

Reserve Bank of New Zealand Bill

Government Bill

As reported from the Finance and Expenditure Committee

Commentary

Recommendation

The Finance and Expenditure Committee has examined the Reserve Bank of New Zealand Bill and recommends by majority that it be passed with the amendments shown.

Introduction

The bill seeks to replace the Reserve Bank of New Zealand Act 1989 as the key piece of empowering legislation for the Reserve Bank. The Government has conducted a wide-ranging review of the Reserve Bank Act, and the bill has come from Phase 2 of the review. Phase 2 was a broad review of:

- the Reserve Bank's governance and accountability frameworks
- the objectives of financial policy
- the statutory basis for prudential regulations and supervision.

The Reserve Bank Act is more than 30 years old. The Government's intention with the review is to modernise monetary and financial stability policy frameworks, and the Reserve Bank's governance and accountability settings. The Government believes this would support good economic management and reflect the changing environment in which New Zealanders live and work. The Government has stated that the operational independence of the Reserve Bank remains paramount and would be protected.

The bill would repeal a large part of the Reserve Bank Act. The bill does not replace provisions currently in the Reserve Bank Act relating to the regulatory requirements for banks, payment systems, and settlement systems. Those provisions would instead be retained in the existing legislation, which would be renamed the Banking (Prudential Supervision) Act 1989. The Government's intention is for that Act to be replaced

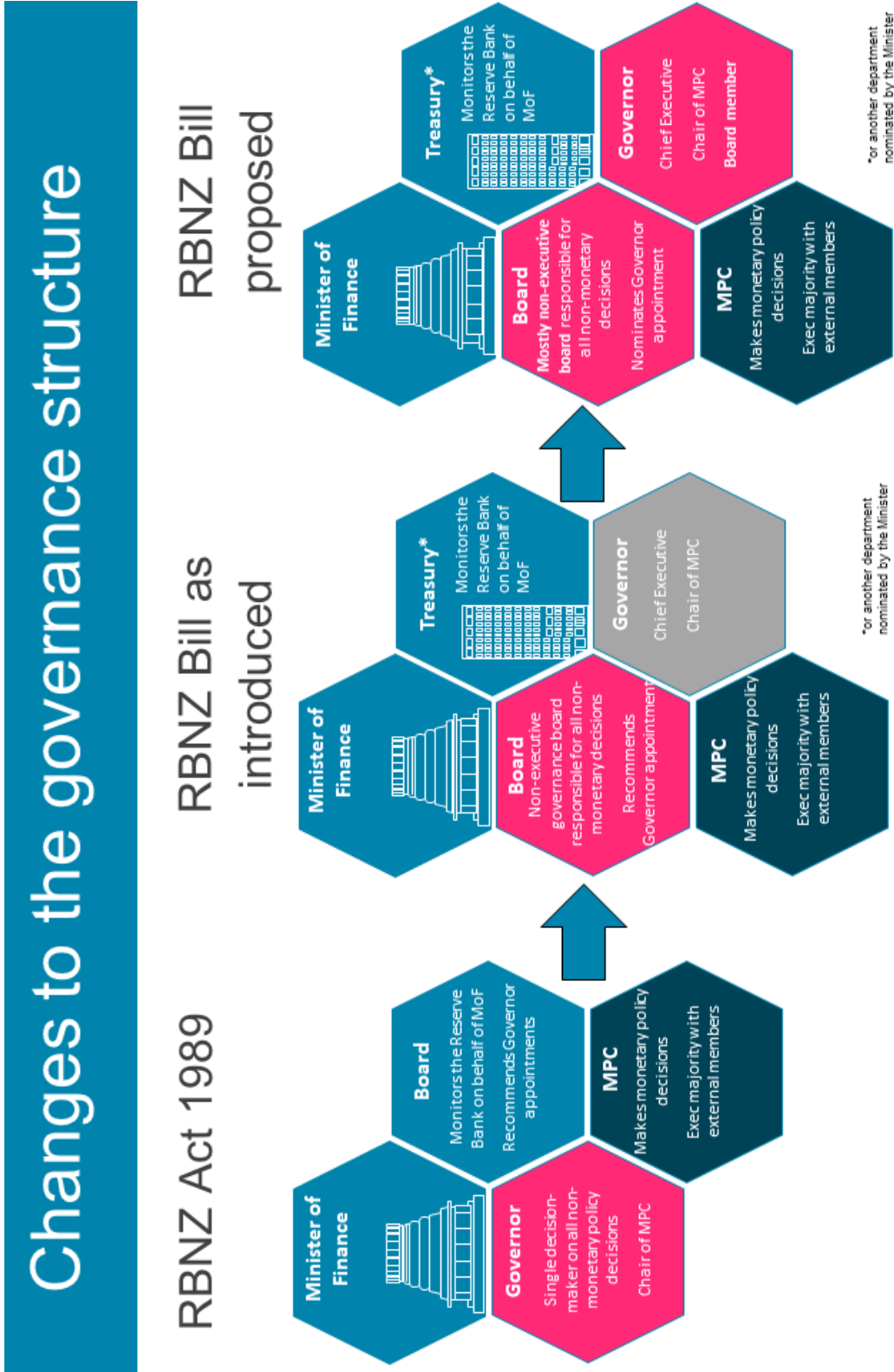
by the Financial Market Infrastructures Act 2021, and a Deposit Takers Bill which is expected to be introduced before the end of 2021.

Overview of the bill as introduced

The bill would introduce reforms in two significant areas: the Reserve Bank's institutional and governance arrangements, and the Reserve Bank's financial stability role. The bill would also make several changes relating to the Reserve Bank's other functions.

We believe one of the most significant reforms that will be introduced by the bill would be to implement a governance model based on collective decision-making. The bill would reform the Reserve Bank's governance arrangements by establishing a governance board, and in effect moving from a model that relies on a single decision-maker (the Governor of the Reserve Bank) to a board model. The board would be responsible for making decisions on all matters aside from monetary policy.

The following diagram helps explain the proposed changes to the Reserve Bank's governance arrangements:



Please note: the part of the diagram under the heading “RBNZ Bill proposed” incorporates our recommended amendment to the bill—that the Governor would be a member of the newly established governance board. We discuss this amendment below.

Reforming the institutional arrangements of the Reserve Bank would also involve:

- changing the Bank’s reporting requirements, which are designed to enhance accountability and transparency
- small changes to the way the Reserve Bank is funded by allowing the Bank to collect levies
- appointing a monitoring agency.

The Reserve Bank’s financial stability role would also be amended:

- The bill would introduce an overarching financial stability objective: to protect and promote the stability of the financial system. This would replace the Bank’s current requirement, which is to promote the maintenance of a sound and efficient financial system.
- The Minister of Finance would be required to issue a financial policy remit. This remit would set out matters the board would be required to have regard to when acting in relation to the Bank’s prudential strategic intentions and prudential standards.
- The bill would reflect the importance of regulatory coordination. It would do this by formalising and improving how the Bank cooperates with other bodies (such as through the Council of Financial Regulators).

The bill would also make amendments to the Reserve Bank’s other functions by:

- introducing a foreign reserves management and coordination framework agreed with the Minister of Finance
- introducing new powers to manage cash quality
- updating the Reserve Bank’s information-gathering powers, which would support the Bank’s central banking and financial system oversight functions.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We wish to bring the House’s attention to some issues relating to clauses 151, 152, and 153, which we discuss in more detail later in this commentary.

We also examined clause 132—which allows the Minister to defer publishing and presenting a foreign exchange direction—and clause 289(1)(a)(i)—regarding whether the clause should be amended to specify the type of persons that may be charged a fee in connection with the performance or exercise by the Reserve Bank of its functions, powers, or duties. After receiving advice we are satisfied that our concerns have been addressed.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

We have organised our comments by topic, rather than by following the order of the clauses as they appear in the bill. Those topics are set out as below:

- Reserve Bank governance
- financial management, funding, and fees and levies
- changes relevant to the Reserve Bank's other functions, and miscellaneous matters.

Reserve Bank governance

The bill provides a new governance structure for the Reserve Bank, replacing the single decision-maker model with a board that would have responsibility for all decisions outside of monetary policy. In this part of the commentary we discuss our recommended amendments to these reforms.

Financial policy would be the responsibility of the newly established governance board. Formulating monetary policy would remain the responsibility of the Monetary Policy Committee (MPC), which is chaired by the Governor.

We believe that the governance model proposed by the bill could lead to three key issues:

A lack of coordination between the Bank's monetary and financial policy-making

The bill does not provide for an explicit mechanism to coordinate the making of monetary and financial policy. This lack of coordination could create a risk of the Reserve Bank implementing monetary policies that conflict with its financial policies (or vice versa).

Under the model proposed by the bill, there is a presumption that coordination would occur at the executive level through the provision of advice. The executive is responsible for the operational functions of the Reserve Bank, which includes the provision of the advice. The board and the MPC would rely on Reserve Bank advice to perform their respective functions.

We are concerned, however, that this level of coordination would not be sufficiently robust. Although financial and monetary policy are two separate functions of the Reserve Bank, in practice performing one function often has implications on the other.

Tension between the formulation of monetary policy and its implementation

The bill as introduced would also create a risk of conflict between the MPC and the board over the implementation of monetary policy. The Reserve Bank has an obligation to implement the MPC's monetary policy decisions. However, the board has a

wider duty for financial responsibility, which includes an obligation to prudently manage the Bank's assets and liabilities.

We are concerned that the bill as introduced does not make clear how any conflicts that may arise in the performance of the two obligations should be resolved. In particular, the use of the Reserve Bank's balance sheet to implement monetary policy as formulated by the MPC could conflict with the board's obligation to manage the Reserve Bank's assets and liabilities in a responsible manner.

Lack of clarity about the status of the Governor

Other than as chair of the MPC, the Governor has no independent statutory authority or powers. On the MPC itself, the Governor is only one vote out of seven. As chief executive of the Bank the Governor's functions and powers are as delegated by the board.

The board is responsible for the performance of the Bank. However, while it is responsible for recommending the appointment (and in some cases the removal) of the Governor, these decisions ultimately lie with the Minister.

We are concerned that aspects of this model in the bill as introduced could create a risk in terms of blurred accountabilities for the Governor, and the potential for tensions between the Governor and the board. These issues could exacerbate the challenges discussed above in coordinating monetary policy, financial policy, and the balance sheet.

It may also create challenges as to whether the chair of the board or the Governor would be seen as the head of the Reserve Bank.

Recommended amendments to address issues with the new governance arrangements

To help mitigate the above issues, we recommend the following amendments to the bill:

The Governor would be a member of the newly established governance board

We recommend amending the bill so that the Governor is a member of the board (clause 79(1)(b)). Under our amendment, the Governor would be a member of the board by virtue of holding office as Governor.

We believe that this would allow the Governor to act as a conduit between the board and the MPC. This would promote communication between the Reserve Bank's two major decision-making bodies, and help to facilitate coordination between financial policy and monetary policy. It would also promote the coordination of monetary policy with the board's duties regarding financial responsibility.

In addition, it would mean that the Governor is explicitly involved in board-decision making. They would therefore be better placed to act as the spokesperson for the Reserve Bank on both financial and monetary policy matters.

Having the Governor as a member of the board would also bring the status of the Governor into line with typical international practice. IMF (International Monetary Fund) guidance states that a “robust and procedural role for the central bank’s executive management in policy formulation is critical”. Our amendment would ensure that the bill’s governance arrangements are consistent with the IMF’s advice.

We recommend prohibiting the Governor from holding the position of board chairperson or deputy chairperson (Schedule 2, clause 1(1A)). The board’s ability to provide effective governance oversight of the Reserve Bank could be compromised if the Governor was chair or deputy chair. It would also risk creating tensions and increasing complexity about the accountability of the board and the Governor.

The scope of the board’s obligation to implement the MPC’s monetary policy

To address the risk of conflict between the board’s financial responsibility duties and the MPC’s monetary policy formulation, we recommend an amendment that would constrain the Reserve Bank’s obligation to implement monetary policy. Under our amendment, the implementation of monetary policy would be subject to the board’s duty to ensure that the Bank operates in a financially responsible manner (new clause 117A). We expect that this amendment would address the risk of conflict between the board’s financial responsibility obligation and the MPC’s monetary policy formulation.

The board would likely provide guidance to the MPC about how much balance sheet exposure it is prepared to take on in implementing monetary policy. The Governor’s role as both chair of the MPC and a board member would facilitate coordination of this process.

We do not expect that this amendment would unduly limit the Bank’s ability to formulate and implement effective monetary policy. If required, the board could seek an indemnity or a capital injection from the Crown. The board could do so if the MPC believed that its monetary policy required a larger intervention than what could be responsibly accommodated on the Bank’s balance sheet.

Amendments that are consequential to having the Governor on the board

We recommend a number of consequential amendments to give effect to the above amendment (making the Governor a board member). We discuss those changes below.

Former Governors sitting on the board

We believe that a former Governor should continue to be eligible to serve on the board. We therefore recommend inserting clause 32A. Under our amendment, the former Governor’s prior period of board membership would not reduce the length of their subsequent membership. (Clause 32(2) restricts board membership to no longer than 10 years.)

However, to ensure that there is an appropriate level of separation between non-executive board members and the Reserve Bank’s executive management, we recom-

mend a minimum stand-down period for a recent Governor sitting on the board (clause 32A(2)). We recommend a stand-down period of 3 years. We believe this would ensure that the board's ability to perform various functions effectively would not be compromised. This includes its ability to provide effective governance oversight of the Bank, in particular over its executive management.

The Governor's board membership and consequent conflicts of interest

The board, with governance responsibility over the Reserve Bank, would act on matters that relate to the Governor, or to the MPC (which the Governor is the chair of). We believe it would be inappropriate for the Governor, acting as a board member, to participate in those board matters. The Governor should not be permitted to make decisions on key matters where there is an inherent conflict of interest.

We therefore recommend inserting into the bill a list of board matters that the Governor would be excluded from participating in because they hold the position of Governor (clause 70A(1)). The normal conflict of interest provisions in clauses 59 to 70 would also apply to the Governor as a board member. Under our amendment, the Governor could not act as a member of the board when:

- nominating or recommending a person for appointment as the Governor
- recommending or giving advice about the removal of the Governor
- agreeing the terms and conditions of the Governor
- reviewing the performance of the MPC and its members
- reviewing the performance of the Governor.

Our amendment would exclude the Governor from voting on the above matters. It would also exclude them from taking part in any discussion or decision of the board relating to those matters.

Removal grounds for the Governor acting as a board member

The bill sets out the circumstances and process for the removal of the Governor. Broadly, the Governor could be removed from their role due to "just cause". Clause 88(1) lists what "just cause" includes.

We recommend amending clause 88 to account for the Governor's role as a board member. Under our amendment, the Governor would be subject to the same removal grounds that a board member is subject to (new clause 88(1)(aa)). The Governor, as with other board members, could be removed for a breach of any of the collective duties of the board or the individual duties of board members.

These grounds would be in addition to the bill's current removal grounds for the Governor acting as the chief executive or MPC chair.

We believe that the process for removing the Governor is sufficiently robust. The process is generally the same as for removal of a board member. As a part of this process—both for board members and the Governor—removal would require the Governor-General to act on the advice of the Minister. The Minister, before providing that advice, must consult with the Attorney-General.

Removal of either a Governor or a board member is a serious matter, and the bill sets out a suitably robust process that must be applied. We believe that the bill would not amount to empowering the Minister to infringe on the Reserve Bank's statutory independence. This is because the process would be equally robust for removing a board member as for removing a Governor.

In certain circumstances the board could recommend the removal of the Governor (clauses 88(1)(b) and (e)). We note that the Governor-General, acting on advice of the Minister, would be the final decision maker in these circumstances. We believe that this would provide sufficient protection for the Governor in the event of a disagreement between the Governor and the board.

National and ACT Party members of the committee are concerned, however, that by adding to the grounds for the Governor's removal, the bill would give the Minister additional reach to remove the Governor. This could have implications for the statutory independence of the Reserve Bank. This statutory independence remains paramount and should be protected. National and ACT Party members believe that, in this respect, the bill would encroach on this statutory independence.

The process for appointing a Governor

The bill stipulates that the Minister would appoint the Governor. Board members would be appointed by the Governor-General on the recommendation of the Minister.

Our recommended change to make the Governor also a board member would create an anomaly if there were a different appointment process for the Governor than for other board members. We believe that the Governor should be subject to a similar appointment process as other board members.

We therefore recommend inserting clause 79(2) to stipulate that the Governor must be appointed by the Governor-General on the recommendation of the Minister. Our amendment would ensure there is a more consistent process for appointing both the Governor and other board members.

We also recommend inserting clause 79A(2) to require the Minister to consult with other political parties in Parliament as part of this appointment process.

We believe our changes would help to promote the ongoing legitimacy of both the board and the Governor.

Changes relevant to the Reserve Bank's functions and the monetary policy remit

Minister's directions relating to Reserve Bank functions

The bill would enable the Minister to direct the Reserve Bank to perform additional functions (clause 11(1)). The functions of the Reserve Bank set out the range of activities the Bank is involved in in pursuit of its overarching objectives. The policy intent of the provision is to give the Bank some flexibility to help it respond to unforeseen events. Those events would fall outside the scope of its current functions.

However, clause 11(1) could be interpreted as undermining the Reserve Bank's independence by requiring the Bank to perform a new function directed by the Minister.

We therefore recommend an amendment to make it clear that any additions to the Reserve Bank's functions through this provision must be requested by the Bank. This stipulation is intended to protect the independence of the Reserve Bank.

Once requested by the Reserve Bank, the Minister could direct the Bank to perform such a function (clause 11(2)).

The MPC remit

Clause 118 of the bill would require the Minister to issue a remit for the MPC. The remit would provide the MPC with its operational objectives to achieve and maintain price stability over the medium term and support maximum sustainable employment. We propose an amendment to enable the Minister to replace or amend the MPC remit at any time without the need for an Order in Council.

Under the Reserve Bank Act at present, the MPC remit expires after 5 years. Its expiry triggers the Reserve Bank to issue remit advice. The process for issuing remit advice includes public consultation. A new MPC remit is issued following this advice. This process does not require an Order in Council.

The MPC remit has a different legal form if it is issued as a new remit as part of the five year cycle, or if it is replacing an existing remit mid-cycle. We see no substantive reason why the legal form and process should differ depending on whether the MPC remit is being amended or replaced.

In addition, we believe the requirement for an Order in Council is unnecessary because the MPC remit cannot change the statutory economic objectives in the Act. Nor does it create rules that have general application. The MPC remit is an instrument which sets out the operational objective for the MPC when formulating monetary policy.

The policy objective for the different remit processes was to reflect the significance of replacing or amending a remit during the cycle. We do not think that this process appropriately meets this objective.

We propose inserting clause 118(3) to enable the Minister to issue an MPC remit at any time. The safeguards that currently apply when the Minister issues a new MPC remit would also apply when a remit was amended or replaced. Before issuing a remit, the Minister would be required to consult the Reserve Bank. However, the Minister would not be required to ask the Reserve Bank for advice. (This is because preparing and providing advice is a lengthy process, and may not be practicable outside the 5-year cycle.) The Minister would instead be able to request that the Reserve Bank update its remit advice at any time.

We also recommend some additional changes to the process for issuing an MPC remit. We believe that these changes would achieve in a simpler manner the original policy intent of safeguarding the frequency and influence of the Reserve Bank's remit advice, with its associated public consultation:

- The Reserve Bank should still be required to issue remit advice every 5 years, even if the remit is replaced or amended in the intervening period (Schedule 3, Part 1, clause 2(1)).
- The Minister must also consider replacing or amending the MPC remit following receipt of this advice, and publish their decision (Schedule 3, Part 1, clause 2A).
- Otherwise, the MPC remit would remain in force indefinitely, until it is replaced (Schedule 3, Part 1, clause 5).

The Reserve Bank's currency function

Cryptocurrencies

The bill lists activities that are part of the Reserve Bank's currency function. Those activities are relevant to currency in its traditional sense, such as issuing bank notes and coins, or managing the quality of notes and coins. The bill as introduced does not make any specific provision for currency being affected by technological innovation: an example is the emergence of cryptocurrencies.

Technological innovations in currency could present risks to financial stability, the effectiveness of monetary policy, or monetary sovereignty.

We therefore recommend amending the bill to include a provision stating that monitoring the impact of technological innovation on the needs of the public for bank notes and coins is a part of the Reserve Bank's currency function (clause 113(c)(iv)). The bill as introduced would give the Bank a function to monitor the financial system, including the cash system. Although this would include monitoring and assessing effects on the system from innovation in money and payments technologies, our amendment would help by clarifying this role.

Offences relating to currency

The bill contains offences relating to currency. We recommend amending the bill to include the word "intentionally" in the offence provisions (clauses 151, 152, and 153). By including the word "intentionally" our amendment would clarify that prosecution is required to prove that a defendant had intended to commit the offending actions.

In addition, we recommend doubling the monetary amount of the penalties. They had not changed since 1989, so the increases reflect inflation:

- Clause 151—making it an offence to deface a bank note—would carry a penalty of \$2,000.
- Clause 152—making it an offence to make or issue other bank notes or coins—would carry a penalty of \$200,000 for individuals, or \$600,000 for bodies corporate.

- Clause 153—making it an offence to reproduce or imitate currency, or to use or issue any reproduction or imitation currency—would carry a penalty of \$20,000 for individuals, or \$50,000 for bodies corporate.

Financial management, funding, and fees and levies

Minister's directions in relation to the Reserve Bank's financial management

Clause 45 would impose on the board a broad duty to ensure that the Reserve Bank operates in a financially responsible manner. In the context of the Reserve Bank, we believe that this provision needs to be strengthened:

- A lack of clarity may create confusion and conflict between the board's financial responsibility duties, and its duty to implement monetary policy (this is particularly a problem given the increased use of monetary policy tools that involve greater balance sheet risks).
- The amended clause 45 makes clear that the board can be held to account for specific breaches of the duty, such as the Reserve Bank complying with a direction under clause 205A and that the Bank's expenditure complies with the requirements under clause 207(1)(c).
- The board may have difficulty reaching consensus about how to comply with the obligation to operate in a financially responsible manner.

The board's financial responsibility duties are owed to the Minister, who may find it difficult to hold board members to account if the duty is not clear.

It is important to ensure that the Reserve Bank operates in a financially responsible manner, as the costs and financial risks generated by the Bank are ultimately borne by the Crown. The Minister should be able to manage the overall level of the Crown's fiscal exposures. The risks posed by the Reserve Bank's activities have increased in recent years, as the Bank has added programmes such as the Large-Scale Asset Purchase (LSAP) programme to its monetary policy toolkit. The LSAP programme involves greater balance sheet risk for the Reserve Bank (for example, if interest rates were to rise substantially).

We therefore recommend amending clause 45(2) and clause 205A by providing that the Minister can give a ministerial direction in relation to the Reserve Bank's minimum level of capital and its overall financial risk management. The board would need to ensure compliance with this direction as part of its financial responsibility obligations. The MPC and the Reserve Bank would have operational independence to conduct activities within those parameters.

The main content of such a direction would be limited to two requirements. The direction would set a minimum level of capital, and it would define what is meant by capital in the particular context. The Minister would also set expectations as to the Reserve Bank's overall financial risk management, which the Reserve Bank would then have to have regard to.

We believe the bill should also give the Reserve Bank appropriate flexibility. This flexibility would acknowledge that, from time to time, the Bank's capital may fall below the specified minimum level due to unforeseen circumstances outside its control.

It would be optional whether to have such a direction in place at any one time.

We do not recommend including a prescriptive definition of "capital" in the bill. Defining capital would be an inflexible approach and could result in that definition becoming outdated. The bill would allow the Government to effectively define and influence the parameters of the Bank's financial risk tolerance. The Minister could direct the Reserve Bank to maintain a minimum level of capital, define capital, and set out further expectations as to the Reserve Bank's financial risk management that it must regard. This would be in addition to other accountability processes, such as the annual audit of the Reserve Bank's financial statements by the Auditor-General.

Reporting requirements for financial risk management

The bill would require the Reserve Bank to set out its approach to financial risk management. We propose broadening this requirement with an additional requirement for the Bank to report on the financial responsibility duties (clause 248(2)). The new reporting would need to set out:

- the board's approach to complying with its duty to ensure the Bank operates in a financially responsible manner
- how it has complied with that duty
- the Bank's approach to financial risk management, including all information necessary to allow an assessment of how the Bank manages financial risks relating to its functions.

The reporting would also include information on how the Bank has complied with ministerial directions given under clause 205A.

As discussed above, it is appropriate for the Minister to manage the overall fiscal exposures of the Crown. By introducing more comprehensive reporting requirements, we believe that our amendment would facilitate accountability.

Clarifying how levies would be set

The bill would empower the Minister to direct the Reserve Bank to consult certain persons or organisations regarding proposed levy regulations. We believe this ministerial direction would create an additional step that is unusual and cumbersome in the context of consultation. It also would not necessarily permit others (such as the Treasury) to conduct this consultation instead of the Reserve Bank.

We recommend simplifying the consultation process. Our amendment would require the Minister to be satisfied that the relevant persons or organisations have been consulted. The Minister could delegate this task to the Treasury under normal legislative delegation procedures under the Public Service Act 2020, or agree with the Reserve

Bank that the Bank would conduct this consultation. We see this as a more appropriate and flexible means of ensuring adequate consultation on levy regulations.

Miscellaneous matters

Confidentiality

Clause 266 sets out the rules for the publication or disclosure of certain information by the Reserve Bank that has been collected from the financial services industry by compulsory notice. The Reserve Bank is subject to the Official Information Act 1982, and we are concerned that confidential information could be released under that Act.

We therefore recommend amending this clause to clarify the protection for confidential information. Our amendment would make it clear that information which is confidential under this provision would only be available under the Official Information Act if it could otherwise be released under the provision. The clause sets out the various grounds for disclosure—such as if the relevant information is publicly available, or is available under a separate Act, or is in summary form.

Policy areas of the bill that have not led to amendments

During our consideration of the bill we have examined several policy considerations that have not resulted any recommended amendments. We considered:

- the removal of “efficiency” from the Reserve Bank’s objectives
- the removal of parliamentary ratification of the Reserve Bank’s funding agreement
- the appropriate level of parliamentary oversight when the Reserve Bank is directed to perform a new function
- the scope of the fee-making power
- whether the Council of Financial Regulators requires a statutory basis
- the scrutiny of information-gathering powers, and
- the publication of direction relating to foreign exchange.

The bill’s departmental report discusses these aspects, and our reasoning for not recommending further amendments, in more detail. The departmental report has been published on the Parliament website.

New Zealand National Party differing view

This bill is a key element in reforming the legislation of one of New Zealand’s major economic institutions. The reforms represent a significant structural change and need to be enduring. National’s view is that this process should have sought to reflect a cross-party consensus. Unfortunately the Government has chosen to pursue these reforms without that support.

National has raised a limited number of important concerns with this bill. National proposed solutions to a number of these issues that it considers are not controversial

but would significantly improve the bill's acceptability to key stakeholders and would better serve the current and any future Minister of Finance.

National considers that the removal of an efficiency element from the revised financial stability objective is poorly supported by the policy analysis and does not improve what the Reserve Bank should be seeking to achieve. Re-inserting efficiency would address significant concerns that have been raised in public submissions without creating any problems that have not been able to be surmounted in the past.

Under the new arrangements, the board takes on an executive role rather than acting in an oversight capacity which is common with non-executive boards. This is a fundamental change to the model of decision making in respect of prudential policy and oversight of deposit takers and insurers. The proposed model relies heavily on finding suitable candidates to operate at an executive level on the board.

Given the important role that the Reserve Bank plays in the country's economic settings, National also considers that Parliament should have a greater degree of oversight over the monetary policy remit. Such oversight need not impinge on the ultimate power of the Minister of Finance in issuing the remit but would acknowledge the cross-party interest in the central bank's monetary policy objectives.

Similarly, National considers that the Minister of Finance and the Reserve Bank should both have the ability to initiate changes to the functions of the Reserve Bank. However, in the bill, this may only occur upon the request of the Reserve Bank but is subject to agreement by the Minister of Finance. It is our view that changes in functions should be subject to some oversight by Parliament such as occurs with an Order in Council that is also a confirmable instrument.

National also considers that the proposed measures (which were introduced during the select committee process and have not been publicly consulted on) to enable the Minister of Finance to manage the fiscal risk to the Crown associated with Reserve Bank activities fall well short of what any Minister of Finance would require to properly manage risks to the Crown's financial position.

The ACT Party differing view

The ACT Party intends to maintain support at this stage, but we signal that we agree with National's (limited) objections to the bill.

Appendix

Committee process

The Reserve Bank of New Zealand Bill was referred to the committee on 8 December 2020.

The closing date for submissions on the bill was 4 February 2021. We received and considered 21 submissions from interested groups and individuals. We heard oral evidence from 7 submitters.

We received advice on the bill from the Treasury. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting. The Regulations Review Committee reported to us on the powers contained in clause 289(1)(a).

Committee membership

Dr Duncan Webb (Chairperson)

Andrew Bayly

Barbara Edmonds

Ingrid Leary

Anna Lorck

Greg O'Connor

Damien Smith

Chlöe Swarbrick

Helen White

Nicola Willis

Hon Michael Woodhouse

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon Grant Robertson

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Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Reserve Bank of New Zealand Act **2020**.

2 Commencement

- (1) **Section 6, subpart 6 of Part 6, and Schedule 1** come into force on the day after the date of Royal assent. 5
- (2) The rest of this Act comes into force on a date or dates to be appointed by the Governor-General by Order in Council, and 1 or more Orders in Council may be made appointing different dates for different provisions and for different purposes. 10
- (3) However, any provision that has not earlier been brought into force comes into force on the first anniversary of the date of Royal assent.
- (4) An Order in Council made under this section is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

Part 1

Preliminary provisions

3 Purposes

The purposes of this Act are to—

- (a) provide for the continuation of the Reserve Bank of New Zealand; and 5
- (b) promote the prosperity and well-being of New Zealanders and contribute to a sustainable and productive economy.

4 Overview

- (1) This section is a guide to the general scheme and effect of this Act.
- (2) This Part deals with preliminary matters, including specifying the purposes of this Act and definitions of terms used in this Act. 10
- (3) **Part 2** provides for the continuation of the Reserve Bank of New Zealand (the **Bank**). The Part provides for—
 - (a) the Bank's objectives, including the economic objectives and the financial stability objective; and 15
 - (b) the Bank's functions, including acting as New Zealand's central bank, acting as a prudential regulator and supervisor of banks, insurers, and other financial institutions, and monitoring the financial system; and
 - (c) the Bank to be a body corporate with the power to do anything that a natural person may do; and 20
 - (d) the role of the Minister to oversee and manage the Crown's interests in, and relationship with, the Bank; and
 - (e) a board to act as the governing body of the Bank; and
 - (f) a Governor of the Bank to be its chief executive and a member of the board; and 25
 - (g) a monetary policy committee (the **MPC**) to perform the function of formulating monetary policy.
- (4) **Part 3** relates to the Bank's function to act as New Zealand's central bank. This function includes—
 - (a) formulating (through the MPC) and implementing a monetary policy directed to the economic objectives; and 30
 - (b) managing foreign reserves and otherwise dealing in foreign exchange; and
 - (c) issuing bank notes and coins in New Zealand; and
 - (d) providing liquidity facilities; and 35
 - (e) providing settlement accounts; and
 - (f) operating or otherwise participating in payments and settlement systems.

- (5) **Part 4** provides for operational matters, including—
- (a) Government directions to the Bank; and
 - (b) an obligation on the Bank to be a good employer; and
 - (c) protections from liability for the Bank and other persons; and
 - (d) providing for how the Bank enters into contracts and other enforceable obligations; and 5
 - (e) a power for the Minister to review the Bank's operations and performance and a power for the Minister and certain other Ministers to request that the Bank supply information.
- (6) **Part 5** relates to financial and accountability matters for the Bank. The Part provides for— 10
- (a) the Minister to issue a financial policy remit. The board must have regard to the remit under **section 47**; and
 - (aa) the Minister to give directions to the Bank relating to its minimum level of capital and financial risk management; and 15
 - (b) the Minister and the Bank to enter into a funding agreement concerning the Bank's expenditure; and
 - (c) the Bank to pay an annual dividend to the Crown; and
 - (d) reporting obligations, including a statement of intent, a statement of performance expectations, and an annual report; and 20
 - (e) other statements and reports to support accountability, including a statement about the Bank's management of financial risks, a statement about its policies for acting as a prudential regulator and supervisor, and reports on the regulatory impacts of its policies.
- (7) **Part 6** contains miscellaneous provisions, including— 25
- (a) a power for the Bank to gather information relating to its central banking and financial system oversight functions; and
 - (b) a power for the Bank to share information; and
 - (c) providing for the Council of Financial Regulators to facilitate co-operation and co-ordination between financial regulators; and 30
 - (d) setting out regulation-making powers (including powers to prescribe fees and levies).

