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1986, No. 131

An Act to amend the Reserve Bank of New Zealand Act 1964

[24 December 1986]

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

1. Short Title and commencement—(1) This Act may be cited as the Reserve Bank of New Zealand Amendment Act 1986, and shall be read together with and deemed part of the Reserve Bank of New Zealand Act 1964 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of April 1987.

2. Interpretation—(1) The principal Act is hereby amended by repealing section 2 (as substituted by section 2 of the Reserve Bank of New Zealand Amendment Act 1982), and substituting the following section:

“2. (1) In this Act, unless the context otherwise requires,—

“‘Authorised dealer in foreign exchange’ means any person (including a body of persons, whether incorporated or not) authorised by the Bank, pursuant to this Act or to regulations made under this Act, to deal in foreign exchange:

“‘Bank note’ or ‘note’ means any negotiable instrument used or circulated, or intended for use or circulation, as currency:

- “ ‘Credit instrument’ means any agreement (whether in writing or not) acknowledging an obligation to pay a sum or sums of money on demand or at any future time or times:
- “ ‘Credit sale agreement’ means an agreement for the sale of goods under which the whole or part of the purchase price is payable by instalments, other than such an agreement that provides for the instalments to be spread over a period of 6 months or less:
- “ ‘Deputy Governor’ means the Deputy Governor of the Reserve Bank appointed under this Act:
- “ ‘Document’ means a document in any form whether signed or initialled or otherwise authenticated by its maker or not; and includes—
- “(a) Any writing on any material:
 - “(b) Any information recorded or stored by means of any tape-recorder, computer, or other device; and any material subsequently derived from information so recorded or stored:
 - “(c) Any label, marking, or other writing that identifies or describes any thing of which it forms part, or to which it is attached by any means:
 - “(d) Any book, map, plan, graph, or drawing:
 - “(e) Any photograph, film, negative, tape, or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced:
- “ ‘Financial institution’ means any person (including a body of persons, whether incorporated or not) who in the course of business—
- “(a) Borrows money or accepts deposits (whether on demand or for a fixed term) or receives credit or sells any credit instrument; and also
 - “(b) Lends money or grants credit or buys or discounts any credit instrument;—
- and, without limiting the generality of the foregoing provisions of this definition, includes—
- “(c) Any person (including a body of persons, whether incorporated or not) who acts as agent or intermediary in any of the transactions aforesaid; and
 - “(d) Any trustee bank established under the Trustee Banks Act 1983; and
 - “(e) Any private savings bank as defined in section 2 of the Private Savings Banks Act 1983; and

“(f) Any life insurance company, being a company as defined in section 2 of the Life Insurance Act 1908; and includes any branch, division, or office of any such company; and

“(g) Any superannuation fund or scheme that—

“(i) Is approved by the Government Actuary under the Superannuation Schemes Act 1976; or

“(ii) Is declared by the Governor-General by Order in Council, either specifically or by reference to a class of superannuation fund or scheme defined in that Order in Council, to be a financial institution for the purposes of this Act; and

“(h) Any building society as defined in section 2 of the Building Societies Act 1965; and

“(i) Any registered bank; and

“(j) Any foreign exchange dealer; and

“(k) Any specified person or class of persons (including a body or bodies of persons, whether incorporated or not) engaged in the business of borrowing or lending money or buying, selling, or otherwise dealing in credit instruments who is or are declared by the Governor-General, by Order in Council, to be a financial institution or institutions for the purposes of this Act:

“‘Foreign exchange’ means foreign currency or foreign securities as defined in section 28 of this Act:

“‘Governor’ means the Governor of the Reserve Bank appointed under this Act:

“‘Hire purchase agreement’ means an agreement for the bailment of goods under which the bailee may buy the goods or under which the property in the goods will or may pass to the bailee, whether on the performance of any act by the parties to the agreement or any of them or in any other circumstances; and includes any agreement for the bailment of goods, with or without expressly giving to the bailee an option to buy the goods, under which instalments are payable by the bailee during a specified or ascertainable period at the end of which the bailee may continue the bailment without any payment or subject to the payment of a nominal rent only:

“‘Minister’ means the Minister of Finance:

“ ‘Registered bank’ means a person registered as a registered bank pursuant to section 38C of this Act or deemed to be so registered pursuant to section 38E of this Act:

“ ‘Reserve Bank’ or ‘the Bank’ means the Reserve Bank of New Zealand constituted under this Act:

“ ‘Subsidiary’ means a subsidiary within the meaning of section 158 (1) (a) (ii) and (b) of the Companies Act 1955:

“ ‘Trade credit’ means credit given or, as the case may require, received in the course of business in relation to the sale or purchase of goods or the provision of services.

“(2) For the purposes of this Act, the receiving of credit includes the receiving of, or the entering into of an agreement to receive, trade credit except where the trade credit received or agreed to, whether in the course of a bona fide mercantile current account or otherwise, is for a total period not exceeding 6 months in respect of any one item of goods or services, being a period commencing from the date on which possession of that item of goods is given and taken or, as the case may be, from the date of completion of that item of services.

“(3) For the purposes of this Act, the granting of credit includes the giving of, or the entering into of an agreement to give, trade credit except where the trade credit given or agreed to, whether in the course of a bona fide mercantile account or otherwise, is for a total period not exceeding 6 months in respect of any one item of goods or services, being a period commencing from the date on which possession of that item of goods is given and taken or, as the case may be, from the date of completion of that item of services.

“(4) For the purposes of this Act, a person shall be deemed to lend money if that person—

“(a) Finances or discounts hire purchase agreements or credit sale agreements; or

“(b) Pays sums as consideration for the assignment, to that person, of debts or other obligations owing or due to the person to whom the consideration is paid; or

“(c) Purchases goods for the purpose of entering into agreements for the bailment of those goods under which the bailee will have the right to their exclusive possession for any period exceeding 3 months.

“(5) For the purposes of subsection (4) (a) of this section, where by virtue of 2 or more agreements, none of which by itself constitutes a hire purchase agreement or a credit sale agreement there is a transaction which is in substance or effect a hire purchase agreement or a credit sale agreement, as defined in subsection (1) of this section, the transaction shall be treated as a hire purchase agreement or credit sale agreement.

“(6) For the purposes of this Act, a person shall be deemed to borrow money if that person sells any land or interest in land, whether within or outside New Zealand, on terms providing a right for that person or any nominee of that person to continue in possession or to resume or take possession of the land or any part thereof (whether under a lease or otherwise) and also providing a right for that person or any nominee of that person to repurchase the land or any part thereof; and in any such case the amount of the consideration for such sale by that person of the land or interest in land shall be deemed to be an amount borrowed by that person.

“(7) In this Act, the term ‘borrows’ shall be construed to include the doing of any act or thing which by virtue of any of the foregoing provisions of this section amounts to borrowing; but nothing in this subsection or in the foregoing provisions of this section shall be construed to limit the generality of the term ‘borrows’ or of any derivative of that term or of any references in this Act to the borrowing of money.

“(8) For the purposes of Part VB and Part VC of this Act, a person is an ‘associated person’ of a financial institution or a specified institution, as the case may be, if—

“(a) That person directly or indirectly controls the management of the financial institution or specified institution; or

“(b) That person owns directly or indirectly 20 percent or more in nominal value of the equity share capital as defined in section 158 of the Companies Act 1955 of the financial institution or specified institution; or

“(c) The financial institution or specified institution directly or indirectly controls that person; or

“(d) The financial institution or specified institution owns directly or indirectly 20 percent or more of the equity share capital as defined in section 158 of the Companies Act 1955 of that person.”

(2) Section 2 of the Reserve Bank of New Zealand Amendment Act 1982 is hereby consequentially repealed.

3. Application of this Act to branches of foreign institutions—The principal Act is hereby amended by inserting, after section 2 (as substituted by section 2 of this Act), the following section:

“2A. (1) For the purposes of this Act, where a body corporate incorporated outside New Zealand or, as the case may be, any unincorporated body having its head office or principal place of business outside New Zealand, carries on business in New Zealand—

“(a) The business carried on in New Zealand shall be deemed to be carried on by a branch, which branch shall be deemed to be a separate person; and

“(b) That branch shall, if that branch would as a separate person be a financial institution within the meaning of section 2 of this Act, be deemed to be a financial institution.

“(2) Where any such branch is, as a financial institution, designated as a specified institution pursuant to section 38K of this Act—

“(a) All property, rights, assets, and liabilities relating to the business carried on by that branch shall be deemed to be property, rights, assets, and liabilities of that branch as a separate person; and

“(b) The provisions of Part Vc of this Act shall apply to that branch.”

4. Constitution of Bank—Section 4 of the principal Act is hereby amended by repealing subsection (4).

5. Disqualification of directors—Section 5 (1) of the principal Act is hereby amended by repealing paragraph (c), and substituting the following paragraph:

“(c) Is employed in the service of any registered bank; or”.

6. Restrictions on conduct of business of Bank—Section 10 of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) Purchase or subscribe for the shares of any financial institution in New Zealand or elsewhere; or”.

7. Governor and Deputy Governor of Bank—Section 17 (2) of the principal Act is hereby amended by omitting the words “trading bank”, and substituting the words “registered bank”.

8. Temporary suspension of foreign exchange business—(1) The principal Act is hereby amended by repealing section 26A (as inserted by section 8 of the Reserve Bank of New Zealand Amendment Act 1973), and substituting the following section:

“26A. (1) Where he is satisfied that it is necessary or expedient in the public interest to do so, the Governor may from time to time, with the prior consent of the Minister, by notice in writing to all authorised dealers in foreign exchange, direct that, subject to any exceptions specified in the notice, no authorised dealer in foreign exchange shall, except with permission granted by the Bank, deal until further notice in any foreign exchange or foreign exchange of such kinds as are specified in the notice.

