

20

(3) Any contract which, if made between private persons, may be made orally may be similarly made by or on behalf of a trustee bank by any member of the Board or officer of the bank acting by direction of the Board, *but no oral contract shall be made for any sum exceeding \$1,000*.

25

New

(3A) A contract to which **subsection (3)** of this section applies shall not be made for an amount exceeding \$1,000 except where the Board of the trustee bank authorises any officer of the trustee bank to make an oral contract for an amount not exceeding such greater amount as the Board determines.

30

(4) Notwithstanding anything to the contrary in the foregoing provisions of this section, no contract made by or on behalf of a trustee bank shall be invalid by reason only that it was not made in manner provided by this section if it was made pursuant to a resolution of the Board of the bank or to give effect to a resolution of the Board.

35

Cf. 1948, No. 62, s. 35

30. Disputes to be referred to arbitration—If any dispute arises between a trustee bank and any depositor therein or the holder of any security issued by the bank, or any person claiming in right of a depositor or the holder of that security, the dispute shall be referred to arbitration, and for that purpose this section shall be deemed to be a submission within the meaning of the Arbitration Act 1908, and the reference shall be deemed to be to 2 arbitrators. 5

Cf. 1948, No. 62, s. 36

PART III 10

SPECIFIC POWERS OF TRUSTEE BANKS

Struck Out

31. Deposits—(1) Subject to subsection (2) of this section and to regulations made under this Act, a trustee bank may receive money on current account, or on deposit, upon such terms and conditions as may be determined by the trustee bank. 15

(2) A trustee bank may receive money on deposit in such classes of accounts as may be prescribed by regulations made under this Act.

New 20

31. Deposits—Subject to regulations made under this Act, a trustee bank may receive money on current account or on deposit upon such terms and conditions as may be determined by the trustee bank.

32. Payment of deposits to nominated beneficiaries— 25
 (1) Any depositor in a (*savings*) trustee bank who is over the age of 18 years may nominate any person or persons to whom any amount not exceeding (~~\$6,000~~) such amount as may be prescribed by section 68C of the Administration Act 1969 standing to the credit of the depositor in any account in the (*savings*) trustee bank at the time of his death is to be paid on his death. 30

(2) Any such nomination may at any time be revoked, varied, or replaced.

(3) Every such nomination shall be in writing, signed by the 35 depositor in the presence of a Justice of the Peace, a solicitor of the High Court, or any other person authorised to take statutory declarations.

(4) Subject to **subsection (3)** of this section and to Part 1A of the Administration Act 1969, the making, revocation, variation, or replacement of any nomination under this section and the payment of any amount pursuant to any such nomination shall
5 be in accordance with regulations made under this Act.

Cf. 1948, No. 62, s. 19A; 1961, No. 106, s. 2; 1982, No. 44, s. 2

33. Bonds and securities—(1) Subject to any regulations made under this Act, a trustee bank may issue bonds or other
10 securities upon such terms and conditions as may be determined by the trustee bank.

(2) Nothing in the Gaming and Lotteries Act 1977 shall apply to any such bonds or securities or to the sale or purchase of any such bonds or securities or to any money payable to the
15 holder thereof or to the holding of any ballot in respect of such bonds or securities.

Cf. 1948, No. 62, s. 36C; 1976, No. 27, s. 5

34. Accounts at other banks—(1) A trustee bank may open or establish with the Reserve Bank of New Zealand, any trading
20 bank, any trustee bank (including itself), any private savings bank established under the Private Savings Banks Act 1964, or the Post Office Savings Bank, such accounts as the Board considers necessary for the conduct of its business.

(2) Such accounts shall be operated in such manner as the
25 Board may from time to time determine.

Cf. 1948, No. 62, ss. 20, 21; 1977, No. 180, s. 2

35. Power to borrow—Every trustee bank may from time to time borrow from any person such amounts, upon such terms, and subject to such conditions as may be determined
30 from time to time by the Minister.

Cf. 1948, No. 62, s. 22A; 1976, No. 27, s. 2

36. Payment of interest—Subject to any Order in Council or regulations made under this or any other Act, a trustee bank may pay interest on money received at such rate and
35 upon such terms and conditions as the Board may from time to time determine.

