

**Reprint
as at 1 January 2008**



Insurance Law Reform Act 1985

Public Act 1985 No 117
Date of assent 9 August 1985
Commencement see section 1(2)

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the Ministry of Business, Innovation, and Employment.

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An Act to effect certain reforms in the law governing contracts of insurance

1 Short Title and commencement

- (1) This Act may be cited as the Insurance Law Reform Act 1985.
- (2) This Act shall come into force on 1 April 1986.

2 Act to bind the Crown

This Act shall bind the Crown.

3 Interest payable from 91st day after date of death

Amendment(s) incorporated in the Act(s).

4 Abolition of protection of life policies from creditors

- (1) *Amendment(s) incorporated in the Act(s).*
- (2) The enactments repealed by subsection (1) shall continue to apply, as if they had not been repealed, in respect of policies held by a person who died or was adjudged bankrupt before the date of the commencement of this section.
- (3) *Amendment(s) incorporated in the Act(s).*

5 Repeal of Inalienable Life Annuities Act 1910

- (1) The Inalienable Life Annuities Act 1910 is hereby repealed.
- (2) With respect to any inalienable life annuity policy issued under the Inalienable Life Annuities Act 1910 and in force at the commencement of this Act, the Inalienable Life Annuities Act 1910 shall, notwithstanding its repeal by subsection (1), continue to apply as if this Act had not been passed.

6 Need for insurable interest in life policy abolished

A contract of assurance on the life of a person is not void or illegal by reason only of the fact that the insured under the contract does not have, or did not have when the contract was entered into, any interest in the life of that person.

7 Need for insurable interest restricted

- (1) Except as provided in the Marine Insurance Act 1908, no person for whose use or benefit or on whose account a policy of insurance is made is required to have any interest in any event for the purposes of—
 - (a) any contract of indemnity against loss; or
 - (b) any contract of assurance on the life of a person.

- (2) *[Repealed]*
- (3) Every insurance made contrary to subsection (2) is void.
- (4) Nothing in this section limits the provisions of the Marine Insurance Act 1908.
Section 7(2): repealed, on 1 July 2004, by section 374 of the Gambling Act 2003 (2003 No 51).

8 Repeal of Life Assurance Act 1774

As from the commencement of this Act, the Life Assurance Act 1774 (14 Geo III, c 48) shall cease to have effect as part of the law of New Zealand.

9 New sections substituted

Amendment(s) incorporated in the Act(s).

10 Consequential amendment to Minors' Contracts Act 1969

Amendment(s) incorporated in the Act(s).

11 Consequential repeals

- (a)–(c) *Amendment(s) incorporated in the Act(s).*
- (d) Life Insurance Amendment Act 1967:
- (e) *Amendment(s) incorporated in the Act(s).*

12 Repeal of power to regulate provisions of fire insurance policies

Amendment(s) incorporated in the Act(s).

13 Purchaser of land entitled to benefits of insurance between dates of sale and possession

- (1) Subsection (1A) applies during the period beginning with the making of a contract for the sale of land and all or any fixtures on that land, and ending on the purchaser taking possession of the land and fixtures, or final settlement (whichever occurs first).
- (1A) During the period specified in subsection (1), any policy of insurance maintained by the vendor in respect of any damage to or destruction of any part of the land or fixtures enures, in respect of the land and fixtures agreed to be sold and to the extent that the purchaser is not entitled to be indemnified or to require reinstatement of that land and those fixtures under any other policy of insurance, for the benefit of the purchaser as well as the vendor.
- (1B) In particular, the purchaser is entitled to be indemnified by the insurer or to require the insurer to reinstate that land and those fixtures in the same manner and to the same extent as the vendor would have been so entitled under the policy if there had been no contract of sale.
- (1C) However, nothing in subsections (1A) and (1B) obliges an insurer to pay or expend more in total under a policy of insurance than it would have had to pay or expend if there had been no contract of sale.