“(2) Every notice issued under subsection (1) of this section shall remain in force until it is revoked by further notice given in writing by the Governor to all authorised dealers in foreign exchange.

“(3) An obligation on a person to do a thing on a day on which he is prevented from doing it by a notice under this section or is unable to do it by reason of any such notice shall be deemed to be complied with if he does it as soon as practicable after the notice is revoked.

“(4) Where any transaction to which a notice issued under this section applies is subject to the provisions of the Bills of Exchange Act 1908 or the Banking Act 1982, then, in relation to that transaction, every day on which the notice remains in force shall be deemed to be a non-business day for the purposes of the Bills of Exchange Act 1908.”

(2) Section 8 of the Reserve Bank of New Zealand Amendment Act 1973 is hereby consequentially repealed.

9. External reserves—The principal Act is hereby amended by repealing section 27, and substituting the following section:

“27. (1) It shall be the duty of the Bank to endeavour, within the limits of its powers, to maintain, in addition to any holdings of gold, an adequate level of overseas exchange reserves.

“(2) The Bank shall from time to time inform the Minister of the overseas exchange position and prospects, and of the level of overseas exchange reserves that the Bank regards as adequate.”

10. New Parts inserted—(1) The principal Act is hereby amended by repealing Part V, and substituting the following Parts:

“PART VA

“REGISTRATION OF BANKS

“38A. Restriction on use of words ‘bank’, ‘banker’, or ‘banking’—(1) Except as otherwise provided in this Part of this Act,—

“(a) No body (whether incorporated or unincorporated) shall be formed or registered under any name, title, style, or designation that includes the words ‘bank’, ‘banker’, or ‘banking’, or any of those words as part of any other word:

“(b) No person shall carry on any business, trade, or occupation under a name or title, that includes the words ‘bank’, ‘banker’, or ‘banking’, or any of those words as part of any other word.

“(2) Any person who contravenes this section commits an offence and is liable on summary conviction, in the case of an individual, to a fine not exceeding \$100,000 and, in the case of a body corporate, to a fine not exceeding \$300,000.

“38B. Certain persons exempt from application of section 38A—(1) Nothing in section 38A of this Act applies to—

“(a) The Reserve Bank:

“(b) A registered bank:

“(c) Any person referred to in Part A of the First Schedule to this Act:

“(d) Any body corporate incorporated in a country other than New Zealand under a name or title that includes the words ‘bank’, ‘banker’, or ‘banking’, or any of those words as part of any other word, which is authorised for the time being by the Reserve Bank by notice in the *Gazette* to use the words ‘bank’, ‘banker’, or ‘banking’, or any of those words as part of any other word, in connection with the establishment or operation of a representative office in New Zealand:

“(e) Any body (whether incorporated or unincorporated) which is formed or registered to represent the interests of any person referred to in this subsection or any person connected with any such person and which is authorised for the time being by the

Reserve Bank by notice in the *Gazette* to use the words "bank", "banker", or "banking", or any of those words as part of any other word.

"(2) Nothing in section 38A of this Act shall prevent any body (whether incorporated or unincorporated) from carrying on under a name or title that includes the words 'bank', 'banker', or 'banking' or any of those words as part of any other word, any business, trade, or occupation which immediately before the commencement of the Reserve Bank of New Zealand Amendment Act 1986 was being lawfully carried on by that body under that name or title.

"(3) Nothing in section 38A of this Act applies to the formation or registration of any body (whether incorporated or unincorporated) under any name, title, style, or designation that includes the words 'bank', 'banker', or 'banking' where those words comprise the whole or part of—

"(a) Any geographic place name; or

"(b) The name of any town or road; or

"(c) The surname of any person.

"(4) Nothing in section 38A of this Act applies to the carrying on by any person of any business, trade, or occupation, under a name or title that includes the words 'bank', 'banker', or 'banking' where those words comprise the whole or part of—

"(a) Any geographic place name; or

"(b) The name of any town or road; or

"(c) The surname of any person.

"(5) For the purposes of this section 'representative office' means any premises or place of business used solely for the purposes of promoting or assisting any business or activity carried on in a country other than New Zealand.

"(6) Nothing in this section limits or affects section 31 of the Companies Act 1955.

"38C. Reserve Bank to maintain register of persons to be known as registered banks—(1) In accordance with this Part of this Act, the Reserve Bank shall maintain a register of persons to be known as 'registered banks'.

"(2) The register of registered banks shall be available for public inspection at the Head Office of the Reserve Bank during normal business hours.

"(3) Any person may apply to the Reserve Bank to be registered as a registered bank.

"(4) Applications to be registered as a registered bank shall be—

“(a) Made in such manner as may be specified by the Reserve Bank; and

“(b) Accompanied by payment of such fee as may be prescribed.

“(5) Every person who makes an application under this section shall furnish to the Reserve Bank such information as may be required by the Reserve Bank to assist it in determining the application.

“(6) Any registered bank may at any time by notice in writing to the Reserve Bank require the Reserve Bank to remove the name of that registered bank from the register.

“(7) No person other than a registered bank shall use any name, title, style or designation or use any description which contains any representation or implication that that person is a registered bank.

“(8) Any person who contravenes subsection (7) of this section commits an offence and is liable on summary conviction, in the case of an individual, to a fine not exceeding \$100,000, and in the case of a body corporate, to a fine not exceeding \$300,000.

“38D. **Determination of applications**—(1) The Reserve Bank shall not register any person as a registered bank under section 38C of this Act unless it is satisfied that the business carried on or proposed to be carried on by the applicant consists of, or to a substantial extent consists of, or will, or will to a substantial extent, consist of, the borrowing and lending of money, or the provision of other financial services, or both.

“(2) In considering any application under section 38C of this Act, the Reserve Bank, before determining the application, shall have regard to—

“(a) The capital of the applicant:

“(b) The ability of the applicant to carry on business or the proposed business:

“(c) The standing of the applicant in the financial market:

“(d) In any case where the applicant is a body corporate incorporated outside New Zealand or an unincorporated body having its head office or principal place of business outside New Zealand, the law and regulatory requirements relating to the licensing, registration, or authorisation of banks of the country in which that body is incorporated or in which that unincorporated body has its head office or principal place of business in their application to

any registered bank having its head office or principal place of business in New Zealand:

“(e) In any case where the applicant is a subsidiary of any body corporate incorporated outside New Zealand, the law and regulatory requirements relating to the licensing, registration, or authorisation of banks of the country in which the body corporate which the Reserve Bank considers exercises ultimate control of the applicant is incorporated:

“(f) Such other matters as the Reserve Bank considers relevant.

“(3) A person may be registered as a registered bank either unconditionally or subject to such conditions as may be specified by the Reserve Bank.

“(4) The Reserve Bank shall give notice in the *Gazette* of the registration of any person as a registered bank under this section.

“38E. Certain persons deemed to be registered banks—

(1) Subject to subsection (2) of this section, every person named in Part B of the First Schedule to this Act shall be deemed to be a registered bank.

“(2) Nothing in subsection (1) of this section limits or affects section 38F of this Act.

“38F. Cancellation of registration—(1) The Reserve Bank may from time to time, recommend to the Minister that the registration of a registered bank be cancelled.

“(2) The Governor-General may, from time to time, by Order in Council on the advice of the Minister given in accordance with a recommendation of the Reserve Bank under subsection (1) of this section, cancel the registration of a registered bank.

“(3) The Reserve Bank shall not make a recommendation under subsection (1) of this section to cancel the registration of a registered bank unless it is satisfied—

“(a) That the registered bank was registered on information that was false or misleading in a material particular; or

“(b) That the registered bank has suffered a material loss of standing in the financial market since being registered as a registered bank; or

“(c) Where the registered bank is a body corporate—

“(i) That an order has been made for the winding up of that body corporate; or

“(ii) That a resolution has been passed for the voluntary winding up of that body corporate; or

“(iii) That a receiver has been appointed in respect of that body corporate; or

“(d) Where the registered bank is a partnership—

“(i) That the partnership is dissolved; or

“(ii) That where a member of the partnership is a body corporate, an event referred to in paragraph (c) of this subsection has occurred in relation to that member; or

“(iii) That a member of the partnership is adjudged bankrupt or has made a composition or arrangement with his creditors; or

“(e) That a condition of registration has not been complied with; or

“(f) That the registered bank has carried on its business in a manner prejudicial or likely to be prejudicial to the stability of the financial system; or

“(g) That the registered bank has failed to comply with an obligation imposed under this Act.

“(4) The Reserve Bank shall not make a recommendation under subsection (1) of this section to cancel the registration of a registered bank unless it gives not less than 7 days written notice of its intention to consider the making of such a recommendation to the registered bank.

“(5) Every registered bank to whom a notice is given under subsection (4) of this section shall be entitled to make submissions to the Reserve Bank and the Reserve Bank shall have regard to those submissions in considering whether or not to make a recommendation under subsection (1) of this section to cancel the registration of that registered bank.

“(6) The Reserve Bank shall, as soon as practicable after the making of an Order in Council cancelling the registration of a registered bank, give written notice to the registered bank stating the grounds on which the recommendation by the Reserve Bank under subsection (1) of this section relating to the registered bank was made.

“38G. Variation of conditions of registration—(1) The Reserve Bank may, at any time, by notice in writing to a registered bank revoke, vary or add to any conditions of the registration of that registered bank.

“(2) The Reserve Bank shall not revoke, vary or add to any condition of the registration of a registered bank pursuant to subsection (1) of this section unless that registered bank is

given a reasonable opportunity to make submissions to the Reserve Bank and the Reserve Bank has regard to those submissions.