Cf. 1948, No. 62, s. 22

37. Power to invest money—(1) Subject to the provisions of this Act and any regulations made under it, and of section 34c of the Reserve Bank of New Zealand Act 1964, any trustee bank may invest any money deposited in the bank or belonging to the bank in any of the following ways: 5

- (a) In securities issued by the Government of New Zealand that are registered in a register kept in New Zealand pursuant to Part VIA of the Reserve Bank of New Zealand Act 1964:
- (b) In stock of the Government of Western Samoa issued and registered in New Zealand after the 1st day of August 1976: 10

Struck Out

- (c) On mortgages of estates or interests in land or cross lease residential units in New Zealand (with or without collateral securities over any other property): 15

New

- (c) On the security of first or second mortgages of freehold or leasehold estates or interests in land in New Zealand including cross leases (with or without collateral securities over any other property). 20
- (d) In the bonds, debentures, 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: 25
 - (e) On deposit in any trading bank, or in the Post Office Savings Bank, or in any private savings bank established under the Private Savings Banks Act 1964 or in any other trustee bank:
 - (f) On deposit in a National Savings Investment Account under the National Savings Act 1940: 30
 - (g) On loans to customers (other than by way of mortgage or overdraft) with or without security:
 - (h) In lending money by way of overdraft to holders of current accounts: 35
 - (i) In such other manner as may be prescribed by regulations made under this Act.

(2) Except with the consent of the Minister, a trustee bank shall not lend money to any person to finance, wholly or partly, the purchase or construction of any building which is at any time to be occupied wholly or partly by the trustee bank. 40

(3) Notwithstanding anything in the foregoing provisions of this section, but subject to **sections 27 (1) and 28 (2)** of this Act, any trustee bank or trustee banks may, with the consent of the Minister, given upon and subject to such terms and

5 conditions (if any) as he thinks fit, purchase or otherwise acquire, or improve, any land or buildings, or erect any buildings, for the purpose of providing premises to be occupied, wholly or partly, by all or any of the following:

- 10 (a) Co-operative projects undertaken or to be undertaken by any 2 or more trustee banks:
- (b) Associations and organisations (whether incorporated or not) representing the interests of trustee banks:
- (c) The trustee bank in whose area of operations the premises or proposed premises are or are to be situated.

15 Cf. 1948, No. 62, s. 24 (1), (2), (9); 1979, No. 30, s. 4; 1981, No. 110, s. 5

38. Power to acquire shares—With the approval of the Minister and subject to such conditions as he thinks fit to specify, every trustee bank shall have and be deemed always

20 to have had the power to subscribe for, purchase, invest in, or otherwise acquire shares in or debentures issued by any company incorporated under the Companies Act 1955 which is formed or principally formed for the purpose of operating computer and data-processing services and equipment or

25 providing services necessary or desirable for carrying on the business of a trustee bank.

Cf. 1948, No. 62, s. 4A; 1975, No. 23, s. 2

39. Power to provide bank premises—(1) Subject to **subsection (2)** of this section, any trustee bank may from time

30 to time purchase or otherwise acquire or improve any land or buildings or erect any building for the purpose of providing offices or other facilities for the bank.

(2) Subject to subsection (3) of this section, a trustee bank shall not at any time, without the approval of the Minister and

35 subject to such terms and conditions as he may decide, incur any expenditure under this section in excess of the amount by which the amount standing to the credit of the trustee bank's Reserve Fund for the time being exceeds the aggregate value of the trustee bank's premises and other fixed assets as

40 appearing in the books of the trustee bank.

New

(3) Where, at the commencement of this Act, the aggregate value of the premises and other fixed assets of a trustee bank as appearing in the books of the trustee bank exceeds the amount standing to the credit of the trustee bank's Reserve Fund as shown in the balance sheet of the trustee bank for the accounting period ending on the 31st day of March 1983, **subsection (2)** of this section shall not apply to that trustee bank before the 31st day of March 1987 or such subsequent date as may be approved by the Minister in relation to that bank.

