



## ANALYSIS

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1996, No. 115

**An Act to amend the Companies Act 1993**

[2 September 1996

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 1996, and shall be read together with and deemed part of the Companies Act 1993 (hereinafter referred to as the principal Act).

(2) Except as provided in subsection (3) of this section, this Act shall come into force on the date on which this Act receives the Royal assent.

(3) Section 4 of this Act shall come into force on the 14th day after the date on which this Act receives the Royal assent.

**2. Interpretation**—Section 2(1) of the principal Act is hereby amended by inserting, after the definition of the term “entitled person”, the following definition:

“‘Exempt company’ has the meaning set out in section 2 of the Financial Reporting Act 1993.”.

**3. Annual meeting of shareholders**—(1) The principal Act is hereby amended by repealing section 120 (as amended by section 15 of the Companies Act 1993 Amendment Act 1994), and substituting the following section:

“120. (1) Subject to subsections (2) and (3) of this section, the board of a company must call an annual meeting of shareholders to be held—

“(a) Once in each calendar year; and

“(b) Either—

“(i) In the case of an exempt company, if all the shareholders of the company agree, not later than 10 months after the balance date of the company; or

“(ii) In the case of a company, not being a company to which subparagraph (i) of this paragraph applies, not later than 6 months after the balance date of the company; and

“(c) Not later than 15 months after the previous annual meeting.

“(2) A company, not being a company that is reregistered under this Act, does not have to hold its first annual meeting in the calendar year of its registration but must hold that meeting within 18 months of its registration.

“(3) A company that is reregistered under this Act does not have to hold its first annual meeting in the calendar year of its reregistration but must hold that meeting within 18 months of its registration under the Companies Act 1955.

“(4) The company must hold the meeting on the date on which it is called to be held.”

(2) Section 15 of the Companies Act 1993 Amendment Act 1994 is hereby consequentially repealed.

**4. Qualifications of auditors**—(1) Section 199 of the principal Act is hereby amended by repealing subsection (1) (as amended by section 10(3) of the Department of Justice (Restructuring) Act 1995), and substituting the following subsection:

“(1) A person must not be appointed or act as an auditor of a company unless—

“(a) The person is a member of the New Zealand Society of Accountants who holds a certificate of public practice; or

“(b) The person is an officer of the Audit Department authorised in writing by the Controller and Auditor-General to be an auditor of a company for the purposes of this section; or

“(c) The person is a member, fellow, or associate of an association of accountants constituted outside New Zealand where—

“(i) The association is, by notice in the *Gazette*, approved for the time being for the purposes of this section by the Registrar; and

“(ii) The person is eligible to act as an auditor in the country, state, or territory in which the association is constituted; or

“(d) The person, not being a person to whom paragraph (c) of this subsection applies, is—

“(i) Eligible to act as an auditor in a country, state, or territory outside New Zealand; and

“(ii) Approved for the time being for the purposes of this section by the Registrar by notice in the *Gazette*.”

(2) The Department of Justice (Restructuring) Act 1995 is hereby consequentially amended by repealing so much of the Second Schedule as relates to section 199 (1) (c) of the principal Act.

(3) The Fourth Schedule to the Institute of Chartered Accountants of New Zealand Act 1996 is hereby consequentially amended, in the case of the first item relating to the Companies Act 1993, by omitting from section 199 (1) (a) of that Act the word “A”, and substituting the words “The person is a”.

**5. Obligation to prepare annual report**—The principal Act is hereby amended by repealing section 208, and substituting the following section:

“208. (1) Subject to subsection (2) of this section, the board of every company must, within 5 months after the balance date of the company, prepare an annual report on the affairs of the company during the accounting period ending on that date.

“(2) The board of an exempt company to which section 120 (1) (b) (i) of this Act applies, must, within 9 months after the balance date of the company, prepare an annual report on the affairs of the company during the accounting period ending on that date.

“(3) If the board of a company fails to comply with subsection (1) or subsection (2) of this section, every director of the company commits an offence and is liable on conviction to the penalty set out in section 374 (2) of this Act.”