“PART VB

“SUPPLY OF INFORMATION BY FINANCIAL INSTITUTIONS

“38H. Financial institutions to supply information to Reserve Bank—(1) The Reserve Bank may, from time to time, by notice in writing to any financial institution, or by notice in the *Gazette* applying to any specified class of financial institutions, require the institution or, as the case may be, institutions of that class to supply to the Reserve Bank such information and data relating to the business of the institution or institutions of that class as may be specified in the notice.

“(2) Without limiting subsection (1) of this section, a notice given to a financial institution or a notice in the *Gazette* applying to a class of financial institutions may require information and data to be supplied relating to the assets and liabilities, income and expenditure (including interest rates charged and payable), fees and charges, obligations and commitments, and risk exposures of and classes of transactions entered into by that institution or class of institutions and any associated person and where specified in consolidated form in respect of business carried on in New Zealand or elsewhere and whether as principal, broker, agent, or intermediary.

“(3) Where the Reserve Bank believes that any information or data supplied by a financial institution pursuant to this section is, or may be, inadequate or inaccurate, it may by notice in writing to that financial institution, require that information or data to be audited by an auditor approved by the Reserve Bank.

“(4) Information and data required to be supplied pursuant to this section by a financial institution, or as the case may be, class of financial institutions, shall be supplied to the Head Office of the Reserve Bank at Wellington at such time as may be specified in the notice given to that institution or class of institutions.

“(5) A notice given pursuant to this section to a financial institution, or as the case may be, a class of financial institutions, may, by a subsequent notice be revoked, varied or amended by the Reserve Bank.

“(6) No financial institution shall be required under this section to supply information and data with respect to the identity or affairs of any particular customer.

“(7) If, without lawful justification or excuse, any financial institution—

“(a) Fails to comply in any respect with any of the provisions of this section or of any requirements of the Reserve Bank thereunder; or

“(b) Supplies any information or data which it is required to supply under this section which is false or misleading in any material particular—
that financial institution commits an offence against this Act.

“PART Vc

“PRUDENTIAL SUPERVISION OF SPECIFIED INSTITUTIONS

“38I. **Reserve Bank to undertake prudential supervision of specified institutions**—It shall be the function of the Reserve Bank to undertake prudential supervision of specified institutions by exercising the powers conferred on the Bank by this Part of this Act.

“38J. **Exercise of powers under this Part of this Act**—The powers conferred on the Governor-General, the Minister, and the Reserve Bank by this Part of this Act shall be exercised for the purposes of—

“(a) Maintaining public confidence in the operation and stability of the financial system; or

“(b) Avoiding significant damage to the financial system likely to result from the failure of a specified institution.

“38K. **Meaning of specified institution**—For the purposes of this Part of this Act ‘specified institution’ means—

“(a) A registered bank;

“(b) An authorised dealer in foreign exchange;

“(c) A financial institution designated as a specified institution for the purposes of this Part of this Act by the Reserve Bank by notice in writing to that financial institution.

“38L. **Supply of information for purposes of prudential supervision**—(1) For the purposes of this Part of this Act, the Reserve Bank may, by notice in writing to any specified institution, or by notice in the *Gazette* applying to any specified class of specified institutions, require the institution, or as the case may be, institutions of that class, to supply to the Reserve Bank such information, data, and forecasts relating to the

business, operation, or management of that institution or institutions of that class, for such periods and in such form as may be specified in the notice.

“(2) Without limiting subsection (1) of this section, a notice given to a specified institution, or a notice in the *Gazette* applying to a class of specified institutions, may require information and data to be supplied relating to the assets and liabilities, income and expenditure (including interest rates charged and payable), fees and charges, obligations and commitments and risk exposures of, and transactions entered into by, that institution or class of institutions and any associated person and where specified in consolidated form in respect of business carried on in New Zealand or elsewhere and whether as principal, broker, agent or intermediary.

“(3) The Reserve Bank may, by notice in writing to a specified institution, require any information and data which that specified institution is required to supply pursuant to this section to be audited by an auditor approved by the Reserve Bank.

“(4) Information, data, and forecasts required to be supplied pursuant to this section by a specified institution, or as the case may be, class of specified institutions, shall be supplied to the Head Office of the Reserve Bank at Wellington at such time as may be specified in the notice given to that institution or class of institutions.

“(5) A notice given pursuant to this section to a specified institution, or as the case may be, a class of specified institutions, may, by a subsequent notice, be revoked, varied or amended by the Reserve Bank.

“(6) If, without lawful justification or excuse, any specified institution—

“(a) Fails to comply in any respect with any of the provisions of this section or with any of the requirements of the Reserve Bank thereunder; or

“(b) Supplies any information or data which it is required to supply under this section which is false or misleading in a material particular—

that specified institution commits an offence against this Act.

“38M. Disclosure of information to Reserve Bank by auditors and trustees for the holders of securities issued by specified institutions—(1) Every person who holds, or at any time has held, office as required by any enactment, as an auditor of a specified institution shall disclose to the Reserve Bank information relating to the affairs of that specified

institution obtained in the course of carrying out the duties of auditor in any case where in the opinion of that person—

“(a) The specified institution is insolvent or is likely to become insolvent or is in serious financial difficulties; and

“(b) The disclosure of that information is likely to assist, or be relevant to, the exercise by the Reserve Bank of its powers under this Part of this Act.

“(2) No civil, criminal, or disciplinary proceedings shall lie against any person referred to in subsection (1) of this section arising from the disclosure in good faith of information to the Reserve Bank pursuant to subsection (1) of this section and no tribunal, body, or authority having jurisdiction in respect of the professional conduct of that person shall make any order against or do any act in relation to that person in respect of such disclosure.

“(3) Any person who holds, or at any time has held, appointment as required by the Securities Act 1978 as a trustee for the holders of any securities issued by a specified institution, may disclose to the Reserve Bank information relating to the affairs of that specified institution obtained in the course of carrying out the duties of that person as trustee in any case where in the opinion of that person—

“(a) The specified institution is insolvent or is likely to become insolvent or is in serious financial difficulties; and

“(b) The disclosure of that information is likely to assist, or be relevant to, the exercise by the Reserve Bank of its powers under this Part of this Act.

“(4) No civil, criminal, or disciplinary proceedings shall lie against any person referred to in subsection (3) of this section arising from the disclosure in good faith of, or the omission to disclose, information to the Reserve Bank pursuant to subsection (3) of this section and no tribunal, body, or authority having jurisdiction in respect of the professional conduct of that person shall make any order against or do any act in relation to that person in respect of such disclosure or omission.

“(5) Every auditor or trustee, as the case may be, shall, before disclosing any information to the Reserve Bank under this section, inform the specified institution of that auditor's or trustee's intention to disclose information and the nature of that information.

“38N. Powers to obtain information and documents—

(1) Where the Reserve Bank is satisfied—

“(a) That any information or data supplied to the Bank by a specified institution pursuant to this Part of this Act is false or misleading in a material particular; or

“(b) That a specified institution has failed to comply with any requirement to supply information, data, or forecasts pursuant to section 38L of this Act—

it may,—

“(c) By notice in writing to that specified institution, require that specified institution to supply to the Bank, within the time specified in the notice, such information and data relating to the business, operation and management of that specified institution as may be specified in the notice; or

“(d) Appoint in writing any person to enter upon and search any premises and inspect, remove, and take copies of any documents or extracts therefrom relating to the business, operation, and management of that specified institution in the possession of or under the control of any person and, where necessary, require the reproduction in usable form of any information recorded or stored therein.

“(2) No person appointed pursuant to subsection (1) (d) of this section shall enter upon and search any premises or inspect, remove, or take copies of any documents or extracts therefrom in the possession of or under the control of any person or require the reproduction in usable form of any information recorded or stored therein unless that person obtains a warrant authorising him to do so in accordance with subsection (3) of this section.

“(3) Where a Judge of the High Court is satisfied, on application in writing made on oath, that there are reasonable grounds for believing—

“(a) That any information or data supplied to the Reserve Bank by a specified institution pursuant to this Part of this Act is false or misleading in a material particular; or

“(b) That a specified institution has failed to comply with any requirement to supply information, data or forecasts pursuant to section 38L of this Act—

that High Court Judge may, by warrant, authorise a person appointed pursuant to subsection (1) (d) of this section to enter upon and search any premises and inspect, remove, and take

copies of any documents or extracts therefrom relating to the business, operation, and management of that specified institution in the possession of or under the control of any person and, where necessary, require the reproduction in usable form of any information recorded or stored therein.

“(4) Every warrant issued under subsection (3) of this section shall authorise the person named in the warrant, at any time by force if necessary, to enter upon and search the premises specified in the warrant and inspect, remove, and take copies of any documents or extracts therefrom relating to the business, operation, and management of that specified institution in the possession of or under the control of any person and, where necessary, require the reproduction in usable form of any information recorded or stored therein.

“(5) Every warrant issued under subsection (3) of this section shall state whether it is issued under paragraph (a) or paragraph (b) of subsection (3) of this section.

“(6) Every such warrant shall continue in force for a period of 1 month or until the purpose for which it was granted has been satisfied, whichever is the lesser.

“(7) Every person authorised to enter upon and search any premises pursuant to subsection (4) of this section shall on first entering those premises, and, if requested, at any subsequent time, produce—

“(a) Evidence of that person’s authority to enter the premises; and

“(b) Evidence of that person’s identity.

“(8) Every person named in a warrant issued under subsection (3) of this section shall, as soon as practicable after removing any documents or extracts therefrom from any premises, supply a copy of the documents or extracts to the person from whom the documents or extracts were removed.

“(9) Every person commits an offence against this Act who, without lawful justification or excuse, hinders, obstructs, or delays in the conduct of any inspection pursuant to this section, any person duly authorised to make such inspection.