Cf. 1948, No. 62, s. 28

PART IV

FINANCIAL PROVISIONS

40. Application of profits—(1) The profits of every trustee bank for any financial year (after providing for taxation and any gift duty payable in respect of grants made pursuant to this section) shall be applied by the Board as follows:

(a) Not more than such amount as the Minister approves, being in any event not more than half, may be paid by way of grant during the next succeeding financial year to bodies of persons, whether incorporated or not, that are not conducted for private profit, on trust for such charitable, cultural, philanthropic, or recreational purposes, or other purposes beneficial to the community, in each case as the Board shall nominate:

(b) The balance shall be credited to the Reserve Fund.

(2) The trustee bank shall within one year after the making of every grant publish particulars of it in the *Gazette* and in at least one newspaper circulating in the area of operations of the trustee bank.

Cf. 1948, No. 62, s. 25; 1968, No. 112, s. 2

41. Reserve Fund—Every trustee bank shall establish and maintain a Reserve Fund, to which shall be credited—

(a) The amount standing to the credit of the Reserve Fund of the bank at the commencement of this Act:

(b) All profits of the bank to be credited to the Reserve Fund under **section 40** of this Act.

Struck Out

(c) All capital profits arising from investments made by the bank.

Cf. 1948, No. 62, s. 26

5 **42. Application of Reserve Fund**—(1) Subject to this section there may from time to time be debited to the Reserve Fund of any trustee bank—

(a) Any annual charges for which the current income of the bank is inadequate:

10 *Struck Out*

(b) Any capital losses incurred in connection with investments made by the bank:

(c) Any grants made by the trustee bank for the purposes specified in **section 40** of this Act in addition to grants made thereunder.

15 (2) No grant shall be made under **subsection (1) (c)** of this section without the Minister's approval and the aggregate amount of grants made under **subsection (1) (c)** of this section in a financial year shall not exceed the amount by which half
20 of the profits of the trustee bank for the preceding financial year exceeds the aggregate amount of all grants made under **section 40 (1) (a)** of this Act in the current financial year.

(3) Where the amount standing to the credit of the Reserve Fund of any trustee bank (after deducting the value of the bank
25 premises and other fixed assets as appearing in the books of the bank) is in excess of 10 percent of the total amount for the time being standing to the credit of the depositors in the bank, the whole or any part of the excess may be applied in making grants under **section 40 (1) (a)** of this Act.

30 (4) The Minister shall not give his approval to the amount of any such grants made under **subsection (3)** of this section unless he is satisfied that the excess exists having regard to the value for the time being of the investments and other assets of the bank.

35 Cf. 1948, No. 62, s. 27; 1968, No. 112, s. 2 (2)

43. Financial statements—(1) The Board of every trustee bank shall cause full and accurate 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
40 bank.

(2) Subject to **subsection (3)** of this section, the Board shall, after the end of each financial year, prepare financial statements including a balance sheet, and a profit and loss account and notes thereto, giving a true and fair view of the financial affairs of the bank as at the end of the financial year and the results of its operations for that financial year. 5

(3) The financial statements prepared under **subsection (2)** of this section shall disclose—

- (a) The amounts debited and credited to the Reserve Fund;
- (b) The aggregate amount of all sums paid to members of the Board by way of fees, allowances, and other remuneration: 10
- (c) Such other matters as the Minister may from time to time specify by notice in the *Gazette*.

(3) The financial statements, after being signed by the President, shall be audited by an auditor appointed for the purpose by the Board, being a person qualified for appointment as auditor of a company under the Companies Act 1955 and not being a trustee or officer of the trustee bank. 15

(4) The auditor shall certify whether the financial statements are properly drawn up and give a true and fair view of the financial affairs of the trustee bank as at the end of the financial year and the results of its operations for that financial year. 20

(5) The financial statements together with the auditor's report thereon shall be transmitted to the Minister not later than the 1st day of June in each year, and copies of the financial statements and the auditor's report shall be published by the Board in the *Gazette* and in some newspaper circulating in the city or district in which the head office of the trustee bank is situated. 25 30

(6) Every auditor appointed under this section shall be paid such remuneration as the Board determines.

Cf. 1948, No. 62, s. 29

PART V

GENERAL PROVISIONS

35

44. Repayment of deposits guaranteed—(1) If the money for the time being available to any trustee bank is not sufficient to meet claims by—

- (a) Depositors for the payment of money standing to their credit (including accrued interest); or 40
- (b) The holders of such class or classes of bonds or securities as may be specified by the Minister by notice in the *Gazette* for payment of money owing under such bonds or securities—

the Minister shall, without further appropriation than this section, but subject to **subsection (2)** of this section, pay to the trustee bank out of the Consolidated Account, such sums as may be necessary to meet the deficiency.

