



Insurance (Prudential Supervision) Amendment Act 2013

Public Act 2013 No 61
Date of assent 3 September 2013
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Insurance (Prudential Supervision) Amendment Act 2013.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Insurance (Prudential Supervision) Act 2010 (the **principal Act**).

4 Section 21 amended (Conditions of licence)

Replace section 21(2)(f) with:

“(f) a condition that requires the licensed insurer or the directors of the insurer (or both) to certify that 1 or more of the following have been complied with (being certification that is given at the time or times and in the manner specified in the condition):

“(i) any conditions of the licence:

“(ii) any requirements of this Act or the regulations:

“(iii) any requirements of any other enactment imposed on the insurer as a licensed insurer (for example, financial reporting obligations):”.

- 5 Section 25 amended (Bank must notify applicant of decision and give notice on its Internet site)**
- (1) In the heading to section 25, replace “its Internet site” with “register”.
 - (2) Replace section 25(3) with:
 - “(3) The Bank must give notice of the issue of a licence on the register kept under section 54A.”
- 6 Section 30 amended (Cancellation of licence)**
- In section 30(2), replace “subsection (1)(a)(i) to (vi)” with “subsection (1)(a)(ii) to (vi)”.
- 7 New section 54A and cross-heading inserted**
- After section 54, insert:
- “Register*
- “54A Register**
- “(1) The Bank must keep a public register of licensed insurers.
 - “(2) The Bank must determine the form of the register and may amend the form as it considers necessary.
 - “(3) The register must include—
 - “(a) the name of each licensed insurer; and
 - “(b) the current financial strength rating of each licensed insurer (unless the insurer is not required to have such a rating); and
 - “(c) any other prescribed information.
 - “(4) The Bank must take all reasonable steps to ensure that the information contained in the public register is available to members of the public at all reasonable times.
“Compare: 1989 No 157 s 69”.
- 8 Section 58 repealed (Incorporation by reference)**
- Repeal section 58.
- 9 Section 60 amended (Licensed insurer must have current financial strength rating)**
- (1) Replace section 60(2)(c) with:
 - “(c) a captive insurer; or

“(d) an insurer that is exempted under subsection (2A).”

(2) After section 60(2), insert:

“(2A) The Bank may, by notice to a licensed insurer, exempt the insurer from compliance with subsection (1) if the Bank is satisfied that the insurer has ceased to enter into new contracts of insurance as an insurer.

“(2B) Subsection (2A) is subject to section 232 (which provides for general provisions relating to exemptions).”

10 Section 64 amended (Disclosure of current rating to policyholder)

After section 64(4), insert:

“(4A) If a contract of insurance is renewed, the licensed insurer is not required to comply with subsection (1) if—

“(a) the contract is of a kind that is renewable more frequently than annually; and

“(b) the information referred to in that subsection was disclosed in writing to the policyholder less than 12 months before the date of the renewal; and

“(c) that information has not changed since the last disclosure was made to the policyholder under this section.”

11 Section 81 amended (Financial statements must be given to Bank)

(1) In the heading to section 81, after “**statements**”, insert “**and interim financial information**”.

(2) Replace section 81(2) to (4) with:

“(2) A licensed insurer must, within 4 months after the end of the first half of each accounting period of the insurer,—

“(a) prepare interim financial information for that half-period that complies with subsection (3); and

“(b) ensure that copies of that information together with a copy of the auditor’s report on the information (if any) are given—

“(i) to the Bank; and

“(ii) for registration to the Registrar if this is required by the regulations.

“(3) The interim financial information must—

- “(a) comply with—
 - “(i) generally accepted accounting practice; or
 - “(ii) requirements specified by the Bank in a written notice given to the insurer (for example, regulatory requirements that apply in the insurer’s home jurisdiction); and
 - “(b) be audited if required by the regulations.
- “(4) If subsection (3)(a)(i) applies, the interim financial information must be interim financial statements prepared in respect of—
- “(a) the insurer if the insurer, at the end of the half-period, has no subsidiaries; or
 - “(b) a group comprising the insurer and its subsidiaries in any other case.
- “(4A) In this section, **generally accepted accounting practice**, **Registrar**, and **subsidiaries** have the same meanings as in the Financial Reporting Act 1993.”

12 New section 217A inserted (Time for filing charging document)

After section 217, insert:

“217A Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence under this Act ends on the date that is 5 years after the date on which the offence was committed.”

13 Section 232 amended (General provisions relating to declarations and exemptions)

After section 232(2)(b), insert:

“(ba) section 60(2A) (which relates to exemptions for insurers in run-off from the requirement to have a current financial strength rating):”.