“(10) Any specified institution commits an offence against this Act if, without lawful justification or excuse,—

“(a) It fails to comply with any requirement of the Reserve Bank under subsection (1) (c) of this section; or

“(b) It supplies any information or data required to be supplied pursuant to subsection (1) (c) of this section which is false or misleading in a material particular.

“(11) Notwithstanding any other provision of any Act or any rule of law, where any person commences any proceedings in any court in respect of the exercise of any powers conferred by this section, until a final decision in relation to those proceedings is given the powers so conferred may be, or may continue to be, exercised as if no such proceedings had been commenced, and no person shall be excused from fulfilling any obligation under this section by reason of those proceedings.

“(12) In any case where it is declared in a final decision given in any such proceedings that the exercise of any powers conferred by this section is unlawful, to the extent to which the exercise of those powers is declared unlawful—

“(a) The Reserve Bank shall ensure that forthwith after the decision of the court is given—

“(i) Any information and data supplied by the specified institution pursuant to subsection (1) (c) of this section is destroyed:

“(ii) Any documents or extracts therefrom obtained pursuant to an inspection made under this section are returned to the person previously having possession of those documents or previously having them under his control and any copies of such documents or extracts therefrom are destroyed:

“(iii) Any information derived from or based upon any such information and data or documents or extracts is destroyed:

“(b) No information and data supplied by the specified institution pursuant to subsection (1)(c) of this section and no documents or extracts therefrom obtained pursuant to an inspection made under this section shall be—

“(i) Admissible in evidence in any proceedings:

“(ii) Used in connection with the exercise of any power conferred by section 38Q or section 38R of this Act.

“38O. Investigation of affairs of specified institution—

(1) Where the Reserve Bank is satisfied that it is necessary or desirable for the purpose of determining whether to exercise the powers conferred under section 38Q or section 38R of this Act that an investigation of the affairs or any specified institution should be carried out, the Bank may appoint in

writing any person to carry out an investigation of the affairs of that specified institution.

“(2) Any person appointed under subsection (1) of this section may for the purposes of carrying out an investigation of the affairs of a specified institution—

“(a) By notice in writing require that specified institution or any officer or employee of that specified institution or any other person to supply any information or data relating to the business, operation, and management of the specified institution or produce for inspection any documents of or relating to the business, operation, and management of that specified institution in the custody or under the control of that specified institution, officer, employee, or person and where necessary reproduce in usable form any information recorded or stored therein:

“(b) Take copies of any documents produced for his inspection under paragraph (a) of this subsection:

“(c) Require any officer or employee of that specified institution or any other person to answer any question relating to the business, operation, and management of that specified institution.

“(3) Any person appointed under subsection (1) of this section who exercises any powers conferred by subsection (2) of this section shall, if requested, produce the instrument of that person's appointment.

“(4) Subject to this section, any person appointed under subsection (1) of this section may, for the purposes of carrying out an investigation of the affairs of the specified institution, at any time, enter upon and search any premises and inspect, remove, and take copies of any documents or extracts therefrom relating to the business, operation, and management of that specified institution in the possession of or under the control of any person and, where necessary, require the reproduction in usable form of any information recorded or stored therein.

“(5) No person so appointed shall enter upon and search any premises and inspect, remove, and take copies of any documents or extracts therefrom or require the reproduction in usable form of any information recorded or stored therein unless that person obtains a warrant authorising him to do so in accordance with subsection (6) of this section.

“(6) Where a Judge of the High Court is satisfied, on application in writing made on oath, that there are reasonable grounds for believing that it is necessary for the purpose of determining whether to exercise the powers conferred under section 38Q or section 38R of this Act that an investigation of the affairs of a specified institution should be carried out, that High Court Judge may, by warrant authorise a person appointed under subsection (1) of this section to enter upon and search any premises and inspect, remove, and take copies of any documents or extracts therefrom relating to the business, operation, and management of that specified institution in the possession of or under the control of any person and, where necessary, require the reproduction in usable form of any information recorded or stored therein.

“(7) Every warrant issued under subsection (6) of this section shall authorise the person named in the warrant, at any time, by force if necessary to enter upon and search the premises specified in the warrant and inspect, remove, and take copies of any documents or extracts therefrom relating to the business, operation, and management of that specified institution in the possession of or under the control of any person and, where necessary, require the reproduction in usable form of any information recorded or stored therein.

“(8) Every such warrant shall continue in force for a period of 1 month or until the purpose for which it was granted has been satisfied, whichever is the lesser.

“(9) Every person authorised to enter upon and search any premises pursuant to subsection (7) of this section shall on first entering those premises and, if requested, at any subsequent time, produce—

“(a) Evidence of that person’s authority to enter the premises; and

“(b) Evidence of that person’s identity.

“(10) Every person named in a warrant issued under subsection (6) of this section shall, as soon as practicable after removing any documents or extracts therefrom from any premises, supply a copy of the documents or extracts to the person from whom the documents or extracts were removed.

“(11) Every person commits an offence against this Act who, without lawful justification or excuse—

“(a) Hinders, obstructs, or delays in the conduct of any inspection for the purposes of this section, any person appointed to carry out an investigation under this section; or

“(b) Supplies any information required to be supplied pursuant to this section which is false or misleading in a material particular; or

“(c) Refuses to answer any question put to him by a person appointed to carry out an investigation under this section.

“(12) Any specified institution commits an offence against this Act if, without lawful justification or excuse,—

“(a) It fails to comply with any requirement of a person appointed to carry out an investigation under this section; or

“(b) It supplies any information or data required to be supplied pursuant to this section which is false or misleading in a material particular.

“(13) A statement made by any person in answer to any question put by a person appointed under subsection (1) of this section to carry out an investigation into the affairs of a specified institution shall not be admissible in criminal proceedings against the maker of the statement.

“(14) Notwithstanding any other provision of any Act or any rule of law, where any person commences any proceedings in any court in respect of the exercise of any powers conferred by this section, until a final decision in relation to those proceedings is given, the powers so conferred may be, or may continue to be, exercised as if no such proceedings had been commenced and no person shall be excused from fulfilling any obligation under this section by reason of those proceedings.

“(15) In any case where it is declared in a final decision given in any such proceedings that the exercise of any powers conferred by this section is unlawful, to the extent to which the exercise of those powers is declared unlawful—

“(a) The Reserve Bank shall ensure that forthwith after the decision of the Court is given—

“(i) Any information or data obtained pursuant to subsection (2) (a) of this section is destroyed:

“(ii) Any documents produced for inspection pursuant to subsection (2) (a) of this section are returned to the person previously having possession of the documents or previously having the documents under his control and any copies of such documents or extracts therefrom are destroyed:

“(iii) Any documents or extracts therefrom obtained pursuant to an inspection made under subsection (4) of this section are returned to the

person previously having possession of those documents or previously having them under his control and any copies of such documents or extracts therefrom are destroyed:

“(iv) Any information derived from or based upon any such information, documents or extracts therefrom is destroyed:

“(b) No information or data obtained or documents produced for inspection pursuant to subsection (2) (a) of this section and no documents or extracts therefrom obtained pursuant to an inspection made under subsection (4) of this section shall be—

“(i) Admissible as evidence in any proceedings:

“(ii) Used in connection with the exercise of any power conferred by section 38Q or section 38R of this Act.

“38P. Confidentiality of information—(1) This section applies to—

“(a) Information, data, and forecasts supplied or disclosed to, or obtained by, the Reserve Bank under, or for the purposes of, or in connection with the exercise of powers conferred by, this Part of this Act:

“(b) Information and data derived from or based upon information, data, and forecasts referred to in paragraph (a) of this subsection:

“(c) Information relating to the exercise or possible exercise of the powers conferred by this Part of this Act.

“(2) Neither the Reserve Bank nor any officer or employee of the Reserve Bank shall publish or disclose any information, data, or forecasts to which this section applies except—

“(a) With the consent of the person to whom the information relates:

“(b) To the extent that the information is available to the public under any Act other than the Official Information Act 1982, or in a public document:

“(c) In statistical or summary form arranged in such a manner as to prevent any information published or disclosed from being identified by any person as relating to any particular person:

“(d) For the purposes of this Part of this Act or in connection with the exercise of powers conferred under this Part of this Act:

“(e) In connection with any proceedings for an offence against this Act:

“(f) To any central bank, authority, or body in any other country which exercises functions corresponding to or similar to those conferred on the Reserve Bank under this Part of this Act for the purposes of the exercise by that central bank, authority, or body of those functions:

“(g) To any person who the Reserve Bank is satisfied has a proper interest in receiving such information.

“(3) No information, data, or forecasts shall be published or disclosed pursuant to paragraph (f) or paragraph (g) of subsection (2) of this section unless the Reserve Bank is satisfied that satisfactory provision exists to protect the confidentiality of the information, data, or forecasts published or disclosed.

“(4) No officer or employee of the Reserve Bank shall use any information, data, or forecasts to which this section applies for a purpose not connected with the purpose for which such information, data, or forecasts was or were supplied, disclosed, or obtained.

“(5) No person to whom any information, data, or forecasts to which this section applies is or are published or disclosed pursuant to paragraph (d) of subsection (2) of this section shall publish, disclose, or use such information, data, or forecasts except—

“(a) For the purposes of this Part of this Act or in connection with the exercise of powers conferred by this Part of this Act; and

“(b) In accordance with such conditions as may be specified by the Reserve Bank.

“(6) No person to whom any information, data, or forecasts to which this section applies is or are published or disclosed pursuant to paragraph (a) or paragraph (g) of subsection (2) of this section, shall publish, disclose, or use such information, data, or forecasts unless the publication, disclosure or use is—

“(a) Authorised by the Reserve Bank; or

“(b) Necessary or desirable in connection with the exercise of any function or power conferred by any enactment.