5 (2) If in any such case the Minister thinks fit, he may, instead of paying money as aforesaid, guarantee, under section 86 of the Public Finance Act 1977, loans to the trustee bank by any financial institution to enable the payment of the amounts duly claimed.

10 Cf. 1948, No. 62, s. 30

45. Directions by Minister of Finance—(1) If in the opinion of the Minister any trustee bank is in financial difficulties, or its business is being conducted in such a way as to be prejudicial to the safety of the funds of the depositors or as to be likely
15 to involve action by the Minister under **section 44** of this Act (*or as to be contrary to the policy of the Government of New Zealand in respect of financial institutions*), or as to be prejudicial to the stability of the financial system in New Zealand, the Minister may give in writing such directions as he thinks fit—

20 (a) For the conduct of the bank's business:

(b) Requiring the bank to cease carrying on business or any class of business:

(c) Requiring the bank to unite with one or more other trustee banks to form a new trustee bank under such name
25 and subject to such conditions as the Minister may specify in the direction:

(d) Requiring the bank to transfer its operations or any part of its operations to one or more other trustee banks subject to such conditions as the Minister may specify
30 in the direction.

(2) The Board of the trustee bank shall be bound to act in accordance with any direction given under this section.

(3) Where the Minister gives a direction under **subsection (1) (c)** of this section, the provisions of **section 5** of this Act shall, with
35 all necessary modifications, apply to the trustee banks named in the direction as if an Order in Council applying to those banks had been made and gazetted under that section.

(4) Where the Minister gives a direction under **subsection (1) (d)** of this section requiring the bank to transfer the whole of its
40 operations to one or more other banks, the provisions of **section 6** of this Act shall, with all necessary modifications, apply to the trustee banks named in the direction as if an Order in Council applying to those banks had been made and gazetted under that section.

(5) Where the Minister gives a direction under **subsection (1) (d)** of this section requiring the bank to transfer part of its operations to one or more other banks, the direction may make provision for and prescribe terms and conditions relating to— 5

- (a) The transfer and vesting of real and personal property:
 - (b) The transfer of assets, rights, interests, liabilities, contracts, and engagements:
 - (c) Legal proceedings:
 - (d) The transfer of accounts of customers: 10
 - (e) Such other matters as may be necessary to give effect to the transfer of the business,—
- and shall, upon notification in the *Gazette*, be binding upon all persons and for all purposes.

(6) Nothing in this section shall— 15

- (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 Board to recover 20 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 37** of this Act. 25

Cf. 1948, No. 62, s. 31; 1964, No. 10, s. 10

46. Power to dissolve trustee bank—(1) The Governor-General may at any time, by Order in Council, declare that any trustee bank be dissolved on such date as may be specified in that behalf in the order. 30

(2) No Order in Council shall be issued under this section except upon the recommendation of the Minister made upon one of the following grounds:

- (a) That the Board of Trustees of the trustee bank has agreed to the dissolution; or 35
- (b) That money has been paid out of the Consolidated Revenue Account under **section 44 (1)** of this Act or any guarantee has been given under **section 44 (2)** of this Act, and that in the opinion of the Minister the bank is insolvent and it is expedient that the bank 40 should be dissolved.

Cf. 1948, No. 62, s. 32

47. Vesting of assets and liabilities on dissolution—(1) On the date specified in any Order in Council made under **section 46** of this Act—

- 5 (a) The trustee bank shall be deemed to be dissolved:
- (b) All real and personal property, obligations, and liabilities of the trustee bank shall be deemed to become property, obligations, and liabilities of such person (including the Crown or the Post Office Savings Bank) or body, whether corporate or unincorporated, as may be specified in the order:
- 10 (c) All depositors in the trustee bank and the holders of all bonds or securities issued by the bank shall be deemed to be depositors in, or the holders of bonds or securities issued by, the person or body named in the order as if the deposits had been made in, or the bonds or securities issued by that person or body.
- 15 (2) Upon the dissolution of any trustee bank the Minister shall, without further appropriation than this section, pay to the person or body named in the order out of the Consolidated
- 20 Account an amount equal to the amount by which the aggregate of—
- (a) Amounts standing to the credit of depositors (including accrued interest); and
- (b) Amounts owing under any bonds or securities issued by the bank,—
- 25 exceeds the assets of the bank.

