

Companies Act 1993 Amendment Act (No 2) 1994

Public Act 1994 No 82
Date of assent 14 September 1994

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An Act to amend the Companies Act 1993

BE IT ENACTED by the Parliament of New Zealand as follows:

1 Short Title and commencement

- (1) This Act may be cited as the Companies Act 1993 Amendment Act (No. 2) 1994, and shall be read together with and deemed part of the Companies Act 1993 (hereinafter referred to as the principal Act).
- (2) This Act shall be deemed to have come into force on the 1st day of July 1994.

2 Cancellation of shares repurchased

Section 66 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Subject to sections 67A to 67C of this Act, shares that are acquired by a company pursuant to section 59 or section 112 of this Act are deemed to be cancelled immediately on acquisition.”

3 New heading and sections inserted

The principal Act is hereby further amended by inserting, after section 67, the following heading and sections:

“Treasury Stock

“67A Company may hold its own shares

- (1) Shares acquired by a company pursuant to section 59 or section 112 of this Act shall not be deemed to be cancelled under section 66(1) of this Act if—
- “(a) The constitution of the company expressly permits the company to hold its own shares; and
 - “(b) The board of the company resolves that the shares concerned shall not be cancelled on acquisition; and
 - “(c) The number of shares acquired, when aggregated with shares of the same class held by the company pursuant to this section at the time of the acquisition, does not exceed 5 percent of the shares of that class previously issued by the company, excluding shares previously deemed to be cancelled under section 66(1) of this Act.
- “(2) Shares acquired by a company pursuant to section 59 or section 112 of this Act that, pursuant to this section, are not deemed to be cancelled shall be held by the company in itself.
- “(3) A share that a company holds in itself under subsection (2) of this section may be cancelled by the board of the company resolving that the share is cancelled; and the share shall be deemed to be cancelled on the making of such a resolution.

“67B Rights and obligations of shares company holds in itself suspended

- (1) The rights and obligations attaching to a share that a company holds in itself pursuant to section 67a of this Act shall not be exercised by or against a company while it holds the share.
- “(2) Without limiting subsection (1) of this section, while a company holds a share in itself pursuant to section 67A of this Act, the company shall not—
- “(a) Exercise any voting rights attaching to the share; or
 - “(b) Make or receive any distribution authorised or payable in respect of the share.

“67C Reissue of shares company holds in itself

- (1) Subject to subsection (2) of this section, section 47 of this Act shall apply to the transfer of a share held by a company in itself as if the transfer were the issue of the share under section 42 or section 44 of this Act.
- “(2) Section 47(2) of this Act shall not apply to the transfer of a share held by a company in itself if the share is transferred by means of a system that is approved under section 7 of the Securities Transfer Act 1991.
- “(3) Subject to subsection (1) of this section, the transfer of a share by a company in itself shall not be subject to any provisions in this Act or the company’s constitution relating to the issue of shares, except to the extent the company’s constitution expressly applies those provisions.
- “(4) A company shall not grant an option to acquire a share it holds in itself or enter into any obligations to transfer such a share where the company has received notice in writing of a takeover scheme under section 4 of the Companies Amendment Act 1963 or, in the case of a company that is a party to a listing agreement with a stock exchange, where the exchange makes a public release to the sharemarket that a takeover offer for more than 20 percent of the company’s shares is to be made.”

This Act is administered in the Department of Justice.