5 Interpretation

- (1) In this Act, unless the context otherwise requires,—
- AML Act** means the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 35
- Bank** or **Reserve Bank** means the Reserve Bank of New Zealand continued under this Act

Bank group has the meaning set out in **section 212**

bank note means any negotiable instrument used or circulated, or intended for use or circulation, as currency

board means the members of the Bank's board who number not less than the required quorum acting together as a board

5

class of outputs has the meaning set out in **section 212**

committee—

(a) means a committee appointed under **clause 14 of Schedule 2**; but

(b) does not include the MPC

committee member means a member of a committee

10

chairperson—

(a) means the chairperson of the board; but

(b) in relation to the MPC, means the Governor (or a person who is acting under **clause 38 of Schedule 3**)

charter means a charter that is in force under **section 97**

15

code of conduct means a code of conduct for members of the MPC that is in force under **section 103**

department has the same meaning as in section 2(1) of the Public Finance Act 1989

deputy chairperson means the deputy chairperson of the board

20

designated FMI has the same meaning as in section 5 of the Financial Market Infrastructures Act 2021

~~**designated settlement system** has the same meaning as in section 156M of the Banking (Prudential Supervision) Act 1989~~

direction means a direction given by a Minister to the Bank under this Act, the prudential legislation, or the AML Act (for example, a direction on government policy or a direction to perform an additional function)

25

economic objective means an economic objective set out in **section 9(1)(a)** (or in an Order in Council made under **section 121**)

excluded act or omission, for the purposes of **sections 178 to 185**, has the meaning set out in **section 177**

30

fees framework means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest

financial policy remit means a remit issued under **section 200**

35

financial product has the same meaning as in section 7 of the Financial Markets Conduct Act 2013

financial stability objective means the objective of protecting and promoting the stability of New Zealand's financial system

financial year means the 12 months ending on the close of 30 June or any other date determined for the Bank by the Minister of Finance

foreign exchange means— 5

- (a) the currency of a country other than New Zealand:
- (b) a financial product in respect of which any amount payable is payable in a foreign currency

foreign reserves means foreign exchange held by the Bank

formulating, in relation to monetary policy, has the meaning set out in **section 114(2)** 10

generally accepted accounting practice has the meaning set out in **section 212**

Governor means a person who occupies the position of Governor of the Bank (whether the person is appointed under **section 79 or 92**) 15

information includes documents (within the meaning of section 4 of the Evidence Act 2006)

infringement fee, in relation to an infringement offence, means the infringement fee for the offence specified in **section 163 or 262**

infringement offence means an offence under **section 163 or 262** 20

interested or interests has the meaning set out in **section 59**

law enforcement or regulatory agency means any of the following:

- (a) any department that, with the authority of the Prime Minister, is responsible for the administration of any part of this Act, the prudential legislation, the Financial Markets Authority Act 2011, the Financial Markets Conduct Act 2013, or the Credit Contracts and Consumer Finance Act 2003: 25
- (b) the Inland Revenue Department:
- (c) Statistics New Zealand:
- (d) the Treasury: 30
- (e) the Financial Markets Authority:
- (f) the Commerce Commission:
- (g) the Director of the Serious Fraud Office:
- (h) the New Zealand Police:
- (i) the Registrar of Companies: 35
- (j) the Registrar of Financial Service Providers:
- (k) the Registrar of Friendly Societies and Credit Unions:

- (l) the regulator within the meaning of section 30 of the Overseas Investment Act 2005 and the regulating department referred to in that section:
- (m) a person or agency that is prescribed by the regulations for the purposes of this definition

licensed insurer has the same meaning as in section 6(1) of the Insurance (Prudential Supervision) Act 2010 5

licensed NBDT has the same meaning as in section 4(1) of the Non-bank Deposit Takers Act 2013

member—

- (a) means a person who occupies the position of member of the board of the Bank (including the Governor); but 10
- (b) in relation to the MPC, means a member of the MPC

Minister means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of this Act 15

monitor means the department appointed under **section 77(1)**

MPC or **monetary policy committee** means the committee of the Bank that is continued under **section 93**

MPC remit means a remit issued under this Act (see **section 118**)

prudential legislation means— 20

- (a) the Banking (Prudential Supervision) Act 1989:
- (b) the Insurance (Prudential Supervision) Act 2010:
- (c) the Non-bank Deposit Takers Act 2013:
- (ca) the Financial Market Infrastructures Act 2021:
- (d) the secondary legislation made under any Act referred to in **paragraphs (a) to (ca)** 25

registered bank has the same meaning as in section 2(1) of the Banking (Prudential Supervision) Act 1989

regulated entity means any of the following:

- (a) a registered bank: 30
- (b) a licensed insurer:
- (c) a licensed NBDT:
- (d) an operator of a designated FMI

regulations means regulations made under this Act

remit advice means the advice given by the Bank under **clause 2 of Schedule 3** 35

subsidiary has the meaning set out in **section 107(2)**.

- (2) In this Act, unless the context otherwise requires, references to a person performing functions and exercising powers, or carrying out responsibilities, includes carrying out duties.

Compare: 2004 No 115 s 10

6 Transitional, savings, and related provisions 5

The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms.

7 Act binds the Crown

This Act binds the Crown.

Part 2 10

Reserve Bank of New Zealand

Subpart 1—Continuation of Reserve Bank of New Zealand

8 Continuation of Reserve Bank of New Zealand

- (1) There continues to be an organisation called the Reserve Bank of New Zealand.
- (2) The Bank is the same body as the Reserve Bank constituted under the Reserve Bank of New Zealand Act 1989. 15

Compare: 1989 No 157 s 5

9 Bank's objectives

- (1) The Bank's main objectives are—
- Economic objectives* 20

(a) the economic objectives of—

(i) achieving and maintaining stability in the general level of prices over the medium term; and

(ii) supporting maximum sustainable employment; and

Financial stability objective 25

(b) the financial stability objective of protecting and promoting the stability of New Zealand's financial system; and

Central bank objective

(c) otherwise acting as New Zealand's central bank in a way that furthers the purposes of this Act. 30
- (2) However, if an Order in Council is in force under **section 121**, the economic objective or objectives that apply under **subsection (1)(a)** are those that are specified in the order.

- (3) When the Bank is performing or exercising a function or power that is conferred or imposed by other legislation, the Bank also has the objective of acting in a way that furthers the objectives or purposes of that other legislation.

10 Bank's functions

- (1) The Bank's functions are as follows: 5
- (a) to act as the central bank for New Zealand, including by—
 - (i) formulating (through the MPC) and implementing a monetary policy directed to the economic objectives, while recognising the Crown's right to determine economic policy (*see subpart 2 of Part 3*); and 10
 - (ii) doing the other things set out in **section 113**:
 - (b) to act as a prudential regulator and supervisor under prudential legislation, including by—
 - (i) carrying out prudential supervision; and
 - (ii) imposing prudential standards or other requirements; and 15
 - (iii) monitoring compliance with, investigating conduct that constitutes or may constitute a contravention of, and enforcing that legislation; and
 - (iv) taking appropriate action in respect of persons that have contravened, are contravening, or are likely to contravene that legislation or are otherwise in financial or other difficulties: 20
 - (c) to monitor the financial system, including by collecting and analysing information and publishing statistics and other information in connection with the financial system (for example, publishing a financial stability report under **section 167**); and 25
 - (d) to monitor the needs of the public for bank notes and coins; and
 - (e) to co-operate with—
 - (i) other law enforcement or regulatory agencies (*see, for example, subpart 3 of Part 6*, which relates to information sharing); and
 - (ii) overseas central banks and relevant international institutions; and 30
 - (iii) Australian financial authorities prescribed under section 68A of the Banking (Prudential Supervision) Act 1989; and
 - (iv) other overseas bodies that perform functions that correspond with, or are similar to, any of those conferred on the Bank:
 - (f) to provide, or facilitate the provision of,— 35
 - (i) information to the public that is relevant to the Bank's objectives; and

- (ii) other information in connection with the functions or powers conferred or imposed on it by or under this Act, the prudential legislation, the AML Act, or any other legislation (including promoting public awareness and understanding of the Bank's activities and operations): 5
- (g) to keep under review the law, policies, and practices that are relevant to its other functions under this section (including overseas law, policies, and practices):
- (h) to perform any other functions that the Minister may direct the Bank to perform under **section 11**: 10
- (i) to perform and exercise the functions or powers conferred or imposed on it by or under this Act, the prudential legislation, the AML Act, or any other legislation:
- (j) any functions that are incidental and related to, or consequential on, its functions set out in this subsection. 15
- (2) In performing its functions, the Bank must act consistently with its objectives.
- (3) The function in **subsection (1)(e)** includes acting as a member of the Council of Financial Regulators and as a chairperson of the council (jointly with the Financial Markets Authority or in accordance with **section 284(2)**).
- (4) **Subsection (1)(f)** is subject to any provision of the legislation referred to in that paragraph that restricts the publication or disclosure of information by the Bank (for example, section 105 of the Banking (Prudential Supervision) Act 1989). 20
- Compare: 2004 No 115 s 14
- ~~**11** Power to add functions~~ 25
- ~~(1) The Minister may direct the Bank to perform any additional function that is consistent with the Bank's objectives.~~
- ~~(2) Sections 170 and 171 apply to the direction.~~
- Compare: 2004 No 115 s 112
- 11 Minister may add functions on Bank's request** 30
- (1) The Bank may request the Minister to direct the Bank to perform any additional function that is consistent with the Bank's objectives.**
- (2) The Minister may, if the Minister thinks fit, give the Bank a direction to perform the additional function that is requested under subsection (1).**
- (3) Sections 170 and 171 apply to the direction.** 35
- 12 Status of Bank**
- The Bank—
- (a) is a body corporate; and

(b) is accordingly a legal entity separate from its members, office holders, employees, and the Crown; and

(c) continues in existence until it is dissolved by an Act.

Compare: 2004 No 115 s 15

13 Core things Bank can do 5

The Bank may do anything authorised by—

(a) this Act; or

(b) the prudential legislation; or

(c) the AML Act; or

(d) any other legislation. 10

Compare: 2004 No 115 s 16

14 Other things Bank can do

(1) The Bank may do anything that a natural person of full age and capacity may do.

(2) **Subsection (1)** applies except as provided in this Act or another Act or rule of law. 15

Compare: 2004 No 115 s 17

15 Acts must be for purpose of functions

The Bank may do an act under **section 13 or 14** only for the purpose of performing its functions. 20

Compare: 2004 No 115 s 18

Subpart 2—Validity of acts

16 Acts in breach of statute are invalid

(1) An act of the Bank is invalid, unless **section 17** applies, if it is—

(a) an act that is contrary to, or outside the authority of, an Act; or 25

(b) an act that is done otherwise than for the purpose of performing its functions.

(2) **Subsection (1)** does not limit any discretion of a court to grant relief in respect of a minor or technical breach.

Compare: 2004 No 115 s 19 30

17 Some natural person acts protected

(1) **Section 16**, or any rule of law to similar effect, does not prevent a person dealing with the Bank from enforcing a transaction that is a natural person act unless the person dealing with the Bank had, or ought reasonably to have had, knowledge— 35

- (a) of an express restriction in an Act that makes the act contrary to, or outside the authority of, the Act; or
 - (b) that the act is done otherwise than for the purpose of performing the Bank's functions.
- (2) A person who relies on **subsection (1)** has the onus of proving that that person did not have, and ought not reasonably to have had, the knowledge referred to in that subsection. 5
- (3) The Bank must report, in its annual report, each transaction that the Bank has performed in the year to which the report relates that was invalid under **section 16** but enforced in reliance on this section. 10
- (4) This section does not affect any person's other remedies (for example, remedies in contract) under the general law.

Compare: 2004 No 115 s 20

18 Limits on protection of natural person acts

Section 17 does not limit— 15

- (a) **section 57** (which provides for orders to require or restrain acts); or
- (b) the board bringing an action against a member who voted for or otherwise authorised the act for breach of their individual duties as a member; or
- (c) a member who voted for or otherwise authorised the act being removed from office for breach of the individual duties of members or the collective duties of the board; or 20
- (d) an application, in accordance with the law, for judicial review; or
- (e) **section 67** (which allows the Bank to avoid certain acts done in breach of conflict of interest rules). 25

Compare: 2004 No 115 s 21

19 Acts that are not in best interests of Bank

It is irrelevant to the validity of an act that the act is not, or would not be, in the best interests of the Bank.

Compare: 2004 No 115 s 22 30

20 Dealings between Bank and other persons

- (1) The Bank may not assert against a person dealing with the Bank that—
 - (a) a person held out by the Bank to be a member, the Governor, an office holder, an employee, or an agent of the Bank (as the case may be)—
 - (i) has not been duly appointed in that capacity or has ceased to be appointed in that capacity; or 35

- (ii) does not have the authority to exercise a power that, given the nature of the Bank, a person appointed to that capacity customarily has authority to exercise; or
 - (iii) does not have the authority to exercise a power that the Bank holds them out as having; or
- (b) a document issued on behalf of the Bank by a member, the Governor, an office holder, an employee, or an agent of the Bank with actual or usual authority to issue the document is not valid or genuine.
- (2) However, the Bank may assert any of those matters if the person dealing with the Bank had, or ought reasonably to have had, knowledge of the matter.
- (3) Nothing in this section affects a person's right to apply, in accordance with the law, for judicial review.

Compare: 2004 No 115 s 23

21 Interpretation for sections 12 to 20

In **sections 12 to 20**, unless the context otherwise requires,—

act includes a transfer of property, rights, or interests to or by the Bank

do includes—

- (a) to do an act; and
- (b) to have a capacity; and
- (c) to have or exercise a power, right, or privilege

natural person act—

- (a) means an act that a natural person of full age and capacity can do (whether or not the act is something that is also authorised by an Act); and
- (b) includes entry into a contract for, or relating to, 1 or more of the following:
 - (i) the acquisition of financial products or borrowing;
 - (ii) the purchase, leasing, or sale of, or other dealings with, property;
 - (iii) the employment, or engagement of the services, of a person

person dealing—

- (a) means the other party to the transaction, if the act of the Bank is a transaction; and
- (b) includes a person who has acquired property, rights, or interests from the Bank.

Compare: 2004 No 115 s 24

Subpart 3—Minister’s role

22 Minister’s role

- (1) The role of the Minister is to oversee and manage the Crown’s interests in, and relationship with, the Bank and to exercise any statutory responsibilities given to the Minister, including functions and powers— 5
- Governance*
- (a) in relation to the appointment and removal of—
- (i) members of the board (*see* **subpart 4**); and
- (ii) the Governor (*see* **subpart 6**); and
- (iii) members of the MPC (*see* **subpart 7 and Schedule 3**): 10
- Monetary policy functions*
- (b) to issue a remit for the MPC (*see* **section 118**):
- (c) to give advice relating to different economic objectives (*see* **section 121**):
- Financial policy* 15
- (d) to issue a financial policy remit (*see* **section 200**):
- Minimum level of capital and financial risk management*
- (da) to give directions to the Bank relating to its minimum level of capital and financial risk management (*see* **section 205A**):
- Foreign exchange functions* 20
- (e) to give directions to the Bank to deal in foreign exchange within guidelines and to agree with the Bank on a framework for the management and co-ordination of foreign reserves (*see* **subpart 3 of Part 3**):
- Prudential and regulatory functions*
- (f) under the prudential legislation (for example, giving consent for the Bank to exercise certain powers and giving advice to the Governor-General about putting an entity into statutory management): 25
- Other functions*
- (g) to add functions if requested by the Bank (*see* **section 11**):
- Funding* 30
- (h) to enter into a funding agreement with the Bank and to determine the Bank’s annual dividend (*see* **subpart 2 of Part 5**):
- Other*
- (i) to review the operations and performance of the Bank under **section 191**: 35
- (j) to request information from the Bank under **sections 193 and 194**, whether for a review or otherwise:

- (k) to participate in the process of setting the Bank's strategic direction and performance expectations and monitoring the Bank's performance (*see Part 5*):
 - (l) in relation to other matters in this Act or other legislation.
 - (2) This section does not limit another Minister's relationship with the Bank under any other authority. 5
- Compare: 2004 No 115 s 27(1), (2)

23 When Minister may delegate powers

- (1) Despite ~~section 28 of the State Sector Act 1988~~ clause 5 of Schedule 6 of the Public Service Act 2020, the Minister may not delegate any power under this Act except as provided in this section. 10
 - (2) The Minister may delegate the power in **section 193 or 194** to request information to the chief executive of the monitor (who may subdelegate this delegation to an employee of the monitor or to an individual working for the monitor as a contractor in relation to a function, duty, or power of the monitor). 15
- Compare: 2004 No 115 s 27(3), (4)

Subpart 4—Board of Bank and its members

Role, membership, and accountability

24 Board's role

- (1) The board is the governing body of the Bank, with the authority, in the Bank's name, to exercise the powers and perform the functions of the Bank. 20
- (2) All decisions relating to the operation of the Bank must be made by, or under the authority of, the board in accordance with this Act.
- (3) However, this section does not apply to—
 - (a) the functions or powers of the MPC under **section 94**: 25
 - (b) any statutory responsibilities given to the Minister, including in relation to the appointment or removal of the Governor (*see section 22*).

Compare: 2004 No 115 s 25

25 Membership of board

- (1) The board of the Bank consists of not fewer than 5, and not more than 9, members. 30
- (2) See section 79, which provides for the Governor to be one of those members.

26 Accountability of members to Minister

- (1) Members of the Bank must comply with—
 - (a) the board's collective duties (in **sections 43 to 47**); and 35
 - (b) their individual duties as members (in **sections 48 to 52**); and

- (c) any directions applicable to the Bank under this Act, the prudential legislation, the AML Act, or any other legislation.
 - (2) Members are accountable to the Minister for performing their duties as members.
- Compare: 2004 No 115 s 26

5

Appointment, removal, and conditions of members

27 Method of appointment of members

- (1) A member of the board is appointed by the Governor-General, on the recommendation of the Minister.
- (2) The appointment must be made by written notice to the member (with a copy to the Bank). 10
- (3) The notice must—
 - (a) state the date on which the appointment takes effect, which must not be earlier than the date on which the notice is received; and
 - (b) state the term of the appointment. 15
- (4) The Minister must ensure that the following are notified in the *Gazette* as soon as is reasonably practicable after an appointment is made:
 - (a) the name of the appointee and the Bank; and
 - (b) the date on which the appointment takes effect; and
 - (c) the term of the appointment. 20

Compare: 2004 No 115 s 28

27A Provisions that do not apply to Governor

Sections 27, 28 to 32, and 34 to 42 do not apply to the Governor as a member of the board (see instead subpart 6).

28 Criteria for recommendations by Minister 25

- (1) The Minister must recommend the appointment of members under **section 27** in accordance with the criteria for members and the process for appointment under this Act.
- (2) The Minister may only recommend a person who, in the Minister's opinion, has the appropriate knowledge, skills, and experience to assist the Bank to achieve its objectives and perform its functions. 30
- (3) In recommending an appointment, the Minister must take into account the desirability of promoting diversity in the membership of the board.

Compare: 2004 No 115 s 29

29 Minister must consult other political parties

The Minister must consult with representatives of other political parties in Parliament before recommending that the Governor-General appoints a person to the board.

Compare: 2001 No 84 s 56(6)

5

30 Qualifications of members

(1) A natural person who is not disqualified by this section may be a member of the board.

(2) The following persons are disqualified from being members:

(a) a person who is a director or an employee of ~~— a regulated entity:~~ 10

~~(i) a registered bank; or~~

~~(ii) a licensed NBDT; or~~

~~(iii) a licensed insurer; or~~

~~(iv) an operator of a designated settlement system;~~

~~(b) the Governor or any other person who is a member of the MPC:~~ 15

(b) a person who is a member of the MPC:

(c) an employee of the Bank or of a subsidiary of the Bank:

(d) a person who is an undischarged bankrupt:

(e) a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under the Companies Act 1993, the Financial Markets Conduct Act 2013, or the Takeovers Act 1993: 20

(f) a person who is subject to a property order under the Protection of Personal and Property Rights Act 1988:

(g) a person in respect of whom a personal order has been made under that Act that reflects adversely on the person's— 25

(i) competence to manage their own affairs in relation to their property; or

(ii) capacity to make or to communicate decisions relating to any particular aspect or aspects of their personal care and welfare: 30

(h) a person who has been convicted of a crime involving dishonesty as defined in section 2(1) of the Crimes Act 1961 within the past 5 years:

(i) a person who has been convicted within the past 5 years, in a country other than New Zealand, of an offence that is substantially similar to an offence specified in **paragraph (h):** 35

(j) a person who has been convicted of any other offence punishable by imprisonment for a term of 2 years or more, or who has been sentenced to imprisonment for any other offence, unless that person has obtained a

pardon, served the sentence, or otherwise suffered the penalty imposed on the person:

- (k) a member of Parliament:
- (l) a person who is a chief executive of a department or an employee of a department:
- (m) a person who is disqualified under another Act.

(3) Nothing in this section prevents the Governor from being a member of the board in their capacity as the Governor (*see instead* **section 83**, which provides for the qualifications of the Governor).

Compare: 2004 No 115 s 30

31 Requirements before appointment

- (1) Before a person is appointed as a member of the board, the person must—
 - (a) consent in writing to being a member; and
 - (b) certify that they are not disqualified from being a member; and
 - (c) disclose to the Minister the nature and extent (including monetary value, if quantifiable) of all interests that the person has at that time, or is likely to have, in matters relating to the Bank.
- (2) The board must notify the Minister of a failure to comply with **subsection (1)(c)** as soon as practicable after becoming aware of the failure.

Compare: 2004 No 115 s 31

32 Term of office of members

- (1) A member of the board holds office for 5 years or any shorter period stated in the notice of appointment.
- (2) A member may be reappointed for 2 further terms, but no member may be appointed to hold office for more than 10 years in total.
- (3) A member continues in office despite the expiry of their term of office until—
 - (a) the member is reappointed; or
 - (b) the member's successor is appointed; or
 - (c) the Governor-General informs the member by written notice (with a copy to the Bank) that the member is not to be reappointed and no successor is to be appointed at that time.
- (4) This section is subject to **section 40**.

Compare: 2004 No 115 s 32

32A Former Governor may be appointed as member

- (1)** If a person (A) has previously served for a period as a member of the board in their capacity as the Governor,—

-
- (a) that service does not prevent A from being subsequently appointed under **section 27**; and
- (b) that period of service does not reduce any length of a term of office for A under **section 32**.
- (2) However, A may not be appointed under **section 27** during the 3-year period after A ceases to hold office as the Governor. 5
- 33 Validity of members' acts**
- The acts of a person as a member, chairperson, or deputy chairperson of the board are valid even though—
- (a) a defect existed in the appointment of the person; or 10
- (b) the person is or was disqualified from being a member; or
- (c) the occasion for the person acting, or for their appointment, had not arisen or had ended.
- Compare: 2004 No 115 s 34
- 34 Validity of appointments** 15
- (1) The appointment of a person as a member, chairperson, or deputy chairperson of the board is not invalid only because a defect existed in the appointment of the person.
- (2) This section does not apply to a defect in the qualifications for appointment of a member, chairperson, or deputy chairperson. 20
- Compare: 2004 No 115 s 35
- 35 Removal of members**
- (1) The Governor-General may, at any time for just cause, on the advice of the Minister given after consultation with the Attorney-General, remove a member of the board from office. 25
- (2) The removal must be made by written notice to the member (with a copy to the Bank).
- (3) The notice must—
- (a) state the date on which the removal takes effect, which must not be earlier than the date on which the notice is received; and 30
- (b) state the reasons for the removal.
- (4) The Minister must notify the removal in the *Gazette* as soon as practicable after the notice is given.
- Compare: 2004 No 115 s 39
- 36 Just cause for removal of members** 35
- (1) In **section 35**, just cause includes—

- (a) misconduct, inability to perform the functions of office, neglect of duty, and breach of any of the collective duties of the board or the individual duties of members (depending on the seriousness of the breach):
- (b) obstructing, hindering, or preventing the MPC from discharging the responsibilities of the MPC under this Act. 5
- (2) **Subsection (1)(b)** does not limit **subsection (1)(a)**.
Compare: 2004 No 115 s 40
- 37 Process for removal of members**
- The Minister may advise the removal of a member with as little formality and technicality, and as much expedition, as is permitted by— 10
- (a) the principles of natural justice; and
- (b) a proper consideration of the matter.
- Compare: 2004 No 115 s 41
- 38 No compensation for member's loss of office**
- A member of the board is not entitled to any compensation or other payment or benefit relating to their ceasing, for any reason, to hold office as a member. 15
- Compare: 2004 No 115 s 43
- 39 Resignation of members**
- (1) A member of the board may resign from office by written notice to the Minister (with a copy to the Bank) signed by the member. 20
- (2) The resignation is effective on receipt by the Minister of the notice or at any later time specified in the notice.
- Compare: 2004 No 115 s 44
- 40 Members ceasing to hold office**
- A member of the board ceases to hold office if the member— 25
- (a) dies; or
- (b) resigns in accordance with **section 39**; or
- (c) is removed from office in accordance with **section 35**; or
- (d) becomes disqualified from being a member under **section 30**; or
- (e) otherwise ceases to hold office in accordance with any legislation. 30
- Compare: 2004 No 115 s 45

Remuneration and expenses

- 41 Remuneration of members**
- A member of the board is entitled to receive, from the funds of the Bank, remuneration not within **section 42** for services as a member at a rate and of a kind 35

determined by the Remuneration Authority in accordance with the Remuneration Authority Act 1977.

Compare: 2004 No 115 s 47

42 Expenses of members

A member of the board is entitled, in accordance with the fees framework, to be reimbursed, out of the funds of the Bank, for actual and reasonable travelling and other expenses incurred in carrying out their office as a member. 5

Compare: 2004 No 115 s 48

Collective duties of board

43 Bank must act consistently with objectives, functions, statement of intent, and statement of performance expectations 10

(1) The board must ensure that the Bank acts in a manner consistent with its objectives, functions, current statement of intent, and current statement of performance expectations under **Part 5**.

(2) This section does not apply to the functions of the MPC under **section 94**. 15

Compare: 2004 No 115 s 49

44 Manner in which functions must be performed

The board must ensure that the Bank performs its functions—

- (a) efficiently and effectively; and
- (b) in a manner consistent with the spirit of service to the public; and 20
- (c) in collaboration with other public entities (within the meaning of that term in the Public Audit Act 2001) where practicable.

Compare: 2004 No 115 s 50

45 Bank must operate in financially responsible manner

(1) The board must ensure that the Bank operates in a financially responsible manner and, for this purpose, that it prudently manages its assets and liabilities. 25

~~(2) In particular, the board must take all reasonable steps to ensure that the Bank's expenditure complies with the requirements imposed under **section 207(1)(c)**.~~

(2) In particular, the board must take all reasonable steps to ensure that— 30

- (a) the Bank's expenditure complies with the requirements imposed under **section 207(1)(c)**; and
- (b) the Bank complies with a direction given under **section 205A**.

Compare: 2004 No 115 s 51

46 Subsidiaries and other interests

The board must ensure that the Bank complies with **subpart 8**.

Compare: 2004 No 115 s 52

47 Board must have regard to financial policy remit when acting in relation to prudential strategic intentions and prudential standards

5

(1) The board must have regard to the financial policy remit when—

- (a) the board is setting the prudential strategic intentions in the Bank's statement of intent; and
- (b) the board is making significant policy decisions about how to achieve those prudential strategic intentions; and
- (c) the board is monitoring, and reporting on, the Bank's performance in achieving those prudential strategic intentions; and
- (d) the Bank is issuing and reviewing standards.

10

(2) In this section,—

prudential strategic intentions means the strategic objectives that the Bank intends to achieve or contribute to in relation to—

15

- (a) the financial stability objective; and
- (b) the objective of acting in a way that furthers the objectives or purposes of the prudential legislation; and
- (c) the Bank's function under **section 10(1)(b)** (which relates to acting as a prudential regulator and supervisor under the prudential legislation)

20

standards means any of the following:

- (a) fit and proper standards issued under section 36 of the Insurance (Prudential Supervision) Act 2010;
- (b) solvency standards issued under section 55 of the Insurance (Prudential Supervision) Act 2010;
- (c) standards issued under section 31 of the Financial Market Infrastructures Act 2021.

25

*Individual duties of members***48 Duty to comply with relevant legislation**

30

A member of the board must not contravene, or cause the contravention of, or agree to the Bank contravening,—

- (a) this Act; or
- (b) the prudential legislation; or
- (c) the AML Act.

35

Compare: 2004 No 115 s 53

49 Duty to act with honesty and integrity

A member of the board must, when acting as a member, act with honesty and integrity.

Compare: 2004 No 115 s 54

50 Duty to act in good faith and not at expense of Bank's interests 5

A member of the board must, when acting as a member, act in good faith and not pursue the member's own interests at the expense of the Bank's interests.

Compare: 2004 No 115 s 55

51 Duty to act with reasonable care, diligence, and skill

A member of the board must, when acting as a member, exercise the care, diligence, and skill that a reasonable person would exercise in the same circumstances, taking into account (without limitation)— 10

- (a) the nature of the Bank; and
- (b) the nature of the action; and
- (c) the position of the member and the nature of the responsibilities undertaken by them. 15

Compare: 2004 No 115 s 56

52 Duty not to disclose information

- (1) A member of the board who has information in their capacity as a member that would not otherwise be available to them must not disclose that information to any person, or make use of, or act on, that information, except— 20

- (a) in the performance of the Bank's functions; or
- (b) as required or permitted by law; or
- (c) in accordance with **subsection (2)**; or
- (d) in complying with the requirements for members to disclose interests. 25

- (2) A member may disclose, make use of, or act on the information if—

- (a) the member is first authorised to do so by the board; and
- (b) the disclosure, use, or act in question will not, or will be unlikely to, prejudice the Bank.

Compare: 2004 No 115 s 57 30

*Effect of non-compliance with duties***53 Accountability for collective board duties**

- (1) The duties of the board and members of the board under **sections 43 to 47 (collective duties)** are duties owed to the Minister.

- (2) If ~~a~~ the board does not comply with any of its collective duties, all or any of the members may be removed from office (subject to any requirements in **sections 35 to 37** or, in the case of the Governor, sections 86 to 89).
- (3) However, **subsection (2)** does not apply to a member if—
- (a) the member did not know and could not reasonably be expected to know that the duty was to be or was being breached; or
 - (b) the member took all reasonable steps in the circumstances to prevent the duty being breached.
- (4) The taking of reasonable steps does not require a member to apply to a court for an order under **section 57**.
- (5) This section and **section 54** do not affect any other ground for removing a member from office.

Compare: 2004 No 115 s 58(1)–(4), (7)

54 Member's liability for breach of collective duty

- (1) A member is not liable for a breach of a collective duty under this Act.
- (2) However, **subsection (1)** does not limit **section 53(2)**.
- (3) **Subsection (1)** does not affect—
- (a) anything else for which the member may be liable under any other Act or rule of law arising from the act or omission that constitutes the breach; or
 - (b) the right to apply for a court order under **section 57**.

Compare: 2004 No 115 s 58(5), (6), (8)

55 Accountability for individual duties

- (1) The duties of the members of the board under **sections 48 to 52 (individual duties)** are duties owed to the Minister and the Bank.
- (2) If a member does not comply with their individual duties, that member may be removed from office (subject to any requirements in **sections 35 to 37** or, in the case of the Governor, sections 86 to 89).
- (3) The Bank may bring an action against a member for breach of any individual duty.
- (4) This section and **section 56** do not affect any other ground for removing a member from office.

Compare: 2004 No 115 s 59(1)–(3), (5)

56 Member's liability for breach of individual duty

- (1) A member is not liable for a breach of an individual duty under this Act except as provided in **section 55(2) and (3)**.
- (2) **Subsection (1)** does not affect—

- (a) anything else for which the member may be liable under any other Act or rule of law arising from the act or omission that constitutes the breach; or
- (b) the right to apply for a court order under **section 57**.

Compare: 2004 No 115 s 59(4), (6)

5

57 Court actions requiring or restraining board or members

- (1) The Minister or a member of the board may apply to a court for an order—
 - (a) restraining the board or a member of the board from engaging in conduct that would contravene any requirement under this Act, any prudential legislation, or the AML Act; and 10
 - (b) granting any consequential relief.
- (2) The Minister may apply to a court for an order—
 - (a) requiring the board or a member to take any action that is required to be taken under this Act, any prudential legislation, or the AML Act; and
 - (b) granting any consequential relief. 15
- (3) The court may make an order on the application subject to the following rules:
 - (a) an order may be made only if it is just and equitable to do so:
 - (b) no order may be made in respect of conduct that has been completed.
- (4) The court may, at any time before the final determination of an application, make as an interim order any order that it is empowered to make as a final order. 20

Compare: 2004 No 115 s 60

Reliance on information and advice

58 When members may rely on certain information and advice

- (1) A member, when acting as a member, may rely on reports, statements, financial data, and other information prepared or supplied, and on professional or expert advice given, by any of the following persons: 25
 - (a) the Governor:
 - (b) an employee of the Bank whom the member believes on reasonable grounds to be reliable and competent in relation to the matters concerned: 30
 - (c) a professional adviser or expert in relation to matters that the member believes on reasonable grounds to be within the person's professional or expert competence:
 - (d) the MPC in relation to matters within the MPC's designated authority: 35

- (e) any other member or a committee on which the member did not serve in relation to matters within the member's or committee's designated authority.
 - (2) A member, when acting as a member, may rely on reports, statements, financial data, and other information supplied by the Crown. 5
 - (3) This section applies to a member only if the member—
 - (a) acts in good faith; and
 - (b) makes proper inquiry if the need for inquiry is indicated by the circumstances; and
 - (c) has no knowledge that the reliance is unwarranted. 10
- Compare: 2004 No 115 s 61

Conflict of interest disclosure rules

59 When person is interested

- (1) A person is **interested** in a matter if the person—
 - (a) may derive a financial benefit, or suffer a financial loss, from the matter; 15
or
 - (b) is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit, or suffer a financial loss, from the matter; or
 - (c) may have a financial interest in a person to whom the matter relates; or 20
 - (d) is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the matter relates; or
 - (e) is otherwise directly or indirectly interested in the matter.
- (2) However, a person is not interested in a matter—
 - (aaa) only because they hold office as the Governor; or 25
 - (a) only because they are a member or an officer of a wholly-owned subsidiary of the Bank; or
 - (b) because the person receives an indemnity, insurance cover, remuneration, or other benefits authorised under this Act or another Act; or
 - (c) if the person's interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence them in carrying out their responsibilities under this Act or another Act; or 30
 - (d) only because the person has past or current involvement in the relevant sector, industry, or practice.
- (3) In this section, **matter** means— 35
 - (a) the Bank's performance of its functions or exercise of its powers; or

- (b) an arrangement, agreement, or contract made or entered into, or proposed to be entered into, by the Bank.

Compare: 2004 No 115 s 62

60 Obligation to disclose interest

- (1) A member who is interested in a matter relating to the Bank must disclose details of the interest in accordance with **section 61** as soon as practicable after the member becomes aware that they are interested. 5
- (2) A general notice of an interest in a matter relating to the Bank, or in a matter that may in future relate to the Bank, that is disclosed in accordance with **section 61** is a standing disclosure of that interest for the purposes of this section. 10
- (3) A standing disclosure ceases to have effect if the nature of the interest materially alters or the extent of the interest materially increases.

Compare: 2004 No 115 s 63

61 Who disclosure of interests must be made to

The member must disclose details of the interest in an interests register kept by the Bank and to— 15

- (a) the chairperson or, if there is no chairperson or if the chairperson is unavailable or interested, the deputy or temporary deputy chairperson; or
- (b) the Minister, if there is neither a chairperson nor a deputy or temporary deputy chairperson, or if both the chairperson and the deputy or temporary deputy chairperson are unavailable or interested. 20

Compare: 2004 No 115 s 64

62 What must be disclosed

The details that must be disclosed under **section 61** are—

- (a) the nature of the interest and the monetary value of the interest (if the monetary value can be quantified); or 25
- (b) the nature and extent of the interest (if the monetary value cannot be quantified).

Compare: 2004 No 115 s 65

63 Consequences of being interested in matter

30

A member who is interested in a matter relating to the Bank—

- (a) must not vote or take part in any discussion or decision of the board or any committee relating to the matter, or otherwise participate in any activity of the Bank that relates to the matter; and
- (b) must not sign any document relating to the entry into a transaction or the initiation of the matter; and 35

- (c) is to be disregarded for the purpose of forming a quorum for that part of a meeting of the board or committee during which a discussion or decision relating to the matter occurs or is made.

