

BODIES CORPORATE (SPECIAL MANAGEMENT) ACTS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill makes amendments of a drafting nature to the Companies Special Investigations Act 1958, the Cornish Companies Management Act 1974, and the Public Service Investment Society Management Act (No. 2) 1979.

The Companies Special Investigations Act 1958 provides that companies subject to receivership thereunder may be released from receivership by Order in Council or by the Court. The other Acts mentioned above provide that companies and other bodies corporate subject to management thereunder may be released from management by Order in Council. Although it seems intended that release from receivership or management has the same effect as release from the Act itself, the Acts do not so provide.

This Bill amends the Companies Special Investigations Act 1958 to provide that a company may be released from the application of the Act by Order in Council or by the Court, and amends the other Acts to provide that a company or other body corporate may be released from the application of the Act by Order in Council.

This Bill also makes other minor drafting amendments.

Hon. Mr McLay

**BODIES CORPORATE (SPECIAL MANAGEMENT)
ACTS AMENDMENT**

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A BILL INTITULED

An Act to amend certain enactments of the General Assembly relating to the special management of certain bodies corporate

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

1. Short Title—This Act may be cited as the Bodies Corporate (Special Management) Acts Amendment Act 1980.

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PART I

COMPANIES SPECIAL INVESTIGATIONS

2. Part to be read with Companies Special Investigations Act 1958—This Part of this Act shall be read together with

and deemed part of the Companies Special Investigations Act 1958* (in this Part referred to as the principal Act).

3. Release of company from application of Act—(1) The principal Act is hereby amended by inserting, after section 3, the following section: 5

“3A. (1) This Act shall cease to apply to a company if the Governor-General, by Order in Council, so declares, or if the Court so orders on application made in that behalf by—

“(a) The receiver in respect of the company; or

“(b) A director of the company; or 10

“(c) A creditor (whether secured or unsecured) of the company; or

“(d) A shareholder of the company.

“(2) The Court shall not make an order under subsection (1) of this section in respect of any company if it considers 15 that the application of this Act to the company is desirable for the protection of any of the shareholders or creditors (whether secured or unsecured) of the company or of any other company to which this Act applies, or is otherwise in the public interest, and that any of the said shareholders or 20 creditors, or the public interest, cannot be adequately protected under the Companies Act 1955 or in any other way.”

(2) Subsections (1) to (3) of section 12 of the principal Act are hereby repealed.

(3) The Companies Special Investigations Order 1972, 25 Amendment No. 3 and the Companies Special Investigations Order 1979, Amendment No. 1 shall have effect from the commencement thereof as if they had been made under section 3A (1) of the principal Act (as inserted by subsection (1) of this section) and as if they declared that the principal 30 Act shall cease to apply to the companies named therein.

PART II

CORNISH COMPANIES MANAGEMENT

4. Part to be read with Cornish Companies Management Act 1974—This Part of this Act shall be read together with 35 and deemed part of the Cornish Companies Management Act 1974† (in this Part referred to as the principal Act).

*1958, No. 23

Amendments: 1959, No. 88; 1963, No. 34

†1974, No. 27

Amendment: 1978, No. 57

5. Application of Act—(1) Section 3 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) This Act shall cease to apply to a company if the Governor-General, by Order in Council, so declares.”

(2) Section 19 of the principal Act is hereby repealed.

PART III

PUBLIC SERVICE INVESTMENT SOCIETY MANAGEMENT (No. 2)

6. Part to be read with Public Service Investment Society Management Act (No. 2) 1979—This Part of this Act shall be read together with and deemed part of the Public Service Investment Society Management Act (No. 2) 1979* (in this Part referred to as the principal Act).

7. Application of Act—(1) Section 4 of the principal Act is hereby amended by inserting, before the words “This Act”, the expression “(1)”.

(2) Section 4 of the principal Act is hereby further amended by adding the following subsection:

“(2) This Act shall cease to apply to a body corporate if the Governor-General, by Order in Council, so declares.”

(3) Section 19 of the principal Act is hereby repealed.

8. Moratorium—Section 6 (1) (e) of the principal Act is hereby amended by adding the words “, against any body corporate to which this Act applies”.

*1979, No. 9
Amendment: 1979, No. 50