- (2) It shall not be a defence or answer to—
- (a) a claim by a purchaser against an insurer under this section, that the vendor otherwise would not be entitled to be indemnified by the insurer or to require reinstatement because the vendor has suffered no loss or has suffered diminished loss because the vendor is or was entitled to be paid all, or the balance of, the purchase price, by the purchaser; or
 - (b) any claim under this section by a purchaser against the vendor's insurer in relation to the land or fixtures sold, that the purchaser's entitlement under the policy to which the claim relates is affected or defeated by the existence or terms of another policy; or
 - (c) any claim by a purchaser against an insurer (other than the vendor's insurer) that the purchaser's entitlement under the policy to which the claim relates is affected or defeated by a claim under this section.
- (3) Where, in respect of a contract for the sale of land and all or any fixtures thereon,—
- (a) there is damage to or destruction of any part of the land or fixtures during the period specified in subsection (1); and
 - (b) the whole or part of the amount payable in respect of the damage or destruction under the policy of insurance maintained by the vendor is payable to a mortgagee of, or any person claiming through, the vendor—
- the purchase price payable under the contract of sale shall be reduced by the amount so payable to the mortgagee or person claiming through the vendor.
- (4) In this section, **vendor** includes a mortgagee of the vendor and any person claiming through the vendor.
- (5) This section shall not apply to the extent that the purchaser and vendor under a contract of sale expressly agree at any time.
- (6) This section—
- (a) shall apply only in respect of contracts of sale made after the commencement of this Act; and
 - (b) subject to subsection (5), shall have effect notwithstanding any provision to the contrary in any enactment, rule of law, policy of insurance, deed, or contract; and
 - (c) shall apply, with all necessary modifications, in respect of a sale or exchange of land and fixtures by order of a court as if the order were a contract of sale.

Section 13(1): substituted, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

Section 13(1A): inserted, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

Section 13(1B): inserted, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

Section 13(1C): inserted, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

Section 13(2)(a): substituted, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

14 Double insurance relating to contracts for sale of land

Where there is a contract for the sale of land and all or any fixtures thereon, it shall not be a defence or answer to any claim by the purchaser against an insurer (other than the vendor's insurer) that the purchaser's entitlement under the policy to which the claim relates is affected or defeated by the existence or terms of any policy held by or on behalf of the vendor.

15 Prohibition on inclusion of pro rata condition of average in contract of insurance relating to dwellinghouse

- (1) No contract of insurance relating to a dwellinghouse or to any of the contents thereof or to both shall contain a pro rata condition of average.
- (2) Any provision of any contract of insurance that contravenes subsection (1) shall be of no effect.
- (3) In this section **dwellinghouse** means a building or part of a building occupied or intended to be occupied as a separate dwelling; and includes any outbuildings used primarily for domestic or residential purposes.
- (4) The application of this section to any contract of insurance relating to a dwellinghouse shall not be excluded by reason only that part of the premises is used as a shop or office or for business, trade, or professional purposes.

16 Disclosure of pro rata condition of average

- (1) Where a contract of insurance (not being a contract to which section 15 of this Act applies or a contract of marine insurance within the meaning of section 3 of the Marine Insurance Act 1908) contains a pro rata condition of average, the condition shall be of no effect unless, before that contract is entered into, the insurer clearly informs the insured in writing of the nature and effect of the condition.
- (2) Notwithstanding subsection (1), where it is not reasonably practicable for the information required by that subsection to be given to the insured in writing before the contract is entered into, that subsection shall be deemed to be complied with if the insurer—
 - (a) gives the information orally before the contract is entered into; and
 - (b) gives the information in writing as soon as it is reasonably practicable to do so.
- (3) Without limiting the means by which the requirements of subsections (1) and (2) may be satisfied, it is hereby declared that any requirement which is imposed by any provision of those subsections and which requires information in

writing of the nature and effect of a pro rata condition of average to be given shall be satisfied if that information is given in writing in the following form:

“The meaning of subject to average

- (1) Your insurance policy contains a provision making it subject to average.
- (2) That provision will have effect only if the property insured under the policy is underinsured at the time of loss.
- (3) If the property insured under the policy is underinsured at the time of loss, the following rules apply:
 - (a) if you suffer a total loss, the provision will have no effect:
 - (b) if you suffer a partial loss, the maximum amount that you may recover will bear the same proportion to your actual loss as the amount for which the property is insured bears to the full value of the property:
 - (c) whatever your loss, in no case will you be entitled to recover more than the amount for which the property is insured.

Example: Your property is worth \$20,000. You insure it for \$10,000. You suffer a loss of \$5,000. If your policy is subject to average, the maximum amount that you may recover will be \$2,500.”

- (4) This section does not apply in respect of a contract of insurance entered into before the commencement of this Act.

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Notes

1 General

This is a reprint of the Insurance Law Reform Act 1985. The reprint incorporates all the amendments to the Act as at 1 January 2008, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted

enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted.

A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)
- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)

- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5 *List of amendments incorporated in this reprint
(most recent first)***

Property Law Act 2007 (2007 No 91): section 364(1)

Gambling Act 2003 (2003 No 51): section 374