Compare: 2004 No 115 s 66

64 Consequences of failing to disclose interest 5

- (1) The board must notify the Minister of a failure to comply with **section 60 or 63**, and of the acts affected, as soon as practicable after becoming aware of the failure.
- (2) A failure to comply with **section 60 or 63** does not affect the validity of an act or matter. 10
- (3) However, **subsection (2)** does not limit the right of any person to apply, in accordance with law, for judicial review.

Compare: 2004 No 115 s 67

65 Permission to act despite being interested in matter

- (1) The chairperson of the board may, by prior written notice to the board, permit 1 or more members, or members with a specified class of interest, to do anything otherwise prohibited by **section 63**, if the chairperson is satisfied that it is in the public interest to do so. 15
- (2) The permission may state conditions that the member must comply with.
- (3) The deputy or temporary deputy chairperson may give the permission if there is no chairperson, or if the chairperson is unavailable or interested. 20
- (4) The Minister may give the permission if there is neither a chairperson nor a deputy or temporary deputy chairperson, or if both the chairperson and the deputy or temporary deputy chairperson are unavailable or interested.
- (5) The permission may be amended or revoked in the same way as it may be given. 25

Compare: 2004 No 115 s 68(1)–(5)

66 Permission must be disclosed in annual report

The Bank must disclose an interest to which a permission relates in its annual report, together with a statement of who gave the permission and any conditions or amendments to, or revocation of, the permission. 30

Compare: 2004 No 115 s 68(6)

67 Bank may avoid certain acts done in breach of conflict of interest rules

- (1) The Bank may avoid a natural person act done by the Bank in respect of which a member was in breach of **section 63**. 35
- (2) However, the act—
 - (a) may be avoided only within 3 months of the affected act being notified to the Minister under **section 64**; and

- (b) cannot be avoided if the Bank receives fair value in respect of the act.
- (3) An act in which a member is interested can be avoided on the ground of the member's interest only in accordance with this section.
Compare: 2004 No 115 s 69
- 68 What is fair value** 5
- (1) The Bank is presumed to receive fair value in respect of an act that is done by the Bank in the ordinary course of its business and on usual terms and conditions.
- (2) Whether the Bank receives fair value in respect of an act must be determined on the basis of the information known to the Bank and to the interested member at the time the act is done. 10
Compare: 2004 No 115 s 70
- 69 Onus of proving fair value**
- (1) A person seeking to prevent an act being avoided, and who knew, or ought reasonably to have known, of the member's interest at the time the act was done, has the onus of establishing fair value. 15
- (2) In any other case, the Bank has the onus of establishing that it did not receive fair value.
Compare: 2004 No 115 s 71
- 70 Effect of avoidance on third parties** 20
- The avoidance of an act under **section 67** does not affect the title or interest of a person to or in property that that person has acquired if the property was acquired—
- (a) from a person other than the Bank; and
- (b) for valuable consideration; and 25
- (c) without knowledge of the circumstances of the act under which the person referred to in **paragraph (a)** acquired the property from the Bank.
Compare: 2004 No 115 s 72
- When Governor may not act as member of board*
- 70A When Governor may not act as member of board** 30
- (1) This section applies to the following matters:
- (a) nominating or recommending a person for appointment as the Governor:
- (b) recommending or giving advice about the removal of the Governor:
- (c) agreeing the terms and conditions of the Governor:
- (d) reviewing the performance of the MPC and its members: 35
- (e) reviewing the performance of the Governor.

(2) The Governor—

- (a) must not vote or take part in any discussion or decision of the board or any committee relating to the matter; and
- (b) must not sign on behalf of the board any document relating to the entry into a transaction or the initiation of the matter; and 5
- (c) is to be disregarded for the purpose of forming a quorum for that part of a meeting of the board or committee during which a discussion or decision relating to the matter occurs or is made.

*Delegation***71 Ability to delegate** 10

- (1) The board may delegate any of the functions or powers of the Bank or the board, either generally or specifically, to any of the following persons by resolution and written notice to the person or persons:
 - (a) a member or members of the board:
 - (b) the Governor: 15
 - (c) any employee or employees of the Bank:
 - (d) a committee:
 - (e) any other person or persons approved by the Minister:
 - (f) any class of persons comprising any of the persons listed in **paragraphs (a) to (e)**: 20
 - (g) a subsidiary of the Bank.
- (2) **Subsection (1)** does not apply to—
 - (a) any functions or powers of the MPC; or
 - (b) any other functions or powers specified in this Act as not being capable of delegation. 25
- (3) The board must not delegate the general power of delegation.

Compare: 2004 No 115 s 73

72 Powers of delegate

- (1) A delegate to whom any functions or powers of the Bank or board are delegated— 30
 - (a) may, unless the delegation provides otherwise, perform the function or exercise the power in the same manner, subject to the same restrictions, and with the same effect as if the delegate were the Bank or the board; and
 - (b) may delegate the function or power only— 35
 - (i) with the prior written consent of the board; and

- (ii) subject to the same restrictions, and with the same effect, as if the subdelegate were the delegate.
- (2) A delegate who purports to perform a function or exercise a power under a delegation—
 - (a) is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of that delegation; and 5
 - (b) must produce evidence of their authority to do so, if reasonably requested to do so.

Compare: 2004 No 115 s 74

73 Effect of delegation on Bank or board 10

No delegation in accordance with this Act—

- (a) affects or prevents the performance of any function or the exercise of any power by the Bank or the board; or
- (b) affects the responsibility of the board for the actions of any delegate acting under the delegation; or 15
- (c) is affected by any change in the membership of the board or of any committee or class of persons or by any change in the Governor or any employee.

Compare: 2004 No 115 s 75

74 Revocations of delegations 20

- (1) A delegation under **section 71** may be revoked at will by—
 - (a) resolution of the board and written notice to the delegate; or
 - (b) any other method provided for in the delegation.
- (2) A delegation under **section 72(1)(b)** may be revoked at will by written notice of the delegate to the subdelegate. 25

Compare: 2004 No 115 s 76

Miscellaneous provisions relating to board

75 Vacancies in membership of board

The powers and functions of the Bank are not affected by any vacancy in the membership of the board. 30

Compare: 2004 No 115 s 77

76 Appointment of chairperson, etc, and board procedure

Schedule 2 governs the appointment of a chairperson and deputy chairperson (including a temporary deputy chairperson) and the proceedings of the board.

Compare: 2004 No 115 s 78 35

Subpart 5—Monitor of Bank

77 Appointment and role of monitor

- (1) The Minister may appoint a department as the monitor of the Bank.
- (2) The role of the monitor is, in relation to the Bank,—
 - (a) to assist the Minister to carry out the Minister’s role (which is described in **section 22**); and 5
 - (b) to perform or exercise any or all of the following functions or powers:
 - (i) administering appropriations:
 - (ii) administering legislation:
 - (iii) tendering advice to Ministers: 10
 - (iv) any other functions or powers in this Act or another Act that may, or must, be performed or exercised by the monitor.

Compare: 2004 No 115 s 27A

78 Minister must set expectations

- (1) The Minister must give a written notice to the monitor that sets out the Minister’s expectations relating to the monitor carrying out that role. 15
- (2) After the first notice is given, a notice must be in force under this section.

Subpart 6—Governor

79 Governor

- ~~(1) The Governor of the Bank is the chief executive of the Bank.~~ 20
- (1) The Governor of the Bank is—
 - (a) the chief executive of the Bank; and
 - (b) a member of the board (by virtue of holding office as the Governor).
- ~~(2) The Governor must be appointed by the Minister on the recommendation of the board.~~ 25
- (2) The Governor must be appointed by the Governor-General on the recommendation of the Minister.
- (3) The Governor is not an employee of the Bank.
- (4) The office of Governor includes—
 - (a) performing and exercising functions and powers delegated by the board (see **sections 71 to 74**); and 30
 - (b) performing and exercising functions and powers as the chairperson and a member of the MPC (see **clause 37 of Schedule 3** for the Governor’s duties as chairperson).

Compare: 1989 No 157 s 40

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79A Process requirements relating to Minister's recommendation

- (1) The Minister may recommend that the Governor-General appoint a person as the Governor only if that person has been nominated by the board.
- (2) The Minister must consult with representatives of other political parties in Parliament before making the recommendation.

5

80 Term of appointment of Governor

- (1) The Governor must be appointed under **section 79** for a term of 5 years and may be reappointed under that section for 1 further term of up to 5 years.
- (2) *See* **section 92** (which provides for a single term of up to 6 months for a Governor appointed under that section).
- (3) If a person (A) who serves as the Governor under **section 92** is subsequently appointed under **section 79**, the term of the appointment under **section 92** does not reduce the length of A's term under **subsection (1)**.

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Compare: 1989 No 157 s 42(1)–(1B)

81 Terms and conditions of appointment of Governor

15

- (1) The Governor is entitled to receive, from the funds of the Bank, remuneration at a rate and of a kind determined by the Remuneration Authority in accordance with the Remuneration Authority Act 1977.
- (2) The terms and conditions of appointment of the Governor (other than remuneration) must be determined by agreement between the board and the Governor.

20

Compare: 1989 No 157 s 42(2)

82 Extension of term of Governor

- (1) The Minister may extend the Governor's term of appointment by up to 6 months by written notice to the Governor (with a copy to the board).
- (2) If the Governor's term is extended and that person is reappointed for a further term in the same office, the length of the further term must be reduced by the length of the extension.
- (3) **Subsection (2)** does not prevent the further term from being extended under **subsection (1)**.
- (4) The Minister must ensure that the following are notified in the *Gazette* as soon as practicable after an extension is made:
 - (a) the fact that the Governor's term of appointment has been extended; and
 - (b) the period of the extension.
- (5) This section applies only to a Governor appointed under **section 79**.

25

30

Compare: 1989 No 157 s 45

35

83 Qualifications of Governor

- (1) A natural person who is not disqualified by this section may be a Governor of the Bank.
- (2) The following persons are disqualified from being a Governor:
- (a) a person who is a director or an employee of ~~— a regulated entity:~~ 5
 - ~~(i) a registered bank; or~~
 - ~~(ii) a licensed NBDT; or~~
 - ~~(iii) a licensed insurer; or~~
 - ~~(iv) an operator of a designated settlement system;~~
 - ~~(b) a member of the board:~~ 10
 - (b) an employee of a subsidiary of the Bank:**
 - (c) a person who is an undischarged bankrupt:
 - (d) a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under the Companies Act 1993, the Financial Markets Conduct Act 2013, or the Takeovers Act 1993: 15
 - (e) a person who is subject to a property order under the Protection of Personal and Property Rights Act 1988:
 - (f) a person in respect of whom a personal order has been made under that Act that reflects adversely on the person's— 20
 - (i) competence to manage their own affairs in relation to their property; or
 - (ii) capacity to make or to communicate decisions relating to any particular aspect or aspects of their personal care and welfare:
 - (g) a person who has been convicted of a crime involving dishonesty as defined in section 2(1) of the Crimes Act 1961 within the past 5 years: 25
 - (h) a person who has been convicted within the past 5 years, in a country other than New Zealand, of an offence that is substantially similar to an offence specified in **paragraph (g)**:
 - (i) a person who has been convicted of any other offence punishable by imprisonment for a term of 2 years or more, or who has been sentenced to imprisonment for any other offence, unless that person has obtained a pardon, served the sentence, or otherwise suffered the penalty imposed on the person: 30
 - (j) a member of Parliament: 35
 - (k) a person who is a chief executive of a department or an employee of a department.

- (3) If the Governor becomes aware that they are likely to become disqualified, they must disclose that fact to the board and the Minister as soon as practicable.

Compare: 1989 No 157 s 46

84 Appointment procedure for Governor 5

- (1) The appointment of the Governor must be made by written notice to the appointee (with a copy to the board).
- (2) The notice must state—
- (a) the date on which the appointment takes effect, which must not be earlier than the date on which the notice is received; and 10
 - (b) the term of the appointment.
- (3) The Minister must ensure that the following are notified in the *Gazette* as soon as practicable after an appointment is made:
- (a) the name of the appointee; and
 - (b) the date on which the appointment takes effect; and 15
 - (c) the term of the appointment.

Compare: 1989 No 157 s 63N

85 Validity of appointments

- (1) The appointment of a person as the Governor under **section 79 or 92** is not invalid only because a defect existed in the appointment of the person. 20
- (2) This section does not apply to a defect in the qualifications for appointment of a Governor.

Compare: 1989 No 157 s 45A

86 Removal of Governor from office

- (1) The Governor-General may, at any time for just cause, on the advice of the Minister given after consultation with the Attorney-General, remove the Governor from office. 25
- (2) The Minister may give the advice—
- (a) for a cause referred to in **section 88(1)(b) or (e)** only if the board has made a recommendation under **section 87** that the Governor be removed from office; 30
 - (b) for any other just cause whether or not the board has made a recommendation under **section 87** that the Governor be removed from office.

Compare: 1989 No 157 s 49

87 Board must advise Minister of just cause and may recommend removal 35

- (1) If the board is satisfied that there is just cause for the removal of the Governor, the board—

- (a) must advise the Minister in writing; and
 - (b) may recommend to the Minister that the Governor be removed from office.
- (2) The board may act under this section with as little formality and technicality, and as much expedition, as is permitted by— 5
- (a) the principles of natural justice; and
 - (b) a proper consideration of the matter.
- (3) This section does not apply to the causes referred to in section 88(1)(aa), (c), and (d) ~~(which relates to the MPC)~~. 10
- Compare: 1989 No 157 s 53(3) 10

88 Just cause for removal of Governor

- (1) In **sections 86 and 87**, just cause includes—
- (a) misconduct, inability to perform the functions of office, and neglect of duty (other than in respect of a matter referred to in **paragraph (aa), (b), or (e)**); and 15
 - (aa) breach of any of the collective duties of the board or the individual duties of members (depending on the seriousness of the breach):
 - (b) failure to adequately perform or exercise the functions or powers that are delegated by the board; and
 - (c) failure to adequately perform or exercise the functions or powers as chairperson of the MPC; and 20
 - (d) any of the matters set out in **clause 27(1) of Schedule 3** applying to the Governor as a member of the MPC; and
 - (e) obstructing, hindering, or preventing the board from discharging responsibilities under this Act (for example, by failing to give the board information that is necessary to discharge those responsibilities); and 25
 - (f) the Governor, while holding office as Governor,—
 - (i) holding any other office of profit; or
 - (ii) engaging in any other occupation for reward; or
 - (iii) having an ownership interest in a ~~registered bank, a licensed NBDT, a licensed insurer, or an operator of a designated settlement system~~ regulated entity; or 30
 - (iv) having an ownership interest in a bank carrying on business outside New Zealand.
- (2) **Subsection (1)(b) and (e)** is subject to **section 86(2)(a)**. 35

- (3) **Subsection (1)(f)** does not apply to the extent that the Governor holds the office, engages in the occupation, or has the ownership interest in accordance with the Governor's terms and conditions of appointment.

Compare: 1989 No 157 s 49(2)

89 Process for removal of Governor 5

- (1) The Minister may advise the removal of the Governor with as little formality and technicality, and as much expedition, as is permitted by—
- (a) the principles of natural justice; and
 - (b) a proper consideration of the matter.
- (2) The Minister may have regard to the process undertaken by the board under **section 87** in considering what is required for the purposes of **subsection (1)(a) and (b)**. 10

Compare: 2004 No 115 s 41

90 Resignation of Governor

- (1) The Governor may resign from office by written notice to the Minister (with a copy to the Bank) signed by the Governor. 15
- (2) The resignation is effective on receipt by the Minister of the notice or at any later time specified in the notice.

91 When Governor ceases to hold office

- (1) The Governor ceases to hold office if— 20
- (a) the Governor dies; or
 - (b) the Governor becomes disqualified from being a Governor under **section 83**; or
 - (c) the Governor is removed from office in accordance with **section 86**; or
 - (d) the Governor resigns in accordance with **section 90**; or 25
 - (e) the Governor's term of office expires, unless the Governor is reappointed for a further term (*see also section 82*, which allows the term to be extended); or
 - (f) the board advises the Minister in writing that the person holding office as Governor has been substantially unable to carry out the functions and responsibilities of the Governor due to illness or other incapacity for a total consecutive period of 3 months or more; or 30
 - (g) the Governor otherwise ceases to hold office in accordance with any legislation.
- (2) **Subsection (1)(f)** does not apply if the Minister gives a notice to the Bank that that provision does not apply in the particular circumstances. 35

- 92 Minister must make temporary appointment if office of Governor is vacant**
- (1) If the office of Governor becomes vacant, the Minister must, on the recommendation of the board, appoint a person (**A**) as Governor for a period not exceeding 6 months. 5
 - (2) The board must make a recommendation within 28 days after the office of Governor becomes vacant.
 - (3) The Minister may extend A's term of appointment by up to 3 months by written notice to A (with a copy to the board).
 - (4) A Governor who has ceased to hold office (for example, at the end of the Governor's term) may not be appointed under **subsection (1)**. 10
 - (5) A may separately hold a position as an employee of the Bank, but A is not an employee in their capacity as the Governor.
- Compare: 1989 No 157 s 48
- Subpart 7—Monetary policy committee 15
- 93 Monetary policy committee continues**
- (1) The monetary policy committee (the **MPC**) is continued.
 - (2) The MPC is a committee of the Bank.
 - (3) However, the MPC is not a committee appointed under **clause 14 of Schedule 2**, and nothing in **clause 15** of that schedule applies to a member of the MPC. 20
- Compare: 1989 No 157 s 63A
- 94 Functions of MPC**
- The MPC must—
- (a) perform the function of formulating monetary policy in accordance with this Act; and 25
 - (b) perform or exercise any other function, power, or duty conferred on it under this Act.
- Compare: 1989 No 157 s 63B
- 95 Board must regularly review performance of MPC and members** 30
- (1) For the purpose of performing or exercising its functions or powers in relation to the MPC, the board must regularly review the performance of the MPC, and each member of the MPC, in discharging responsibilities under this Act.
 - (2) *See* **section 237(1)(m)** relating to requirements for the Bank's annual report.
 - (3) *See also* **clause 28 of Schedule 3** (which provides that the board must advise the Minister if there are grounds for removal of a member of the MPC and may recommend removal). 35

96 Membership of MPC

- (1) The MPC must have not fewer than 5 members and not more than 7 members.
- (2) The members of the MPC must comprise—
 - (a) the Governor (subject to any vacancy in the office of Governor):
 - (b) 2 or 3 persons who are employees of the Bank (the **internal members**):
 - (c) 2 or 3 persons who are not employees of the Bank (the **external members**).
- (3) The internal members, together with the Governor, must be a majority of the membership of the MPC (subject to any vacancies in the membership).

Compare: 1989 No 157 s 63C

10

*Charter for MPC***97 Charter for MPC**

- (1) A charter must be in force under this Act (*see* **clause 7 of Schedule 1** and **section 99**).
- (2) The purpose of the charter is to provide for the following to the extent that those matters are not otherwise provided for in this Act:
 - (a) requirements to promote transparency and accountability in connection with the performance of the MPC's functions; and
 - (b) decision-making procedures.

Compare: 1989 No 157 s 63D

20

98 Content of charter

- (1) The charter must include the following:
 - (a) requirements for summary records of the MPC's meetings under **clause 57 of Schedule 3** (including the content of the records, when and how those records must be published, and matters relating to the record of votes); and
 - (b) guidelines or requirements relating to the publication or disclosure by a member of the MPC of any matter relating to the MPC or its functions or powers.
- (2) The charter may also include—
 - (a) requirements relating to other information that must or may be published by or on behalf of the MPC, including when and how that information must or may be published; and
 - (b) decision-making procedures; and
 - (c) any other matters that—
 - (i) this Act provides are to be or may be dealt with by the charter; or
 - (ii) are otherwise for the purpose set out in **section 97**.

- (3) The charter must not be inconsistent with anything in this Act.

Compare: 1989 No 157 s 63E

99 Replacement charter

- (1) The Minister and the MPC may agree to issue a replacement charter at any time. 5
- (2) The Minister and the MPC must consider whether it is necessary or desirable to issue a replacement charter when a new MPC remit is to be issued by the Minister.
- (3) If a report is provided under **section 100**, the Minister and the MPC must have regard to the report. 10
- (4) A replacement charter takes effect on and from—
- (a) the date on which it is issued; or
 - (b) a later date specified in the charter.
- (5) Until a replacement charter is issued, the existing charter continues in force. 15
- Compare: 1989 No 157 s 63F

100 Consultation about replacement charter

- (1) This section applies if the Bank is required to act under **clauses 2 and 4 of Schedule 3** (which relate to the Bank giving remit advice).
- (2) The Bank must, before remit advice is given under **clause 2 of Schedule 3**, seek the views of members of the public on the matters that the Bank considers would assist the Minister and the MPC when considering— 20
- (a) whether it is necessary or desirable to issue a replacement charter; and
 - (b) the content of a replacement charter (if any).
- (3) The Bank must, when the remit advice is given under **clause 2 of Schedule 3**, ensure that the Minister and the MPC are given a report that summarises the comments that are provided by those members of the public within the time and in the manner specified by the Bank. 25
- (4) The Bank must, as soon as practicable after the MPC remit is issued, publish a copy of the report on an Internet site maintained by, or on behalf of, the Bank. 30
- Compare: 1989 No 157 s 63G

101 Publication of charter

The charter must be published on an Internet site maintained by, or on behalf of, the Bank.

Compare: 1989 No 157 s 63H

102 Status of charter

~~A charter for the MPC is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012 and does not have to be presented to the House of Representatives under section 41 of that Act.~~

~~Compare: 1989 No 157 s 62I~~

5

*Code of conduct***103 Code of conduct**

- (1) A code of conduct for the members of the MPC must be approved by the board.
- (2) The board must ensure that a code is in force at all times. 10
- (3) The code may be amended or replaced at any time with the approval of the board, but the board may give its approval only if it is satisfied that the code (as amended or replaced) adequately addresses the matters in **section 104**.
- (4) The code (or the code as amended or replaced) comes into force on—
 - (a) the date on which the board gives its approval; or 15
 - (b) a later date specified by the board in the resolution that gives its approval.

Compare: 1989 No 157 s 63J

104 Content of code

- (1) The code must provide for minimum standards of conduct that must be demonstrated when acting as a member of the MPC, including— 20
 - (a) rules for managing and avoiding conflicts of interest; and
 - (b) rules for maintaining the confidentiality of information; and
 - (c) rules to promote active participation and preparation; and
 - (d) any other minimum standards of ethical behaviour. 25
- (2) The rules about conflicts of interest may provide for the disclosure of interests, including—
 - (a) defining the nature of interests to be disclosed; and
 - (b) providing for what must be disclosed, to whom disclosure must be made, and how disclosures of interests must be made; and 30
 - (c) providing for the consequences of non-disclosure; and
 - (d) regulating or prohibiting participation of an interested member in decision making; and
 - (e) providing for the establishment and maintenance of an interests register.
- (3) The code must not be inconsistent with anything in this Act or the charter. 35

Compare: 1989 No 157 s 63K

105 Publication and status of code

- (1) The code of conduct must be published on an Internet site maintained by, or on behalf of, the Bank.

- ~~(2) The code is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012 and does not have to be presented to the House of Representatives under section 41 of that Act.~~ 5

Compare: 1989 No 157 s 63L

*Other matters***106 Other matters**

Part 2 of Schedule 3 regulates other matters relating to the MPC and its members. 10

Compare: 1989 No 157 s 63M

Subpart 8—Subsidiaries**107 Acquisition of subsidiaries**

- (1) The Bank must ensure that the Bank acquires or forms a subsidiary only after written notice to the Minister. 15
- (2) In this Act, **subsidiary** means a company that is a subsidiary of the Bank under sections 5 to 8 of the Companies Act 1993.
- (3) Despite section 5(3) of the Companies Act 1993, a subsidiary of the Bank must be a company incorporated under that Act. 20

Compare: 2004 No 115 ss 7(1)(c), (1A), 96

108 General duty relating to subsidiaries

The Bank must ensure, to the extent that it is reasonably able to do so, that each of its subsidiaries—

- (a) does not do anything that the Bank itself does not have the power to do; and 25
- (b) acts consistently with the Bank's objectives and current statement of intent (to the extent they relate to the subsidiary); and
- (c) exercises its powers only for the purpose of performing, or assisting the Bank to perform, the Bank's functions; and 30
- (d) does not contravene this Act to the extent that it relates to a subsidiary; and
- (e) complies with a direction given to the Bank (to the extent that it relates to the subsidiary); and
- (f) does not pay directors of the subsidiary any compensation or other payment or benefit, on any basis, for ceasing for any reason to hold office; and 35

- (g) has a constitution and that the constitution contains a statement to the effect that the entity is a subsidiary of the Bank; and
- (h) complies with the statutory requirements as to employees that apply to the Bank; and
- (i) does not have a member of Parliament as a member.

5

Compare: 2004 No 115 s 97

109 Duties relating to performance, remuneration of directors, and chief executives

- (1) The Bank must ensure, to the extent that it is reasonably able to do so, that each of its subsidiaries— 10
 - (a) performs its functions—
 - (i) efficiently and effectively; and
 - (ii) in a manner consistent with the spirit of service to the public; and
 - (iii) in collaboration with other public entities (within the meaning of that term in the Public Audit Act 2001) where practicable; and 15
 - (b) pays remuneration to directors of the subsidiary only at a rate and of a kind determined by the Bank in accordance with the fees framework or after consulting with the Minister; and
 - (c) complies with the requirements for chief executives set out in **subsection (2)**. 20
- (2) The requirements are as follows:
 - (a) a chief executive of a subsidiary must be appointed by its board for a term of not more than 5 years, but may be reappointed:
 - (b) the terms and conditions of employment of a chief executive of a subsidiary must be determined by agreement between its board and the chief executive. 25
- (3) A failure to comply with **subsection (2)** does not invalidate the acts of a chief executive of a subsidiary.
- (4) If a director of a subsidiary (A) is an employee of the Bank, **subsection (1)(b)** does not apply to A's remuneration as an employee of the Bank. 30
- (5) The requirements of this section are additional to those in **section 108**.

Compare: 2004 No 115 s 98

110 Acquisition of shares or interests in companies, trusts, and partnerships, etc

- (1) The Bank may do the following only in accordance with **subsection (2)**: 35
 - (a) acquire shares in a company that gives the Bank substantial influence in or over that company:

- (b) acquire an interest in any partnership, joint venture, or other association of persons, or an interest in a company other than in its shares:
 - (c) settle, or be or appoint a trustee of, a trust.
- (2) The Bank may do that thing—
 - (a) after written notice to the Minister; and 5
 - (b) for the purpose of the Bank carrying out any of its functions, and acting consistently with its objectives, under any Act.
- (3) **Substantial influence**, in relation to a company, means the capacity to affect substantially either the financial or operating policies, or both, of the company.
- (4) This section does not apply if the Bank acquires the subsidiary (in which case **section 107** applies). 10

Compare: 2004 No 115 s 100

111 Relationship with Companies Act 1993 and other Acts

- (1) Section 178 of the Companies Act 1993 (which relates to information for shareholders and, among other things, sets out some reasons for which a company can refuse to provide information) does not entitle a subsidiary of the Bank to refuse to provide information that must be provided under this Act or otherwise made available to any person under the Official Information Act 1982. 15
- (2) Section 161(1)(b) of the Companies Act 1993 (which relates to payment to a director or former director of compensation for loss of office) does not apply to a subsidiary of the Bank. 20
- (3) In all other respects, both the Companies Act 1993 and this Act apply to the subsidiary of the Bank in respect of a matter, but anything done under one Act counts towards compliance with the other Act. 25

Compare: 2004 No 115 s 102

Part 3

Central bank functions

Subpart 1—Bank to act as central bank

112 Bank to act as central bank 30

The Bank must act as the central bank for New Zealand.

Compare: 1989 No 157 s 7

113 Central bank functions

The central bank functions include—

- (a) formulating (through the MPC) and implementing a monetary policy directed to the economic objectives, while recognising the Crown's right to determine economic policy (*see* **subpart 2**); and
- (b) managing foreign reserves and otherwise dealing in foreign exchange for the purposes of the Bank's objectives (*see* **subpart 3**); and 5
- (c) doing the following to ensure that bank notes and coins in New Zealand meet the needs of the public (*see* **subparts 4 and 5**):
 - (i) issuing bank notes and coins:
 - (ii) monitoring the distribution of bank notes and coins (and, if the Bank thinks fit, distributing bank notes and coins): 10
 - (iii) managing the quality of bank notes and coins; ~~and;~~
 - (iv) monitoring the impact of technological innovation on the needs of the public for bank notes and coins; and
- (d) providing liquidity facilities to entities approved by the Bank (on the terms and conditions the Bank thinks fit) in order to do either or both of the following: 15
 - (i) manage liquidity in the financial system:
 - (ii) protect or promote the stability of the financial system; and
- (e) providing settlement accounts for persons approved by the Bank; and
- (f) operating or otherwise participating in payments and settlement systems; 20
and
- (g) liaising and co-operating with other central banks and relevant international institutions; and
- (h) carrying out any other central banking activities that are consistent with the Bank's objectives and the purposes of this Act. 25

Subpart 2—Monetary policy

Formulating monetary policy

114 Function to formulate monetary policy through MPC

- (1) The Bank, acting through the MPC, has the function of formulating a monetary policy directed to the economic objectives of— 30
 - (a) achieving and maintaining stability in the general level of prices over the medium term; and
 - (b) supporting maximum sustainable employment.
- (2) The function of **formulating** monetary policy includes deciding the approach by which the operational objectives set out in an MPC remit are intended to be achieved. 35

Compare: 1989 No 157 s 8(1), (3)

115 MPC must formulate monetary policy in manner consistent with economic objectives and MPC remit

The MPC must formulate monetary policy in a manner consistent with—

- (a) the economic objectives; and
- (b) the MPC remit.

5

Compare: 1989 No 157 Schedule 2 cl 31(1)

116 What MPC must have regard to in formulating monetary policy

- (1) The MPC must, in acting under **section 114**, have regard to—
 - (a) the importance of protecting and promoting the stability of New Zealand's financial system; and
 - (b) any matter provided for in an MPC remit under **section 119(2)(d)**.
- (2) **Subsection (1)** is subject to **section 121**.

10

Compare: 1989 No 157 s 8(2)

*Implementing monetary policy***117 Function to implement monetary policy**

15

The Bank has the function of implementing, in accordance with this Act, the monetary policy formulated by the MPC.

Compare: 1989 No 157 s 9

117A Bank not required to implement monetary policy that is inconsistent with financial responsibility duties

20

Despite **section 117**, the Bank is not required to implement a monetary policy formulated by the MPC to the extent that the board considers that implementing the policy would be inconsistent with either or both of the following:

- (a) the board's duty under **section 45**;
- (b) the Bank's duty to comply with a direction given under **section 205A**.

25

*Remit for MPC***118 Remit for MPC**

- ~~(1) The Minister must, after having regard to remit advice, issue an MPC remit.~~
- (2) The Minister must take all reasonable steps to ensure that an MPC remit is in force at all times (whether the remit is issued by the Minister under this section or is otherwise in force under this Act).
- (3) The Minister may issue an MPC remit at any time (whether or not any remit advice has been given).

30

Compare: 1989 No 157 s 10(1), (5)

119 Contents of MPC remit

- (1) The MPC remit must set out operational objectives for carrying out the function of formulating monetary policy.
- (2) The MPC remit may specify or provide for the operational objectives in any way that the Minister thinks fit, including by specifying or providing for 1 or more of the following matters:
 - (a) a target or targets for an economic objective:
 - (b) a framework for weighting the economic objectives:
 - (c) defining any matters in connection with an economic objective:
 - (d) a requirement for the MPC to have regard to 1 or more matters in connection with seeking to achieve an economic objective.
- (3) A matter under **subsection (2)** must not be inconsistent with an economic objective.

Compare: 1989 No 157 s 10(2)–(4)

120 Other matters relating to MPC remit

Part 1 of Schedule 3 provides for other matters relating to the MPC remit.

Compare: 1989 No 157 s 11

Order providing for different economic objective or objectives

121 Order providing for different economic objective or objectives

- (1) The Governor-General may, by Order in Council, on the advice of the Minister, direct the MPC to formulate, and the Bank to implement, monetary policy for 1 or more economic objectives for a period not exceeding 12 months that is specified in the order.
- (2) The economic objective or objectives may be—
 - (a) only 1 of the objectives specified in **section 9(1)(a)** (instead of both); or
 - (b) 1 or more new objectives in addition to or instead of either or both of the economic objectives specified in **section 9(1)(a)**.
- (3) While the Order in Council is in force,—
 - (a) the MPC must formulate, and the Bank must implement, monetary policy in accordance with the economic objective or objectives specified in the Order in Council; and
 - (b) the MPC and the Bank must disregard either or both of the economic objectives specified in **section 9(1)(a)** if so required by the Order in Council.

- (4) An Order in Council made under this section is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 157 s 12

~~122 Order must include replacement MPC remit~~

- (1) ~~The order under **section 121** must include an MPC remit that will remain in force while the order is in force (in place of the remit that is suspended under **section 123**).~~

5

- (2) ~~**Section 119** applies with all necessary modifications.~~

Compare: 1989 No 157 s 13

122 Minister must consider replacing or amending MPC remit

10

- (1) The Minister must, before giving advice under **section 121(1)**, consider whether the MPC remit should be amended, replaced, or remain in force without amendment.

- (2) The Minister must, before an order under **section 121** is revoked, consider whether the MPC remit should be amended, replaced, or remain in force without amendment.

15

~~123 Effect of order on current MPC remit~~

- (1) ~~The application of the current remit is suspended while the order under **section 121** remains in force.~~

- (2) ~~The following applies when the order is revoked:~~

20

(a) ~~if the term of the current remit has not expired, that remit again comes into force (but may be replaced under **clause 8 of Schedule 3**);~~

(b) ~~if the term of the current remit has expired, a new remit must be issued to come into effect immediately after the revocation of the order (whether under **section 118 or clause 8 of Schedule 3**).~~

25

- (3) ~~In this section, **current remit** means the MPC remit that is in force immediately before an order under **section 121** comes into force.~~

Compare: 1989 No 157 s 14

124 Period may be extended

- (1) The Governor-General may, by Order in Council, on the advice of the Minister, extend the period specified in an order under **section 121** for a period not exceeding 12 months, and may in the same manner extend that period on successive occasions.

30

- (2) An extension may only be made before the end of the period to be extended.

- (3) An Order in Council made under this section is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

35

Compare: 1989 No 157 s 15

125 Revocation of order at end of period

If an order under **section 121** is not earlier revoked, the order is revoked on the close of the last day of the period specified in the order or of any extension of that period under **section 124**.

Compare: 1989 No 157 s 15A

5

*Reports on monetary policy***126 Regular reports on monetary policy**

(1) The Bank must, at least 4 times a year (or more frequently if required by the charter),—

- (a) deliver reports on monetary policy to the Minister; and 10
- (b) publish a copy of each report on an Internet site maintained by, or on behalf of, the Bank.

