



Crown Retail Deposit Guarantee Scheme Act 2009

Public Act 2009 No 30
Date of assent 12 September 2009
Commencement see section 2

Contents

		Page
1	Title	2
2	Commencement	2
Part 1		
Preliminary provisions		
3	Interpretation	2
4	Act binds the Crown	2
Part 2		
Continuance of Crown Retail Deposit Guarantee Scheme		
5	Minister may specify types of entity and criteria	3
6	Minister may give guarantee	3
7	Recovery of money paid under guarantee	3
8	Crown assumes creditor's rights	4
9	Payments in respect of guarantee	4
10	Amendments to Public Finance Act 1989	5
11	Act does not limit Public Finance Act 1989	5

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Crown Retail Deposit Guarantee Scheme Act 2009.

2 Commencement

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

Part 1
Preliminary provisions

3 Interpretation

In this Act, unless the context otherwise requires,—

Crown Retail Deposit Guarantee Scheme means the deposit guarantee scheme announced by the Minister of Finance on or about 12 October 2008 relating to guarantees under section 65ZD of the Public Finance Act 1989

Crown Wholesale Funding Guarantee Facility means the wholesale funding guarantee facility announced by the Minister of Finance on or about 1 November 2008 relating to guarantees under section 65ZD of the Public Finance Act 1989

debt security has the meaning given in section 2(1) of the Securities Act 1978

eligible entity means an entity of a type specified under section 5(1)(a) that satisfies the criteria specified for it under section 5(1)(b)

Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act.

4 Act binds the Crown

This Act binds the Crown.

Part 2

Continuance of Crown Retail Deposit Guarantee Scheme

5 Minister may specify types of entity and criteria

- (1) The Minister may, by notice issued by the Minister, specify—
 - (a) types of entity in respect of which guarantees may be given under section 6; and
 - (b) criteria for entities to satisfy before such guarantees may be given.
- (2) Different criteria may be specified for different types of entity.
- (3) The Minister must, as soon as practicable after the notice is issued,—
 - (a) publish the notice in the *Gazette*; and
 - (b) present a copy of the notice to the House of Representatives.

6 Minister may give guarantee

- (1) The Minister may, on behalf of the Crown, give a guarantee in writing for a period that ends on or before 31 December 2011 in respect of any or all debt securities issued by an eligible entity if it appears to the Minister to be necessary or expedient in the public interest to do so.
- (2) The Minister may give the guarantee on any terms and conditions that the Minister thinks fit.
- (3) The Minister must, as soon as practicable after the guarantee is given,—
 - (a) publish a statement in the *Gazette* that the guarantee has been given; and
 - (b) present a copy of the statement to the House of Representatives.
- (4) The statement may contain any details about the guarantee that the Minister considers appropriate.

Compare: 1989 No 44 s 65ZD

7 Recovery of money paid under guarantee

- (1) Any money paid by the Crown under a guarantee constitutes a debt due to the Crown from the entity in respect of which the guarantee was given.

- (2) A debt referred to in subsection (1)—
- (a) is recoverable in any court of competent jurisdiction:
 - (b) may be paid over any period of time and on any terms and conditions that the Minister thinks fit:
 - (c) may be written down by the Minister (except that the debt must not be written down below its market value other than in accordance with an appropriation, or other authority, by or under an Act).
- (3) This section does not limit or affect any other rights that the Crown may have as guarantor.
- Compare: 1989 No 44 s 65ZF

8 Crown assumes creditor's rights

- (1) If the Crown makes a payment under a guarantee to a creditor of an entity in respect of which the guarantee was given (the **guaranteed entity**), the Crown is subrogated, to the extent of the payment, to all the rights and remedies that, but for the subrogation, the creditor would have had in relation to the creditor's claim against the guaranteed entity.
- (2) To avoid doubt, subsection (1) applies—
- (a) whether the Crown pays the creditor's claim against the guaranteed entity in full or in part; and
 - (b) to give the Crown the same rights and remedies that the creditor would have had in relation to the guaranteed entity, any third party, and any security for the claim; and
 - (c) to give the Crown the same priority that the creditor would have had in the event of the insolvency of the guaranteed entity.
- (3) This section does not limit or affect any other rights or remedies that the Crown may have as guarantor.

9 Payments in respect of guarantee

Any money paid by the Crown under a guarantee and any expenses incurred by the Crown in relation to a guarantee may be incurred without further appropriation, and must be paid without further authority, than this section.

Compare: 1989 No 44 s 65ZG

10 Amendments to Public Finance Act 1989

- (1) This section amends the Public Finance Act 1989.
- (2) Section 49(2)(b) is amended by inserting “or the Crown Retail Deposit Guarantee Scheme Act 2009” after “section 65ZD”.
- (3) Section 65D(2) is amended by adding “or the Crown Retail Deposit Guarantee Scheme Act 2009” after “section 65ZD”.

11 Act does not limit Public Finance Act 1989

- (1) Except as provided in section 10, nothing in this Act limits or affects the operation of the Public Finance Act 1989.
- (2) To avoid doubt, the giving of guarantees under the Crown Retail Deposit Guarantee Scheme and the Crown Wholesale Funding Guarantee Facility is declared to be, and to always have been, a lawful exercise of the powers in section 65ZD of the Public Finance Act 1989.

Legislative history

8 September 2009	Introduction (Bill 79–1), first reading, second reading, committee of the whole House, third reading
12 September 2009	Royal assent

This Act is administered by the Treasury.