14 Section 237 amended (Regulations)

- (1) In section 237(1)(j), replace “statements” with “information”.
- (2) In section 237(1)(v), replace “section 226” with “section 54A or 226”.

15 New section 238A and cross-heading inserted

After section 238, insert:

“Incorporation by reference

“238A Incorporation by reference

- “(1) This section applies to the following instruments:
- “(a) a declaration under section 9:
 - “(b) a fit and proper standard:
 - “(c) a solvency standard:
 - “(d) regulations.
- “(2) The following written material may be incorporated by reference in an instrument referred to in subsection (1):
- “(a) standards, requirements, or recommended practices of international or national organisations:
 - “(b) standards, requirements, or recommended practices prescribed in any country or jurisdiction:
 - “(c) any other written material that deals with technical matters and is too large or impractical to include in, or print as part of, the instrument.
- “(3) Schedule 1 applies to any material incorporated by reference in an instrument referred to in subsection (1).”

16 Section 246 amended (Duration of provisional licence)

(1) After section 246(1), insert:

- “(1A) Subsection (1B) applies to an entity if—
- “(a) the entity still holds a provisional licence immediately before the date (the **3-year date**) that is 3 years after the date on which this Act receives the Royal assent; and
 - “(b) 1 or more of the following apply to the entity:
 - “(i) the entity is, immediately before the 3-year date, subject to an insolvency proceeding or process:
 - “(ii) an application for a licence for the entity under section 17 was refused or declined at any time before the 3-year date:
 - “(iii) a direction under section 143 has, at any time before the 3-year date, been given to the entity requiring the entity to cease entering into any new contracts of insurance.

- “(1B) Despite subsection (1), if this subsection applies to an entity, the provisional licence of the entity remains in force until it is cancelled under subsection (2).”
- (2) Replace section 246(2)(b) with:
- “(b) the Bank is satisfied that the holder has ceased to carry on insurance business in New Zealand; or
 - “(c) in the case of subsection (1B), the Bank is satisfied that—
 - “(i) the holder is no longer subject to an insolvency proceeding or process; or
 - “(ii) the holder is a company that has been removed from the New Zealand register (within the meaning of the Companies Act 1993); or
 - “(iii) the holder is an overseas company that has been removed from the overseas register (within the meaning of the Companies Act 1993); or
 - “(iv) the holder has been liquidated, wound up, or dissolved or has otherwise ceased to exist; or
 - “(v) for any other reason, it is no longer appropriate for the provisional licence to remain in force.”
- (3) After section 246(2), insert:
- “(3) Subsection (2)(c) does not limit subsection (2)(a) or (b).
- “(4) In this section, an entity is subject to an **insolvency proceeding or process** if any of the following apply:
- “(a) the entity is in liquidation under the Companies Act 1993 or under any other Act:
 - “(b) the entity is in voluntary administration or subject to a deed of company arrangement:
 - “(c) a receiver has been appointed and is acting in relation to the whole, or substantially the whole, of the assets and the undertaking of the entity:
 - “(d) the entity is subject to a compromise with its creditors that has been approved under Part 14 of the Companies Act 1993:
 - “(e) an order that an arrangement or a compromise is binding on the entity has been made under Part 15 of the Companies Act 1993:

- “(f) the entity is in statutory management under this Act, the Corporations (Investigation and Management) Act 1989, or any other enactment:
- “(g) in the case of an overseas person, the overseas person is subject to a proceeding or process in its home jurisdiction that is similar to any of those set out in paragraphs (a) to (f).”

17 Schedule 1 amended

- (1) In the Schedule 1 heading, replace “s 58” with “s 238A”.
 - (2) In Schedule 1, heading to clause 1, delete “**into solvency standards**”.
 - (3) In Schedule 1, clauses 1(1) and (2)(b), 2(1) and (2), 3(1)(a), (2), and (3), 4, 5, 6(1) and (3), and 7, replace “solvency standard” with “specified instrument” in each place.
 - (4) In Schedule 1, clause 1(2)(a), replace “solvency standard is issued” with “specified instrument is issued or made”.
 - (5) In Schedule 1, after clause 1(2), insert:

“(3) In this schedule, **specified instrument** means an instrument to which section 238A applies.”
 - (6) In Schedule 1, clauses 3(2), 4, and 5, replace “the standard” with “the instrument” in each place.
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Legislative history

6 November 2012	Introduction (Bill 80–1)
8 May 2013	First reading and referral to Finance and Expenditure Committee
5 August 2013	Reported from Finance and Expenditure Committee (Bill 80–2)
20 August 2013	Second reading
27 August 2013	Committee of the whole House, third reading
3 September 2013	Royal assent

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