Cf. 1948, No. 62, s. 33

48. Appointment of statutory manager—(1) The Governor-General may by Order in Council appoint a person

30 named in the order to be the statutory manager of a trustee bank.

- (2) An order under **subsection (1)** of this section may be made if the Governor-General is satisfied—
- 35 (a) That the trustee bank is in financial difficulties; or
- (b) That the business of the trustee bank is being conducted in such a way as to be prejudicial to the safety of the funds of the depositors or the holders of bonds or securities of the bank; or
- 40 (c) That the business of the trustee bank is being conducted in such a way as to be likely to involve action by the Minister under **section 44** of this Act.

(3) Where an order is made under **subsection (1)** of this section appointing a statutory manager in respect of the trustee bank named in the order, the management of the trustee bank shall, on and after the date specified in the order, vest in the statutory manager. 5

(4) Where a statutory manager is appointed in respect of a trustee bank it shall not be lawful or competent for any member of the Board of the bank or any other person to be engaged in the management or conduct of the business of that bank, or to act as an officer of or as the servant or agent of 10 the bank, except with the permission of the statutory manager and so far as that permission extends.

(5) The functions and powers of a statutory manager, which shall be exercised in relation to the trustee bank in respect of which that statutory manager has been appointed, shall be 15 specified in the order appointing the statutory manager.

(6) A statutory manager shall be appointed for such period and upon such terms and conditions as may be specified in the order.

(7) The period of the appointment of a statutory manager 20 may be extended by the Governor-General by subsequent Order in Council.

(8) A statutory manager shall not be under any criminal or civil liability as a result of any act or omission in pursuance or intended pursuance of any of his functions or powers 25 whether on the ground of mistake of law or fact, or any other ground, unless the act was done or omitted in bad faith.

(9) All costs, charges, and expenses properly incurred by a statutory manager in the exercise of his functions and powers (including such remuneration as may be approved by the 30 Minister) shall be payable out of the property of the trustee bank in respect of which the statutory manager is appointed in priority to all other claims.

49. Regulations and Orders in Council—

Struck Out

35

(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Regulating deposits and accounts of depositors:
- (b) Prescribing and regulating the mode of making deposits 40 and withdrawing money, and the conditions relating thereto:

Struck Out

- (c) Regulating the payment of interest by trustee banks on deposits made by depositors and on bonds and securities issued by trustee banks:
- 5 (d) Prescribing the persons or classes of persons who may be depositors in trustee banks:
- (e) Prescribing certain classes of accounts which may be opened and operated in trustee banks and the conditions relating thereto:
- 10 (f) Prescribing the maximum amounts which may be paid by trustee banks to the trustees of the banks by way of fees and allowances:
- (g) Prescribing the manner in which money deposited in, or belonging to, trustee banks may be invested:
- 15 (h) Regulating the issue by trustee banks of bonds and securities:
- (i) Prescribing the premises or classes of premises in which trustee banks may be established or carried on:
- (j) Regulating the payment of deposits to nominated beneficiaries:
- 20 (k) Prescribing amounts to be kept by trustee banks in cash, or on current account, or in other investments immediately available:
- (l) Providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.
- 25

New

- (1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following
- 30 purposes:
- (a) Prescribing and regulating the keeping of accounts of depositors:
- (b) Prescribing the mode of making deposits and withdrawing money, and the conditions relating thereto:
- 35 (c) Prescribing the classes of accounts which may be opened and operated in trustee banks, and the conditions relating thereto:
- (d) Prescribing the persons or classes of persons who may be depositors in trustee banks:
- 40 (e) Regulating rates of interest on money received and on bonds and securities issued by trustee banks and the manner in which interest is calculated and paid:

New

- (f) Applying, with the necessary modifications, the provisions of section 129 of the Post Office Act 1959 to Home Lay-by Accounts opened in trustee banks:
- (g) 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: 5
- (h) Prescribing amounts to be kept by trustee banks in cash, or on current account, or in other investments immediately available: 10
- (i) Prescribing either generally or in respect of any particular trustee or class of trustee the maximum amounts which may be paid by trustee banks to the trustees of the banks by way of fees and allowances: 15
- (j) Prescribing the manner in which money deposited in, or belonging to, trustee banks may be invested:
- (k) Regulating the issue by trustee banks of bonds and securities: 20
- (l) Providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

(2) The Governor-General may from time to time make Orders in Council providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act or for its due administration. 25

Cf. 1948, No. 62, s. 37 (1); 1964, No. 10, s. 12

50. Application of certain enactments—(1) The provisions of sections 5 to 8 of the Banking Act 1982 shall apply with respect to trustee banks. 30

(2) 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 trustee banks in all respects as if those banks were banks within the meaning of that Act. 35

Cf. 1948, No. 62, s. 38A; 1964, No. 10, s. 14; 1982, No. 144, s. 14

51. Special provisions as to national savings—For the purposes of this Act—

- (a) No money invested with any trustee bank in an investment account under the National Savings Act 1940 shall be deemed to be deposited with the bank: 40

(b) No investments in Government securities made on behalf of any trustee bank under subsection (2) of section 16 of the National Savings Act 1940 shall be deemed to be investments made by the bank.

5 Cf. 1948, No. 62, s. 40

52. Consequential amendments—The enactments specified in the **First Schedule** to this Act are hereby amended in the manner indicated in that Schedule.

10 **53. Repeals**—(1) The enactments specified in the **Second Schedule** to this Act are hereby repealed.

New

(2) The notice specified in the **Third Schedule** to this Act is hereby revoked.

15 **54. Transitional provisions**—(1) All real and personal property that immediately before the date of the commencement of this Act is vested in a trustee savings bank established under the Trustee Savings Banks Act 1948 shall, on that date, vest in the same bank established under this Act.

20 (2) All rights, interests, and obligations (whether actual, contingent, or prospective) of a trustee savings bank in existence immediately before the date of the commencement of this Act shall, on that date, become rights, interests, and obligations of the same bank established under this Act.

25 (3) On and after the date of the commencement of this Act, the relationship between a trustee savings bank established under the Trustee Savings Banks Act 1948 and a customer or depositor shall become the same relationship between the same bank established under this Act and that customer or depositor and the same rights and liabilities, including rights of set-off,
30 shall exist between the bank established under this Act and a customer or depositor as existed immediately before that date between the trustee savings bank established under the Trustee Savings Banks 1948 and that customer or depositor.

New

35 (3A) All housing bonds issued pursuant to the Trustee Savings Banks (Housing Bonds) Notice 1976 and existing at the commencement of this Act are hereby declared to have been issued under the authority of this Act.

(4) A reference in any other enactment, or any contract, agreement, conveyance, deed, lease, licence, mortgage, security, notice, or any other document subsisting immediately before the commencement of this Act to a trustee savings bank established under the Trustee Savings Banks Act 1948 shall, unless 5 the context otherwise requires, be read as a reference to the same bank established under this Act.

(5) All Orders in Council, orders, offices, rules, appointments, instruments, and generally all acts of authority that originated under any of the enactments hereby repealed or 10 revoked and are subsisting or in force at the commencement of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under this Act, and accordingly shall, where necessary, be deemed to have so originated. 15

(6) Every Home Ownership Account, Farm Ownership Account, and Fishing Vessel Ownership Account in existence immediately before the commencement of this Act and established under the authority of the Trustee Savings Banks Act 1948 is hereby declared to have been established under the 20 authority of this Act.

(7) No Registrar of Deeds or District Land Registrar or any other person charged with the keeping of any books or registers shall be obliged solely by reason of the foregoing provisions of this Act to change any reference to the name of a 25 trustee savings bank established under the Trustee Savings Banks Act 1948 to any new name of the same bank established under this Act in his books or registers or in any document in his charge; but the presentation to any such Registrar or other person of any instrument— 30

- (a) Executed or purporting to be executed by the trustee bank under its new name; and
- (b) Relating to any property held immediately before the commencement of this Act by the trustee bank under its former name; and 35
- (c) Containing a recital as to any change of name of the trustee bank—

shall, in the absence of proof to the contrary, be sufficient evidence that the property is vested in the trustee bank under its new name. 40

(8) Except as provided in **subsection (7)** of this section, nothing in this section derogates from the provisions of the Land Transfer Act 1952.