“(7) Every person who contravenes this section commits an offence against this Act.

“(8) Nothing in the Official Information Act 1982 or any other Act other than this Act applies to information, data, and forecasts to which this section applies whether or not such

information, data, and forecasts has or have been published or disclosed to any person pursuant to this section.

“38Q. Reserve Bank may declare specified institution to be an institution at risk—(1) Where the Reserve Bank has reasonable grounds to believe that—

“(a) A specified institution is insolvent or is likely to become insolvent; or

“(b) A specified institution is about to suspend payment or is unable to meet its obligations as and when they fall due; or

“(c) The affairs of the specified institution are being conducted in a manner prejudicial to the stability of the financial system; or

“(d) The circumstances of the specified institution or any associated person are such as to be prejudicial to the stability of the financial system—

the Reserve Bank may, with the consent of the Minister, give written notice to the specified institution that the specified institution is considered to be an institution at risk.

“(2) Every notice given under subsection (1) of this section shall state the grounds on which it is given.

“(3) Every specified institution to whom a notice is given under subsection (1) of this section shall forthwith consult with the Reserve Bank—

“(a) As to the circumstances of that specified institution; and

“(b) As to the methods of resolving the difficulties of that specified institution.

“(4) Every associated person of a specified institution to whom a notice has been given under subsection (1) of this section shall, when required to do so by the Reserve Bank by notice in writing to that associated person, forthwith consult with the Reserve Bank—

“(a) As to the circumstances of that specified institution; and

“(b) As to the methods of resolving the difficulties of that specified institution.

“(5) Where the Reserve Bank gives a notice to a specified institution under subsection (1) of this section or gives a notice to an associated person of a specified institution under subsection (4) of this section, the Reserve Bank may, from time to time—

“(a) Give advice to the specified institution or associated person concerning its affairs:

“(b) Give advice and assistance in connection with the negotiation of any sale or other disposition of the

whole or any part of the capital or business undertaking of that specified institution or associated person:

“(c) Give advice and assistance in connection with any scheme for resolving the difficulties of that specified institution or associated person.

“(6) A notice given under subsection (1) of this section to a specified institution or a notice given under subsection (4) of this section to an associated person of a specified institution shall be deemed to have been given upon delivery to the head office, registered office or principal place of business in New Zealand of the specified institution or associated person, as the case may be.

“(7) A notice given under subsection (1) of this section to a specified institution or a notice given under subsection (4) of this section to an associated person of a specified institution may at any time be revoked by the Reserve Bank.

“(8) The Reserve Bank may, from time to time, with the consent of the Minister, for the purpose of preventing further deterioration in the financial condition of a specified institution to whom a notice has been given under subsection (1) of this section or an associated person of a specified institution to whom a notice has been given under subsection (4) of this section, as the case may be, give a direction in writing to that specified institution or associated person—

“(a) Requiring that specified institution or associated person to carry on business or any part of its business in accordance with the direction:

“(b) Requiring that specified institution or associated person to cease to carry on its business or any part of its business in accordance with the direction.

“(9) The Reserve Bank may, from time to time, with the consent of the Minister, amend any direction given under subsection (8) of this section.

“(10) A direction given under subsection (8) of this section to a specified institution or an associated person may be revoked at any time by the Reserve Bank.

“(11) Every specified institution or associated person who acts in contravention of or fails to comply with a direction given under subsection (8) of this section commits an offence against this Act.

“(12) Every officer or employee of a specified institution or any associated person who obstructs, hinders or prevents that

specified institution or associated person giving effect to any direction given under subsection (8) of this section commits an offence against this Act.

“(13) Where the Reserve Bank by notice in writing to the parties approves the sale or other disposition under this section of the whole or any part of the capital or business undertaking of a specified institution or any associated person, the provisions of any enactment requiring any consent, licence, permission or other authority shall not have any application in respect of the sale or disposition.

“(14) Subject to subsection (15) of this section, every person who discloses that a notice has been given under subsection (1) of this section to a specified institution or that a notice has been given under subsection (4) of this section to an associated person of a specified institution commits an offence against this Act.

“(15) Nothing in subsection (14) of this section applies to the disclosure or publication that a notice has been given under subsection (1) or subsection (4) of this section where the disclosure or publication is made—

“(a) To any professional or financial adviser of the specified institution or associated person to which the notice relates:

“(b) With the written consent of the Reserve Bank, for the purposes of the sale or other disposition, or the possible sale or other disposition, of the whole or any part of the capital or business undertaking of the specified institution or associated person:

“(c) With the written consent of the Reserve Bank, to any person who has a proper interest in knowing that the notice has been given.

“38R. Statutory management of specified institutions and associated persons—(1) The Reserve Bank may, from time to time, recommend to the Minister—

“(a) That a specified institution or an associated person of that specified institution be subject to statutory management; and

“(b) That 1 or more persons be appointed as statutory manager or statutory managers of that specified institution or associated person.

“(2) The Governor-General may, from time to time, by Order in Council, on the advice of the Minister given in accordance with a recommendation of the Reserve Bank under subsection (1) of this section,—

“(a) Declare that a specified institution or an associated person of that specified institution is subject to statutory management; and

“(b) Appoint 1 or more persons as statutory manager or statutory managers of that specified institution or associated person.

“(3) Where an Order in Council is made under subsection (2) of this section every subsidiary of a specified institution declared to be subject to statutory management, except any subsidiary declared to be a subsidiary to which the order does not apply, shall be subject to statutory management and the statutory manager or statutory managers so appointed shall be the statutory manager or statutory managers of every such subsidiary.

“(4) The Reserve Bank shall not make a recommendation under subsection (1) of this section in respect of a specified institution unless it is satisfied on reasonable grounds that—

“(a) The specified institution is insolvent or is likely to become insolvent; or

“(b) The specified institution has suspended or is about to suspend payment or is unable to meet its obligations as they fall due; or

“(c) The specified institution has failed to consult with the Reserve Bank pursuant to section 38Q(3) of this Act; or

“(d) The specified institution or any associated person has failed to comply with a direction under section 38Q(8) of this Act; or

“(e) The affairs of the specified institution are being conducted in a manner prejudicial to the stability of the financial system; or

“(f) The circumstances of the specified institution or any associated person are such as to be prejudicial to the stability of the financial system.

“(5) The Reserve Bank shall not make a recommendation under subsection (1) of this section in respect of an associated person of a specified institution unless it is satisfied that the business and affairs of the specified institution are so closely connected with that associated person that the statutory manager or statutory managers would be unable to exercise effectively the powers conferred by this Part of this Act in relation to the specified institution unless the statutory manager or statutory managers is or are appointed as

statutory manager or statutory managers of the associated person.

“(6) The Reserve Bank shall, as soon as practicable after the making of an Order in Council declaring a specified institution to be subject to statutory management, give written notice to the institution stating the grounds on which the recommendation made by the Reserve Bank under subsection (1) of this section relating to the institution was made.

“(7) Nothing in subsection (5) of this section prevents the making of an Order in Council under subsection (1) of this section in respect of a specified institution which is an associated person of any other specified institution named in the order on any of the grounds specified in subsection (4) of this section.

“(8) The appointment of a statutory manager shall be for such period as shall be specified in the order.

“(9) The Reserve Bank may, from time to time, recommend to the Minister that the term of appointment of a statutory manager be extended.

“(10) The Governor-General may, from time to time, by Order in Council, on the advice of the Minister given in accordance with a recommendation of the Reserve Bank under subsection (9) of this section, extend the term of appointment of a statutory manager.

“(11) For the purposes of this Part of this Act, unless the context otherwise requires—

“(a) Where an associated person of a specified institution is declared to be subject to statutory management or a subsidiary of a specified institution becomes subject to statutory management under subsection (3) of this section, that associated person or subsidiary, as the case may be, shall be deemed to be a specified institution and references in this Part of this Act to a specified institution shall be read as references to that associated person or subsidiary, as the case may be:

“(b) References to a statutory manager shall, where 2 or more persons are appointed as statutory managers of a specified institution, include references to those statutory managers.

“(12) Where an Order in Council is made under subsection (2) of this section appointing 2 or more persons as statutory managers of a specified institution, the order shall state whether the powers conferred by this Part of this Act

shall be exercised by those persons acting together or may be exercised individually.

“38s. Advisory committees—(1) Where an Order in Council is made under section 38R of this Act declaring a specified institution or an associated person of that specified institution to be subject to statutory management, being a specified institution or associated person in respect of which a person holds office as a trustee under the Securities Act 1978, the Reserve Bank shall recommend to the Minister that the persons specified in the recommendation be appointed as members of an advisory committee including that trustee, or where that trustee is a corporation within the meaning of section 2 of that Act, a representative of that trustee.

“(2) Where any such Order in Council is made, the Minister shall, in accordance with the recommendation of the Reserve Bank, by notice in the *Gazette*, appoint the persons so recommended for appointment as an advisory committee to advise the statutory manager on the exercise of the powers conferred by this Part of this Act in relation to the specified institution or associated person.

“(3) Where an Order in Council is made under section 38R of this Act declaring a specified institution or an associated person of a specified institution to be subject to statutory management, not being a specified institution or an associated person in respect of which a person holds office as a trustee under the Securities Act 1978, the Reserve Bank may recommend to the Minister that the persons specified in the recommendation be appointed as members of an advisory committee.

“(4) Where any such Order in Council is made the Minister may, in accordance with the recommendation of the Reserve Bank, by notice in the *Gazette*, appoint the persons so recommended for appointment as an advisory committee to advise the statutory manager on the exercise of the powers conferred by this Part of this Act in relation to the specified institution or associated person.

“(5) The members of an advisory committee shall be appointed for such period as shall be specified in the notice of appointment.