(2) The Bank must ensure that the report has been approved by the MPC before it is delivered to the Minister.

(3) Every report under this section stands referred, by virtue of this section, to the House of Representatives. 15

Compare: 1989 No 157 s 15C(1), (2), (4)

127 Contents of reports on monetary policy

Every report under **section 126** must—

- (a) specify the approach by which the MPC intends to achieve the operational objectives; and 20
- (b) state the MPC's reasons for adopting that approach; and
- (c) contain all other information required by the charter (if any).

Compare: 1989 No 157 s 15C(3)

128 Longer-term report on formulation and implementation of monetary policy 25

(1) The Bank must review and assess the formulation and implementation of monetary policy at least every 5 years (or more frequently if required by the charter).

(2) The Bank must— 30

- (a) deliver a report on the review and assessment to the Minister as soon as practicable after the review and assessment is completed; and
- (b) publish a copy of the report on an Internet site maintained by, or on behalf of, the Bank.

(3) The Bank must ensure that the MPC has been consulted on a draft of the report under this section. 35

- (4) Every report under this section stands referred, by virtue of this section, to the House of Representatives.

Compare: 1989 No 157 s 15D(1)–(3), (5)

129 Longer-term report must contain information required by charter

The report under **section 128** must contain the information required by the charter (if any). 5

Compare: 1989 No 157 s 15D(4)

Subpart 3—Foreign exchange

Dealing in foreign exchange

130 Dealing in foreign exchange by Bank 10

- (1) For the purposes of furthering 1 or more of the Bank's objectives, the Bank may deal in foreign exchange, on the terms and conditions that it thinks fit,—

- (a) with any person, including the Crown; and
- (b) on behalf of any person, including the Crown.

- (2) This section is subject to **section 131**. 15

Compare: 1989 No 157 s 16

131 Power of Minister to direct Bank to deal in foreign exchange within guidelines

- (1) The Minister may, for the purpose of influencing the exchange rate or exchange rate trends, by notice in writing to the Bank, direct the Bank to deal in foreign exchange within guidelines set out by the Minister in the notice. 20

- (2) **Section 168** does not apply to the direction.

Compare: 1989 No 157 s 17

132 Minister may defer publication and presentation to House of Representatives 25

- (1) The Minister may defer complying with **section 171(2)** in relation to the whole or any part of a direction given under **section 131** if the Minister is satisfied that complying with that provision would, or is likely to, prejudice the Bank's ability to efficiently and effectively—

- (a) comply with the direction; or 30
- (b) otherwise perform or exercise its functions or powers.

- (2) The Minister must consider whether the Minister continues to be satisfied under **subsection (1)** at least once in every 12-month period after the direction is given.

- (3) The Minister must comply with **section 171(2)** when the Minister ceases to be satisfied under **subsection (1)**. 35

133 Effect of directions on operational objectives

- (1) This section applies if the Bank considers that giving effect to a direction under **section 131** (while not being inconsistent with the economic objectives) would be inconsistent with 1 or more operational objectives set out in an MPC remit. 5
- (2) The Bank may, by notice in writing,—
- (a) advise the Minister that the Bank will, in giving effect to the direction, be unable to give effect to those operational objectives; and
 - (b) request that the operational objectives be amended or replaced.
- (3) The Bank may only give a notice with the approval of the MPC. 10
- Compare: 1989 No 157 s 19(1)–(3)

134 Effect of Bank's notice on duty to give effect to operational objectives

- (1) If a notice is given under **section 133**, the MPC and the Bank are not required to give effect to the existing operational objectives.
- ~~(2) The Minister must, within 1 month after the notice is given under **section 133**,— 15~~
- ~~(a) make a recommendation under **clause 8 of Schedule 3** for the purpose of replacing an MPC remit to amend or replace the operational objectives; or~~
 - ~~(b) give advice under **section 121** for the purpose of amending or replacing the operational objectives in an MPC remit that is included in an order in force under that section. 20~~
- (2) The Minister must, within 1 month after the notice is given under **section 133**, amend or replace the MPC remit to amend or replace the operational objectives. 25
- (3) This section does not apply if the Minister withdraws the direction.
- Compare: 1989 No 157 s 19(4), (5)

135 Effect of directions on monetary policy

- (1) If the Bank considers that giving effect to a direction under **section 131** would be inconsistent with the economic objectives, the Bank may, by notice in writing, advise the Minister that the MPC and the Bank do not propose to give effect to the direction. 30
- (2) The Bank may only give a notice with the approval of the MPC.
- Compare: 1989 No 157 s 20(1), (2)

136 Effect of Bank's notice on duty to comply with Minister's direction 35

If a notice is given under **section 135**, the MPC and the Bank are not required to comply with the direction unless an Order in Council is made under **section 121** that requires the MPC to formulate, and the Bank to implement, monetary

policy in accordance with 1 or more economic objectives that are consistent with the direction.

Compare: 1989 No 157 s 20(3)

Foreign exchange gains and losses

137 Foreign exchange gains and losses 5

- (1) The Bank must pay into a Crown Bank Account any exchange gains (whether realised or unrealised) made by the Bank as a result of dealing in foreign exchange under **section 131**.
- (2) The Minister must, without further appropriation, pay to the Bank out of a Crown Bank Account the amount of any exchange losses (whether realised or unrealised) incurred by the Bank as a result of dealing in foreign exchange under **section 131**. 10

Compare: 1989 No 157 s 21

Foreign reserves management and co-ordination framework

138 Bank must hold and manage foreign reserves in accordance with framework 15

The Bank must—

- (a) hold and manage foreign reserves in accordance with a foreign reserves management and co-ordination framework (the **framework**); and
- (b) comply with all the other duties relating to foreign reserves that are specified in the framework (for example, duties relating to the publication of information); and 20
- (c) otherwise have regard to the framework when it is performing or exercising its functions or powers in relation to foreign reserves.

139 Purposes of framework 25

- (1) The purposes of the framework are to—
 - (a) facilitate the Bank's ability to—
 - (i) achieve its main objectives in **section 9(1)**; and
 - (ii) comply with directions given under **section 131**; and
 - (b) recognise both the Crown's and the Bank's interests and roles in relation to the management and use of foreign reserves and to provide a mechanism to identify and co-ordinate those interests and roles. 30
- (2) The Minister and the Bank must ensure that the framework is consistent with these purposes.

140 Minister and Bank must agree on framework 35

- (1) The Minister and the Bank must agree on the framework.

- (2) The framework must set out the following matters:
- (a) requirements and arrangements for the Bank's management and use of foreign reserves for either or both of the purposes referred to in **section 139** (and different requirements or arrangements may be specified for different parts of those reserves): 5
 - (b) requirements for those foreign reserves (or for different parts of those foreign reserves) to be maintained at a specified level or within specified levels.
- (3) The framework may include—
- (a) requirements for the publication of information on the management and use of the foreign reserves and the Bank's investment performance in relation to those reserves: 10
 - (b) any other matters that the Minister and the Bank think fit.
- (4) The Bank must ensure that the MPC has been consulted on a proposed framework before it is agreed to. 15

141 Form and publication of framework

- (1) The framework must be in writing, be dated, and be signed by the Minister and by 2 members on behalf of the board.
- (2) The Bank must publish a copy of the framework or a variation of the framework on an Internet site maintained by, or on behalf of, the Bank as soon as practicable after the framework or variation is signed. 20

142 Minister and Bank must ensure framework is in force

- (1) The Minister and the Bank must take all reasonable steps to ensure that a framework is in force at all times.
- (2) This section applies only after the first framework is agreed and signed (*see clause 12 of Schedule 1*). 25

143 Minister must have regard to framework when issuing direction under section 131

The Minister must have regard to the framework before issuing a direction under **section 131**. 30

144 Review of framework

- (1) The Bank and the Treasury—
 - (a) must review the operation of the framework within 5 years after the first framework comes into force and then at subsequent intervals of not more than 5 years; and 35
 - (b) must review the operation of the framework as soon as practicable after a direction is issued under **section 131**; and

- (c) may review the operation of the framework at any other time.
- (2) In carrying out the review, the Bank and the Treasury must—
- (a) consider whether any amendments to the framework are necessary or desirable; and
- (b) report on the findings to the Minister. 5
- (3) The Bank must publish the report on an Internet site maintained by, or on behalf of, the Bank as soon as practicable after giving it to the Minister.
- (4) If a direction is issued under **section 131**,—
- (a) the Minister and the Bank must take all reasonable steps to agree on any amendments to the framework that are necessary or desirable to ensure that the framework is consistent with the direction; but 10
- (b) the Minister may impose amendments on the framework if the Minister is satisfied that—
- (i) the amendments are necessary or desirable to ensure that the framework is consistent with the direction; and 15
- (ii) the Minister has been unable to reach agreement with the Bank on those amendments after having taken all reasonable steps to do so.
- (5) This section does not prevent the Minister and the Bank from agreeing to amend or replace the framework at any time.
- 145 Bank must defer publishing information relating to certain directions** 20
- (1) This section applies if, under **section 132**, the Minister has deferred complying with **section 171(2)** in relation to the whole or any part of a direction.
- (2) **Section 144(3)** does not apply to a report on the review of the operation of the framework that is carried out after the direction is issued.
- (3) If the framework is amended under **section 144(4)**, **section 141(2)** does not apply to the amendment. 25
- (4) However, this section ceases to apply when the Minister complies with **section 171(2)** in relation to the direction or the part of the direction.

Subpart 4—Currency

- 146 Issue of currency by Bank** 30
- (1) The Bank has the sole right to issue bank notes and coins in New Zealand.
- (2) The Bank must determine the denominations, form, design, content, weight, and composition of its bank notes and coins.
- Compare: 1989 No 157 s 25(1), (2)

147 Power of Bank to call in currency

- (1) The Bank may, by notice in the *Gazette*, call in any bank notes or coins issued or treated as having been issued under this Act.
- (2) The Bank may act under **subsection (1)** only with the prior consent of the Minister.

5

Compare: 1989 No 157 s 26(1)

148 Effect of call-in notice

- (1) When the notice under **section 147** takes effect, all bank notes or coins to which it applies cease to be legal tender.
- (2) However, the Bank continues to be liable to pay any such bank note or coin on presentation at the head office of the Bank.
- (3) The notice takes effect on the date specified in it.

10

Compare: 1989 No 157 s 26(2), (3)

149 Legal tender: bank notes

- (1) Every bank note issued, or treated as issued, under this Act is legal tender for the amount expressed in the note.
- (2) The reference to bank notes in this section does not include bank notes that have been called in.

15

Compare: 1989 No 157 s 27(1), (3)

150 Legal tender: coins

20

- (1) A tender of payment of money, to the extent that it is made in coins issued, or treated as issued, under this Act is legal tender,—
 - (a) in the case of coins of a denomination of \$10 or more, for the payment of any amount:
 - (b) in the case of coins of a denomination of \$1 or more but less than \$10, for the payment of any amount not exceeding \$100:
 - (c) in the case of coins of the denomination of 50 cents or more, but less than \$1, for the payment of any amount not exceeding \$10:
 - (d) in the case of any coins of the denomination of less than 50 cents, for the payment of any amount not exceeding \$5.
- (2) The reference to coins in this section does not include coins that have been called in.

25

30

Compare: 1989 No 157 s 27(2), (3)

151 Defacing bank notes

- (1) A person must not ~~willfully~~ intentionally deface, disfigure, or mutilate a bank note.
- (2) **Subsection (1)** does not apply if the Bank has given its prior consent.

35

- (3) A person who is a party to the defacement, disfigurement, or mutilation of a bank note must not intentionally—
- (a) use the bank note for the tender of any amount; or
 - (b) part with the bank note; or
 - (c) put in circulation the bank note; or
 - (d) demand payment of the bank note; or
 - (e) deposit or offer to deposit the bank note in a bank or licensed NBDT.
- (4) A person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding ~~\$1,000~~ \$2,000.
- Compare: 1989 No 157 s 28

152 Making or issuing of other bank notes or coins

- (1) A person must not intentionally make or issue any bank note or coin, other than a bank note or coin issued under this Act.
- (2) Every person who contravenes this section commits an offence and is liable on conviction,—
- (a) in the case of an individual, to imprisonment for a term not exceeding 3 years or to a fine not exceeding ~~\$100,000~~ \$200,000 (or both);
 - (b) in the case of a body corporate, to a fine not exceeding ~~\$300,000~~ \$600,000.
- Compare: 1989 No 157 s 29

153 Reproduction or imitation of currency

- (1) A person must not intentionally—
- (a) make, design, engrave, print, or reproduce any reproduction or imitation currency; or
 - (b) use, issue, or publish any reproduction or imitation currency.
- (2) **Subsection (1)** does not apply if the Bank has given its prior consent.
- (3) Every person who contravenes this section commits an offence and is liable on conviction,—
- (a) in the case of an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding ~~\$10,000~~ \$20,000 (or both);
 - (b) in the case of a body corporate, to a fine not exceeding ~~\$25,000~~ \$50,000.
- (4) In this section and **section 154**, **reproduction or imitation currency** means any article or thing resembling a bank note or coin or so nearly resembling or having such a likeness to a bank note or coin as to be likely to be confused with or mistaken for it.
- Compare: 1989 No 157 s 30(1), (2)

154 Court may order imitation currency and other things to be destroyed

If a person is convicted of an offence under **section 153**, the court may order any of the following in the possession of that person to be destroyed:

- (a) the reproduction or imitation currency:
- (b) any copy of the reproduction or imitation currency: 5
- (c) any plate, block, die, printer, copy of a computer program, copy of a digital file, and other article or thing used or capable of being used for printing or reproducing the reproduction or imitation currency.

Compare: 1989 No 157 s 30(3)

155 Time for filing charging document 10

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence under **section 151 or 153** ends on the date that is 3 years after the date on which the offence was committed.

Compare: 1989 No 157 s 177(a) 15

Subpart 5—Regulating bank note handling machines

156 Interpretation in this subpart

In this subpart,—

bank note handling machine means a machine that—

- (a) automatically does any 1 or more of accepting, counting, sorting, or dispensing bank notes issued by the Bank; and 20
- (b) determines, without human assistance, either or both of the following:
 - (i) whether a note handled by the machine is, in fact, a bank note issued by the Bank:
 - (ii) whether a bank note is at least of a minimum quality so as to be fit 25
to be used or to be circulated as currency

operator means an operator of a bank note handling machine

prepare for sale includes activities in connection with collating bank notes for sale

standards means standards issued under this subpart. 30

157 Bank may issue standards for bank note handling machines

- (1) The Bank may issue standards to provide reasonable assurance that a bank note handling machine dispenses a note, or prepares a note for sale to another person, only if that note is—
 - (a) a bank note issued by the Bank; and 35

- (b) at least of a minimum quality so as to be fit to be used or to be circulated as currency.
- (2) ~~A standard is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.~~ 5
- (2) A standard issued under this section is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).
- 158 Procedure for issuing standards and public notice of standards**
- (1) Before issuing a standard (the **proposed standard**), the Bank must consult the persons, or representatives of the persons, that the Bank considers will be substantially affected by the issue of the proposed standard. 10
- (2) **Subsection (1)** does not apply to a standard that amends another standard if the Bank is satisfied that the amendment—
- (a) is only correcting a minor error; or
- (b) is otherwise of a minor nature only. 15
- (3) ~~The Bank must give notice of the issue of a standard in the *Gazette*.~~
- (4) ~~The notice in the *Gazette*—~~
- (a) ~~must—~~
- (i) ~~state the name of the standard; and~~
- (ii) ~~briefly describe the nature of the standard; and~~ 20
- (iii) ~~state where copies of the standard are available for inspection and purchase; but~~
- (b) ~~need not contain the text of the standard.~~
- (5) ~~The Bank must make a standard available to the public by making copies of it available—~~ 25
- (a) ~~for inspection at all reasonable times, free of charge,—~~
- (i) ~~at the head office of the Bank; and~~
- (ii) ~~on an Internet site maintained by, or on behalf of, the Bank; and~~
- (b) ~~for purchase at all reasonable times and at a reasonable price.~~
- 159 Content of standards** 30
- (1) The standards may do 1 or more of the following:
- (a) specify physical characteristics that define or determine the quality and authenticity of a bank note that a bank note handling machine must be able to recognise:
- (b) set minimum standards of quality for a bank note that a bank note handling machine may dispense or prepare for sale: 35

- (c) set requirements to ensure that a bank note handling machine does not dispense or prepare for sale a note if the machine determines that the note—
 - (i) is not a bank note issued by the Bank; or
 - (ii) does not meet those minimum standards of quality: 5
- (d) set requirements for how a bank note handling machine deals with a note referred to in **paragraph (c)** (which may require, for example, the machine to withhold the note):
- (e) set a minimum number of sensors for a bank note handling machine:
- (f) provide that, if specified software or software versions are used, particular standards or parts of standards will be treated as satisfied: 10
- (g) provide that, if specified hardware or hardware versions are used, particular standards or parts of standards will be treated as satisfied:
- (h) specify requirements for—
 - (i) the regular testing of a bank note handling machine to ensure it maintains compliance with the standards; and 15
 - (ii) testing under **section 161**; and
 - (iii) record-keeping relating to that testing:
- (i) specify any other requirements that a bank note handling machine must comply with in order to provide the reasonable assurance referred to in **section 157**. 20
- (2) Standards under **subsection (1)(f) and (g)** must not require specified software or software versions, or specified hardware or hardware versions, to be used.
- (3) Different matters may be specified, set, or required in respect of different types of bank note handling machines or other circumstances. 25

160 Standards do not prevent return to Bank of unfit bank notes

Nothing in the standards prevents any activity that facilitates the return to the Bank of bank notes that are not of a minimum quality so as to be fit to be used or to be circulated as currency. 30

161 Bank may require operator to test bank note handling machines and to report

The Bank may, by written notice, require an operator to—

- (a) ensure that all or any of the bank note handling machines that it operates are tested in accordance with the standards for the purpose of verifying that those machines meet the standards; and 35
- (b) give a report to the Bank on the testing within the time and in the manner specified by the Bank.

162 Bank may require operator to cease operating machine until operator verifies compliance

- (1) This section applies if the Bank considers that a bank note handling machine does not, or may not, meet any standards.
- (2) The Bank may, by written notice, require the operator of the machine to cease to operate the machine until the operator can verify, to the Bank's satisfaction, that the machine meets the standards. 5

163 Infringement offence to fail to comply with notice

- (1) An operator commits an infringement offence if it fails to comply with a notice under **section 161 or 162**, or any requirements of the Bank under either of those sections. 10
- (2) An operator that commits the infringement offence is liable to—
 - (a) an infringement fee of—
 - (i) \$1,000 in the case of an individual; or
 - (ii) \$3,000 in any other case; or 15
 - (b) a fine imposed by a court not exceeding—
 - (i) \$3,000 in the case of an individual; or
 - (ii) \$9,000 in any other case.

164 Offence of intentionally or recklessly failing to comply with notice to cease operating machine 20

- (1) An operator commits an offence if—
 - (a) the operator has intentionally or recklessly failed to comply with a notice under **section 162** or any requirements of the Bank under that section; and
 - (b) the notice referred to in **paragraph (a)** was given within 6 months after a previous notice was given to the operator under that section. 25
- (2) An operator that commits the offence is liable on conviction to a fine not exceeding—
 - (a) \$50,000 in the case of an individual; or
 - (b) \$200,000 in any other case. 30

165 District Court may make orders about bank note handling machines

- (1) The District Court may, on the application of the Bank, order that 1 or more bank note handling machines be—
 - (a) forfeited to the Crown; or
 - (b) deactivated or destroyed; or 35
 - (c) otherwise dealt with as the court thinks fit.

- (2) The District Court may make an order in relation to a bank note handling machine only if the court is satisfied that—
- (a) the operator of the machine has failed to comply with a notice in relation to the machine under **section 162** or any requirements of the Bank under that section; and 5
 - (b) the notice referred to in **paragraph (a)** was given within 6 months after a previous notice was given to the operator under that section.
- (3) The District Court must specify in an order under **subsection (1)(a)** the machines to which the order applies and that the machines— 10
- (a) vest in the Crown absolutely; and
 - (b) are in the custody and control of the Official Assignee.
- (4) The Official Assignee may sell, use, destroy, or otherwise dispose of any bank note handling machines in their custody and control in any manner that they think fit.

Subpart 6—Financial stability reports 15

166 Purposes of financial stability report

- (1) The purposes of a financial stability report are to—
- (a) provide publicly accessible information about the following matters to promote public awareness and understanding of those matters: 20
 - (i) the stability of New Zealand’s financial system:
 - (ii) other matters associated with the Bank’s prudential objective; and
 - (b) identify and report on risks to the stability of New Zealand’s financial system; and
 - (c) allow assessments to be made of the effectiveness of the Bank’s use of its powers to— 25
 - (i) protect and promote the stability of New Zealand’s financial system; and
 - (ii) achieve the prudential objective.
- (2) In this subpart, **prudential objective** means the Bank’s objective under **section 9(3)** to act in a way that furthers the objectives or purposes of the prudential legislation. 30

Compare: 1989 No 157 s 162AA(c)

167 Financial stability reports

- (1) The Bank must, not less than twice in every calendar year,—
- (a) deliver a financial stability report to the Minister; and 35
 - (b) publish the report on an Internet site maintained by, or on behalf of, the Bank.

- (2) A financial stability report must—
- (a) report on matters relating to—
 - (i) the stability of New Zealand’s financial system; and
 - (ii) other matters associated with the Bank’s prudential objective; and
 - (b) contain the information that is necessary or desirable to allow an assessment to be made of the effectiveness of the Bank’s use of its powers to—
 - (i) protect and promote the stability of New Zealand’s financial system; and
 - (ii) achieve the prudential objective.
- (3) The Minister must present the report to the House of Representatives as soon as practicable after receiving it.
- Compare: 1989 No 157 s 165A

Part 4

Operation of Reserve Bank

Independence of Bank 15

168 Safeguarding independence of Bank

- (1) This Act does not authorise a Minister to direct the Bank, or a member, an employee, or an office holder of the Bank, to require the performance or non-performance of a particular act, or the bringing about of a particular result, in respect of a particular person or persons. 20
- (2) This section applies to all ministerial directions given under this Act, including directions under **section 169** but not including directions under **section 131**.
- (3) Nothing in this section limits—
 - (a) section 77 of the Banking (Prudential Supervision) Act 1989; or
 - (b) any other direction given under any other Act. 25
- ~~(4) This section does not apply to a direction under **section 293**.~~

Compare: 2004 No 115 s 113

Whole of government directions

169 Directions to support whole of government approach

- (1) The Minister of State Services and the Minister of Finance may jointly give the Bank a direction under section 107 of the Crown Entities Act 2004. 30
- (2) For that purpose, sections 107 to 111 of the Crown Entities Act 2004 apply to the Bank with all necessary modifications as if it were an independent Crown entity.

- (3) A direction given to the Bank under this section must be treated as being a direction given under this Act (rather than the Crown Entities Act 2004).

Government directions to Bank

170 Bank must comply with directions given under statutory power of direction 5

- (1) The Bank must, in performing its functions, comply with any direction given to it under a power of direction in this Act or another Act.
- (2) **Comply**, in this section, means to give effect to the direction or to have regard to the direction, as the context requires.
- (3) **Subsection (1)** applies— 10
- (a) subject to **sections 135 and 136** (which provide for when the Bank is not required to comply with a direction relating to dealing in foreign exchange); and
 - (b) except as provided in **section 168**; and
 - (c) to a direction given by a Minister, only if it is in writing and signed by a Minister entitled to give the direction. 15

Compare: 2004 No 115 s 114

171 Procedure for ministerial directions

- (1) A Minister who proposes to give a direction to the Bank under this Act or another Act must consult with the Bank before giving the direction to the Bank. 20
- (2) As soon as practicable after giving the direction, the Minister must—
- (a) publish it in the *Gazette*; and
 - (b) present a copy of it to the House of Representatives.
- (3) The direction may be amended or replaced in the same way as it may be given.
- (4) A Minister who is entitled to give a direction to the Bank is also entitled to revoke it by notice in writing to the Bank, and, as soon as practicable after doing so, the Minister must publish that notice in the *Gazette*. 25

Compare: 2004 No 115 s 115(1)–(3A)

172 When procedural requirements for directions do not apply

- (1) **Section 171** does not apply to directions under ~~section 169 or 293~~ **section 169**. 30
- (2) **Section 171** does not apply to directions under section 77 of the Banking (Prudential Supervision) Act 1989.
- (3) **Section 171** does not apply, in the case of any other directions given under another Act, if the other Act contains a procedure for giving directions. 35
- (4) **Section 171** is subject to **section 132**.

Compare: 2004 No 115 s 115(4), (5)

173 Review and expiry of all directions given to Bank

- (1) A ministerial direction given to the Bank under this Act or another Act may specify its expiry date.
- (2) A direction that does not specify its expiry date must be reviewed by the Minister or Ministers within 5 years after the direction was given. 5
- (3) A Minister or Ministers reviewing a direction must, to the extent that they consider it necessary in the circumstances,—
 - (a) consult the Bank; and
 - (b) consult any persons that they consider are representative of the interests of persons likely to be substantially affected by the direction. 10
- (4) As soon as practicable after completing the review, the Minister or Ministers must notify the outcome of the review to—
 - (a) the Bank; and
 - (b) persons that were consulted under **subsection (3)(b)**.
- (5) This section— 15
 - ~~(a) does not apply to a direction under **section 293**; and~~
 - (b) does not apply to directions under section 77 of the Banking (Prudential Supervision) Act 1989; and
 - (c) does not apply, in the case of any other directions given under another Act, if the other Act contains a procedure for reviewing directions. 20

Compare: 2004 No 115 s 115A

*Employees***174 Bank must be good employer**

The Bank must—

- (a) operate a personnel policy that complies with the principle of being a good employer; and 25
- (b) make that policy (including the equal employment opportunities programme) available to its employees; and
- (c) ensure its compliance with that policy (including its equal employment opportunities programme) and report in its annual report on the extent of its compliance. 30

Compare: 2004 No 115 s 118(1)

175 Meaning of good employer

- (1) For the purposes of **section 174**, a **good employer** is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring— 35

- (a) good and safe working conditions; and
 - (b) an equal employment opportunities programme; and
 - (c) the impartial selection of suitably qualified persons for appointment; and
 - (d) recognition of—
 - (i) the aims and aspirations of Māori; and 5
 - (ii) the employment requirements of Māori; and
 - (iii) the need for involvement of Māori as employees of the Bank; and
 - (e) opportunities for the enhancement of the abilities of individual employees; and
 - (f) recognition of the aims and aspirations and employment requirements, 10
and the cultural differences, of ethnic or minority groups; and
 - (g) recognition of the employment requirements of women; and
 - (h) recognition of the employment requirements of persons with disabilities.
- (2) For the purposes of this section, an **equal employment opportunities programme** is a programme that is aimed at the identification and elimination of 15
all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality in respect of the employment of any persons or group of persons.
- Compare: 2004 No 115 s 118(2), (3)
- 176 ~~Application of sections 84 and 84A of State Sector Act 1988~~ clauses 12 and 13 of Schedule 8 of Public Service Act 2020** 20
- (1) The Bank is an employer in the State services for the purposes of ~~sections 84 and 84A of the State Sector Act 1988~~ clauses 12 and 13 of Schedule 8 of the Public Service Act 2020.
 - (2) ~~Sections 84 and 84A of the State Sector Act 1988~~ Clauses 12 and 13 of Schedule 8 of the Public Service Act 2020 apply to the Governor and employees of 25
the Bank.
- Compare: 2004 No 115 s 119

Protections from liability

- 177 Definitions for protections from liability** 30
- (1) In **sections 178 to 185**,—
 - effect insurance** includes pay, whether directly or indirectly, the costs of the insurance
 - excluded act or omission** means an act or omission by a person referred to in **section 179(1)** that is done or omitted to be done in good faith and in the performance or exercise, or intended performance or exercise, of— 35
 - (a) the Bank's functions or powers under—

- (i) this Act; or
- (ii) the prudential legislation; or
- (iii) any other legislation that confers or imposes functions or powers on the Bank; and
- (b) the functions or powers that are conferred or imposed separately on the person by—
 - (i) this Act; or
 - (ii) the prudential legislation; or
 - (iii) any other legislation that confers or imposes functions or powers on the Bank

indemnify includes relieve or excuse from liability, whether before or after the liability arises, and **indemnity** has a corresponding meaning.

- (2) In **sections 178 to 185**, a reference to—
- (a) a person of a particular kind (for example, an employee) includes a person who was a person of that kind but who is no longer a person of that kind (for example, a former employee):
 - (b) a person referred to in particular provisions includes a person who was a person of the kind referred to in those provisions but who is no longer a person of that kind.

Compare: 2004 No 115 s 126

178 Protection from liability for Bank

- (1) The Bank is not liable for any act or omission that is done or omitted to be done in good faith and in the performance or exercise, or intended performance or exercise, of the Bank's functions or powers under—
- (a) this Act; or
 - (b) the prudential legislation; or
 - (c) any other legislation that confers or imposes functions or powers on the Bank.
- (2) Nothing in this section applies in respect of proceedings for—
- (a) an offence under section 78, 78AA(1), 78A(1), 105, 105A, 105B, or 105F of the Crimes Act 1961; or
 - (b) the offence of conspiring to commit an offence under any of those sections of the Crimes Act 1961; or
 - (c) the offence of attempting to commit an offence under any of those sections of the Crimes Act 1961.
- (3) This section does not limit any liability that the Bank has in relation to any contract or other enforceable obligation entered into by the Bank (*see section 188*).

179 Protection for certain persons

- (1) This section applies to the following persons:
- (a) a member of the board; and
 - (b) a member of the MPC; and
 - (c) the Governor; and 5
 - (d) a member of a committee; and
 - (e) an employee of the Bank; and
 - (f) an investigator appointed under any provision of the prudential legislation; and
 - (g) a statutory manager appointed under any provision of the prudential legislation. 10
- (2) A person to whom this section applies is not liable for any excluded act or omission.
- (3) Nothing in **subsection (2)** applies in respect of proceedings for—
- (a) an offence under section 78, 78AA(1), 78A(1), 105, 105A, 105B, or 105F of the Crimes Act 1961 or an offence under **section 267 or 286** of this Act; or 15
 - (b) the offence of conspiring to commit an offence referred to in **paragraph (a)**; or
 - (c) the offence of attempting to commit an offence referred to in **paragraph (a)**. 20
- (4) This section does not apply to the liability of a member of the board to the Bank (*see* **section 181**).
- (5) This section is subject to sections 165 to 168 of the Search and Surveillance Act 2012 (which provide for immunities in relation to orders and warrants, and entry, search, and surveillance powers). 25

180 Protections from liabilities of Bank

A person referred to in **section 179(1)(a) to (e)** is not liable for any liability of the Bank by reason only of being a person of the kind referred to in that section. 30

Compare: 2004 No 115 s 120

181 Liability of member of board to Bank

A member of the board is not liable, in respect of an excluded act or omission, to the Bank, unless it is also a breach of an individual duty under any of **sections 48 to 52**. 35

Compare: 2004 No 115 s 121(1)(a)

182 Protections do not affect other actions

Nothing in **section 179 or 181** affects—

- (a) the making of an order under **section 57**;
- (b) the right of any person to apply, in accordance with the law, for judicial review.

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Compare: 2004 No 115 s 121(3)

183 Indemnities in relation to act or omission

The Bank may only indemnify a person referred to in **section 179(1)(a) to (f)** in respect of an act or omission for which the person is protected from liability under this subpart (including costs incurred in defending or settling any claim or proceeding relating to the act or omission).

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Compare: 2004 No 115 s 122

184 Insurance for liability

~~The Bank may only effect insurance cover for a person referred to in **section 179(1)(a) to (f)** in respect of an act or omission for which the person is protected from liability under this subpart (including costs incurred in defending or settling any claim or proceeding relating to the act or omission).~~

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- (1) The Bank may effect insurance cover for a person referred to in **section 179(1)(a) to (f)** in relation to the person's acts or omissions, except an act or omission that is—

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- (a) in bad faith; or
- (b) not in the performance or exercise, or intended performance or exercise, of the relevant functions or powers.

- (2) The **relevant functions or powers** are—

- (a) the Bank's functions or powers under—
 - (i) this Act; or
 - (ii) the prudential legislation; or
 - (iii) any other legislation that confers or imposes functions or powers on the Bank; or

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- (b) the functions or powers that are conferred or imposed separately on the person by—

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- (i) this Act; or
- (ii) the prudential legislation; or
- (iii) any other legislation that confers or imposes functions or powers on the Bank.

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Compare: 2004 No 115 s 123

185 Breach of indemnity and insurance limits

- (1) A person referred to in **section 179(1)(a) to (f)** who is indemnified or insured by the Bank in breach of this Act must repay to the Bank the cost of providing or effecting that indemnity or insurance cover, to the extent that the indemnity or insurance cover exceeds that which could have been provided or effected under this Act. 5
- (2) The Bank may recover the amount as a debt due in a court of competent jurisdiction.

Compare: 2004 No 115 s 125

186 Crown indemnities in relation to statutory management 10

The Crown indemnifies—

- (a) each statutory manager appointed under any prudential legislation for any liability that arises from any act or omission that is done or omitted to be done in good faith and in the performance or exercise, or intended performance or exercise, of the statutory manager's functions or powers; and 15
- (b) the Bank for any liability that arises from any act or omission that is done or omitted to be done in good faith and in the performance or exercise, or intended performance or exercise, of the Bank's functions or powers in connection with statutory management under any prudential legislation or any other legislation. 20

Compare: 1989 No 157 s 179A(1) and (2)(a)

187 Other provisions relating to Crown indemnities

- (1) Any money paid by the Crown under an indemnity under **section 186** and any expenses incurred by the Crown in relation to that indemnity may be incurred without further appropriation, and must be paid without further authority, than this section. 25
- (2) The indemnities conferred by **section 186** extend to legal costs incurred in defending a proceeding.
- (3) Within 12 sitting days of the making of any payment under this section, the Minister must present to the House of Representatives a report that contains details of the circumstances giving rise to the liability of the Crown, the amount of the payment, the person to whom the payment was made, and any other relevant matters. 30

Compare: 1989 No 157 s 179A(3) to (5) 35

*Dealings with third parties***188 Method of contracting**

- (1) A contract or other enforceable obligation may be entered into by the Bank as provided in this section.