SCHEDULES

FIRST SCHEDULE

Section 52

ENACTMENTS AMENDED

Title of Act	Amendment
1956, No. 61—The Trustee Act 1956 (Reprinted 1977, Vol. 4, p. 3607)	By inserting, after section 4 (1) (e), the following paragraph: “(ea) In bonds or other securities issued under section 33 of the Trustee Banks Act 1983 by a trustee bank and specified by the Minister of Finance by notice in the <i>Gazette</i> pursuant to section 44 of the Trustee Banks Act 1983 :”.
1971, No. 51—The Stamp and Cheque Duties Act 1971	By inserting, after section 11 (1) (k), the following paragraph: “(ka) Any housing bond issued under the Trustee Banks Act 1983:”. By inserting, after section 12 (2) (g) (as substituted by section 3 (2) of the Stamp and Cheque Duties Amendment Act (No. 2) 1974), the following paragraph: “(ga) Any housing bond issued under the Trustee Banks Act 1983; or”.

SECOND SCHEDULE

Section 53

ENACTMENTS REPEALED

- 1948, No. 62—The Trustee Savings Banks Act 1948. (Reprinted 1973, Vol. 2, p. 1663.)
- 1948, No. 78—The Finance Act (No. 2) 1948: Section 7. (Reprinted 1973, Vol. 2, p. 1692.)
- 1956, No. 102—The Trustee Savings Banks Amendment Act 1956. (Reprinted 1973, Vol. 2, p. 1693.)
- 1957, No. 74—The Trustee Savings Banks Amendment Act 1957. (Reprinted 1973, Vol. 2, p. 1693.)
- 1961, No. 106—The Trustee Savings Banks Amendment Act 1961. (Reprinted 1973, Vol. 2, p. 1694.)
- 1964, No. 10—The Trustee Savings Banks Amendment Act 1964. (Reprinted 1973, Vol. 2, p. 1695.)
- 1968, No. 112—The Trustee Savings Banks Amendment Act 1968. (Reprinted 1973, Vol. 2, p. 1698.)
- 1969, No. 40—The Wills Amendment Act 1969: Section 3 (3). (Reprinted 1977, Vol. 4, p. 3738.)
- 1972, No. 121—The Trustee Savings Banks Amendment Act 1972. (Reprinted 1973, Vol. 2, p. 1699.)
- 1973, No. 16—The Reserve Bank of New Zealand Amendment Act 1973: So much of the Schedule as relates to the Trustee Savings Banks Act 1948, the Trustee Savings Banks Amendment Act 1964, and the Trustee Savings Banks Amendment Act 1969. (Reprinted 1974, Vol. 3, p. 2439.)
- 1973, No. 1—The Trustee Savings Banks Amendment Act 1973. (Reprinted 1973, Vol. 2, p. 1700.)
- 1974, No. 12—The Licensing Trusts Amendment Act 1974: Section 21. (R.S. Vol. 3, p. 374.)
- 1975, No. 23—The Trustee Savings Banks Amendment Act 1975.
- 1976, No. 27—The Trustee Savings Banks Amendment Act 1976.
- 1977, No. 23—The Trustee Savings Banks Amendment Act 1977.
- 1977, No. 180—The Trustee Savings Banks Amendment Act (No. 2) 1977.
- 1978, No. 129—The Trustee Savings Banks Amendment Act 1978.
- 1979, No. 30—The Trustee Savings Banks Amendment Act 1979.
- 1981, No. 110—The Finance Act (No. 2) 1981: Sections 4 and 5.
- 1982, No. 44—The Trustee Savings Banks Amendment Act 1982.
- 1982, No. 144—The Banking Act 1982: So much of the Second Schedule as relates to the Trustee Savings Banks Act 1948.

New

Section 53 (2)

THIRD SCHEDULE

NOTICE REVOKED

The Trustee Savings Banks (Approved Leasing Bodies) Notice 1979 (S.R. 1979/253).