“(6) The term of appointment of any member of an advisory committee may, on the recommendation of the Reserve Bank, be extended by the Minister by notice in the *Gazette*.

“(7) The Minister may, on the recommendation of the Reserve Bank, by notice in the *Gazette*, appoint a person to be an additional member of an advisory committee.

“(8) The Minister may terminate the appointment of a member of an advisory committee for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Minister.

“(9) A member of an advisory committee may resign office by notice in writing to the Minister.

“(10) Where a member of an advisory committee resigns that member shall continue in office until a successor is appointed.

“38T. Considerations affecting exercise of powers by statutory manager—(1) In the exercise of the powers conferred by this Part of this Act a statutory manager of a specified institution shall have regard to—

“(a) The need to maintain public confidence in the operation and stability of the financial system:

“(b) The need to avoid significant damage to the financial system:

“(c) To the extent not inconsistent with the considerations referred to in paragraphs (a) and (b) of this subsection, the need to resolve as quickly as possible the difficulties of that specified institution:

“(d) To the extent not inconsistent with the considerations referred to in paragraphs (a), (b), and (c) of this subsection, preserving the position of creditors and maintaining the ranking of claims of creditors:

“(e) The advice of the Reserve Bank.

“(2) Every statutory manager of a specified institution shall—

“(a) Consult with the Reserve Bank to the extent required by the Reserve Bank as to the exercise of the powers conferred by this Part of this Act:

“(b) Provide such reports as the Reserve Bank may require as to the state of the affairs and business of the specified institution.

“38U. Statutory manager to comply with directions of Reserve Bank—Subject to section 38AI of this Act, every statutory manager of a specified institution shall comply with any directions given in writing by the Reserve Bank relating to the exercise of the powers of that statutory manager under this Part of this Act.

“38v. Moratorium—(1) Where a specified institution is declared under section 38R of this Act to be subject to statutory management, no person shall—

“(a) Commence or continue any action or other proceedings including proceedings by way of counterclaim against that specified institution:

“(b) Issue any execution, attach any debt, or otherwise enforce or seek to enforce any judgment or order obtained in respect of that specified institution:

“(c) Petition or resolve to wind up that specified institution:

“(d) Foreclose, enter into possession, sell, appoint a receiver or exercise or continue any power or rights under or in pursuance of any mortgage, charge, debenture, instrument, or other security over the property of that specified institution:

“(e) Determine or forfeit any tenancy, distrain for rent, retake or re-enter any premises or exercise or continue any power or rights under or in pursuance of any lease, against that specified institution:

“(f) Exercise any right of set-off against that specified institution.

“(2) Notwithstanding the provisions of subsection (1) of this section, an action or proceeding may be commenced or continued against a specified institution which has been declared under section 38R of this Act to be subject to statutory management for the purpose of determining whether any right or liability exists if the leave of the statutory manager is first obtained.

“(3) Notwithstanding the provisions of subsection (1) of this section, a statutory manager of a specified institution may waive the application in whole or in part of that subsection (except paragraph (c) of that subsection) to any creditor or class of creditors in respect of the whole or part of any claim of or security held by that creditor or class of creditors.

“(4) Subject to the provisions of this Act, nothing in subsection (1) of this section affects the existence of any security over the property of any specified institution or its priority over other debts.

“(5) Nothing in paragraph (a) of subsection (1) of this section limits or prevents any person commencing or continuing any action or other proceedings, including proceedings by way of counterclaim, against a specified institution in respect of any contract entered into or obligation incurred by that specified institution after the date on which that specified institution was

declared pursuant to section 38R of this Act to be subject to statutory management.

“(6) Nothing in paragraph (b) of subsection (1) of this section limits or prevents any person issuing any execution, attaching any debt, or otherwise enforcing or seeking to enforce any judgment or order obtained against a specified institution in respect of any contract entered into or obligation incurred by that specified institution after the date on which that specified institution was declared pursuant to section 38R of this Act to be subject to statutory management.

“38w. Statutory manager may incorporate company under Companies Act 1955 to acquire business of branch of foreign institution—(1) Where a specified institution which is a branch of a body corporate incorporated outside New Zealand or, as the case may be, any unincorporated body having its head office or principal place of business outside New Zealand is declared to be subject to statutory management, the statutory manager may—

“(a) Form and register a body corporate under the Companies Act 1955 or any other Act:

“(b) Subscribe, as trustee for that body corporate incorporated outside New Zealand or unincorporated body, as the case may be, for all or any of the shares of the body corporate:

“(c) Allot all or any of the shares in that body corporate as fully or partly paid, as the case may be, up to the value, after deducting the value of any liabilities vested, of any property, rights, and assets vested in that body corporate pursuant to subsection (2) of this section.

“(2) The Reserve Bank may recommend to the Minister that the whole or any part of the property, rights, assets, and liabilities of the branch relating to the business carried on by that branch should be vested in a body corporate formed and registered pursuant to subsection (1) of this section.

“(3) The Governor-General may, by Order in Council, on the advice of the Minister given in accordance with a recommendation of the Reserve Bank under subsection (2) of this section, declare that the whole or any part of any property, rights, assets, and liabilities of any such branch relating to the business carried on by that branch shall vest in any such body corporate on a date specified in the order and the property, rights, assets, and liabilities shall vest in that body corporate on the date so specified.

“(4) Nothing in subsection (2) or subsection (3) of this section shall reduce, extinguish or affect any obligation or liability of a body corporate incorporated outside New Zealand or, as the case may be, an unincorporated body having its head office or principal place of business outside New Zealand.

“(5) Every body corporate formed and registered under subsection (1) of this section shall, for the purposes of this Part of this Act, be deemed to be a specified institution subject to statutory management as if that body corporate had been declared to be subject to statutory management pursuant to section 38R of this Act, and the statutory manager of that branch shall be the statutory manager of that body corporate as if that statutory manager had been appointed the statutory manager of that body corporate pursuant to that section and the provisions of this Part of this Act shall apply accordingly.

“(6) An order may be made under subsection (3) of this section vesting any property, rights, and assets of a branch in a body corporate formed and registered pursuant to subsection (1) of this section notwithstanding the existence, or the terms and conditions, of any security over that property or those rights or assets in favour of any other person.

“(7) Where any property, rights or assets are declared to vest pursuant to an order made under subsection (3) of this section in a body corporate formed and registered pursuant to subsection (1) of this section, being property, rights or assets subject to a security in favour of any other person, the property or those rights or assets shall continue to be subject to that security.

“(8) 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 section to change the name of any body corporate or unincorporated body referred to in subsection (1) of this section to that of any company formed and registered pursuant to subsection (1) of this section in those books or registers or in any document.

“(9) The presentation to any registrar or other person of any instrument, whether or not comprising an instrument of transfer by the company—

“(a) Executed or purporting to be executed by the company;
and

“(b) Relating to any property held before the date specified in the Order in Council made pursuant to

subsection (3) of this section by that body corporate or unincorporated body; and

“(c) Containing a recital that the property has become vested in the company, by virtue of the provisions of this section—

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

“**38x. Prohibition against removal of assets**—(1) Where a specified institution is declared under section 38R of this Act to be subject to statutory management, no person shall, except with the consent of the statutory manager, transfer or remove from New Zealand any property or assets of the specified institution.

“(2) Any person who, after a specified institution is declared under section 38R of this Act to be subject to statutory management, except with the consent of the statutory manager, transfers or removes from New Zealand any property or assets of the specified institution, commits an offence and is liable on conviction on indictment—

“(a) In the case of an individual, to imprisonment for a term not exceeding 3 years or to a fine not exceeding \$50,000:

“(b) In the case of a body corporate, to a fine not exceeding \$250,000.

“(3) Nothing in subsection (2) of this section shall prevent the issue of an injunction or the making of any order to prevent such property or assets being removed from New Zealand.

“**38y. Statutory manager may suspend payment of moneys owing**—(1) The statutory manager of a specified institution, may, notwithstanding the terms of any contract, suspend in whole or in part the repayment of any deposit, or the payment of any debt or the discharge of any obligation, to any person.

“(2) The suspension by a statutory manager in whole or in part of the repayment of any deposit, or the payment of any debt, or the discharge of any obligation to any person pursuant to subsection (1) of this section shall not constitute a breach or repudiation of any contract entered into by the specified institution with any person.

“(3) Nothing in subsection (1) of this section shall authorise any suspension by the statutory manager of the repayment of any deposit, or the payment of any debt, or the discharge of any obligation, to any person where the obligation to repay the deposit, or to pay the debt, or the obligation, was incurred

by the specified institution or by the statutory manager after the date upon which the specified institution became subject to statutory management.

“38Z. Management of specified institution to vest in statutory manager—(1) Subject to this Part of this Act, where a specified institution is declared under section 38R of this Act to be subject to statutory management, the management of that specified institution shall on and after the date specified in the order, vest in the statutory manager of that specified institution.

“(2) Where a specified institution is declared under section 38R of this Act to be subject to statutory management, it shall not be lawful or competent for any director, manager, or other person to be engaged in the management or conduct of the business of that specified institution, or to act as an officer or as the agent or servant of the specified institution, except with the permission of the statutory manager and so far as that permission extends.

“38AB. Powers of statutory manager—(1) Subject to this Part of this Act, a statutory manager of a specified institution shall have all such powers, rights, and authorities as may be necessary to carry out the powers conferred by this Part of this Act.

“(2) Without limiting subsection (1) of this section, a statutory manager shall have and may exercise—

“(a) In the case of a body corporate, all the powers of the members in general meeting and the board of directors of that body corporate; or

“(b) In the case of a partnership, all the powers exercisable by a partner or partners.

