

Version
as at 28 October 2021



Finance Act (No 2) 1990

Public Act 1990 No 73
Date of assent 1 August 1990
Commencement see section 1(2)

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Treasury.

An Act to make provision with respect to public finances and other matters

1 Short Title and commencement

- (1) This Act may be cited as the Finance Act (No 2) 1990.
- (2) Except as provided in sections 10(2), 11(2), and 12(2), this Act shall come into force on the day on which it receives the Royal assent.

2 Interpretation

In this Act, unless the context otherwise requires,—

appointed day means the date appointed by the Governor-General under section 5

the Bank means Post Office Bank Limited, a company incorporated under the Companies Act 1955; and includes a company that is a related company (within the meaning of section 2(5) of the Companies Act 1955) to that company

bonus bonds means bonus bonds issued under the Public Finance Act 1989 in accordance with section 4 of the Post Office Bank Act 1987

the Crown means Her Majesty the Queen in right of New Zealand

Minister means the Minister of Finance

Post Office bonus bonds means Post Office bonus bonds issued pursuant to the Post Office Act 1959 before 1 April 1987.

3 Meaning of approved unit trust

- (1) In this Act **approved unit trust** means a unit trust (within the meaning of section YA 1 of the Income Tax Act 2007, but ignoring paragraph (b)(x) of the definition of **unit trust**) of which the Bank is the manager under which net income is distributed among the unit holders, in whole or in part, by prizes determined by ballot and which is approved for the purposes of this Act by the Minister by notice in the *Gazette*.
- (2) The Minister shall not approve, under subsection (1), a unit trust that makes provision for interests to be held by persons who become unit holders by reason only of having been the holders of bonus bonds or Post Office bonus bonds unless—
 - (a) the Minister is satisfied that the rights conferred on those persons are not, subject to this Act, substantially different from the rights which those persons had as the holders of those bonds; and
 - (b) the unit trust deed provides that, for at least 2 years after the appointed day, the unit trust is required, if requested to do so, to buy back or redeem those interests deemed to have been issued to those persons.

- (3) For the purposes of the distribution of prizes retaining the characteristics of a lottery no unit in an approved unit trust shall have a better chance of winning a prize than 1 in 9 600.

Section 3(1): amended, on 24 February 2016, by section 301 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section 3(3): substituted, on 8 August 1991, by section 28 of the Finance Act 1991 (1991 No 93).

4 Changes to prize structure

- (1) The Governor-General may from time to time, by Order in Council, on the advice of the Minister given in accordance with a recommendation by the Bank, authorise such variations to the provisions of an approved unit trust that relate to entitlements to and the distribution of prizes as may be specified in the order.
- (2) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 4(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 4(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

5 Holders of bonus bonds and Post Office bonus bonds to become unit holders in approved unit trust

- (1) On a date to be appointed by the Governor-General by Order in Council every person who, immediately before the date appointed, is the holder of a bonus bond or a Post Office bonus bond shall become the holder of a unit or units in an approved unit trust specified in the order corresponding in number to the number of units representing each dollar evidenced by the bond subject to all the rights and obligations attaching to that unit or those units by virtue of the unit trust as if that person had become the holder by subscription.
- (2) On the appointed day all rights and interests existing under and by virtue of bonus bonds or Post Office bonus bonds shall cease.
- (3) *[Repealed]*
- (4) Nothing in this section limits or prevents the issue of units in an approved unit trust to persons other than persons previously holding bonus bonds or Post Office bonus bonds.
- (5) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 5(3): repealed, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 5(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

6 Guarantee by Crown

- (1) The Crown hereby guarantees, for a period of 2 years commencing on the appointed day, the performance of all obligations arising under an approved unit trust in respect of units deemed to have been issued to persons who were previously the holders of bonus bonds and Post Office bonus bonds.
- (2) Any money that is required to be paid by the Crown under subsection (1) shall be paid out of a Crown Bank Account without further appropriation than this section.
- (3) Any money required to be paid by the Crown under subsection (1) shall constitute a debt due to the Crown by the unit trust and shall be recoverable as such in any court of competent jurisdiction.

Section 6(2): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

7 Use of term bonus bonds

- (1) On and after the appointed day the Bank shall have the sole and exclusive right to use of the term “bonus bonds” in connection with the issue of units in an approved unit trust.
- (2) Except as provided in subsection (1), no person shall use the words “bonus bond” or “bonus bonds” or those words in combination with any other words in connection with the issue of securities by that person.

8 Application of section 11(2) of Unit Trusts Act 1960 from 1 October 1997

[Repealed]

Section 8: repealed, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

9 Application of Gambling Act 2003

Nothing in the Gambling Act 2003 applies to, or in connection with,—

- (a) the purchase or subscription of units in an approved unit trust; or
- (b) any cash prize payable to the holders of such units; or

- (c) the holding of ballots for the distribution of prizes to the holders of such units.

Section 9 heading: amended, on 1 July 2004, by section 374 of the Gambling Act 2003 (2003 No 51).

Section 9: amended, on 1 July 2004, by section 374 of the Gambling Act 2003 (2003 No 51).

9A Application of Securities Act 1978

[Repealed]

Section 9A: repealed, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

10 Amendment to Income Tax Act 1976

[Repealed]

Section 10: repealed, on 1 April 2005 (effective for 2005–06 tax year and later tax years, except when the context requires otherwise), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

11 Amendments to Post Office Bank Act 1987

- (1) *Amendment(s) incorporated in the Act(s).*
- (2) This section shall come into force on the appointed day.

Section 11(2): this section brought into force, on 1 October 1990, being the date appointed by the Finance Act (No 2) (Approved Unit Trust) Order 1990 (SR 1990/255).

12 Revocation

- (1) The Post Office Bonus Bonds Interest Notice 1981 (SR 1981/315) is hereby revoked.
- (2) This section shall come into force on the appointed day.

Section 12(2): this section brought into force, on 1 October 1990, being the date appointed by the Finance Act (No 2) (Approved Unit Trust) Order 1990 (SR 1990/255).

Notes

1 *General*

This is a consolidation of the Finance Act (No 2) 1990 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Secondary Legislation Act 2021 (2021 No 7): section 3

Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1): section 301

Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150

Income Tax Act 2004 (2004 No 35): section YA 2

Gambling Act 2003 (2003 No 51): section 374

Finance Act 1991 (1991 No 93): section 28

Finance Act (No 2) (Approved Unit Trust) Order 1990 (SR 1990/255)

Public Finance Act 1989 (1989 No 44): section 65R(3)