- (2) An obligation that, if entered into by an individual, is required to be by deed may be entered into on behalf of the Bank in writing, signed under the name of the Bank,—
- (a) by 2 or more of its members; or
 - (b) by 1 or more attorneys appointed by the Bank under **section 189(1)**. 5
- (3) An obligation that, if entered into by an individual, is required to be in writing may be entered into on behalf of the Bank in writing by a person acting under the Bank's express or implied authority.
- (4) An obligation that, if entered into by an individual, is not required to be in writing may be entered into on behalf of the Bank in writing or orally by a person acting under the Bank's express or implied authority. 10
- (5) This section applies to a contract or other obligation—
- (a) whether or not that obligation was entered into in New Zealand; and
 - (b) whether or not the law governing that obligation is the law of New Zealand. 15

Compare: 2004 No 115 s 127

189 Attorneys

- (1) The Bank may, by an instrument in writing executed in accordance with **section 188(2)(a)**, appoint a person as its attorney either generally or in relation to a specified matter. 20
- (2) An act of the attorney in accordance with the instrument binds the Bank.

Compare: 2004 No 115 s 129

190 Address for service

The address for service in New Zealand of the Bank is the address of the head office of the Bank. 25

Compare: 2004 No 115 s 130

Review of Bank's operations and performance

191 Review of Bank's operations and performance

- (1) The Minister may review the operations and performance of the Bank at any time. 30
- (2) This section does not limit powers of review in the Public Service Act 2020 or the Public Audit Act 2001 or under any other Act.
- (3) Before a Minister undertakes a review under this section, the Minister must—
- (a) consult with the Bank on the purpose and nature of the review; and
 - (b) consider any submissions made by the Bank on the proposed review. 35

Compare: 2004 No 115 s 132(1)–(3)

192 Bank must co-operate with review

The Bank must take all reasonable steps to co-operate with the review.

Compare: 2004 No 115 s 132(4)

*Power to request information from Bank***193 Power to request information about operations and performance** 5

The board of the Bank must supply to the Minister any information relating to the operations and performance of the Bank or any of its subsidiaries that the Minister requests.

Compare: 2004 No 115 s 133(1)

194 Power to request information about reporting and financial obligations 10

The board of the Bank must supply to the Minister of Finance any information requested by the Minister in connection with the exercise of the Minister of Finance's powers under **Part 5**.

Compare: 2004 No 115 s 133(2)

195 Power to request information about assessing capability and performance of State services 15

- (1) The Minister of State Services may request the Bank to supply information under section 133(2A) to (2C) of the Crown Entities Act 2004.
- (2) For that purpose, section 133(2A) to (2C) of the Crown Entities Act 2004 applies to the Bank with all necessary modifications as if it were an independent Crown entity. 20

Compare: 2004 No 115 s 133(2A)–(2C)

196 Good reasons for refusing to supply requested information

- (1) A request for information under any of **sections 193, 194, and 195** may be refused if— 25
 - (a) the withholding of the information is necessary to protect the privacy of a person (whether or not a natural person or a deceased person); or
 - (b) the supply of the information would materially limit the ability of the Bank to perform its functions in relation to a particular matter.
- (2) The reason in **subsection (1)(a) or (b)** applies only if it is not outweighed by the relevant Minister's need to have the information in order to discharge the relevant Minister's ministerial duties. 30
- (3) The information cannot be withheld other than for the reasons in **subsection (1)**, and cannot be withheld at all if it could not properly be withheld under the Official Information Act 1982. 35

- (4) In particular, the information cannot be withheld under **section 266** (or any other provision in the prudential legislation that restricts the publication or disclosure of any information or data).
- (5) If the Bank withholds information for a reason in **subsection (1)**, the Bank must give to the relevant Minister a written statement that explains why the information is being withheld. 5

Compare: 2004 No 115 s 134

Miscellaneous

197 Members, Governor, office holders, and employees are officials

- (1) This section applies to members of the board, members of the MPC, the Governor, and office holders and employees of the Bank or of a wholly-owned subsidiary of the Bank. 10
- (2) In this section, individuals working for the Bank as contractors or secondees in relation to a function, duty, or power of the Bank are to be treated as if they are employees. 15
- (3) This section also applies to a person who was formerly a person described in **subsection (1) or (2)** in respect of any acts or omissions or decisions made—
 - (a) while that person was a person described in **subsection (1) or (2)**; and
 - (b) after the commencement of this subsection.
- (4) A person to whom this section applies is an official for the purposes of sections 105 and 105A of the Crimes Act 1961. 20
- (5) This section does not limit the meaning of official in section 99 of the Crimes Act 1961.

Compare: 2004 No 115 s 135

198 Evidence 25

- (1) In any proceeding under this Act or any other legislation, a copy of a decision of the Bank certified by the chairperson of the board (the **chairperson**) to be correct is, in the absence of proof to the contrary, sufficient evidence of the decision.
- (2) A certificate signed by the chairperson to the following effect is, in the absence of proof to the contrary, sufficient evidence of the matters stated in it in any proceeding under this Act or any other legislation: 30
 - (a) any approval or consent required under this Act or any other legislation has or has not been given by the Bank, or is or is not for the time being in force; or 35
 - (b) any document has been signed by, or on behalf of, the Bank, the board, or the chairperson.

- (3) A certificate purporting to have been signed by the chairperson must, in the absence of proof to the contrary, be treated for all purposes to have been duly signed by the chairperson.

Compare: 1989 No 157 s 178

199 Policy advice 5

- (1) On request by the Minister, the Bank must provide advice to the Minister on any matter that is connected with the functions of the Bank.
- (2) The Bank may also provide advice to the Minister, at any time, on any matters or subjects within the responsibility of the Bank.

Compare: 1989 No 157 s 33

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Part 5

Financial and accountability matters

Subpart 1—Financial policy remit

200 Financial policy remit

- (1) The Minister must, after consulting the Bank, issue a financial policy remit. 15
- (2) *See **section 47***, which requires the board to have regard to the financial policy remit when it is acting in relation to the Bank's prudential strategic intentions and prudential standards.
- (3) The Minister must take all reasonable steps to ensure that a financial policy remit is in force at all times. 20

201 Contents of financial policy remit

- (1) The financial policy remit may specify or provide for matters that the Minister considers are desirable for the Bank to have regard to in relation to 1 or more of the following:
- (a) achieving the financial stability objective: 25
 - (b) acting in a way that furthers the objectives or purposes of the prudential legislation:
 - (c) performing the Bank's function under **section 10(1)(b)** (which relates to acting as a prudential regulator and supervisor under the prudential legislation). 30
- (2) A matter under **subsection (1)** must not be inconsistent with any of the following:
- (a) the financial stability objective:
 - (b) the objectives or purposes of the prudential legislation:
 - (c) any other provision of this Act or the prudential legislation. 35

202 Form, publication, and presentation of financial policy remit

- (1) The financial policy remit must be in writing and signed by the Minister.
- (2) The Bank must publish the financial policy remit on an Internet site maintained by, or on behalf of, the Bank.
- (3) The Minister must, as soon as practicable after a financial policy remit is issued,—
 - (a) notify the issue of the remit in the *Gazette*; and
 - (b) present a copy of the remit to the House of Representatives.

203 Review of financial policy remit

- (1) The Treasury must, within 5 years after the commencement of this section and then at subsequent intervals of not more than 5 years,—
 - (a) review the operation of the financial policy remit; and
 - (b) consider whether any amendments to the financial policy remit are necessary or desirable; and
 - (c) report on its findings to the Minister.
- (2) As soon as practicable after receiving a report, the Minister must present a copy of the report to the House of Representatives.
- (3) This section does not prevent the Minister from amending or replacing the financial policy remit at any time.

204 Safeguarding independence of Bank

This subpart does not authorise the Minister to require the performance or non-performance of a particular act by the Bank, the Governor, or any employee or office holder of the Bank, or the bringing about of a particular result, in respect of a particular person.

Compare: 1989 No 157 s 68B(5)

205 ~~Status of financial policy remit~~

~~A financial policy remit is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012 and does not have to be presented to the House of Representatives under section 41 of that Act.~~

Subpart 1A—Direction relating to Bank’s minimum level of capital and financial risk management

205A Power of Minister to direct Bank relating to minimum level of capital and financial risk management

- (1) The Minister may direct the Bank to do either or both of the following:
 - (a) take all reasonable steps to maintain a minimum level of capital specified by the Minister:

- (b) have regard to the expectations referred to in **subsection (2)(c)**.
- (2) The direction may do 1 or more of the following:
 - (a) define capital:
 - (b) specify other matters relating to the calculation of the minimum capital required: 5
 - (c) set out the Minister's expectations as to the Bank's financial risk management.

Subpart 2—Funding agreements and annual dividend

Funding agreements

- 206 Funding agreements** 10
- (1) The Minister and the Bank may enter into a funding agreement that specifies the amounts that may be paid or applied in meeting the expenditure incurred by the Bank in each financial year in performing or exercising its functions or powers under this Act or any other legislation.
 - (2) The Minister and the Bank must take all reasonable steps to ensure that there is a funding agreement applying for every financial year and each funding agreement must apply to a period that comprises 5 consecutive financial years. 15
 - (3) A funding agreement comes into effect when signed under **section 207**.
 - (4) The Minister and the Bank may by agreement—
 - (a) vary the provisions of a funding agreement; or 20
 - (b) terminate a funding agreement and enter into a new funding agreement.
 - (5) In this section and **section 207**, **expenditure**, in relation to a financial year,—
 - (a) includes all expenditure (whether operating or capital) that is incurred by the Bank and that will be reported in its financial statements for that year; but 25
 - (b) does not include—
 - (i) interest expenditure incurred by the Bank (for example, interest paid by the Bank in relation to settlement accounts and borrowings); or
 - (ii) foreign exchange losses; or 30
 - (iii) losses (or provision for losses) on financial instruments or revaluation of financial instruments; or
 - (iv) any payments made to the Crown under **section 137**; or
 - (v) the cost of inventories; or
 - (vi) the cost of purchasing or acquiring financial assets; or 35

- (vii) the cost of purchasing or acquiring any ownership interest in an entity; or
- (viii) any expenditure agreed by the Minister and the Bank to be exempt expenditure.

Compare: 1989 No 157 s 159

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207 Contents of funding agreements

(1) A funding agreement must—

- (a) be in writing, be dated, and be signed by the Minister and by 2 members on behalf of the board; and
- (b) provide for the Bank's expenditure for each of the 5 consecutive financial years to which it applies; and 10
- (c) provide for the Bank's total expenditure over that period of 5 consecutive financial years; and
- (d) separately provide for capital expenditure and operating expenditure; and 15
- (e) provide for the items that may, in accordance with generally accepted accounting practice, properly be taken into account in determining the operating and capital expenditure applicable to the Bank's functions or powers; and
- (f) be accompanied by a budget for the Bank's expenditure over the 5 consecutive financial years to which the agreement applies, which must contain sufficient detail to determine the main expenditure classes the Bank proposes to undertake. 20

(2) A funding agreement may provide for—

- (a) funding for items of expenditure that may be required to extend beyond the 5 consecutive financial years to which the agreement applies: 25
- (b) the extent, if any, to which any material change in the Bank's operating environment will require the level or levels of expenditure to be redetermined between the Bank and the Minister:
- (c) any other matters that the Bank and the Minister think fit (not being matters that are inconsistent with this section). 30

(3) The budget under **subsection (1)(f)** is not part of the funding agreement.

Compare: 1989 No 157 s 160

208 Funding agreements to be published and presented to House of Representatives

35

- (1) The Bank must publish a copy of a funding agreement or a variation of a funding agreement on an Internet site maintained by, or on behalf of, the Bank as soon as practicable after the agreement or variation is entered into.

- (2) The Minister must present a copy of a funding agreement or a variation of a funding agreement to the House of Representatives within 12 sitting days after the agreement or variation is entered into.
- (3) The funding agreement or variation of a funding agreement must be accompanied by the latest budget under **section 207(1)(f)** when the agreement or variation is published or presented under this section. 5

Compare: 1989 No 157 s 161

209 Expenditure where there is no current funding agreement

If, despite **section 206(2)**, there is no funding agreement in place for a financial year (**year A**), the board must take all reasonable steps to ensure that the Bank's expenditure complies with the requirements in the most recent funding agreement for the last financial year to which that agreement applies (and those requirements apply to year A with all necessary modifications). 10

Annual dividend

210 Determination of annual dividend 15

- (1) The Bank must, as soon as practicable after the end of each financial year, recommend to the Minister the amount appropriately payable by the Bank to the Crown as an annual dividend for the financial year.
- (2) The Bank must determine the amount it recommends to the Minister in accordance with the principles set out in the statement of financial risk management. 20
- (3) The Minister must determine the amount that the Bank must pay to the Crown as an annual dividend for the financial year having regard to—
 - (a) the recommendation of the Bank; and
 - (b) the principles set out in the statement of financial risk management; and
 - (c) any other relevant matters. 25

Compare: 1989 No 157 s 162(1)–(3)

211 Bank must publish matters relating to annual dividend

The Bank must publish in its annual report—

- (a) the amount it recommends to the Minister under **section 210**; and
- (b) the determination made by the Minister under that section. 30

Compare: 1989 No 157 s 162(4)

Subpart 3—Reporting obligations

212 Interpretation for subpart

- (1) In this subpart, unless the context otherwise requires,—

Bank group means a group comprising— 35

 - (a) the Bank; and

- (b) its subsidiaries; and
- (c) any entity that is its subsidiary for the purpose of any financial reporting standard that applies to the Bank under generally accepted accounting practice

class of outputs or **class** has the same meaning as in section 2(1) of the Public Finance Act 1989 5

generally accepted accounting practice has the same meaning as in section 8 of the Financial Reporting Act 2013

next Budget day means the day on which the Minister of Finance will next deliver a Budget under the Public Finance Act 1989 10

outputs does not include outputs that are produced for purchase or consumption solely within the Bank group

pre-Budget period means—

- (a) the period of 3 months ending when the Minister of Finance next delivers a Budget under the Public Finance Act 1989; or 15
- (b) if the Minister of Finance gives less than 3 months' notice of the next Budget day, the period commencing on the day on which the Minister of Finance gives that notice and ending when the Minister of Finance delivers the Budget

reportable class of outputs, in respect of a financial year, means a class of outputs— 20

- (a) that the Bank proposes to supply in the financial year; and
- (b) that is not exempted for that financial year under **section 228**

working day has the same meaning as in section 2(1) of the Public Finance Act 1989. 25

- (2) Any term or expression that is defined in the Public Finance Act 1989 and used, but not defined, in this subpart has the same meaning as in the Public Finance Act 1989.

Compare: 2004 No 115 s 136

Planning: statement of intent 30

213 Purpose of statement of intent

The purpose of a statement of intent is to promote the public accountability of the Bank by—

- (a) enabling the Crown to participate in the process of setting the Bank's strategic intentions and medium-term undertakings: 35
- (b) setting out for the House of Representatives those intentions and undertakings:

- (c) providing a base against which the Bank's actual performance can later be assessed.

Compare: 2004 No 115 s 138

214 Obligation to prepare statement of intent

- (1) The Bank must provide to the Minister a statement of intent for the Bank that complies with this section and **section 217**. 5
- (2) A statement of intent must relate to the forthcoming financial year and at least the following 3 financial years.
- (3) The Bank must provide a statement of intent at least once in every 3-year period. 10

Compare: 2004 No 115 s 139

215 Minister may require Bank to prepare new statement of intent at any time

- (1) The Minister may, if the Minister considers it necessary or desirable, require the Bank to provide a new statement of intent at any time.
- (2) A statement of intent provided under this section must comply with **sections 214 and 217**. 15
- (3) Despite **section 214(2)**, the Minister may require the new statement of intent to relate to the remainder of the current financial year in addition to the forthcoming financial year and at least the following 3 financial years.

Compare: 2004 No 115 s 139A

20

216 Minister may grant extension of time for requirement to provide statement of intent

- (1) If the Bank is likely to have a significant change in the nature or scope of its functions, the Minister may grant the Bank an extension, of up to 1 year, of the period specified in **section 214(3)**. 25
- (2) However, the Minister must not grant an extension unless the Minister is satisfied that the extension will enable the Bank to improve the quality of the statement of intent that it provides.
- (3) If the Minister grants an extension,—
- (a) the Minister must, as soon as practicable after granting the extension, notify the Bank of the extension and the Minister's reasons for granting it; and 30
- (b) the Bank must, as soon as practicable after receiving the notice, publish the notice, and the Minister's reasons for granting the extension, on an Internet site maintained by, or on behalf of, the Bank; and 35
- (c) the Bank must include, in the next annual report that it provides to the Minister under **section 236(1)**, a statement of the extension and the Minister's reasons for granting it.

Compare: 2004 No 115 s 139B

217 Content of statement of intent

- (1) A statement of intent must, for the period to which it relates, set out the strategic objectives that the Bank intends to achieve or contribute to (**strategic intentions**).
- (2) A statement of intent must also, for the period to which it relates,— 5
- (a) explain the nature and scope of the Bank's functions and intended operations:
 - (b) explain how the Bank intends to manage its functions and operations to meet its strategic intentions:
 - (c) explain how the Bank has had regard to the financial policy remit in preparing the statement of intent: 10
 - (d) explain how the Bank proposes to manage its organisational health and capability:
 - (e) explain how the Bank proposes to assess its performance:
 - (f) set out and explain any other matters— 15
 - (i) that are reasonably necessary to achieve an understanding of the Bank's strategic intentions and capability:
 - (ii) that the Bank is required to include in its statement of intent under this Act or another Act.
- (3) A statement of intent— 20
- (a) must be in writing, be dated, and be signed on behalf of the board by 2 members; and
 - (b) is a final statement of intent when it has been signed in accordance with **paragraph (a)**.

Compare: 2004 No 115 s 141 25

218 Application and term of statement of intent

A statement of intent is in force—

- (a) from the later of—
 - (i) the date on which the final statement of intent is provided to the Minister; and 30
 - (ii) the first day of the period to which the statement of intent relates; and
- (b) until a new statement of intent is in force in relation to the Bank (despite the end of any financial year to which the statement relates); and
- (c) with any amendments that are made as described in **section 221**. 35

Compare: 2004 No 115 s 144

219 Ministerial involvement in statement of intent

The Minister may participate in determining the content of statements of intent as follows:

- (a) the Minister may agree with the Bank that information additional to that required by **section 217** be included in the statement of intent: 5
- (b) the Minister may, by written notice to the Bank, specify the particular form in which any information in the statement of intent must be disclosed:
- (c) the Minister may make comments on a draft statement of intent under **section 220** or on an amendment to a statement of intent proposed by the Bank under **section 221**. 10

Compare: 2004 No 115 s 145

220 Process for providing statement of intent to Minister

- (1) The Bank must provide a statement of intent to the Minister.
- (2) The process that must be followed in providing a statement of intent is as follows: 15
 - (a) the Bank must provide a draft statement of intent to the Minister—
 - (i) not later than 2 months before the start of the first financial year to which the statement of intent relates; or
 - (ii) if the Minister has requested the statement of intent under **section 215**, within the time frame specified by the Minister; and 20
 - (b) the Minister must provide to the Bank any comments that they may have on the draft not later than 15 working days after receiving it; and
 - (c) the Bank must consider the comments (if any) on the draft and provide the final statement of intent to the Minister— 25
 - (i) as soon as practicable after receiving the comments (if any) but before the start of the first financial year to which the statement of intent relates; or
 - (ii) if the Minister has requested the statement of intent under **section 215**,— 30
 - (A) as soon as practicable, but not later than 25 working days, after receiving the comments; or
 - (B) if the Minister does not provide comments within the period specified in **paragraph (b)**, not later than 25 working days after the end of that period. 35

Compare: 2004 No 115 s 146

221 Amendments to final statement of intent by Bank

- (1) The Bank may amend its final statement of intent.

- (2) The Bank must amend its statement of intent if—
- (a) the information contained in the statement of intent is false or misleading in a material particular; or
 - (b) the intentions and undertakings in the statement of intent are significantly altered or affected by—
 - (i) a direction given to the Bank by a Minister; or
 - (ii) a direction under **section 169**; or
 - (iii) any change to the financial policy remit; or
 - (iv) any change in the law; or
 - (v) any other change in the Bank’s operating environment.
- (3) The Bank must make the amendment required under **subsection (2)** as soon as practicable after the Bank becomes aware of the facts that give rise to the obligation to amend under this section.
- (4) The Bank may, instead of amending its final statement of intent, provide to the Minister under **section 220** a new statement of intent that complies with **sections 214 and 217**.

Compare: 2004 No 115 s 148(1)–(3), (7)

222 Process for amendments to statement of intent

- (1) The following process applies to an amendment under **section 221**:
- (a) the Bank must provide a draft amendment to the Minister; and
 - (b) the Minister must provide to the Bank any comments that they may have no later than 15 working days after receiving the draft; and
 - (c) the Bank must consider the comments (if any) and must provide the final amendment to the Minister as soon as practicable.
- (2) An amendment under **section 221**—
- (a) must be in writing, be dated, and be signed on behalf of the board by 2 members; and
 - (b) is a final amendment when it has been signed in accordance with **paragraph (a)**.
- (3) A final amendment is in force from the date on which it is provided to the Minister.

Compare: 2004 No 115 s 148(4)–(6)

223 Obligation to publish and present statement of intent

- (1) The Bank must, as soon as practicable after providing a final statement of intent to the Minister, publish the statement of intent on an Internet site maintained by, or on behalf of, the Bank.

- (2) However, if a final statement of intent relates to a period commencing on or after the next Budget day, the Minister may require the Bank not to publish the statement in the pre-Budget period.
- (3) The Minister must present a copy of the final statement of intent to the House of Representatives— 5
 - (a) in the same document as the Bank's annual report for the financial year before the first full financial year to which the statement of intent relates (*see* **section 236**); or
 - (b) in any other document presented on or before the date on which the annual report described in **paragraph (a)** is presented. 10

Compare: 2004 No 115 s 149

224 Obligation to publish and present amendments to statement of intent

- (1) As soon as practicable after an amendment to a statement of intent is finalised under **section 222**,—
 - (a) the Bank must publish the amendment on an Internet site maintained by, or on behalf of, the Bank; and 15
 - (b) the Minister must present a copy of the amendment to the House of Representatives.
- (2) However,—
 - (a) if the amendment will come into force on or after the next Budget day, the Minister— 20
 - (i) may require the Bank not to publish the amendment in the pre-Budget period; and
 - (ii) need not present the amendment to the House of Representatives in that period; and 25
 - (b) the Bank must not publish an amendment to a statement of intent before publishing the statement of intent under **section 223**; and
 - (c) the Minister must not present a copy of an amendment to a statement of intent to the House of Representatives before presenting a copy of the statement of intent to the House of Representatives under **section 223**; and 30
 - (d) if Parliament is not in session, **subsection (1)(b)** does not apply, but the Minister must present a copy of the amendment to the House of Representatives as soon as possible after the commencement of the next session of Parliament. 35

Compare: 2004 No 115 s 149A

*Planning: statement of performance expectations***225 Purpose of statement of performance expectations**

The purpose of a statement of performance expectations for the Bank is to—

- (a) enable the Minister to participate in the process of setting annual performance expectations; and
- (b) enable the House of Representatives to be informed of those expectations; and
- (c) provide a base against which actual performance can be assessed.

Compare: 2004 No 115 s 149B

226 Obligation to prepare statement of performance expectations

Before the start of each financial year, the Bank must prepare a statement of performance expectations for that financial year that complies with **section 227**.

Compare: 2004 No 115 s 149C

227 Content of statement of performance expectations

- (1) Each statement of performance expectations must, in relation to the Bank and a financial year,—

- (a) identify each reportable class of outputs for the financial year; and
- (b) identify each exemption granted under **section 228(1)(a)** for the financial year; and
- (c) state whether the Bank proposes to supply any class of outputs in the financial year that is not a reportable class of outputs; and
- (d) contain a forecast statement of comprehensive revenue and expense that complies with **section 229**.

- (2) For each reportable class of outputs, the statement of performance expectations must—

- (a) include a concise explanation of what the class of outputs is intended to achieve; and
- (b) identify the expected revenue and proposed expenses for the class of outputs; and
- (c) include a concise explanation of how the performance of the class of outputs will be assessed.

- (3) A statement of performance expectations—

- (a) must be in writing, be dated, and be signed on behalf of the board by 2 members; and

- (b) is a final statement of performance expectations when it has been signed in accordance with **paragraph (a)**.

Compare: 2004 No 115 s 149E

228 Exemption for certain outputs

- (1) The Minister of Finance may exempt, for 1 or more financial years or until further notice, 1 or more classes of outputs from— 5
- (a) any statement of performance expectations required under **section 226**; or
- (b) any statement of performance required under **section 237(1)(b)**.
- (2) The Minister of Finance must not exempt a class of outputs from a statement of performance expectations or a statement of performance unless the Minister is satisfied that— 10
- (a) the class of outputs is not material to the statement; or
- (b) the class of outputs will be adequately reported on to the House of Representatives by a Minister, a department, or another public entity; or 15
- (c) for any other reason, the exemption does not unreasonably compromise accountability for the performance of the Bank.

Compare: 2004 No 115 s 149F

229 Forecast statement of comprehensive revenue and expense

- (1) Each statement of performance expectations, in relation to the Bank and a financial year, must contain a forecast statement of comprehensive revenue and expense for the financial year. 20
- (2) The forecast statement of comprehensive revenue and expense must—
- (a) be prepared in accordance with generally accepted accounting practice; and 25
- (b) include—
- (i) a statement of all significant assumptions underlying the statement; and
- (ii) any additional information and explanations needed to fairly reflect the forecast financial operations of the Bank; and 30
- (c) be prepared in a manner that allows for a comparison with actual revenues and output expenses.
- (3) Nothing in this Act requires a statement of performance expectations to contain any financial statements other than a forecast statement of comprehensive revenue and expense. 35

Compare: 2004 No 115 s 149G

230 Ministerial involvement in statement of performance expectations

- (1) The Minister may participate in determining the contents of statements of performance expectations as follows:
- (a) the Minister may agree with the Bank that information additional to that required by **section 227** be included in the statement of performance expectations: 5
 - (b) the Minister may, by written notice to the Bank, specify the particular form in which any information in the statement of performance expectations must be disclosed:
 - (c) the Minister may make comments on a draft statement of performance expectations under **section 231** or on an amendment to a final statement of performance expectations proposed by the Bank under **section 232**. 10
- (2) The Minister may require a statement of performance expectations to contain any information about how the performance of a class of reportable outputs will be assessed. 15

Compare: 2004 No 115 s 149H

231 Process for providing statement of performance expectations to Minister

- (1) The Bank must provide a statement of performance expectations to the Minister. 20
- (2) The process that must be followed in providing a statement of performance expectations is as follows:
- (a) the Bank must provide a draft statement of performance expectations to the Minister not later than 2 months before the start of the financial year to which the statement of performance expectations relates; and 25
 - (b) the Minister must provide to the Bank any comments that they may have on the draft not later than 15 working days after receiving it; and
 - (c) the Bank must consider the comments (if any) on the draft and provide the final statement of performance expectations to the Minister as soon as practicable after receiving the comments (if any), but before the start of the financial year to which the statement of performance expectations relates. 30

Compare: 2004 No 115 s 149I

232 Amendments to final statement of performance expectations by Bank

- (1) The Bank may amend its final statement of performance expectations at any time. 35
- (2) The Bank must amend its final statement of performance expectations if—
- (a) the information contained in the final statement of performance expectations is false or misleading in a material particular; or

- (b) the intentions and undertakings in the final statement of performance expectations are significantly altered or affected by—
 - (i) a direction given to the Bank by a Minister; or
 - (ii) a direction under **section 169**; or
 - (iii) any change to the financial policy remit; or 5
 - (iv) any change in the law; or
 - (v) any other change in the Bank's operating environment.
 - (3) The Bank must make an amendment required under **subsection (2)** as soon as practicable after the Bank becomes aware of the facts that give rise to the obligation to amend under this section. 10
- Compare: 2004 No 115 s 149K(1)–(3)

233 Process for amendments to statement of performance expectations

- (1) The Bank must amend its statement of performance expectations in accordance with the following process:
 - (a) the Bank must provide a draft amendment to the Minister; and 15
 - (b) the Minister must provide to the Bank any comments that the Minister may have not later than 15 working days after receiving the draft; and
 - (c) the Bank must consider the comments (if any) and provide the final amendment to the Minister as soon as practicable.
- (2) An amendment under this section— 20
 - (a) must be in writing, be dated, and be signed on behalf of the board by 2 members; and
 - (b) is a final amendment when it has been signed in accordance with **paragraph (a)**.

Compare: 2004 No 115 s 149K(4), (5) 25

234 Obligation to publish and present statement of performance expectations

- (1) The Bank must, as soon as practicable after providing a final statement of performance expectations to the Minister, publish the statement on an Internet site maintained by, or on behalf of, the Bank.
- (2) However, if the final statement of performance expectations relates to a period commencing on or after the next Budget day, the Minister may require the Bank not to publish the statement in the pre-Budget period. 30
- (3) The Minister must present a copy of the final statement of performance expectations to the House of Representatives—
 - (a) in the same document as the Bank's annual report for the previous financial year (*see* **section 236**); or 35

- (b) in any other document presented on or before the date on which the annual report described in **paragraph (a)** is presented.

Compare: 2004 No 115 s 149L

- 235 Obligation to publish and present amendments to statement of performance expectations** 5
- (1) As soon as practicable after an amendment to a final statement of performance expectations is finalised under **section 233**,—
 - (a) the Bank must publish the amendment on an Internet site maintained by, or on behalf of, the Bank; and
 - (b) the Minister must present a copy of the amendment to the House of Representatives. 10
 - (2) However,—
 - (a) if the amendment will come into force on or after the next Budget day, the Minister—
 - (i) may require the Bank not to publish the amendment in the pre-Budget period; and 15
 - (ii) need not present the amendment to the House of Representatives in that period; and
 - (b) the Bank must not publish an amendment to a statement of performance expectations before publishing the statement of performance expectations under **section 234**; and 20
 - (c) the Minister must not present a copy of an amendment to a statement of performance expectations to the House of Representatives before presenting a copy of the statement of performance expectations to the House of Representatives under **section 234**; and 25
 - (d) if Parliament is not in session, **subsection (1)(b)** does not apply, but the Minister must present a copy of the amendment to the House of Representatives as soon as possible after the commencement of the next session of Parliament. 30

Compare: 2004 No 115 s 149M

Reporting: annual report

- 236 Obligation to prepare, present, and publish annual report**
- (1) The Bank must provide to the Minister an annual report on the affairs of the Bank within 3 months after the end of each financial year.
 - (2) The Minister must present the Bank's annual report to the House of Representatives within 5 working days after the Minister receives the annual report or, if Parliament is not in session, as soon as possible after the commencement of the next session of Parliament. 35

- (3) The Bank must publish its annual report as soon as practicable after it has been presented to the House of Representatives, but in any case not later than 10 working days after the annual report is received by the Minister, in a manner consistent with any instructions given under **section 256**.

Compare: 2004 No 115 s 150

5

237 Form and content of annual report

- (1) An annual report must contain the following information and reports in respect of the financial year to which it relates:
- (a) information on operations that complies with **subsection (2)**; and
 - (b) a statement of performance in accordance with **section 240**; and 10
 - (c) the annual financial statements for the Bank in accordance with **section 241**; and
 - (d) a statement of responsibility in accordance with **section 243**; and
 - (e) the audit report in accordance with **section 244**; and
 - (f) the current statement of financial risk management in accordance with **section 248**; and 15
 - (g) any new direction given to the Bank by a Minister in writing under this Act or any other legislation during that financial year, as well as other such directions that remain current (subject to **section 238**); and
 - (h) information on compliance with its obligation to be a good employer (including its equal employment opportunities programme); and 20
 - (i) information required by **section 239** (which relates to payments in respect of members, the Governor, external members of the MPC, committee members, and employees during that financial year); and
 - (j) information required by **section 17(3)** (which relates to the enforcement of certain natural person transactions); and 25
 - (k) information required by **section 66** (which relates to permission to act despite being interested in a matter); and
 - (l) information about how the board has complied with **section 47** (which requires the board to have regard to the financial policy remit when acting in relation to the Bank's prudential strategic intentions and prudential standards); and 30
 - (m) a statement as to whether, in the board's opinion, the MPC and the members of the MPC have adequately discharged their respective responsibilities during the financial year (*see* **section 95**); and 35
 - (n) a description of how the board has assessed the matter under **paragraph (m)**; and

- (o) any matters that relate to or affect the Bank's operations that the Bank is otherwise required, or has undertaken, or wishes to report on in its annual report.
 - (2) The annual report must provide the information that is necessary to enable an informed assessment to be made of the Bank's operations and performance for that financial year, including an assessment of the Bank's progress in relation to its strategic intentions as set out in the most recent statement of intent. 5
 - (3) An annual report must be in writing, be dated, and be signed on behalf of the board by 2 members.
- Compare: 1989 No 157 s 53A(1A); 2004 No 115 s 15 10

238 Bank must defer including information in annual report about certain directions

- (1) This section applies if, under **section 132**, the Minister has deferred complying with **section 171(2)** in relation to the whole or any part of a direction.
- (2) The Bank must not include information in its annual report under **section 237(1)(g)** about the direction or the part of the direction. 15
- (3) However, after the Minister complies with **section 171(2)** in relation to the direction or the part of the direction, the Bank must include the information about the direction or part in its next annual report.