“(3) Without limiting subsection (1) of this section, a statutory manager of a specified institution shall have and may exercise all of the powers conferred on a liquidator of a company by section 312 of the Companies Act 1955 in the same manner as if the statutory manager of the specified institution were the liquidator of a company being wound up under that Act, and all the provisions of that section shall apply in respect of the disclaimer of any property of the specified institution as if that property was property of a company to which that section applied.

“38AC. Statutory manager empowered to carry on the business of specified institution—Subject to this Part of this Act, a statutory manager of a specified institution may carry on

all or any part of the business of the specified institution, and shall have and may exercise, in relation to the specified institution, all such powers, rights, and authorities as may be necessary to carry on that business.

“38AD. Statutory manager empowered to pay creditors and compromise claims—Subject to this Part of this Act, a statutory manager of a specified institution shall, for the purposes of carrying on the business of that specified institution, have power to—

“(a) Pay any creditor or class of creditors of the specified institution in whole or in part:

“(b) Make any compromise or arrangement with any creditor, or person claiming to be a creditor, of the specified institution:

“(c) Compromise all calls, debts and claims subsisting or supposed to subsist between the specified institution and any other person, and all questions relating to the assets of the specified institution and give a complete or partial discharge in respect thereof.

“38AE. Sale of specified institution—(1) Subject to this Part of this Act, the statutory manager of a specified institution may sell or otherwise dispose of the whole or any part of the business undertaking of the specified institution to such person and upon such terms and conditions as the statutory manager thinks fit.

“(2) Without limiting any other powers of the statutory manager, for the purposes of subsection (1) of this section, the statutory manager shall have power to—

“(a) Form and register a body corporate under the Companies Act 1955 or any other Act:

“(b) Subscribe for all or any of the shares of that body corporate:

“(c) Transfer to that body corporate the whole or any part of the business undertaking of the specified institution:

“(d) Allot all or any of the shares in that body corporate to any person credited as fully or partly paid, as the case may be, up to the value of the business undertaking transferred to that body corporate pursuant to paragraph (c) of this subsection:

“(e) Sell all or any of the shares of that body corporate or the whole or any part of the business undertaking of that body corporate to such person and upon such

terms and conditions as the statutory manager thinks fit.

“(3) The statutory manager shall not sell or otherwise dispose of—

“(a) The whole or any substantial part of the business undertaking of a specified institution pursuant to subsection (1) of this section:

“(b) Any of the shares of any body corporate formed and registered pursuant to paragraph (a) of subsection (2) of this section:

“(c) The whole or any substantial part of the business undertaking of any body corporate formed and registered pursuant to paragraph (a) of subsection (2) of this section—

unless the statutory manager has consulted with the Reserve Bank regarding the matter and the Reserve Bank has given approval in writing to the sale or other disposition and the terms and conditions thereof.

“(4) The provisions of any enactment or agreement requiring any consent, licence, permission or other authority shall not have any application in respect of—

“(a) The sale or other disposition of the whole or any part of the business undertaking of a specified institution pursuant to subsection (1) of this section:

“(b) The sale or other disposition pursuant to paragraph (e) of subsection (2) of this section of any of the shares of any body corporate formed and registered pursuant to paragraph (a) of subsection (2) of this section:

“(c) The sale or other disposition pursuant to paragraph (e) of subsection (2) of this section of the whole or any part of the business undertaking of any body corporate formed and registered pursuant to paragraph (a) of subsection (2) of this section.

“(5) A statutory manager may—

“(a) Sell or otherwise dispose of any property or assets of a specified institution pursuant to subsection (1) of this section; or

“(b) Sell or otherwise dispose of any property or assets of a specified institution to any body corporate formed and registered pursuant to paragraph (a) of subsection (2) of this section; or

“(c) Sell or otherwise dispose of any shares or property or assets of a body corporate formed and registered

pursuant to paragraph (a) of subsection (2) of this section—

notwithstanding the existence or the terms and conditions of any security over the property or those assets in favour of any other person.

“(6) Where the statutory manager of a specified institution sells or otherwise disposes of any property or assets of that institution pursuant to subsection (1) of this section, being property or assets subject to a fixed charge in favour of any person, the person entitled to the charge shall be paid out of the proceeds of sale or other disposition in priority to all other claims other than the costs of the statutory manager in selling or disposing of the property or assets.

“(7) Where a statutory manager of a specified institution sells or otherwise disposes of any property or assets of that specified institution to any body corporate formed and registered pursuant to paragraph (a) of subsection (2) of this section, being property or assets subject to a security in favour of any other person, the property or those assets shall continue to be subject to that security.

“(8) Where a statutory manager of a specified institution sells or otherwise disposes of any shares in a body corporate formed and registered under paragraph (a) of subsection (2) of this section any property or assets of which is subject to a fixed charge in favour of any other person, the person entitled to the charge shall be paid out of the proceeds of sale or other disposition in priority to all other claims other than the costs of the statutory manager in selling or disposing of the shares.

“(9) Where a statutory manager of a specified institution sells or otherwise disposes of any property or assets of a body corporate formed and registered pursuant to paragraph (a) of subsection (2) of this section, being property or assets subject to a fixed charge in favour of any other person, the person entitled to the charge shall be paid out of the proceeds of sale or other disposition in priority to all other claims other than the costs of the statutory manager in selling or disposing of the property or assets.

“(10) The presentation to any Registrar of Deeds or District Land Registrar or any other person charged with the keeping of any books or registers of any instrument transferring or otherwise disposing of any property or assets of a specified institution or any shares in or property or assets of any company incorporated pursuant to paragraph (a) of subsection (2) of this section—

“(a) Executed or purporting to be executed by or on behalf of the specified institution or company; and

“(b) Containing a recital that the transfer or other disposition of the property, or assets of the specified institution or the shares in or property or assets of the company is made pursuant to this section—

shall, in the absence of evidence to the contrary, be sufficient proof that the transfer or other disposition is made under the authority of this section.

“(11) The presentation to any Registrar of Deeds or District Land Registrar or any other person charged with the keeping of any books or registers of a certificate signed by the statutory manager that the amount secured by a charge over any property or assets of a specified institution or any company formed and registered pursuant to paragraph (a) of subsection (2) of this section has been paid shall, in the absence of evidence to the contrary, be sufficient proof that the amount secured by the charge has been repaid.

“38AF. Statutory manager may petition to wind up specified institution—(1) Subject to this Part of this Act, a statutory manager of a specified institution may, with the prior approval of the Reserve Bank—

“(a) In the case of a specified institution which may be wound up under the Companies Act 1955, petition under that Act to wind up that specified institution:

“(b) In the case of a specified institution which is an individual, petition under the Insolvency Act 1967 to have that specified institution declared bankrupt:

“(c) In the case of a specified institution constituted under any other Act, take such steps as are provided for in that Act for the winding up or dissolution of that specified institution.

“(2) The statutory manager of a specified institution, not being a specified institution referred to in subsection (1) of this section, may recommend to the Minister that the specified institution be wound up.

“(3) The Governor-General may, by Order in Council, on the advice of the Minister given in accordance with a recommendation of a statutory manager under subsection (2) of this section, order that the specified institution to which the recommendation relates shall be wound up in such manner as may be specified in the order and, in any such case, the specified institution shall be wound up in the manner specified in the order.

“(4) A statutory manager shall not make a recommendation under subsection (2) of this section without the prior approval of the Reserve Bank.

“(5) Nothing in this section limits or affects any other enactment which provides for the winding up or dissolution of any body corporate or any class of body corporate.

“38AG. Provisions applying where liabilities included in sale or other disposition of business undertaking of specified institution—(1) Where all or any part of any liability of a specified institution is included in the sale or other disposition of the business undertaking of that specified institution or any part thereof pursuant to section 38AE of this Act—

“(a) The specified institution shall, as from the date of such sale or other disposition, be relieved from all its obligations in respect of that liability, or part thereof; and

“(b) The person entitled to performance in respect of that liability shall be entitled to enforce performance of that liability or part thereof against the person to whom the business undertaking is sold or otherwise disposed of in the same manner and to the same extent as the person entitled to performance in respect of that liability could have enforced performance of that liability against the specified institution; and

“(c) The inclusion of part of any such liability shall not relieve the specified institution from any obligation in respect of any part of the liability not included in the sale or other disposition.

“(2) Where all or any part of any liability of a body corporate formed and registered under subsection (1) of section 38W of this Act, or all or any part of any liability relating to the business carried on by a branch of any body corporate incorporated outside New Zealand or, as the case may be, any unincorporated body having its head office or principal place of business outside New Zealand, is included in such a sale or other disposition, nothing in paragraph (a) of subsection (1) of this section shall relieve any body corporate incorporated outside New Zealand or, as the case may be, any unincorporated body having its head office or principal place of business outside New Zealand from any obligation in respect of that liability.

“38AH. Termination of appointment of statutory manager—(1) The Governor-General may terminate the appointment of a statutory manager of a specified institution for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General.

“(2) A statutory manager of a specified institution may resign as the statutory manager of that specified institution by notice in writing to the Minister.

“(3) Where the appointment of a statutory manager is terminated under subsection (1) of this section or a statutory manager resigns as the statutory manager of a specified institution, the Governor-General may, on the recommendation of the Reserve Bank, by Order in Council, appoint a person to take the place of that statutory manager.

“(4) Where a statutory manager resigns as statutory manager of a specified institution, that statutory manager shall continue in office until a successor is appointed.

“38AI. Statutory manager may apply to High Court for directions—(1) A statutory manager of a specified institution may apply to the High Court for directions concerning the business or property of the specified institution, or the management or administration of any such business or property, or the exercise of any powers under this Part of this Act.

“(2) On any application under subsection (1) of this section the High Court may give directions concerning the business or property of the specified institution, or the management or administration of any such business or property, or the exercise of any powers under this Part of this Act and every person shall be bound by any such directions.