239 Disclosure of remuneration and of details of indemnities and insurance cover 20

- (1) The annual report must include, in respect of the Bank,—
 - (a) for each member of the board (other than the Governor), the total value of the remuneration paid or payable to the member in their capacity as a member of the board from the Bank during that financial year; and 25
 - (b) for the Governor, the total value of the remuneration paid or payable to the Governor ~~in their capacity as Governor~~ from the Bank during that financial year; and
 - (c) for each external member of the MPC, the total value of the remuneration paid or payable to the member in their capacity as an external member from the Bank during that financial year; and 30
 - (d) for each committee member who is not a board member or an employee, the total value of the remuneration paid or payable to the member in their capacity as a committee member from the Bank during that financial year; and 35
 - (e) the number of employees to whom, during the financial year, remuneration was paid or payable in their capacity as employees, the total value of which is or exceeds \$100,000 per annum, and the number of those employees in brackets of \$10,000; and

- (f) the total value of any compensation or other benefits paid or payable to persons who ceased to be the Governor, a committee member, or an employee during the financial year in relation to that cessation and the number of persons to whom all or part of that total was paid or payable; and 5
 - (g) details of any indemnity provided by the Bank during the financial year to any member of the board, the Governor, any member of the MPC, any committee member, or any employee; and
 - (h) details of any insurance cover effected by the Bank during the financial year in respect of the liability or costs of any member of the board, the Governor, any member of the MPC, any committee member, or any employee. 10
- (2) Despite **section 245**, the annual report of the Bank must include the information specified in **subsection (1)** in respect of each subsidiary of the Bank as well as in respect of the Bank. 15
- (3) In **subsection (1)(a) to (e)**, **remuneration** does not include compensation or other benefits referred to in **subsection (1)(f)**.
- (4) In **subsection (1)**, a reference to a person of a particular kind (for example, an employee) includes a person who was a person of that kind but who is no longer a person of that kind (for example, a former employee). 20

Compare: 2004 No 115 s 152

240 Form and content of statement of performance

A statement of performance must, in relation to the Bank and a financial year,—

- (a) be prepared in accordance with generally accepted accounting practice; and 25
- (b) describe each reportable class of outputs for the financial year; and
- (c) include, for each reportable class of outputs identified in the Bank's statement of performance expectations for the financial year,—
 - (i) the standards of delivery performance achieved by the Bank, as compared with the forecast standards included in the Bank's statement of performance expectations for the financial year; and 30
 - (ii) the actual revenue earned and output expenses incurred, as compared with the expected revenues and proposed output expenses included in the Bank's statement of performance expectations for the financial year. 35

Compare: 2004 No 115 s 153

241 Annual financial statements

- (1) As soon as practicable after the end of each financial year, the Bank must prepare financial statements in relation to the Bank for that financial year.
 - (2) The financial statements must—
 - (a) comply with generally accepted accounting practice; and 5
 - (b) include any other information or explanations needed to fairly reflect the financial operations and financial position; and
 - (c) include the forecast statement of comprehensive revenue and expense prepared at the start of the financial year, for comparison with the actual financial statements. 10
 - (3) The financial statements must show separately—
 - (a) any payments made by the Bank under **section 137(1)**; and
 - (b) any payments made by the Minister to the Bank under **section 137(2)**. 10
- Compare: 2004 No 115 s 154

242 Information about each class of excluded expenditure 15

- (1) The Bank must ensure that information about the expenditure referred to in **section 206(5)(b)** for a financial year is included in a note to, or accompanies, the financial statements for that year.
- (2) The information must specify the amount expended for each of **subparagraphs (i) to (viii) of section 206(5)(b)**. 20

243 Statement of responsibility

The statement of responsibility must—

- (a) contain a statement of the signatories' responsibility for the preparation of the financial statements and statement of performance and for the judgments in them; and 25
- (b) contain a statement of the signatories' responsibility for establishing and maintaining a system of internal control designed to provide reasonable assurance as to the integrity and reliability of financial reporting; and
- (c) contain a statement that, in the opinion of the signatories, the financial statements and statement of performance for the financial year fairly reflect the financial position and operations of the Bank; and 30
- (d) be dated and signed on behalf of the board by 2 members.

Compare: 2004 No 115 s 155

244 Audit report

- (1) The Bank must forward to the Auditor-General the following statements and information: 35

- (a) the Bank's annual financial statements and statement of performance (if applicable):
 - (b) all other information that the Auditor-General has agreed, or is required, to audit.
 - (2) The statements and information must be forwarded under **subsection (1)** before the end of the second month following the end of the financial year to which the statements relate. 5
 - (3) The Bank must also forward to the Auditor-General the Bank's annual report in a timely manner to enable the Auditor-General to review that report before providing the audit report required under **subsection (4)**. 10
 - (4) The Auditor-General must—
 - (a) audit the statements and information referred to in **subsection (1)**; and
 - (b) provide an audit report on those statements and that information to the Bank within 30 days after receiving them.
- Compare: 2004 No 115 s 156 15

Application of this subpart to Bank group

245 Application of this subpart to Bank group

- (1) This section and **section 246** apply if, at the relevant time, the Bank has 1 or more subsidiaries.
- (2) This subpart— 20
 - (a) must be read as if it required a statement or report to include consolidated information in respect of the Bank group, rather than information in respect of the Bank only; and
 - (b) otherwise applies with any necessary modifications.
- (3) In this section,— 25

relevant time, in relation to a statement or report, means—

 - (a) the end of the period to which the statement or report relates; or
 - (b) if the statement or report relates to a period that includes a future period, the time when the statement or report is provided to the Minister

statement or report means any of the following: 30

 - (a) statement of intent (*see* **section 214**):
 - (b) statement of performance expectations (*see* **section 226**):
 - (c) forecast statement of comprehensive revenue and expense (*see* **section 229**):
 - (d) annual report (*see* **section 236**): 35
 - (e) statement of performance (*see* **section 240**):
 - (f) annual financial statements (*see* **section 241**)

subsidiary means a subsidiary within the meaning of **paragraph (b) or (c)** of the definition of Bank group in **section 212(1)**.

Compare: 2004 No 115 s 156A

246 Minister of Finance may require additional reporting

- (1) Despite **section 245**, the Minister of Finance may, by notice in writing, require the Bank or any other member of the Bank group (a **specified entity**) to prepare 1 or more statements or reports under this subpart as if it were not a member of the Bank group. 5
- (2) A notice must specify—
 - (a) which statements and reports are required; and 10
 - (b) the financial years or other period (which may be until further notice) for which each statement or report is required.
- (3) Before issuing a notice, the Minister of Finance must—
 - (a) consider the operations and functions of the specified entity; and
 - (b) be satisfied that each statement or report is necessary or desirable to enhance public accountability of the specified entity. 15
- (4) If a specified entity is required under this section to prepare a statement or report, this subpart applies with any necessary modifications.

Compare: 2004 No 115 s 156B

Subpart 4—Other accountability statements and reports 20

Financial risk management

247 Purposes of statement of financial risk management

The purposes of the statement of financial risk management are to—

- (aaa) report on matters relating to the board's duty to ensure that the Bank operates in a financially responsible manner (see **section 45**); and 25
- (a) report on the Bank's management of financial risks; and
- (b) ensure the accountability of the Bank for its management of those risks; and
- (c) provide for principles for determining the Bank's annual dividend; and
- (d) facilitate the role of the monitor. 30

248 Obligation to prepare statement of financial risk management

- (1) The Bank must—
 - (a) prepare and keep up to date a statement of financial risk management; and
 - (b) publish a copy of the current statement on an Internet site maintained by, or on behalf of, the Bank. 35

- (2) A statement under this section must—
- ~~(a) set out the Bank's approach to financial risk management, including all information that is necessary to allow an assessment of how the Bank manages financial risks that may impact on its ability to perform its functions; and~~ 5
 - (a) set out—
 - (i) the board's approach to complying with its duty under **section 45**; and
 - (ii) information about how the board has complied with that duty during the most recently completed financial year; and 10
 - (aa) set out the Bank's approach to financial risk management, including—
 - (i) its approach to complying with any direction given under **section 205A**; and
 - (ii) all other information that is necessary to allow an assessment of how the Bank manages financial risks that may impact on its ability to perform its functions; and 15
 - (ab) set out information about how the Bank has complied with any direction given under **section 205A** during the most recently completed financial year; and
 - (b) identify the significant financial risks that— 20
 - (i) the Bank was exposed to at any time during the most recently completed financial year (including identifying the impact of those risks on the Bank's statement of financial position for that financial year); and
 - (ii) the Bank is currently exposed to; and 25
 - (iii) the Bank expects it will be exposed to over the medium term; and
 - (c) include a statement of principles—
 - (i) in accordance with which the Bank will make a recommendation under **section 210** (which relates to the determination of the Bank's annual dividend); and 30
 - (ii) that the Minister must have regard to under that section; and
 - (d) contain all other information reasonably required by the Minister.
- (3) The principles under **subsection (2)(c)** must be as agreed by the Minister and the Bank under **section 249**.
- 249 Minister and Bank must take reasonable steps to agree on annual dividend principles** 35
- The Minister and the Bank must take all reasonable steps to agree on the principles under **section 248(2)(c)**.

*Statements of prudential policy***250 Purposes of statements of prudential policy**

The purposes of statements of prudential policy are to—

- (a) provide transparency about how the Bank acts, or proposes to act, when performing the function under **section 10(1)(b)** (which relates to acting as a prudential regulator and supervisor under the prudential legislation); and 5
- (b) promote public awareness and understanding of the Bank's activities and operations under the prudential legislation.

251 Obligation to prepare statements of prudential policy 10

(1) The Bank must—

- (a) prepare and keep up to date 1 or more statements of prudential policy; and
- (b) publish a copy of the current statements on an Internet site maintained by, or on behalf of, the Bank. 15

(2) The statements under this section must—

- (a) outline in general terms the Bank's policies about how the Bank acts, or proposes to act, when performing the function under **section 10(1)(b)**; and
- (b) contain all other information reasonably required by the Minister. 20

*Assessment of regulatory impacts of policies***252 Assessment of regulatory impacts of policies**

(1) The Bank must—

- (a) assess the expected regulatory impacts of any policy that it intends to adopt under the prudential legislation (a **proposed policy**); and 25
- (b) assess the regulatory impacts of the policies adopted and applied under that legislation at intervals appropriate to the nature of the policy being assessed; and
- (c) give reports on the assessments to the Minister.

(2) **Subsection (1)** does not apply to any policy that is of a minor or technical nature. 30

(3) The Bank may provide reports on the assessments of regulatory impacts to the Minister—

- (a) as part of another document or other report required by this Part; or

- (b) as a stand-alone report prepared following a request by the Minister or on the Bank's own initiative.

Compare: 1989 No 157 s 162AB(1)–(3)

253 Content of assessment of proposed policy

An assessment of the expected regulatory impacts of any proposed policy must include— 5

- (a) an outline of the problem or issue that the policy is intended to address:
- (b) the objectives of the policy:
- (c) an evaluation of the costs and benefits of the policy:
- (d) an evaluation of alternative means of achieving the objectives of the policy: 10
- (e) a statement of the Bank's proposed approach to monitoring and evaluating the effectiveness of the policy:
- (f) a statement that explains how the board has had regard to the financial policy remit in preparing the proposed policy: 15
- (g) a description of any consultation or other engagement the Bank has had with interested persons in relation to the policy and an explanation of how the Bank has had regard to any views expressed.

254 Bank must publish report on assessment of regulatory impacts

- (1) The Bank must publish every report on the assessment of regulatory impacts on an Internet site maintained by, or on behalf of, the Bank. 20
- (2) However, the Bank may omit information from any report published if it is satisfied on reasonable grounds that it is proper to omit the information on the ground of commercial confidentiality relating to a financial institution.
- (3) The publication of an accountability document that includes a report on the assessments of regulatory impacts satisfies the obligation in **subsection (1)**. 25

Compare: 1989 No 157 s 162AB(4)–(6)

Subpart 5—Accounting records

255 Board must ensure that proper accounting records are kept

- (1) The board of the Bank must cause accounting records to be kept that— 30
 - (a) correctly record and explain the transactions of the Bank; and
 - (b) will at any time enable the financial position of the Bank to be determined with reasonable accuracy; and
 - (c) will enable the members of the board to ensure that the financial statements of the Bank comply with **section 241**; and 35
 - (d) will enable the financial statements of the Bank to be readily and properly audited.

- (2) The accounting records must be in written form or in a manner in which they are easily accessible and convertible into written form.

Compare: 2004 No 115 s 168(1), (2)

Subpart 6—Miscellaneous

256 Minister of Finance instructions 5

- (1) The Minister of Finance may issue instructions to the Bank that—
- (a) prescribe minimum requirements concerning the Bank's annual report, statement of intent, or statement of performance expectations:
 - (b) prescribe the non-financial reporting standards that the Bank must apply and the form in which the Bank must provide the information that is required to be presented to the House of Representatives by or under this Act. 10
- (2) For the purposes of **subsection (1)**, the Minister of Finance may issue instructions that apply any instructions issued under section 174 of the Crown Entities Act 2004 to the Bank (whether in whole or in part). 15
- (3) The instructions must be consistent, in the opinion of the Minister, with generally accepted accounting practice and any reporting standard imposed by or under any other Act, to the extent that those matters are relevant to the instructions.
- ~~(4) The instructions are a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act. 20~~
- (4) Instructions issued under this section are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).
- ~~(5) The Minister must notify the instructions in the *Gazette*, and publish them on the Internet, as soon as practicable after issuing them. 25~~

Compare: 2004 No 115 s 174

257 Consultation with House of Representatives on reporting standards

- (1) The Minister must prepare and submit to the Speaker of the House of Representatives a draft of any instruction proposed to be issued under **section 256(1)(b)**. 30
- (2) The Speaker must present the draft instruction to the House of Representatives as soon as is reasonably practicable.
- (3) The Minister, after considering any comments of the Speaker or any committee of the House of Representatives that considered the draft instruction, may 35
amend the draft instruction as the Minister thinks fit.

- (4) The Minister must, as soon as practicable after issuing an instruction, present it to the House of Representatives.

Compare: 2004 No 115 s 175

Part 6

Miscellaneous provisions

5

Subpart 1—Information-gathering power

258 Interpretation for this subpart

- (1) In this subpart, unless the context otherwise requires,—

associated has the meaning set out in **subsection (2)**

provider means a person who carries on a business of providing a relevant service (whether or not the business is the person's only business or the person's principal business) 10

relevant person means any of the following:

- (a) a provider:
- (b) a person that is associated with a provider: 15
- (c) a person who was previously a provider or a person that was associated with a provider

relevant service means—

- (a) a financial service within the meaning of section 5 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008; or 20
- (b) without limiting **paragraph (a)**, a service of processing payments on behalf of other persons, including—
 - (i) administering interchange services or electronic payment systems; or
 - (ii) providing or making available hardware, software, or other technology to support interchange services or electronic payment systems; or 25
- (c) a service of transporting, storing, or distributing bank notes or coins

voting product has the same meaning as in section 6(1) of the Financial Markets Conduct Act 2013. 30

- (2) In this subpart, unless the context otherwise requires, a person (A) is **associated** with another person (B) if—

- (a) B is A's holding entity or subsidiary; or
- (b) more than half of the voting products of A, other than voting products that carry no right to participate beyond a specified amount in a distribution of either profits or capital, are held by B and persons that are associ- 35

- ated with B (whether directly or indirectly, but other than in a fiduciary capacity); or
- (c) more than half of the voting products of each of A and B, other than voting products that carry no right to participate beyond a specified amount in a distribution of either profits or capital, are held by members of the other (whether directly or indirectly, but other than in a fiduciary capacity); or 5
- (d) the businesses of A and B have been so carried on that the separate business of each person, or a substantial part of it, is not readily identifiable; or 10
- (e) there is another person with which both A and B are associated.
- (3) In **subsection (2)**, a person is another person's **holding entity** if, and only if, that other person is its subsidiary.

Bank's information-gathering power

259 Bank may require relevant person to supply information or data for central banking and financial system oversight functions 15

- (1) If the Bank considers it necessary or desirable for the purposes of performing or exercising its functions or powers under **section 10(1)(a), (c), or (d)** or **Part 3**, the Bank may, by written notice to a relevant person, require the person to supply to the Bank any information or data, or class of information or data, that is specified in the notice. 20
- (2) The information and data must be supplied—
- (a) for the periods, and in the manner and form (including consolidated form), that may be specified in the notice; and
- (b) in respect of a provider of a relevant service; and 25
- (c) in respect of relevant services provided in New Zealand or elsewhere and whether as principal, broker, agent, or intermediary; and
- (d) within the period, and otherwise in the manner, that is specified in the notice.

Compare: 1989 No 157 s 36 30

260 Information about particular customer, client, or natural person not required

- (1) A relevant person is not required to supply information or data under **section 259** relating to the affairs of—
- (a) a particular customer or client; or 35
- (b) a particular natural person (unless the natural person is itself a relevant person).

- (2) If a relevant person is required to supply information or data under **section 259** relating to the affairs of a natural person, the Bank must comply with the information privacy principles set out in section 22 of the Privacy Act 2020.

Compare: 1989 No 157 s 36(5)

261 Person required to supply information or data has same privileges as witnesses in court 5

A person who is required to supply information or data under **section 259** has the same privileges in relation to that duty as witnesses have in a proceeding before a court.

Offences relating to information-gathering power 10

262 Infringement offence to fail to supply information or data

- (1) A relevant person commits an infringement offence if it fails to comply with **section 259** or any requirements of the Bank under that section.

- (2) A relevant person that commits the infringement offence is liable to—

- (a) an infringement fee of— 15

(i) \$1,000 in the case of an individual; or

(ii) \$3,000 in any other case; or

- (b) a fine imposed by a court not exceeding—

(i) \$3,000 in the case of an individual; or

(ii) \$9,000 in any other case. 20

Compare: 1989 No 157 s 37(a)

263 Offence of intentionally or recklessly failing to comply with notice to supply information or data

- (1) A relevant person commits an offence if the person—

- (a) intentionally or recklessly fails to comply with **section 259** or any requirements of the Bank under that section; or 25

- (b) supplies any information or data under **section 259** knowing that, or being reckless as to whether, the information or data is false or misleading in a material particular.

- (2) A relevant person that commits the offence is liable on conviction to a fine not exceeding— 30

- (a) \$50,000 in the case of an individual; or

- (b) \$200,000 in any other case.

Compare: 1989 No 157 s 37(b)

*Requirement that information or data be reviewed***264 Requirement that information or data be reviewed**

- (1) This section applies if—
- (a) information or data is supplied by a relevant person under **section 259**; and 5
 - (b) the Bank has reasonable grounds to believe that the information or data is inadequate or inaccurate.
- (2) The Bank may, by written notice, require the relevant person to—
- (a) obtain a review of the information or data; and
 - (b) give the results of the review to the Bank. 10
- (3) The review must be carried out—
- (a) by a suitably qualified independent person approved by the Bank; and
 - (b) in the manner specified by the Bank in the notice.
- (4) The results of the review must be given to the Bank within the period, and otherwise in the manner, that is specified in the notice. 15
- Compare: 1989 No 157 s 38(1)

265 Offence of failing to comply with review requirements

- (1) A relevant person commits an offence if the person, without reasonable excuse, fails to comply with **section 264** or any requirements of the Bank under that section. 20
- (2) A relevant person that commits the offence is liable on conviction to a fine not exceeding—
- (a) \$50,000 in the case of an individual; or
 - (b) \$200,000 in any other case.
- Compare: 1989 No 157 s 38(2) 25

*Confidentiality***266 ~~Disclosure~~ Publication or disclosure of information or data by Bank to other persons**

- (1) This section applies to the following:
- (a) information or data provided to the Bank under this subpart: 30
 - (b) information or data derived from or based on information referred to in **paragraph (a)**.
- (2) The Bank may publish or disclose any information or data to which this section applies only if—

- (a) the information or data is available to the public under an Act (other than the Official Information Act 1982) or is otherwise publicly available information; or
- (b) the information or data is in a statistical or summary form; or
- (c) the publication or disclosure is for the purposes of, or in connection with, the performance or exercise of any function or power conferred or imposed on the Bank by this Act or any other legislation; or 5
- (d) the publication or disclosure is made under **subpart 3** (which relates to information sharing); or
- (e) the publication or disclosure is to a person who the Bank is satisfied has a proper interest in receiving the information or data; or 10
- (f) the publication or disclosure is with the consent of the person who supplied the information or data or to whom the information or data relates.
- (3) The Bank may not publish or disclose information under **subsection (2)(e)** unless satisfied that satisfactory provision exists to protect the confidentiality of the information. 15
- (4) A member, the Governor, any other office holder of the Bank, or any employee of the Bank must not publish or disclose any information or data to which this section applies except for the purposes of, or in connection with, the performance or exercise of any function, ~~power, or duty~~ or power under this Act or any other legislation. 20
- (5) Nothing in any legislation, other than this Act or the Official Information Act 1982, requires the Bank or any person to whom information or data has been published or disclosed under this section to make that information or data available to any other person. 25
- (6) The Bank may make information or data to which this section applies available under the Official Information Act 1982 only if 1 or more grounds under **subsection (2)** apply.

267 **Offence of unauthorised publication or disclosure**

A member, the Governor, any other office holder of the Bank, or any employee of the Bank who intentionally publishes or discloses information or data in contravention of **section 266** commits an offence and is liable on conviction to a fine not exceeding \$50,000. 30

268 **Conditions relating to publication or disclosure of information or data**

- (1) The Bank may, by written notice to a person to whom any information or data is disclosed under **section 266(2)(c), (e), or (f)**, impose any conditions in relation to the publication, disclosure, or use of the information or data by the person. 35
- (2) Conditions imposed may include, without limitation, conditions relating to—

- (a) maintaining the confidentiality of anything provided:
- (b) the storing of, the use of, or access to anything provided:
- (c) the copying, returning, or disposing of copies of documents provided.

269 Restrictions on further publication or disclosure of information or data

- (1) If information or data is disclosed to a person under **section 266(2)(c)**, the person may publish, disclose, or use the information or data only—
 - (a) for the purposes of, or in connection with, functions or powers referred to in **section 266(2)(c)**; and
 - (b) in accordance with any conditions imposed by the Bank.
- (2) If information or data is disclosed to a person under **section 266(2)(e)**, the person may publish, disclose, or use the information or data only if the publication, disclosure, or use—
 - (a) is authorised by the Bank and is in accordance with any conditions imposed by the Bank; or
 - (b) is for the purposes of, or in connection with, the functions or powers of a person under any legislation.
- (3) If information or data is published or disclosed to a person under **section 266(2)(f)**, the person may publish, disclose, or use the information or data only in accordance with the conditions of the consent (if any).

270 Offence of unauthorised publication, disclosure, or use

A person who intentionally publishes, discloses, or uses information in contravention of **section 269** commits an offence and is liable on conviction to a fine not exceeding—

- (a) \$50,000 in the case of an individual; or
- (b) \$200,000 in any other case.

Privacy Act 2020

271 Subpart does not limit Privacy Act 2020

Nothing in this subpart limits the Privacy Act 2020.

Subpart 2—Provisions relating to infringement offences

272 Proceedings for infringement offences

- (1) A person who is alleged to have committed an infringement offence may—
 - (a) be proceeded against by the filing of a charging document under section 14 of the Criminal Procedure Act 2011; or
 - (b) be issued with an infringement notice under **section 273**.

- (2) Proceedings commenced in the way described in **subsection (1)(a)** do not require the leave of a District Court Judge or Registrar under section 21(1)(a) of the Summary Proceedings Act 1957.
- (3) See section 21 of the Summary Proceedings Act 1957 for the procedure that applies if an infringement notice is issued. 5

273 When infringement notice may be issued

The Bank may issue an infringement notice to a person if the Bank believes on reasonable grounds that the person is committing, or has committed, an infringement offence.

~~274 Infringement notice may be revoked~~ 10

- ~~(1) The Bank may revoke an infringement notice before the infringement fee is paid, or an order for payment of a fine is made or deemed to be made by a court under section 21 of the Summary Proceedings Act 1957.~~
- ~~(2) An infringement notice is revoked by giving written notice to the person to whom it was issued that the notice is revoked.~~ 15
- ~~(3) The revocation of an infringement notice under this section is not a bar to any other enforcement action against the person to whom the notice was issued in respect of the same matter.~~

274 Revocation of infringement notice before payment made

- (1) The Bank may revoke an infringement notice before— 20
- (a) the infringement fee is paid; or
- (b) an order for payment of a fine is made or deemed to be made by a court under section 21 of the Summary Proceedings Act 1957.
- (2) The Bank must take reasonable steps to ensure that the person to whom the notice was issued is made aware of the revocation of the notice. 25
- (3) The revocation of an infringement notice before the infringement fee is paid is not a bar to any further action as described in **section 272(1)(a) or (b)** against the person to whom the notice was issued in respect of the same matter.

275 What infringement notice must contain

An infringement notice must be in the form prescribed in the regulations and must contain the following particulars: 30

- (a) details of the alleged infringement offence that fairly inform a person of the time, place, and nature of the alleged offence:
- (b) the amount of the infringement fee:
- (c) the address of the Bank: 35
- (d) how the infringement fee may be paid:
- (e) the time within which the infringement fee must be paid:

- (f) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957:
- (g) a statement that the person served with the notice has a right to request a hearing:
- (h) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing: 5
- (i) any other matters prescribed in the regulations.

276 How infringement notice may be served

- (1) An infringement notice may be served on the person who the Bank believes is committing or has committed the infringement offence by— 10
 - (a) delivering it to the person or, if the person refuses to accept it, bringing it to the person's notice; or
 - (b) leaving it for the person at the person's last known place of residence with another person who appears to be of or over the age of 14 years; or
 - (c) leaving it for the person at the person's place of business or work with another person; or 15
 - (d) sending it to the person by prepaid post addressed to the person's last known place of residence or place of business or work; or
 - (e) sending it to an electronic address of the person in any case where the person does not have a known place of residence or business in New Zealand. 20
- (2) Unless the contrary is shown,—
 - (a) an infringement notice (or a copy of it) sent by prepaid post to a person under **subsection (1)** is to be treated as having been served on that person on the fifth working day after the date on which it was posted: 25
 - (b) an infringement notice sent to a valid electronic address is to be treated as having been served at the time the electronic communication first enters an information system that is outside the control of the Bank.

277 Payment of infringement fees

All infringement fees paid in respect of infringement offences must be paid into a Crown Bank Account. 30

278 Reminder notices

A reminder notice must be in the form prescribed in the regulations, and must include the same particulars, or substantially the same particulars, as the infringement notice. 35

Subpart 3—Information sharing

279 Sharing of information with certain law enforcement or regulatory agencies

- (1) The Bank may provide to a person or an agency specified in **subsection (2)** any information that the Bank— 5
- (a) holds in relation to the performance or exercise of the Bank’s functions or powers under this Act or any other legislation; and
 - (b) considers may—
 - (i) assist the person or agency to perform or exercise the person’s functions or powers under any legislation; or 10
 - (ii) assist any department, a chief executive of a department, or a Minister to perform or exercise any of their functions, responsibilities, or powers (whether or not under any legislation); or
 - (iii) assist the agency (or a Minister) to administer any legislation; or
 - (iv) assist an overseas person or agency to perform or exercise the overseas person’s or agency’s functions, responsibilities, or powers (whether or not under foreign law); or 15
 - (v) assist an overseas person or agency (or an overseas Minister) to administer any foreign law.
- (2) The persons or agencies are any of the following: 20
- (a) a law enforcement or regulatory agency;
 - (b) overseas central banks;
 - (c) Australian financial authorities prescribed under section 68A of the Banking (Prudential Supervision) Act 1989;
 - (d) other overseas bodies that perform functions that correspond with, or are similar to, any of those conferred on the Bank. 25
- (3) However, the Bank may provide information to an overseas person or agency under this section only if the Bank is satisfied that appropriate protections are or will be in place for the purpose of maintaining the confidentiality of anything provided (in particular, information that is personal information within the meaning of the Privacy Act 2020). 30
- (4) The Bank may use any information provided to it by any person or agency referred to in **subsection (2)** in the Bank’s performance or exercise of its functions or powers under this Act or any other legislation.
- (5) This section applies despite anything to the contrary in any contract, deed, or document. 35
- (6) This section does not limit any provision of any legislation that allows the Bank to disclose information or data to a person who the Bank is satisfied has a

~~proper interest in receiving the information or data (for example, **section 266(2)(e)**).~~

280 Conditions that may be imposed on providing information under this subpart

- (1) The Bank may impose any conditions in relation to providing information under this subpart. 5
- (2) The Bank must, in considering what conditions to impose, have regard to whether conditions are necessary or desirable in order to protect the privacy of any individual.
- (3) The conditions may include, without limitation, conditions relating to— 10
 - (a) maintaining the confidentiality of anything provided (in particular, information that is personal information within the meaning of the Privacy Act 2020):
 - (b) the storing of, the use of, or access to anything provided:
 - (c) the copying, returning, or disposing of copies of documents provided: 15
 - (d) payment of the costs incurred by the Bank in providing any information under this subpart.

281 Restriction on publication, disclosure, or use

If information is provided to a person or an agency under this subpart, the person or agency may publish, disclose, or use the information only if the publication, disclosure, or use— 20

- (a) is authorised by the Bank and is in accordance with any conditions imposed by the Bank; or
- (b) is for the purposes of, or in connection with, the functions or powers of a person under any legislation. 25

Subpart 4—Council of Financial Regulators

282 Council of Financial Regulators

This section continues the Council of Financial Regulators (the **council**).

283 Function of council

The function of the council is to facilitate co-operation and co-ordination between members of the council to support effective and responsive regulation of the financial system in New Zealand. 30

284 Chairpersons of council

- (1) The chairpersons of the council are the Bank and the Financial Markets Authority. 35

- (2) The Bank and the Financial Markets Authority may agree that one of them is to carry out the chairperson's functions in relation to a matter or class of matters.

285 Members of council

- (1) The council consists of—
- (a) the Bank; and 5
 - (b) the Financial Markets Authority; and
 - (c) the Treasury; and
 - (d) the department that, with the authority of the Prime Minister, is responsible for the administration of the Financial Markets Conduct Act 2013; and 10
 - (e) any other department, entity, or agency that joins the council with the agreement of a chairperson of the council.
- (2) A department, an entity, or an agency referred to in **subsection (1)(e)** may—
- (a) resign as a member of the council; or
 - (b) by written notice, be removed for any reason as a member of the council 15
by a chairperson of the council; or
 - (c) be a member of the council for a term specified by a chairperson of the council (subject to **paragraphs (a) and (b)**).

Subpart 5—General offences

286 Offences 20

- (1) A person commits an offence if the person knowingly—
- (a) refuses or fails to produce any information that is in the person's possession or under the person's control in relation to the management, performance, or operations of the Bank when required to do so under this Act; or 25
 - (b) resists or obstructs any Minister acting in the discharge of that Minister's functions or in the exercise of that Minister's powers under this Act; or
 - (c) resists or obstructs the monitor acting in the discharge of the monitor's functions or in the exercise of the monitor's powers under this Act; or
 - (d) represents directly or indirectly that the person holds any authority under this Act knowing that the person does not hold that authority. 30
- (2) A person commits an offence if the person makes any statement or declaration, or gives any information or certificate, required by or under this Act knowing it to be false or misleading.

Compare: 2004 No 115 s 171

35

287 Penalties for offences

- (1) Every person who commits an offence against **section 286(1)** is liable on conviction,—
 - (a) in the case of an individual, to a fine not exceeding \$2,000; or
 - (b) in any other case, to a fine not exceeding \$5,000. 5
 - (2) Every person who commits an offence against **section 286(2)** is liable on conviction,—
 - (a) in the case of an individual, to imprisonment for a term not exceeding 12 months or a fine not exceeding \$5,000 (or both); or
 - (b) in any other case, to a fine not exceeding \$15,000. 10
- Compare: 2004 No 115 s 172

Subpart 6—Regulations**288 General regulations**

- (1) The Governor-General may, by Order in Council, on the recommendation of the Minister, make regulations for all or any of the following purposes: 15
 - (a) prescribing persons or agencies for the purposes of **paragraph (m)** of the definition of law enforcement or regulatory agency in **section 5(1)**:
 - (b) prescribing information to be included in infringement notices and reminder notices and the form of notices:
 - (c) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect. 20
- (2) The Minister must consult the Bank before making a recommendation under this section.
- (3) Regulations made under this section are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements). 25

289 Regulations relating to fees, charges, and costs

- (1) The Governor-General may, by Order in Council, on the recommendation of the Minister, make regulations for all or any of the following purposes:
 - (a) requiring the payment to the Bank of fees and charges—
 - (i) in connection with the performance or exercise by the Bank of any function, power, or duty under this Act, the prudential legislation, or any other legislation: 30
 - (ii) on an application or a request to the Bank to perform or exercise any function, power, or duty under this Act, the prudential legislation, or any other legislation: 35
 - (b) prescribing the amounts of those fees and charges or the manner in which those fees and charges are to be calculated:

- (c) authorising the Bank to require payment of any costs incurred by the Bank in connection with any matter referred to in **paragraph (a)(i) or (ii)**.
- (2) The Minister must consult the Bank before making a recommendation under this section. 5
- (3) ~~Any~~ The regulations may authorise the Bank to refund or waive, in whole or in part and on any conditions as may be prescribed, payment of any fee, charge, or cost payable in relation to any person or class of persons.
- (3A) If the regulations authorise the Bank to grant a refund or waiver to a class of persons,— 10
- (a) the instrument granting the refund or waiver is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements); and
- (b) the regulations must contain a statement to that effect.
- (4) The Bank may refuse to perform or exercise a function, power, or duty until the prescribed fee, charge, or cost is paid. 15
- (5) Any fee, charge, or cost payable to the Bank is recoverable by the Bank in any court of competent jurisdiction as a debt due to the Bank.
- (6) Regulations made under this section are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements). 20
- Compare: 2011 No 5 s 67

290 Regulated entities must pay levy to Bank

- (1) Every person that is included in a prescribed class of regulated entities must pay to the Bank, or a prescribed person on behalf of the Bank, a levy prescribed by the regulations made under **section 291**.
- ~~(2) In this section and **sections 291 to 294**, regulated entities means—~~ 25
- ~~(a) registered banks; and~~
- ~~(b) licensed insurers; and~~
- ~~(c) licensed NBDTs; and~~
- ~~(d) operators of designated settlement systems.~~
- (3) If a person is in 2 or more classes of regulated entity in respect of which different levies have been prescribed, the person must pay each of those levies (unless the regulations provide otherwise). 30
- (4) The amount of any unpaid levy is recoverable in any court of competent jurisdiction as a debt due to the Bank.
- Compare: 2011 No 5 s 68(1), (2), (7), (9) 35

291 Levy regulations

- (1) The Governor-General may, by Order in Council, on the recommendation of the Minister, make regulations providing for the levies.

- (2) Before making a recommendation under this section, the Minister must—
- (a) consult the Bank; and
 - (b) comply with section 294.
 - ~~(b) have regard to a report from the Bank on the outcome of consultation under section 294.~~ 5
- (3) Levies must be prescribed on the basis that the following costs should be met fully out of the levies:
- (a) a portion of the costs of the Bank in performing or exercising its functions or powers under prudential legislation, where the size of the portion to be met by levies under this Act is determined by the Minister; and 10
 - (b) the costs of collecting the levy money.
- (4) The regulations may—
- (a) specify the class or classes of regulated entities that are required to pay a levy:
 - (b) specify the amount of levies, or the method of calculating or ascertaining the amount of levies: 15
 - (c) include in levies, or provide for the inclusion in levies of, any shortfall in recovering the actual costs:
 - (d) refund, or provide for refunds of, any over-recovery of the actual costs:
 - (e) provide for the payment and collection of levies: 20
 - (f) provide different levies for different classes of regulated entities:
 - (g) specify the financial year or part financial year to which a levy applies, and apply that levy to that financial year or part financial year and each subsequent financial year until the levy is revoked or replaced:
 - ~~(h) for the first financial year to which a levy applies, include in a levy amount or method the costs relating to the Bank performing or exercising its functions or powers under the prudential legislation.~~ 25
 - (i) require payment of a levy for a financial year or part financial year, irrespective of the fact that the regulations may be made after that financial year has commenced: 30
 - (j) provide for waivers or refunds of the whole or any part of a levy for any case or class of cases.
- (5) Regulations made under this section are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements). 35
- Compare: 2011 No 5 s 68(3), (4), (6)

292 Other provisions relating to levy regulations

- (1) Levies may be prescribed on the basis that any actual cost that could have been, but has not been, recovered as a levy shortfall for a year may be recovered (along with any financing charge) over any period of up to 5 years.
 - (2) A levy for a financial year that starts after the Bank begins to carry out any additional function under any prudential legislation may recover the costs of performing that additional function, irrespective of the fact that the regulations may be made and come into effect after the start of the financial year. 5
 - (3) The Bank, or any other person prescribed for the purposes of this subsection, must ensure that each levy payment is separately accounted for. 10
- Compare: 2011 No 5 s 68(5), (8), (10)

~~293 Minister may direct Bank to consult on proposed levy regulations~~

- (1) ~~The Minister may give the Bank a direction requiring the Bank to consult under **section 294**.~~
- (2) ~~The Minister may specify in the direction matters that the Bank must consult on.~~ 15

294 ~~Bank must consult~~ Consultation about proposed levy regulations

- (1) ~~The Bank must, after receiving a direction under **section 293**, consult with—~~
 - (a) ~~the persons or organisations that the Bank considers are able to represent the views of those regulated entities that are liable to pay a levy under **section 290**; and~~ 20
 - (b) ~~any other representatives of persons who the Bank believes are significantly affected by a levy.~~
- (1) The Minister must, before making a recommendation under **section 291**, ensure that the following are consulted: 25
 - (a) the persons or organisations that the Minister considers are able to represent the views of those regulated entities that are liable to pay a levy under **section 290**; and
 - (b) any other representatives of persons who the Minister believes are significantly affected by a levy. 30
- (2) The consultation must include consultation relating to—
 - (a) the portion of the costs referred to in **section 291(3)(a)** that should be met by the levies; and
 - (b) the amount of levies or method of calculating or ascertaining the amount of levies; ~~and,~~ 35
 - (c) ~~any other matters that the Minister has required the Bank to consult on under **section 293**.~~

(2A) The Bank may carry out the consultation on the Minister’s behalf if the Minister and the Bank agree to the Bank acting under this subsection.

(3) A failure to comply with this section does not affect the validity of any regulations made under **section 291**.

Compare: 2011 No 5 s 69

5

Subpart 7—Amendments to other legislation

295 Title of Reserve Bank of New Zealand Act 1989 changed

(1) ~~This section—~~**Section 295A** amends the Act that was previously called the Reserve Bank of New Zealand Act 1989.

(2) ~~In the heading to section 1, delete “Short”.~~

10

(3) ~~In section 1(1), replace “may be cited as the Reserve Bank of New Zealand” with “is the Banking (Prudential Supervision)”.~~

295A Section 1 amended (Short Title and commencement)

(1) In the heading to section 1, delete “Short”.

(2) In section 1(1), replace “may be cited as the Reserve Bank of New Zealand” with “is the Banking (Prudential Supervision)”.

15

296 Other amendments to Reserve Bank of New Zealand Act 1989

(1) Amend the Reserve Bank of New Zealand Act 1989 as set out in **Part 1 of Schedule 4**.

(2) Repeal the provisions of the Reserve Bank of New Zealand Act 1989 set out in **Part 2 of Schedule 4**.

20

297 Other legislation amended

(1) Amend the Acts specified in **Part 3 of Schedule 4** as set out in that schedule.

(2) Amend the secondary legislation specified in **Part 4 of Schedule 4** as set out in that schedule.

25

Schedule 1

Transitional, savings, and related provisions

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Part 1

Provisions relating to this Act as enacted

1 Interpretation

In this Part, unless the context otherwise requires,—

1989 Act means the Act previously called the Reserve Bank of New Zealand Act 1989 5

main commencement date means the date on which **section 8** comes into force.

2 References to previous Title of 1989 Act

On and after the main commencement date, every reference in any legislation and in any document to the Reserve Bank of New Zealand Act 1989 must, unless the context otherwise requires, be read as a reference to the Banking (Prudential Supervision) Act 1989. 10

3 Board under 1989 Act disestablished

(1) On the main commencement date, the board of directors of the Bank under the 1989 Act is disestablished and each of those directors ceases to hold office. 15

(2) A director of the Bank is not entitled to any compensation or other payment or benefit relating to their ceasing to hold office as a director.

4 Other officeholders

(1) The person holding office as the Governor of the Reserve Bank immediately before the main commencement date— 20

(a) must be treated as continuing to hold that office for the balance of the term for which that person was appointed (and may be reappointed under **section 79** for 1 further term of up to 5 years); and

(b) is entitled to terms and conditions of appointment no less favourable than the terms and conditions applying to the person immediately before the main commencement date. 25

(2) The person holding office as the Deputy Governor of the Reserve Bank immediately before the main commencement date—

(a) ceases to hold that office on that date but must be treated on and after that date as being an employee of the Bank for a fixed term that is equal to the balance of the term for which that person was appointed as Deputy Governor; and 30

-
- (aa) must be treated as continuing to hold office as an internal member of the MPC for the balance of the term for which that person was appointed as Deputy Governor (and may be reappointed under **clause 19(1) of Schedule 3** for 2 further terms of up to 5 years); and
- (b) is entitled to terms and conditions of employment no less favourable than the terms and conditions applying to the person immediately before the main commencement date. 5
- (3) Each person who holds office as an internal member or an external member of the MPC immediately before the main commencement date must be treated as continuing to hold that office for the balance of the term for which that person was appointed. 10
- (4) **Subclauses (1) and (3)** do not limit any provision of this Act under which a person referred to in those subclauses may be removed from office or under which that person otherwise ceases to hold office.
- 5 Governor's acts to have continuing effect** 15
- (1) This clause applies in relation to a provision (**provision A**) in the 1989 Act or any other legislation—
- (a) that imposes or confers a function or power on the Governor; and
- (b) that—
- (i) has been amended by this Act to impose or confer the function or power (or substantially the same function or power) on the Bank or the board; or 20
- (ii) with or without modification, has been replaced by this Act by a provision (the **provision B**) that imposes or confers the function or power (or substantially the same function or power) on the Bank or the board. 25
- (2) Unless the context otherwise requires, anything done by the Governor in the performance or exercise of a function or a power under provision A, and that is in effect immediately before the main commencement date, continues to have effect as if it had been performed or exercised by the Bank or the board under provision A (as amended) or provision B. 30
- 6 First notice of Minister's expectations under section 78**
- The Minister must give the first notice under **section 78** as soon as practicable after the main commencement date.
- 7 Existing charter continues in force** 35
- The charter that is in force under the 1989 Act immediately before the main commencement date—
- (a) continues in force as if it were issued under ~~section 97 of~~ this Act; and
- (b) may be replaced under **section 99** of this Act.

8 Existing code of conduct continues in force

The code of conduct that is in force under the 1989 Act immediately before the main commencement date—

- (a) continues in force as if it had been approved under **section 103** of this Act; and
- (b) may be amended or replaced under that section.

5

9 Existing MPC remit continues in force

~~The remit for the MPC that is in force under the 1989 Act immediately before the main commencement date—~~

- ~~(a) continues in force as if it were issued under **section 118** of this Act; and~~
- ~~(b) may be replaced under **clause 8 of Schedule 3** of this Act.~~

10

(1) The following applies to the remit for the MPC that is in force under the 1989 Act immediately before the main commencement date:

- (a) the remit continues in force as the MPC remit as if it were issued under this Act;
- (b) the remit may not be amended;
- (c) the remit is revoked on the earlier of the following:
 - (i) the close of 13 February 2024;
 - (ii) the close of a date specified under **subclause (2)**.

15

20

(2) The Minister may publish a notice in the *Gazette* that specifies a date for the purposes of **subclause (1)(c)(ii)**.

(3) The Minister must send a copy of that notice to the Parliamentary Counsel Office.

(4) See **section 118**, which provides for the Minister to issue an MPC remit that replaces the remit referred to in **subclause (1)**.

25

9A First remit advice

The Bank must give the first remit advice under **clause 2 of Schedule 3** on or before 13 November 2023.

10 Order providing for different economic objective or objectives

30

An Order in Council made under section 12 of the 1989 Act, and that is in force immediately before the main commencement date,—

- (a) continues in force as if it had been made under **section 121** of this Act; and
- (b) may be amended or revoked as if made under that section.

35

- 11 Existing foreign exchange direction continues in force**
- A direction that is in force under section 17 of the 1989 Act immediately before the main commencement date—
- (a) continues in force as if it were given under **section 131**; and
 - (b) may be amended or replaced under that section. 5
- 12 First foreign reserves management and co-ordination framework**
- The Minister and the Bank must take all reasonable steps to ensure that the first foreign reserves management and co-ordination framework is agreed and signed under **sections 140 and 141** within 6 months after the main commencement date. 10
- 13 Foreign reserve determinations under section 24 of 1989 Act**
- (1) Section 24(1) of the 1989 Act continues to apply until the first foreign reserves management and co-ordination framework agreed and signed under **sections 140 and 141** comes into force (whether or not section 24(1) of that Act has been previously repealed). 15
 - (2) The Bank must continue to hold and maintain foreign reserves at the level or within those levels determined under section 24(1) of the 1989 Act until the first foreign reserves management and co-ordination framework comes into force.
- 14 Bank notes and coins continue as legal tender** 20
- Every bank note and every coin issued by the Bank before the main commencement date, and every coin issued by the Minister under the Decimal Currency Act 1964 or under the Coinage Act 1933 by virtue of the Decimal Currency Act 1964, that is legal tender immediately before the main commencement date must be treated for all purposes to have been made or issued under this Act. 25
- Compare: 1989 No 157 s 25(1), (2)
- 15 Bank continues to be liable to pay bank notes or coins that have ceased to be legal tender**
- (1) This clause applies to any bank note or coin issued before the main commencement date that ceased to be legal tender before that date and that the Bank was, immediately before that date, liable to pay. 30
 - (2) The Bank continues to be liable to pay the bank note or coin on presentation of the bank note or coin at the head office of the Bank. 35
- Compare: 1989 No 157 s 26(4), (5)
- 16 First financial policy remit**
- (1) The Minister must take all reasonable steps to ensure that the first financial policy remit comes into force on the main commencement date.

- (2) The Minister must, before issuing the first financial policy remit under **section 200**, consult the Governor and the appointed members.
- (3) In this clause, **appointed member**, at the time of consultation under **subclause (2)**, means a person who has been appointed as a member of the board under **section 27**, whether or not the appointment has taken effect (*see also* ~~section 11 of the Interpretation Act 1999~~ section 43 of the Legislation Act 2019). 5
- (4) This clause does not limit the Minister's duty to consult the Bank under **section 200**.
- 17 Current funding agreement continues** 10
- (1) A funding agreement that is in force immediately before the main commencement date under section 159 of the 1989 Act must be treated as continuing in force as a funding agreement under **sections 206 to 209** of this Act (and may be varied or terminated under **section 206(4)**).
- (2) However,— 15
- (a) the content of the funding agreement described in **subclause (1)** (whether or not it is varied) must continue to comply with section 160 of the 1989 Act as in force immediately before its repeal instead of **section 207** of this Act; and
- (b) **section 208(3)** of this Act does not apply to the funding agreement or a variation of the funding agreement. 20
- 18 Determination of annual dividend for financial year that precedes main commencement**
- (1) **Section 210** (instead of section 162 of the 1989 Act) applies to the annual dividend for the financial year that precedes the main commencement date. 25
- (2) The Bank must make a recommendation under **section 210** for the financial year that precedes the main commencement date as soon as practicable after a statement of financial risk management is first published under **section 248**.
- 19 Former statement of intent requirements cease to apply**
- Sections 162A to 162D of the 1989 Act cease to apply on the commencement of this clause. 30
- 20 First statement of intent under this Act**
- (1) This clause applies to the first statement of intent under **sections 213 to 224** (despite anything to the contrary in those sections).
- (2) The Bank must provide to the Minister— 35
- (a) a draft of the statement of intent as soon as practicable after the main commencement date; and

- (b) the final statement of intent as soon as practicable after receiving the comments (if any) provided under **section 220(2)(b)**.
- (3) The statement of intent must relate to the first financial year that starts on or after the main commencement date and at least the following 3 financial years.
- (4) The Minister must present a copy of the final statement of intent to the House of Representatives as soon as practicable after receiving it under **subclause (2)(b)**. 5
- (5) **Section 220(2)(a) and (c)(i) and 223(3)** do not apply to the statement of intent.
- 21 First statement of performance expectations under this Act** 10
- (1) This clause applies to the first statement of performance expectations under **sections 225 to 235** (despite anything to the contrary in those sections).
- (2) The Bank must provide to the Minister—
- (a) a draft of the statement of performance expectations as soon as practicable after the main commencement date; and 15
- (b) the final statement of performance expectations as soon as practicable after receiving the comments (if any) provided under **section 231(2)(b)**.
- (3) The statement of performance expectations must relate to the first financial year that starts on or after the main commencement date. 20
- (4) The Minister must present a copy of the final statement of performance expectations to the House of Representatives as soon as practicable after receiving it under **subclause (2)(b)**.
- (5) The following do not apply to the statement of performance expectations:
- (a) **section 226** to the extent that it requires the statement of performance expectations to be prepared before the start of the financial year to which it relates: 25
- (b) **section 231(2)(a)**:
- (c) **section 231(2)(c)** to the extent that it requires the final statement of performance expectations to be provided to the Minister before the start of the financial year to which the statement of performance expectations relates: 30
- (d) **section 234(3)**.
- 22 First annual report**
- (1) This clause applies to the first annual report under **sections 236 to 244** (despite anything to the contrary in those sections). 35
- (2) The annual report does not have to contain information under **section 237(1)(b), (f), (l), (m), and (n)**.

- (3) **Section 243** does not apply to the extent that it relates to a statement of performance.
- 23 Former board of directors must report on matters not included in annual report**
- (1) The board of directors of the Bank under the 1989 Act must provide to the Minister— 5
- (a) a statement as to whether, in the board’s opinion, the MPC, the Governor, the Deputy Governor, and the other members of the MPC have adequately discharged their respective responsibilities during the financial year to which the annual report under **clause 22** relates; and 10
- (b) a description of how the board has assessed the matter under **paragraph (a)**.
- (2) The information must be provided before the board is disestablished under **clause 3** but not earlier than 20 working days before that disestablishment.
- (3) The information is not required to cover any period after the information is provided. 15
- (4) The annual report for the financial year referred to in **subclause (1)** must be accompanied by the information provided under this clause when it is presented under **section 236(2)** and when it is published under **section 236(3)**.
- 24 First statement of financial risk management** 20
- (1) This clause applies to the ~~first~~ statement of financial risk management under **sections 247 to 249** (despite anything to the contrary in those sections).
- (2) **Section 248(2)(a)(ii), (ab), and (b)(i)** applies only to financial years that start on or after the main commencement date.
- (3) The first statement of financial risk management must be prepared and published under **section 248(1)** as soon as practicable after the main commencement date. 25
- 25 First statement of prudential policy**
- (1) This clause applies to the first statement of prudential policy under **sections 250 and 251** (despite anything to the contrary in those sections). 30
- (2) The statement of prudential policy must be prepared and published under **section 251(1)** as soon as practicable after the main commencement date.
- 26 Fees regulations continue in force under this Act**
- (1) This clause applies to regulations made under any of the following that are in force immediately before the main commencement date: 35
- (a) section 237(1)(u) of the Insurance (Prudential Supervision) Act 2010;
- (b) section 73(1)(g) of the Non-bank Deposit Takers Act 2013;

- (c) section 173(1)(i) of the 1989 Act.
- (2) The regulations—
 - (a) continue in force as if made under **section 289** of this Act; and
 - (b) may be amended or revoked as if made under that section.
- 27** **References to designated FMIs** 5
- (1) This clause applies until the repeal date (as defined in clause 1 of Schedule 1 of the Financial Market Infrastructures Act 2021).
- (2) A reference in this Act to a designated FMI must be treated as a reference to a designated settlement system within the meaning of section 156M of the 1989 Act. 10

Part 3

Provisions relating to Legislation Act 2019

- 28** **Application of this Part**
- This Part applies until the main commencement date (as defined in clause 2 of Schedule 1 of the Legislation Act 2019). 15
- 29** **Standards: status and publication**
- (1) A standard issued under **section 157** is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.
- (2) The Bank must give notice of the issue of a standard in the *Gazette*. 20
- (3) The notice in the *Gazette*—
 - (a) must—
 - (i) state the name of the standard; and
 - (ii) briefly describe the nature of the standard; and
 - (iii) state where copies of the standard are available for inspection and purchase; but 25
 - (b) need not contain the text of the standard.
- (4) The Bank must make a standard available to the public by making copies of it available—
 - (a) for inspection at all reasonable times, free of charge,— 30
 - (i) at the head office of the Bank; and
 - (ii) on an Internet site maintained by, or on behalf of, the Bank; and
 - (b) for purchase at all reasonable times and at a reasonable price.

30 Minister of Finance instructions

- (1) An instruction issued under **section 256** is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.
- (2) The Minister must notify the instruction in the *Gazette*, and publish it on the Internet, as soon as practicable after issuing it. 5

Schedule 2

Appointment of chairperson, etc, and board procedure

s 76

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Chairperson and deputy chairperson of board

- | | | |
|-------------|--|----------|
| 1 | Appointment | 5 |
| (1) | The Governor-General may, on the recommendation of the Minister, appoint one of the members as the chairperson, and another member as the deputy chairperson, of the board by written notice to the member (with a copy to the board). | |
| <u>(1A)</u> | <u>The Governor may not be appointed under subclause (1).</u> | 10 |
| (2) | The notice of appointment must state the date on which the appointment takes effect. | |
| | Compare: 2004 No 115 Schedule 5 cl 1 | |
| 2 | Term of appointment | |
| | The chairperson and the deputy chairperson each hold that office until— | 15 |
| (a) | they resign from that office; or | |
| (b) | they are removed from it by the Governor-General; or | |

- (c) they cease to hold office as a member; or
- (d) the term of office that may have been specified on appointment expires, unless they continue to hold office as a member in accordance with **section 32(3)** or are reappointed for a further term.

Compare: 2004 No 115 Schedule 5 cl 2

5

3 Resignation

- (1) A chairperson or deputy chairperson may, without resigning as a member, resign from that office by written notice to the Minister (with a copy to the board).
- (2) The notice of resignation must state the date on which the resignation takes effect. 10

Compare: 2004 No 115 Schedule 5 cl 3

4 Removal

- (1) The Governor-General may, on the recommendation of the Minister and after consultation with the person concerned, remove a chairperson or deputy chairperson of the board from that office by written notice to the person (with a copy to the board). 15
- (2) The notice of removal must state the date on which the removal takes effect.

Compare: 2004 No 115 Schedule 5 cl 4

5 Exercise of chairperson's functions and powers during vacancy 20

- (1) The deputy chairperson of a board has and may exercise all of the functions and powers of the chairperson in relation to a matter if—
 - (a) the chairperson is unavailable; or
 - (b) the chairperson is interested in the matter.
- (2) The board may, by resolution, appoint a temporary deputy chairperson, who may exercise all the functions and powers of the chairperson in relation to a matter if—
 - (a) there is no deputy chairperson; or
 - (b) the deputy chairperson is unavailable; or
 - (c) the deputy chairperson is interested in the matter. 25

(3) The Governor may not be appointed under **subclause (2)**. 30

Compare: 2004 No 115 Schedule 5 cl 5

Procedure of board

6 Procedure generally

- (1) The members of the board may regulate their own procedure. 35

- (2) **Subclause (1)** applies except as otherwise provided under this or another Act.

Compare: 2004 No 115 Schedule 5 cl 6

7 Notice of meetings

- (1) The board or the chairperson must appoint the times and places of ordinary meetings of the board, and give notice of those meetings to each member not present when the appointment is made. 5
- (2) The chairperson or any 2 members may call a special meeting of the board by giving at least 5 working days' notice (or any shorter notice period that all the members agree) of the special meeting, and the business to be transacted at the meeting, to each member for the time being in New Zealand. 10
- (3) Only the business stated in the notice of special meeting may be transacted at the special meeting.
- (4) Notice of a meeting—
- (a) must be written, and state the time and place of the meeting; and
 - (b) may be given by post, delivery, or electronic communication; and 15
 - (c) must be given or sent to each member's current postal or electronic address.
- (5) An irregularity in a notice of a meeting is waived if all members entitled to receive the notice either—
- (a) attend the meeting without protesting about the irregularity; or 20
 - (b) do not attend the meeting, but agree before the meeting is held to the waiver of the irregularity.

Compare: 2004 No 115 Schedule 5 cl 7

8 Methods of holding meetings

- A meeting of the board may be held— 25
- (a) by a quorum of the members, being assembled together at the time and place appointed for the meeting; or
 - (b) by means of audio, audio and visual, or electronic communication, provided that—
- (i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and 30
 - (ii) a quorum of members can simultaneously communicate with each other throughout the meeting.

Compare: 2004 No 115 Schedule 5 cl 8

9 Quorum 35

- (1) A quorum for a meeting of the board is the number that is—

-
- (a) half the number of members (if the board has an even number of members); or
- (b) a majority of the members (if the board has an odd number of members).
- (2) No business may be transacted at a meeting of the board if a quorum is not present. 5
- Compare: 2004 No 115 Schedule 5 cl 9
- 10 Special provisions for boards with only 1 member available to act**
- (1) This clause applies while a board has only 1 member who is available (for example, because of a vacancy or because **section 63**, but not **section 65**, applies to 1 or more members). 10
- (2) The quorum for a meeting of the board is 1.
- (3) The available member—
- (a) may appoint the times and places of ordinary meetings; and
- (b) may call a special meeting; and
- (c) need not send a notice of meeting for those meetings; and 15
- (d) may enter into any obligation that, under **section 188(2)**, may be entered into by 2 or more members.
- Compare: 2004 No 115 Schedule 5 cl 10
- 11 Presiding at meetings**
- (1) At a meeting of the board, the following person presides: 20
- (a) if there is a chairperson and the chairperson is present and is not interested in the matter, the chairperson; or
- (b) if there is no chairperson or the chairperson is not present or is interested in the matter, the deputy chairperson; or
- (c) in any other case, the temporary deputy chairperson. 25
- (2) A person referred to in **subclause (1)(b) or (c)** may exercise all the powers and functions of the chairperson for the purposes of the meeting.
- Compare: 2004 No 115 Schedule 5 cl 11
- 12 Voting at meetings**
- (1) Each member has 1 vote. 30
- (2) In addition to their general vote, the chairperson at a meeting has, in the case of an equality of votes, a casting vote.
- (3) A resolution of the board is passed if it is agreed to by all members present without dissent or if a majority of the votes cast on it are in favour of it.

- (4) A member present at a meeting of the board is presumed to have agreed to, and to have voted in favour of, a resolution of the board unless they expressly dissent from or vote against the resolution at the meeting.

Compare: 2004 No 115 Schedule 5 cl 12

13 Unanimous written resolutions 5

- (1) A resolution signed or assented to in writing (whether sent by post, delivery, or electronic communication) by all members who are entitled to vote on the matter is as valid and effectual as if it had been passed at a meeting of the board duly called and constituted.
- (2) The resolution may consist of several documents containing the same resolution, each signed or assented to in writing by 1 or more members. 10

Compare: 2004 No 115 Schedule 5 cl 13

14 Board may appoint committees

- (1) The board may, by resolution, appoint committees—
- (a) to advise it on any matters relating to the Bank's functions and powers that are referred to the committee by the board; or 15
 - (b) to perform or exercise any of the Bank's functions and powers that are delegated to the committee, if the committee includes at least 1 member of the board and any other person or persons that the board thinks fit.
- (2) A person must not be appointed as a member of a committee unless, before appointment, the person discloses to the board the details of any interest the person may have if the person were a member of that committee. 20

Compare: 2004 No 115 Schedule 5 cl 14

15 Provisions relating to committee members

- (1) **Sections 38, 41, 42, 52, 75, 174, 177 to 185, 197, 239(1)(g) and (h) and (4)** apply to each member of a committee who is not a member of the board with necessary modifications. 25
- (2) **Sections 59 to 70** apply to each member of a committee who is not a member of the board as if the committee member were a board member and as if the disclosure must be made to both the committee and the board, and with other necessary modifications. 30

Compare: 2004 No 115 Schedule 5 cl 15

Schedule 3

Remit and monetary policy committee

ss 106, 120

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Remuneration of external members

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1 Interpretation

In this schedule,—

chairperson—

- (a) means the chairperson of the MPC; and
- (b) includes a person acting as chairperson under **clause 38** 5

collective duty means a duty under **clause 40 or 41**

external member means a member of the MPC who is not an employee of the Bank (but does not include the Governor)

individual duty means a duty under **clauses 42 to 48**

internal member means a member of the MPC who is an employee of the Bank 10

member means a member of the MPC.

Compare: 1989 No 157 Schedule 2 cl 1

Part 1**MPC remit 15****~~2 Bank's advice on MPC remit to be issued under section 143~~**

- ~~(1) The Bank must, no later than 3 months before the specified date, give the Minister advice (**remit advice**) about an MPC remit that the Minister is to issue under **section 143**.~~
- ~~(2) If the Bank fails to give remit advice within the time frame set out in this clause, the Minister may issue the MPC remit without receiving the advice.~~ 20
- ~~(3) In this clause, **specified date** means, in relation to an MPC remit that will be issued to replace another remit (the **existing remit**), the date on which the term of the existing remit will expire.~~

Compare: 1989 No 157 Schedule 2 cl 2(1), (2), (4) 25

2 Bank's advice on MPC remit

- (1) The Bank must, at least every 5 years, give the Minister advice about the MPC remit (**remit advice**).
- (2) The Bank must, as soon as practicable, update remit advice that it has previously given if the Minister requests the Bank to update the advice. 30

- (3) A failure by the Bank to comply with this clause does not prevent the Minister from replacing or amending the MPC remit at any time.

2A Minister must consider remit advice

- (1) The Minister must, as soon as practicable after receiving the remit advice,—
- (a) have regard to that advice; and 5
 - (b) decide whether the MPC remit should be amended, replaced, or remain in force without amendment.
- (2) As soon as practicable after acting under **subclause (1)**, the Minister must—
- (a) publish a notice in the *Gazette* of what the Minister has decided; and
 - (b) present a copy of that notice to the House of Representatives. 10

3 Bank must publish remit advice

~~The Bank must, as soon as practicable after the MPC remit is issued, publish a copy of the remit advice on an Internet site maintained by, or on behalf of, the Bank.~~

The Bank must publish a copy of its remit advice on an Internet site maintained by, or on behalf of, the Bank as soon as practicable after the Minister has published a notice under **clause 2A(2)(a)** in relation to that advice. 15

Compare: 1989 No 157 Schedule 2 cl 2(3)

4 Process for developing advice

- (1) The Bank must, before the remit advice is given, consult the MPC. 20
- (2) The Bank must, before the remit advice is given,—
- (a) seek the views of members of the public on the matters that the Bank considers would assist it to prepare the advice; and
 - (b) have regard to the comments that are provided by those members of the public within the time and in the manner specified by the Bank; and 25
 - (c) consult the Minister on the scope of the remit advice.
- (3) *See **section 100**, which provides for the Bank to seek the views of members of the public on a replacement charter.*

Compare: 1989 No 157 Schedule 2 cl 3

5 ~~Period during which MPC remit is in force~~ 30

- (1) ~~An MPC remit issued under **section 148** (or **clause 8** of this schedule) is in force for 5 years on and from —~~
- ~~(a) the date on which it is issued; or~~
 - ~~(b) a later date specified in the remit.~~
- (2) ~~However,—~~ 35

- (a) ~~the Minister may, by notice to the Bank, extend the period for which an MPC remit under **section 118** is in force for a period of up to 6 months if the Minister considers that an extension is necessary or desirable;~~
- (b) ~~an MPC remit issued under **clause 8** of this schedule is in force for less than 5 years if the order under that clause—~~ 5
- (i) ~~specifies that the order is in force for a shorter term; or~~
- (ii) ~~is revoked before the expiry of the 5 year period.~~
- (3) ~~The Minister's notice under **subclause (2)(a)** must be—~~
- (a) ~~published in the *Gazette*; and~~
- (b) ~~published on an Internet site maintained by, or on behalf of, the Bank.~~ 10
- (4) ~~See **sections 121 to 125** (which provide for when an MPC remit is in force when an Order in Council is made under **section 121**).~~
- Compare: 1989 No 157 Schedule 2 cl 4(1) (3), (5)
- 5 MPC remit continues in force until replaced** 15
- An MPC remit continues in force until it is replaced.
- 6 ~~When Bank must update remit advice~~**
- ~~The Bank must, as soon as practicable, update remit advice that it has previously given if—~~
- (a) ~~the advice was given before the term of the current remit is extended under **clause 5(2)(a)**; and~~ 20
- (b) ~~the Minister requests the Bank to update the advice.~~
- Compare: 1989 No 157 Schedule 2 cl 4(4)
- 7 Publication and presentation of remit**
- (1) The Minister must, as soon as practicable after an MPC remit is issued under **section 118**,— 25
- (a) notify the issue of the remit in the *Gazette*; and
- (b) present a copy of the remit to the House of Representatives.
- (2) If an MPC remit is issued under **section 118**, the Bank must publish a copy of the remit on an Internet site maintained by, or on behalf of, the Bank. 30
- Compare: 1989 No 157 Schedule 2 cl 5
- 8 ~~MPC remit may be replaced or issued~~**
- (1) ~~The Governor General may, by Order in Council made on the recommendation of the Minister,—~~
- (a) ~~replace an MPC remit issued under **section 118** or this clause before the term of that remit expires; or~~ 35
- (b) ~~issue a new MPC remit as referred to in **section 123(2)(b)**.~~

(2) ~~An MPC remit may be replaced before the expiry of its term only in accordance with this clause or **section 122**.~~

(3) ~~**Section 119** applies with all necessary modifications.~~

(4) ~~Despite section 15 of the Interpretation Act 1999, a remit may not be amended.~~

(5) ~~**Subclause (4)** does not prevent the operational objectives in a remit from being amended or replaced as referred to in **section 134(2)**.~~ 5

~~Compare: 1989 No 157 Schedule 2 cl 6(1), (4)–(7)~~

9 Minister's recommendation that MPC remit be replaced or issued

(1) ~~The Minister must, before making a recommendation under **clause 8**,~~

(a) ~~consult the Bank on the proposed MPC remit; and~~ 10

(b) ~~consider the Bank's comments (if any) on the proposal.~~

(2) ~~The MPC may ask the Minister to make a recommendation.~~

~~Compare: 1989 No 157 Schedule 2 cl 6(2), (3)~~

9 Minister's duty to consult before issuing MPC remit

The Minister must consult the Bank before issuing an MPC remit. 15

10 Status of MPC remit

(1) ~~An MPC remit issued under **section 118** is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012 and does not have to be presented to the House of Representatives under section 41 of that Act.~~ 20

(2) ~~However, an Order in Council under **section 121 or clause 8** of this schedule is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.~~

~~Compare: 1989 No 157 Schedule 2 cl 7~~ 25

Part 2

MPC and its members

Appointment of members

11 Appointment of internal and external members

The Minister must appoint the internal and external members on the recommendation of the board. 30

~~Compare: 1989 No 157 Schedule 2 cl 8~~

12 Board must consult chairperson

The board must consult the chairperson before making a recommendation under **clause 11** in respect of an internal member.

Compare: 1989 No 157 Schedule 2 cl 9

13 Validity of members' acts

5

The acts of a person as a member or chairperson are valid even though—

- (a) a defect existed in the appointment of the person; or
- (b) the person is or was disqualified from being a member; or
- (c) the occasion for the person acting, or for their appointment, had not arisen or had ended.

10

Compare: 1989 No 157 Schedule 2 cl 10(2); 2004 No 115 s 34

14 Validity of appointments

- (1) The appointment of a person as an internal or external member is not invalid only because a defect existed in the appointment of the person.

- (2) This clause does not apply to a defect in the qualifications for appointment of an internal or external member.

15

Compare: 1989 No 157 Schedule 2 cl 10(1); 2004 No 115 s 35

15 Vacancies in membership of MPC

The powers and functions of the MPC are not affected by any vacancy in the membership of the MPC.

20

Compare: 1989 No 157 Schedule 2 cl 10(2)(a); 2004 No 115 s 77

16 Qualifications of internal and external members

- (1) A natural person who is not disqualified by this clause may be an internal or external member.

- (2) The following persons are disqualified from being an internal or external member:

25

- (a) a person who is a director or an employee of— a regulated entity:

- (i) ~~a registered bank; or~~

- (ii) ~~a licensed NBDT; or~~

- (iii) ~~a licensed insurer; or~~

30

- (iv) ~~an operator of a designated settlement system;~~

- (b) a member of the board:

- (c) a person who is an undischarged bankrupt:

- (d) a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unin-

35

corporated body under the Companies Act 1993, the Financial Markets Conduct Act 2013, or the Takeovers Act 1993:

- (e) a person who is subject to a property order under the Protection of Personal and Property Rights Act 1988:
- (f) a person in respect of whom a personal order has been made under that Act that reflects adversely on the person's—
 - (i) competence to manage their own affairs in relation to their property; or
 - (ii) capacity to make or to communicate decisions relating to any particular aspect or aspects of their personal care and welfare:
- (g) a person who has been convicted of a crime involving dishonesty as defined in section 2(1) of the Crimes Act 1961 within the past 5 years:
- (h) a person who has been convicted within the past 5 years, in a country other than New Zealand, of an offence that is substantially similar to an offence specified in **paragraph (g)**:
- (i) a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more, or who has been sentenced to imprisonment for any other offence, unless that person has obtained a pardon, served the sentence, or otherwise suffered the penalty imposed on the person:
- (j) a person who is a chief executive of a department or an employee of a department.

Compare: 1989 No 157 Schedule 2 cl 11

17 Requirements before appointment

- (1) Before a person is appointed under **clause 11**, the person must—
 - (a) consent in writing to being a member; and
 - (b) certify that the person is not disqualified from being a member; and
 - (c) disclose to the Minister the nature and extent (including monetary value, if quantifiable) of all interests that the person has at that time, or is likely to have, in matters relating to the MPC.
- (2) The board must notify the Minister of a failure to comply with **subclause (1)(c)** as soon as practicable after becoming aware of the failure.

Compare: 1989 No 157 Schedule 2 cl 12

18 Appointment procedure for internal or external members

- (1) The appointment of an internal or external member of the MPC must be made by written notice to the appointee (with a copy to the board and to the chairperson).
- (2) The notice must state—

- (a) the date on which the appointment takes effect, which must not be earlier than the date on which the notice is received; and
 - (b) the term of the appointment; and
 - (c) the conditions of appointment.
- (3) The Minister must ensure that the following are notified in the *Gazette* as soon as practicable after an appointment is made: 5
- (a) the name of the appointee; and
 - (b) the date on which the appointment takes effect; and
 - (c) the term of the appointment.
- Compare: 1989 No 157 s 63N 10

19 Term of appointment

- (1) An internal member must be appointed for a term of up to 5 years and may be reappointed for 2 further terms as an internal member of up to 5 years each.
- (2) An external member must be appointed for a term of up to 4 years and may be reappointed for 1 further term as an external member of up to 4 years. 15
- (3) This clause does not prevent a person who has served as a member in a particular capacity from being appointed, or holding office, as a member in a different capacity.