“38AJ. Termination of statutory management—(1) The Reserve Bank may recommend to the Minister that—

“(a) Any specified institution:

“(b) Any associated person of a specified institution:

“(c) Any subsidiary of a specified institution—
subject to statutory management should cease to be subject to statutory management.

“(2) The Governor-General may, by Order in Council, on the advice of the Minister given in accordance with a recommendation of the Reserve Bank under subsection (1) of this section, declare that—

“(a) Any specified institution:

“(b) Any associated person of a specified institution:

“(c) Any subsidiary of a specified institution—
subject to statutory management shall cease to be subject to
statutory management on a date specified in the order.

“(3) Any person who is affected by the making of an order
under section 38R of this Act may, at any time, request the
Reserve Bank to make a recommendation under subsection (1)
of this section.

“(4) Where an order is made pursuant to subsection (2) of
this section in respect of any person referred to in that
subsection—

“(a) That person shall cease to be subject to statutory
management on the date specified in the order; and

“(b) The appointment of any statutory manager appointed
in respect of that person shall terminate on the date
specified in the order; and

“(c) The appointment of any person as a member of an
advisory committee under section 38s of this Act in
relation to the statutory management of that
person shall terminate on the date specified in the
order.

“(5) Where an Order in Council is made under subsection (2)
of this section declaring that a specified institution shall cease
to be subject to statutory management,—

“(a) Every subsidiary of that specified institution, except any
subsidiary thereof specified in the order, shall cease
to be subject to statutory management on the same
date as that specified as the date upon which the
specified institution ceases to be subject to statutory
management:

“(b) The appointment of any person appointed as a
statutory manager of every such subsidiary shall
terminate on the date referred to in paragraph (a) of
this subsection:

“(c) The appointment of any person appointed as a member
of an advisory committee under section 38s of this
Act in relation to the statutory management of that
subsidiary shall terminate on the date referred to in
paragraph (a) of this subsection.

“38AK. Exemption from liability—(1) No civil or criminal
proceedings shall lie against the Reserve Bank, or any
statutory manager of a specified institution, or a member of an
advisory committee appointed under section 38s of this Act
arising from the exercise or purported exercise of any power
conferred by this Part of this Act or the omission to exercise

any power conferred by this Part of this Act unless it is shown that the Reserve Bank or statutory manager or member of the advisory committee, as the case may be, exercised or purported to exercise the power or omitted to exercise the power in bad faith or, having regard to the purposes of this Part of this Act, without reasonable care.

“(2) No civil or criminal proceedings shall lie against any officer, servant, or agent of the Reserve Bank arising from the exercise or purported exercise of any power conferred by this Part of this Act or the omission to exercise any power conferred by this Part of this Act unless it is shown that the officer or servant or agent, as the case may be, exercised or purported to exercise the power or omitted to exercise the power in bad faith.

“(3) Nothing in subsections (1) and (2) of this section applies in respect of any application for review under Part I of the Judicature Amendment Act 1972.

“(4) Nothing in subsection (2) of this section limits or affects the provisions of subsection (1) of this section.

“38AL. Expenses of statutory management—All costs, charges and expenses properly incurred by a statutory manager in the exercise of his functions and powers under this Part of this Act (including such remuneration as may be approved by the Reserve Bank) shall be payable out of the property of the specified institution in respect of which the statutory manager is appointed in priority to all other claims.

“38AM. Regulations relating to powers of Reserve Bank and statutory manager—(1) The Governor-General may from time to time, by Order in Council, make regulations under section 50 of this Act conferring on the Reserve Bank or a statutory manager of a specified institution such ancillary or additional powers as may be necessary or desirable for the purposes of this Part of this Act.

“(2) All such regulations shall be laid before the House of Representatives within 16 sitting days after the date of the making thereof if the House of Representatives is then in session, and, if not, shall be laid before the House of Representatives within 16 days after the commencement of the next ensuing session.

“(3) All such regulations laid before the House of Representatives in any session pursuant to subsection (2) of this section shall expire on the close of the last day of that session

except in so far as they are expressly validated or confirmed by an Act of Parliament passed during that session.

“(4) Unless otherwise provided, the repeal of any Act passed pursuant to subsection (3) of this section shall not, of itself, affect the validity of any regulation validated or confirmed by the Act repealed.”

(2) The following enactments are hereby consequentially repealed—

- (a) Sections 10, 12 (1) and (2), 13, and 14 of the Reserve Bank of New Zealand Amendment Act 1973:
- (b) Sections 3 and 4 of the Reserve Bank of New Zealand Amendment Act 1975:
- (c) Section 7 (2) of, and the Second Schedule to, the Reserve Bank of New Zealand Amendment Act 1977:
- (d) Sections 3 to 5 and (6) (d) of the Reserve Bank of New Zealand Amendment Act 1982.

11. Amendment to Companies Act 1955—(1) The Companies Act 1955 is hereby amended by repealing section 458 (as amended by section 3 of the Companies Amendment Act 1971 and section 23 (1) of the Companies Amendment Act 1975 and section 71 (11) of the Securities Act 1978 and section 24 of the Companies Amendment Act (No. 2) 1983), and substituting the following section:

“458. Application of certain provisions of Act to banks incorporated outside New Zealand—(1) In this section the term ‘bank’ means a bank as defined by the Banking Act 1982.

“(2) Subsections (2), (3) (except the reference to subsection (1)), (4), (5), (8), and (9) of section 402 of this Act (as enacted by section 2 of the Companies Amendment Act 1971), and paragraph (g) of subsection (1) of section 470 of this Act (which was enacted by section 3 (2) of the Companies Amendment Act 1969), shall apply with respect to every bank, as defined in subsection (1) of this section, that is incorporated outside New Zealand as if references in those subsections and in that paragraph to an overseas company were references to a bank.”

(2) The following enactments are hereby consequentially repealed—

- (a) Section 3 of the Companies Amendment Act 1971:
- (b) Section 23 (1) of the Companies Amendment Act 1975:
- (c) Section 71 (11) of the Securities Act 1978:
- (d) Section 24 of the Companies Amendment Act (No. 2) 1983.

12. Amendment to Securities Act 1978—(1) Section 5 of the Securities Act 1978 is hereby amended by repealing subsection (2) (as amended by section 5 (2) and (3) of the Securities Amendment Act 1982 and section 32 (1) of the State-Owned Enterprises Act 1986), and substituting the following subsections:

“(2) Nothing in sections 33 (2), 45 to 52 and section 54 of this Act shall apply in respect of any debt security the issuer of which is—

“(a) A registered bank as defined in section 2 of the Reserve Bank of New Zealand Act 1964; or

“(b) A trustee bank established under the Trustee Banks Act 1983; or

“(c) A private savings bank as defined in section 2 of the Private Savings Banks Act 1983; or

“(d) A building society: or

“(e) Post Office Bank Limited.

“(2A) Nothing in sections 33 (3), 37, 37A, 39 to 44, and 44B to 54 of this Act shall apply in respect of—

“(a) An interest in a unit trust (as defined in section 2 (1) of the Unit Trusts Act 1960):

“(b) An interest in an approved superannuation scheme.”

(2) Section 38 of the Securities Act 1978 (as substituted by section 17 of the Securities Amendment Act 1982) is hereby amended by omitting from the proviso the expression “subsections (2) to (4)”, and substituting the expression subsections “(2A), (3), and (4)”.

(3) Section 5 (2) and (3) of the Securities Amendment Act 1982 are hereby consequentially repealed.

(4) The State-Owned Enterprises Act 1986 is hereby amended by repealing so much of the Third Schedule as relates to the Securities Act 1978.

13. Amendment to Flags, Emblems, and Names Protection Act 1981—Section 20 (3) of the Flags, Emblems, and Names Protection Act 1981 is hereby amended by repealing paragraph (a).

14. Amendment to Stamp and Cheque Duties Act 1971—Section 11 (2) of the Stamp and Cheque Duties Act 1971 is hereby amended by adding the following paragraph:

“(q) Paragraph (c) of subsection (2) of section 38AE of the Reserve Bank of New Zealand Act 1964”.

15. References to trading banks to be read as references to registered banks—Every reference in any other Act to the expression “trading bank” shall be read as a reference to a person registered as a registered bank pursuant to section 38c of the principal Act or deemed to be so registered pursuant to section 38E of the principal Act.

16. New First Schedule substituted—(1) The principal Act is hereby amended by repealing the First Schedule thereto (as amended by section 14 (1) of the ANZ Banking Group (New Zealand) Act 1979 and sections 20 and 21 (1) of the Westpac Banking Corporation Act 1982), and substituting the First Schedule set out in the Schedule to this Act.

(2) The following enactments are hereby consequentially repealed—

(a) Section 11 (1) of the Australia and New Zealand Banking Group Act 1970:

(b) Section 14 (1) of the ANZ Banking Group (New Zealand) Act 1979:

(c) Sections 20 and 21 (1) of the Westpac Banking Corporation Act 1982.

Section 16 (1)

SCHEDULE

NEW FIRST SCHEDULE TO RESERVE BANK OF NEW ZEALAND ACT 1964

Sections 38B, 38E

“FIRST SCHEDULE

Part A

PERSONS EXEMPT FROM APPLICATION OF SECTION 38A

Post Office Bank Limited.

Trustee Banks established under the Trustee Banks Act 1983.

Savings bank companies within the meaning of section 2 of the Private Savings Banks Act 1983.

Part B

PERSONS DEEMED TO BE REGISTERED BANKS

ANZ Banking Group (New Zealand) Limited.

Bank of New Zealand.

The National Bank of New Zealand Limited.

Westpac Banking Corporation .”

This Act is administered in the Reserve Bank of New Zealand.