Examples

A, as an employee of the Bank, has been an internal member of the MPC for 3 terms. 20

If A ceases to be an employee of the Bank, A may be appointed as an external member for 1 or 2 further terms.

Compare: 1989 No 157 Schedule 2 cl 13

20 Extension of term 25

- (1) The Minister may, by written notice to an internal or external member (with a copy to the chairperson and the board), extend the member's term of appointment by up to 6 months.
- (2) If a member's term is extended and the member is reappointed for a further term in the same capacity (for example, as an employee of the Bank), the length of the further term must be reduced by the length of the extension. 30
- (3) **Subclause (2)** does not prevent the further term from being extended under **subclause (1)**.

Compare: 1989 No 157 Schedule 2 cl 14(1)–(3)

21 Minister must notify extension 35

The Minister must ensure that the following are notified in the *Gazette* as soon as practicable after an extension under **clause 20** is made:

- (a) the name of the member; and
- (b) the period of the extension.

Compare: 1989 No 157 Schedule 2 cl 14(4)

22 Criteria for appointment of internal or external members

- (1) The Minister may only appoint as an internal or external member a person who, in the Minister's opinion, has the appropriate knowledge, skills, and experience to assist the MPC to perform its functions (for example, in economics, banking, or public policy). 5
- (2) A person must not be appointed on the basis that the person represents a particular industry sector. 10

Compare: 1989 No 157 Schedule 2 cl 15

When members cease to hold office

23 Internal or external member ceasing to hold office

- (1) An internal or external member ceases to hold office if the member—
 - (a) dies; or 15
 - (b) resigns in accordance with **clause 25**; or
 - (c) is removed from office in accordance with **clause 26**; or
 - (d) becomes disqualified from being a member under **clause 16**; or
 - (e) otherwise ceases to hold office under this Act.
- (2) An internal member ceases to hold office if they cease to be an employee of the Bank (but this does not prevent the person from being subsequently appointed as an external member). 20

Compare: 1989 No 157 Schedule 2 cl 16; 2004 No 115 s 45

24 Internal or external member may continue in office at end of term

- (1) An internal or external member continues in office despite the expiry of the member's term of office until—
 - (a) the member is reappointed; or
 - (b) the member's successor is appointed; or
 - (c) the Minister informs the member by written notice (with a copy to the chairperson and the ~~Board~~ board) that the member is not to be reappointed and no successor is to be appointed at that time. 30
- (2) The Minister must, before acting under **subclause (1)(c)**, be satisfied that there is a good reason for not appointing a successor at that time.
- (3) This clause is subject to **clause 23**. 35

Compare: 1989 No 157 Schedule 2 cl 17

25 Resignation of internal or external member

- (1) An internal or external member may resign from office by written notice to the Minister (with a copy to the chairperson and the board) signed by the member.
- (2) The resignation is effective on receipt by the Minister of the notice or at any later time specified in the notice.

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Compare: 1989 No 157 Schedule 2 cl 18

26 Removal of internal or external member

The Governor-General may, at any time, on the advice of the Minister given after consultation with the Attorney-General, remove an internal or external member from office.

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Compare: 1989 No 157 Schedule 2 cl 19(1)

27 When Minister may give advice for removal

- (1) The Minister may only give the advice under **clause 26** in relation to a member (**M**) if the Minister is satisfied that—
 - (a) the MPC has breached a collective duty (but *see subclause (2)*); or
 - (b) M has breached an individual duty; or
 - (c) M has been absent from 3 or more meetings within a term of appointment without the consent of the chairperson; or
 - (d) M has been guilty of misconduct (including a breach of the code of conduct); or
 - (e) M has obstructed, hindered, or prevented the MPC or the board from discharging responsibilities under this Act.
- (2) **Subclause (1)(a)** applies to M only if the Minister is satisfied that M has agreed or consented to 1 or more decisions or acts of the MPC that have materially contributed to the breach of the collective duty.
- (3) The Minister may tender advice under this clause whether or not the board has made a recommendation under **clause 28** that the member be removed from office.

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Compare: 1989 No 157 Schedule 2 cl 19(2)–(4)

28 Board must advise Minister of grounds for removal and may recommend removal

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If the board is satisfied of any matter referred to in **clause 27(1)(a) to (e)** in relation to a member of the MPC, the board—

- (a) must advise the Minister in writing; and
- (b) may recommend that the member be removed from office.

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Compare: 1989 No 157 s 53(5)

29 Other provisions relating to removal

- (1) The Minister may advise the removal of an internal or external member with as little formality and technicality, and as much expedition, as is permitted by—
- (a) the principles of natural justice; and
 - (b) a proper consideration of the matter.

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- (2) The Minister may have regard to the process undertaken by the board under **clause 28** in considering what is required for the purposes of **subclause (1)(a) and (b)**.

Compare: 1989 No 157 Schedule 2 cl 20

30 No compensation for loss of office

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An internal or external member is not entitled to any compensation or other payment or benefit relating to the member ceasing, for any reason, to hold office as a member.

Compare: 1989 No 157 Schedule 2 cl 21

31 Effect of removal on other positions

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An employee of the Bank who is removed as a member under **clause 26** is not, because of that removal, removed from their position as an employee.

Compare: 1989 No 157 Schedule 2 cl 22

*Treasury observer***32 Treasury observer**

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- (1) The Secretary to the Treasury must ensure that the Secretary, a Deputy Secretary to the Treasury, or any other Treasury officer or employee is nominated to be a Treasury observer.

- (2) The Treasury observer has the same rights to attend and speak at a meeting of the MPC as a member but has no right to vote on any question before the MPC and is not subject to the duties that apply to members.

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- (3) The nomination must be made by written notice to the chairperson (with a copy to the officer or employee if it is a person other than the Secretary to the Treasury).

Compare: 1989 No 157 Schedule 2 cl 23

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33 Conditions of performing role as Treasury observer

- (1) The Treasury observer must perform that role subject to any conditions that are agreed by the Secretary to the Treasury and the chairperson.
- (2) Those conditions must include matters relating to confidentiality and avoiding conflicts of interest.

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- (3) Those conditions remain in effect until the Secretary to the Treasury and the chairperson agree to amend the conditions (regardless of changes to the person who holds any office or role).
Compare: 1989 No 157 Schedule 2 cl 24
- 34 Replacing Treasury observer** 5
The Secretary to the Treasury may, at any time and entirely at the Secretary's discretion, replace the Treasury observer by giving written notice to the chairperson.
Compare: 1989 No 157 Schedule 2 cl 25
- 35 Function of Treasury observer** 10
The function of the Treasury observer is to—
(a) support decision making by the MPC (for example, by sharing information on fiscal policy); and
(b) facilitate the co-ordination of monetary and fiscal policy; and
(c) carry out any other function agreed between the chairperson and the Secretary to the Treasury. 15
Compare: 1989 No 157 Schedule 2 cl 26
- Chairperson of MPC*
- 36 Chairperson**
The Governor is the chairperson of the MPC. 20
Compare: 1989 No 157 Schedule 2 cl 27
- 37 Duties of chairperson**
The chairperson must—
(a) preside at meetings of the MPC; and
(b) perform all other duties imposed on the chairperson by this Act or the charter. 25
Compare: 1989 No 157 Schedule 2 cl 28
- 38 Who may act as chairperson if Governor is absent or incapacitated or office is vacant**
If the Governor is absent or incapacitated or the office of Governor is vacant, an internal member appointed by the board must act as chairperson of the MPC (and that person has all the duties, responsibilities, functions, and powers of the chairperson). 30
Compare: 1989 No 157 Schedule 2 cl 29

*Accountability for duties***39 Accountability of members to Minister**

- (1) Members of the MPC must comply with—
- (a) the MPC's collective duties; and
 - (b) their individual duties as members. 5
- (2) Members are accountable to the Minister for performing their duties as members.
- Compare: 1989 No 157 Schedule 2 cl 30

*Collective duties***40 Formulating monetary policy 10**

- (1) The MPC must formulate monetary policy in accordance with **section 115**.
- (2) The MPC must perform or exercise its functions or powers in a manner that is consistent with this Act.
- Compare: 1989 No 157 Schedule 2 cl 31

41 Compliance with charter 15

The MPC must ensure that it complies with the charter.

Compare: 1989 No 157 Schedule 2 cl 32

Individual duties of members

- 42 Member must act consistently with MPC remit, charter, code, and Act**
- A member must act in a manner that is consistent with— 20
- (a) the MPC remit; and
 - (b) the charter; and
 - (c) the code of conduct; and
 - (d) this Act.

Compare: 1989 No 157 Schedule 2 cl 33 25

43 Member must act with honesty and integrity

A member must, when acting as a member, act with honesty and integrity.

Compare: 1989 No 157 Schedule 2 cl 34

44 Member must act in good faith

A member, when acting as a member, must act in good faith and without regard 30
to the member's own interests.

Compare: 1989 No 157 Schedule 2 cl 35

45 Member must act with reasonable care, diligence, and skill

A member must, when acting as a member, exercise the care, diligence, and skill that a reasonable member would exercise in the same circumstances, taking into account (without limitation)—

- (a) the nature of the functions of the MPC; and 5
- (b) the nature of the action; and
- (c) the position of the member and the nature of the responsibilities undertaken by the member.

Compare: 1989 No 157 Schedule 2 cl 36

46 Member must disclose if member is likely to become disqualified 10

If an internal or external member becomes aware that the member is likely to become disqualified under **clause 16**, the member must, as soon as practicable, disclose that fact to—

- (a) the chairperson (unless the member is the chairperson); and
- (b) the board; and 15
- (c) the Minister.

Compare: 1989 No 157 Schedule 2 cl 37

47 Use of information by external member

An external member who has information in the member's capacity as a member, being information that would not otherwise be available to the member, must not disclose that information to any person, or make use of or act on the information, except— 20

- (a) for the purposes of the performance or exercise of the functions or powers of the MPC; or
- (b) as permitted or required by the charter; or 25
- (c) to comply with the provisions of the code of conduct that relate to the disclosure of interests; or
- (d) as otherwise required by law.

Compare: 1989 No 157 Schedule 2 cl 38

48 Other individual duties of chairperson 30

The duties imposed under this schedule on the chairperson are individual duties of the Governor (and of a person acting under **clause 38**).

Compare: 1989 No 157 Schedule 2 cl 39

*Meeting procedures***49 Regular meetings**

The MPC must hold a meeting at least 4 times a year.

Compare: 1989 No 157 Schedule 2 cl 40

50 Methods of holding meetings

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(1) A meeting of the MPC may be held—

(a) by a quorum of the members, being assembled together at the time and place appointed for the meeting; or

(b) by means of audio, audio and visual, or electronic communication, provided that—

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(i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and

(ii) a quorum of members can simultaneously communicate with each other throughout the meeting.

(2) This clause is subject to **clause 53**.

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Compare: 1989 No 157 Schedule 2 cl 41

51 Quorum

(1) A quorum for a meeting of the MPC is the number that is a majority of the members.

(2) However, the quorum must include—

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(a) the Governor; and

(b) at least 1 internal member; and

(c) at least 1 external member.

(3) If an internal member is acting as chairperson under **clause 38**,—

(a) **subclause (2)(a)** does not apply; and

25

(b) the quorum must include the internal member who is acting as chairperson and at least 1 other internal member under **subclause (2)(b)**.

Compare: 1989 No 157 Schedule 2 cl 42(1), (2)

52 No business may be transacted without quorum

(1) No business may be transacted at a meeting of the MPC if a quorum is not present.

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(2) This clause is subject to **clause 53**.

Compare: 1989 No 157 Schedule 2 cl 42(3), (4)

53 Emergency procedures

- (1) Despite the lack of a quorum, the chairperson and other members of the MPC that are available (if any) may make any decision on behalf of the MPC or perform or exercise any other function, power, or duty of the MPC if the chairperson is satisfied that— 5
- (a) exceptional circumstances exist; and
 - (b) an urgent action is necessary to prevent, correct, or mitigate harm to the economy; and
 - (c) despite the use of all reasonable means available, other members of the MPC have not been able to be contacted on the matter or are unable to fully participate in dealing with the matter; and 10
 - (d) action on the matter is required before a quorum will be able to be obtained.
- (2) If a decision is made or other thing is done under this clause,—
- (a) the chairperson must make a record of— 15
 - (i) the chairperson's reasons for being satisfied of the matters referred to in **subclause (1)**; and
 - (ii) the decision or thing; and
 - (b) the chairperson must, as soon as practicable, provide a copy of that record to— 20
 - (i) the Minister; and
 - (ii) the board; and
 - (iii) the members of the MPC that were not available when the decision was made or the other thing was done.

Compare: 1989 No 157 Schedule 2 cl 43 25

54 Voting at meetings

- (1) Each member has 1 vote.
- (2) In addition to the chairperson's general vote, the chairperson at a meeting has, in the case of an equality of votes, a casting vote.
- (3) A resolution of the MPC is passed if it is agreed to by all members present without dissent or if a majority of the votes cast on it are in favour of it. 30

Compare: 1989 No 157 Schedule 2 cl 44(1)–(3)

55 When member presumed to have agreed and voted in favour

- (1) A member present at a meeting of the MPC is presumed to have agreed to, and to have voted in favour of, a resolution of the MPC unless the member expressly dissents from or votes against the resolution at the meeting. 35

- (2) **Subclause (1)** is subject to the charter (which may vary or disapply the matter referred to in that subclause or provide for an alternative matter).

Compare: 1989 No 157 Schedule 2 cl 44(4), (5)

56 Unanimous written resolutions

- (1) A resolution signed or assented to in writing (whether sent by delivery or electronic communication) by all members who are entitled to vote on the matter is as valid and effectual as if it had been passed at a meeting of the MPC duly called and constituted. 5
- (2) The resolution may consist of several documents containing the same resolution, each signed or assented to in writing by 1 or more members. 10

Compare: 1989 No 157 Schedule 2 cl 45

57 Meeting record

- (1) The Bank must publish a summary record of each meeting of the MPC on an Internet site maintained by, or on behalf of, the Bank.
- (2) The summary record must include the information required by the charter. 15

Compare: 1989 No 157 Schedule 2 cl 46

Procedure generally

58 Procedure generally

The MPC may regulate its own procedure except as provided in this Act and in the charter and code of conduct. 20

Compare: 1989 No 157 Schedule 2 cl 47

Remuneration of external members

59 Remuneration of external members

An external member is entitled to be—

- (a) paid remuneration by the Bank for services as an external member at a rate and of a kind determined by the Minister in accordance with the fees framework; and 25
- (b) reimbursed by the Bank for actual and reasonable travelling and other expenses incurred in carrying out the member's duties as a member in accordance with the fees framework. 30

Compare: 1989 No 157 Schedule 2 cl 48

Schedule 4

Amendments to other legislation

ss 296, 297

Part 1

Amendments to Reserve Bank of New Zealand Act 1989 5

Replace section 1A with:

1A Purpose

The purpose of this Act is to promote the prosperity and well-being of New Zealanders, and contribute to a sustainable and productive economy, by providing for the Reserve Bank of New Zealand, as the central bank, to be responsible for— 10

- (a) registering banks and undertaking prudential supervision of registered banks; and
- (b) carrying out other functions, and exercising powers, specified in this Act. 15

1B Overview

(1) In this Act,—

- (a) Part 4 imposes limits on the use of the words “bank”, “banker”, and “banking”;
- (b) Part 5 provides for the registration of banks and the prudential supervision of registered banks; 20
- (c) Part 5A provides for the retention of documents by banks;
- (d) Part 5B provides for oversight of payment systems;
- (e) Part 5C regulates designated settlement systems;
- (f) Part 7 deals with regulations, offences, and other miscellaneous matters. 25

(2) This section is only a guide to the general scheme and effect of this Act.

(3) In addition, the Reserve Bank of New Zealand Act **2020** provides for the Reserve Bank of New Zealand.

In section 2(1), repeal the definitions of **bank note** or **note**, **charter**, **code of conduct**, **Deputy Governor**, **economic objective**, **financial year**, **foreign exchange**, **formulating**, **MPC** or **monetary policy committee**, **net income**, **operating expenses**, **remit**, and **remit advice**. 30

In section 2(1), replace the definition of **Governor** with:

Governor means a person who occupies the position of Governor of the Bank (whether the person is appointed under **section 79 or 92** of the Reserve Bank of New Zealand Act **2020**) 35

In section 2(1), replace the definition of **Reserve Bank** or **the Bank** with:

Reserve Bank or the **Bank** means the Reserve Bank of New Zealand continued under the Reserve Bank of New Zealand Act **2020**

In section 2(2), replace “section 36, Parts 4 and 5, and sections 179 and 179A” with “Parts 4 and 5”. 5

Replace section 66G(2)(c) with:

- (c) for the purposes of, or in connection with, the performance or exercise of any function, power, or duty conferred or imposed on the Bank by this Act or any other legislation; or

Replace section 66G(2)(e) with: 10

- (e) under **subpart 3 of Part 6** of the Reserve Bank of New Zealand Act **2020** (which relates to information sharing); or

Replace section 66H(1)(b)(i) with:

- (i) for the purposes of, or in connection with, the performance or exercise of any function, power, or duty referred to in that paragraph; and 15

Replace section 105(2)(d) with:

- (d) for the purposes of, or in connection with, the performance or exercise of any function, power, or duty conferred or imposed on the Bank by this Act or any other legislation; or

Replace section 105(2)(f) with: 20

- (f) under **subpart 3 of Part 6** of the Reserve Bank of New Zealand Act **2020** (which relates to information sharing):

Replace section 105(5)(a) with:

- (a) for the purposes of, or in connection with, the performance or exercise of any function, power, or duty referred to in that paragraph; and 25

Replace section 156G(1)(c) and (d) with:

- (c) the publication or disclosure of the information or data is for the purposes of, or in connection with, the performance or exercise of any function, power, or duty conferred or imposed on the Bank by this Act or any other legislation; or
- (d) the publication or disclosure of the information or data is under **subpart 3 of Part 6** of the Reserve Bank of New Zealand Act **2020** (which relates to information sharing); or 30

Replace section 156H(1)(a)(i) with:

- (i) for the purposes of, or in connection with, the performance or exercise of any function, power, or duty referred to in that paragraph; and 35

Replace section 156ZN(1)(c) and (d) with:

- (c) the publication or disclosure of the information or data is for the purposes of, or in connection with, the performance or exercise of any function, power, or duty conferred or imposed on the Bank by this Act or any other legislation; or
- (d) the publication or disclosure of the information or data is under **subpart 3 of Part 6** of the Reserve Bank of New Zealand Act **2020** (which relates to information sharing); or

Part 2

Repeal of provisions in Reserve Bank of New Zealand Act 1989

Part 1	10
Part 2	
Part 3	
Section 68B	
Section 75	
Part 6	15
Sections 168, 169, and 171	
Section 173(1)(i)	
Sections 175A and 175B	
Section 177(a)	
Sections 178 to 179A	20
Schedule 1, Part 1	
Schedule 2	

Part 3

Amendments to other Acts

Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (2009 No 35) 25

In section 5(1), definition of **registered bank**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In section 18(2)(n), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 30

Replace section 48(b)(v) with:

- (v) the Reserve Bank of New Zealand Act **2020** and the Acts that are prudential legislation (within the meaning of **section 5** of that Act):

Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (2009 No 35)—continued

In section 137(2) and (3), replace “Reserve Bank of New Zealand Act 1989” with “Reserve Bank of New Zealand Act **2020**, the Banking (Prudential Supervision) Act 1989”.

In section 140(2)(t), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 5

Biosecurity Act 1993 (1993 No 95)

In section 100O(3)(a)(i), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In section 100ZE(3)(a)(i), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 10

In section 140A(1), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Burial and Cremation Act 1964 (1964 No 75)

In section 2(1), definition of **registered bank**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 15

Chartered Professional Engineers of New Zealand Act 2002 (2002 No 17)

In Schedule 1, clause 41(1), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Child Support Act 1991 (1991 No 142)

In section 155(4)(a), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 20

Community Trusts Act 1999 (1999 No 54)

In the heading to section 20, replace “**Reserve Bank of New Zealand Act 1989**” with “**Banking (Prudential Supervision) Act 1989**”.

In section 20, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 25

Companies Act 1993 (1993 No 105)

In section 2(1), definition of **designated settlement system**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In section 239ABMA(3) and (4), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 30

In section 248(3), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Companies Act 1993 (1993 No 105)—continued

In section 269(2)(b)(iii), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In section 271(3), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In section 365(3), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 5

In Schedule 7, clause 2(3B) and (3C), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Compensation for Live Organ Donors Act 2016 (2016 No 96)

In Schedule 2, clause 1(1), definition of **registered bank**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 10

Construction Contracts Act 2002 (2002 No 46)

In section 18FB(8), definition of **registered bank**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Corporations (Investigation and Management) Act 1989 (1989 No 11)

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In section 8(1), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989” in each place.

In section 38(5), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In section 42(8), (8A), (9), (11), and (12), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 20

In section 43(4), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In section 44(4) and (5), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 25

In section 45(3), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In section 51(9) and (10), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Crown Entities Act 2004 (2004 No 115)

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In section 136(1), definition of **registered bank**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Customs and Excise Act 2018 (2018 No 4)

In section 415(7), definition of **registered bank**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 35

Electoral Act 1993 (1993 No 87)

In section 212, definition of **registered bank**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Evidence Act 2006 (2006 No 69)

In section 75(3)(a), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 5

Financial Markets Authority Act 2011 (2011 No 5)

After section 9(2), insert:

(2A) The function in subsection (1)(f) includes acting as a member of the Council of Financial Regulators and as chairperson of the council (jointly with the Reserve Bank or in accordance with **section 284(2)** of the Reserve Bank of New Zealand Act **2020**). 10

In Schedule 1, Part 2, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Financial Markets Conduct Act 2013 (2013 No 69) 15

In section 6(1), definition of **registered bank**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In section 60(3), definition of **approved rating agency**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In section 238(1)(h), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 20

In section 338(4), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In section 389(1)(b), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 25

In section 426(1), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Financial Market Infrastructures Act 2021 (2021 No 13)

In section 5, definition of **insolvency manager**, paragraph (c)(ii), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 30

In section 5, definition of **RBNZ**, replace “(see Part 1 of the Reserve Bank of New Zealand Act 1989)” with “(see Part 2 of the Reserve Bank of New Zealand Act **2020**)”.

In section 5, definition of **RBNZ Minister**, replace “Reserve Bank of New Zealand Act 1989” with “Reserve Bank of New Zealand Act **2020**”. 35

In section 59(1)(a), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Financial Market Infrastructures Act 2021 (2021 No 13)—continued

Repeal section 154.

In section 163(3), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In Schedule 1, clause 1, replace the definition of **RBNZ Act 1989** with:

BPS Act 1989 means the Banking (Prudential Supervision) Act 1989

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In Schedule 1, heading to clause 2, replace “**RBNZ Act 1989**” with “**BPS Act 1989**”.

In Schedule 1, clause 2, replace “RBNZ Act 1989” with “BPS Act 1989” in each place.

In Schedule 1, clause 3(1) and (2), replace “RBNZ Act 1989” with “BPS Act 1989”.

In Schedule 1, clause 4(5), replace “RBNZ Act 1989” with “BPS Act 1989” in each place.

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In Schedule 3, item relating to section 42(8) of the Corporations (Investigation and Management) Act 1989, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In Schedule 3, item relating to section 44(4) of the Corporations (Investigation and Management) Act 1989, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

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In Schedule 3, item relating to Schedule 1 of the Financial Markets Authority Act 2011, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

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In Schedule 3, item relating to section 338(4) of the Financial Markets Conduct Act 2013, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In Schedule 3, heading to item relating to Reserve Bank of New Zealand Act 1989, replace “**Reserve Bank of New Zealand Act 1989**” with “**Banking (Prudential Supervision) Act 1989**”.

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Financial Service Providers (Registration and Dispute Resolution) Act 2008 (2008 No 97)

In Schedule 2, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

30

Fisheries Act 1996 (1996 No 88)

In section 59(11)(c), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In section 78(12)(c), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

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In section 79(6)(c), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Fisheries Act 1996 (1996 No 88)—continued

In section 255(6), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Gambling Act 2003 (2003 No 51)

In section 4(1), definition of **registered bank**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 5

Income Tax Act 2007 (2007 No 97)

In section FE 20(2), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In section HD 15(2)(c), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 10

In section HD 16(7), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In section RE 10C(2) and (6)(b)(~~i~~), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In section RP 6(1), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 15

In section YA 1, definition of **registered bank**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Infrastructure Funding and Financing Act 2020 (2020 No 47)

In section 106, definition of **registered bank**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 20

Insolvency Act 2006 (2006 No 55)

In section 202(3), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Insurance Intermediaries Act 1994 (1994 No 41) 25

In section 17(1)(e), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Insurance (Prudential Supervision) Act 2010 (2010 No 111)

In section 6(1), replace the definition of **Bank** with:

Bank means the Reserve Bank of New Zealand continued under the Reserve Bank of New Zealand Act **2020** 30

In section 6(1), replace the definition of **Governor** with:

Governor means a person who occupies the position of Governor of the Bank (whether the person is appointed under **section 79 or 92** of the Reserve Bank of New Zealand Act **2020**) 35

Insurance (Prudential Supervision) Act 2010 (2010 No 111)—continued

In section 6(1), definitions of **voting right** and **voting security**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Repeal section 13.

In section 36(1), delete “, by a notice signed by the Governor,”.

Repeal section 54 and the cross-heading above section 54.

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In section 55(1), delete “, by a notice signed by the Governor,”.

In section 73(3), replace “Governor” with “Bank”.

In section 99(6)(a)(i), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In section 100(2)(b), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

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In section 135(2)(a), after “Act”, insert “(other than the Official Information Act 1982)”.

Replace section 135(2)(c) and (d) with:

- (c) the publication or disclosure of the information, data, document, or forecast is for the purposes of, or in connection with, the performance or exercise of any function, power, or duty conferred or imposed on the Bank by this Act or any other legislation; or
- (d) the publication or disclosure is made under **subpart 3 of Part 6** of the Reserve Bank of New Zealand Act **2020** (which relates to information sharing); or

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In section 135(3), replace “(2)(d) or (e)” with “(2)(e)”.

After section 135(5), insert:

- (6) The Bank may make information, data, a document, or a forecast to which this section applies available under the Official Information Act 1982 only if 1 or more grounds under subsection (2) apply.

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Replace section 136(1)(a)(i) with:

- (i) for the purposes of, or in connection with, the performance or exercise of any function, power, or duty referred to in that paragraph; and

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In section 170(4), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Repeal sections 230 and 231 and the cross-heading above section 230.

In section 236(1), delete “, by a notice signed by the Governor,”.

Repeal section 237(1)(u) and (5) to (7).

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In Schedule 1, clause 3(1)(c), replace “Governor” with “Bank”.

In Schedule 1, clause 6(2)(c), replace “Governor” with “Bank”.

International Finance Agreements Act 1961 (1961 No 3)

In section 4(2), replace “Reserve Bank of New Zealand Act 1989” with “Reserve Bank of New Zealand Act **2020**”.

KiwiSaver Act 2006 (2006 No 40)

In section 221(4), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 5

Lawyers and Conveyancers Act 2006 (2006 No 1)

In section 6, definition of **bank**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In section 322(3)(b)(ii), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 10

Legal Services Act 2011 (2011 No 4)

In section 41E(2), replace “established under the Reserve Bank of New Zealand Act 1989” with “continued under the Reserve Bank of New Zealand Act **2020**”.

Legislation Act 2019 (2019 No 58)

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In Schedule 4, Part 1, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Limitation Act 2010 (2010 No 110)

In section 16(1)(j) and (2), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 20

In section 38(1)(e) and (2), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Act 2003 (2003 No 21)

In Schedule 2, clause 31(1)(a), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 25

Masterton Trust Lands Act 2003 (2003 No 1(L))

In Schedule 2, clause 10(1), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Methodist Charitable and Educational Trusts Act 1911 (1911 No 1 (L))

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In section 30(1)(e), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Non-bank Deposit Takers Act 2013 (2013 No 104)

In section 4(1), replace the definition of **Bank** with:

Non-bank Deposit Takers Act 2013 (2013 No 104)—continued

Bank means the Reserve Bank of New Zealand continued under the Reserve Bank of New Zealand Act **2020**

In section 4(1), replace the definition of **Governor** with:

Governor means a person who occupies the position of Governor of the Bank (whether the person is appointed under **section 79 or 92** of the Reserve Bank of New Zealand Act **2020**)

In section 5(2)(a), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Repeal section 9.

In section 27(3), replace “Governor” with “Bank”. 10

In section 53(3) and (4), replace “Governor” with “Bank”.

Replace section 54(2)(d) with:

- (d) for the purposes of, or in connection with, the performance or exercise of any function, power, or duty conferred or imposed on the Bank by this Act or any other legislation; or 15
- (da) under **subpart 3 of Part 6** of the Reserve Bank of New Zealand Act **2020** (which relates to information sharing); or

Repeal section 54(2)(f).

Replace section 54(3)(a) with:

- (a) for the purposes of, or in connection with, the performance or exercise of any function, power, or duty referred to in that paragraph; or 20

In section 54(5), replace “(2)(f), (g),” with “(2)(g)”.

Repeal section 73(1)(g).

Repeal sections 80 and 81 and the cross-heading above section 80.

Repeal section 89. 25

In Schedule 1, clause 5(1)(b), replace “Governor” with “Bank”.

In Schedule 1, clause 6(1), replace “Governor” with “Bank” in each place.

Ombudsmen Act 1975 (1975 No 9)

In Schedule 1, Part 2, insert in its appropriate alphabetical order:

Reserve Bank of New Zealand and any subsidiary of the Reserve Bank of New Zealand 30

Overseas Investment Act 2005 (2005 No 82)

In section 111(1)(a), (b), and (e), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Personal Property Securities Act 1999 (1999 No 126)

In section 103A(6) and (7), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989” in each place.

In section 103B(2) and (3), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

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Pork Industry Board Act 1997 (1997 No 106)

In section 41(1), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Primary Products Marketing Act 1953 (1953 No 10)

In section 3(7)(a), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

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Prisoners’ and Victims’ Claims Act 2005 (2005 No 74)

In section 54(2), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Property Law Act 2007 (2007 No 91)

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In section 153(8) and (9), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Public and Community Housing Management Act 1992 (1992 No 76)

In section 150(2), replace “established under the Reserve Bank of New Zealand Act 1989” with “continued under the Reserve Bank of New Zealand Act **2020**”.

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Public Audit Act 2001 (2001 No 10)

Replace section 16(3) with:

- (3) Subsection (1)(a) does not apply to any registered bank (as defined in section 2(1) of the Banking (Prudential Supervision) Act 1989).

Replace section 18(2) with:

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- (2) Subsection (1) does not apply to any registered bank (as defined in section 2(1) of the Banking (Prudential Supervision) Act 1989).

Public Finance Act 1989 (1989 No 44)

In section 2(1), definition of **bank**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

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Repeal section 71AA(3)(c).

Receiverships Act 1993 (1993 No 122)

In section 30(7) and (8), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Registered Architects Act 2005 (2005 No 38)

In the Schedule, clause 41(1), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Remuneration Authority Act 1977 (1977 No 110)

In Schedule 4, insert in their appropriate alphabetical order: 5

The Governor of the Reserve Bank of New Zealand

The members of the board of the Reserve Bank of New Zealand

Search and Surveillance Act 2012 (2012 No 24)

In the Schedule, item relating to the Reserve Bank of New Zealand Act 1989, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989” in each place and reposition the item in its appropriate alphabetical order. 10

Social Security Act 2018 (2018 No 32)

In section 111(2), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Summary Proceedings Act 1957 (1957 No 87) 15

In section 2(1), definition of **bank**, paragraph (b), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In section 2(1), definition of **infringement notice**, after paragraph (hb), insert:

(hc) **section 273** of the Reserve Bank of New Zealand Act **2020**; or

Tax Administration Act 1994 (1994 No 166) 20

In section 25MB(2) and (7)(b)(i), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In section 80KL(2)(a), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Wages Protection Act 1983 (1983 No 143) 25

In section 2, definition of **financial institution**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Westpac New Zealand Act 2011 (2011 No 1 (P))

In section 4(1), definition of **Minister**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 30

Part 4

Amendments to secondary legislation

Companies Act 1993 Liquidation Regulations 1994 (SR 1994/130)

In regulation 2, definition of **registered bank**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 5

Credit Contracts and Consumer Finance Regulations 2004 (SR 2004/240)

In regulation 18D(5), definition of **registered bank**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In regulation 18E(4), definition of **non-bank lender**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 10

Customs Import Prohibition (Coins and Bank Notes) Order 2019 (LI 2019/210)

In clause 3, replace “section 2(1) of the Reserve Bank of New Zealand Act 1989” with “**section 5(1)** of the Reserve Bank of New Zealand Act **2020**”.

Deer Industry New Zealand Regulations 2004 (SR 2004/323)

In regulation 16(1), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 15

Electronic Identity Verification Regulations 2013 (SR 2013/9)

In regulation 4(1)(c), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Financial Markets Authority (Levies) Regulations 2012 (SR 2012/121) 20

In regulation 3(1), definition of **registered bank**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In regulation 4(1)(a), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Financial Markets Conduct Regulations 2014 (LI 2014/326) 25

In Schedule 6, clause 14(3)(a), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In Schedule 6, clause 29(b), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In Schedule 8, clause 26(2), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 30

In Schedule 9, clause 6(2)(a) and (4), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Insolvency (Personal Insolvency) Regulations 2007 (SR 2007/333)

In regulation 6(4)(a), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Lawyers and Conveyancers Act (Trust Account) Regulations 2008 (SR 2008/183)

In regulation 39(2)(b), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 5

Non-bank Deposit Takers (Declared-out Entities) Regulations 2015 (LI 2015/9)

In regulation 3, definition of **registered bank**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In regulation 9, definition of **condition of registration**, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 10

Reserve Bank of New Zealand (Australian Financial Authorities) Regulations 2006 (SR 2006/373)

In regulation 3, replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”. 15

Reserve Bank of New Zealand (Registration and Supervision of Banks) Regulations 2008 (SR 2008/342)

In regulation 3(1), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

Social Security Regulations 2018 (LI 2018/202) 20

In regulation 221(2)(a), replace “Reserve Bank of New Zealand Act 1989” with “Banking (Prudential Supervision) Act 1989”.

In regulation 221(2)(f), replace “established under the Reserve Bank of New Zealand Act 1989” with “continued under the Reserve Bank of New Zealand Act **2020**”.

Legislative history

28 July 2020
8 December 2020

Introduction (Bill 315–1)
First reading and referral to Finance and Expenditure Committee