

Reprint  
as at 1 April 2008



## Tower Corporation Act 1990

Private Act      1990 No 2  
Date of assent    26 July 1990  
Commencement    see section 1

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#### Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

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*[Repealed]*

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*[Repealed]*

**An Act to provide for the restructuring of Tower Corporation and to permit that Corporation to be further restructured**

**Preamble**

Whereas—

- (A) Tower Corporation (formerly known as Government Life Insurance Corporation) (hereinafter called **the Corporation**) is a corporation aggregate in the form of its Board of Directors established pursuant to the Tower Corporation Act 1987 as successor to the Government Life Insurance Commissioner:
- (B) the Tower Corporation Act 1987 provides for significant Government involvement in the operations of the Corporation, including the right of the Government to appoint the majority of directors of the Corporation and a guarantee by the Government of certain liabilities of the Corporation:
- (C) the Corporation wishes to clarify its status as a mutual association existing for the benefit and subject to the control of its policyholders:
- (D) the Corporation wishes to provide for the possible future restructuring of the Corporation as a company limited by shares subject to court supervision to ensure the allotment of shares in the company proceeds on a basis which is equitable to the members of the Corporation:
- (E) the objects of this Act cannot be attained otherwise than by legislation.

**Part 1**  
**Preliminary**

**1 Short Title and commencement**

- (1) This Act may be cited as the Tower Corporation Act 1990.
- (2) This section and sections 2 and 3 shall come into force on the day on which this Act receives the Royal assent.
- (3) Except as provided in subsection (2), this Act shall come into force on a day to be specified by the Governor-General by Order in Council.
- (4) An Order in Council shall not be made under subsection (3) unless—
  - (a) the Corporation existing under the Tower Corporation Act 1987 has lodged with the Registrar proposed bylaws which have been certified by its Board and approved by the Minister; and

- (b) the Registrar has issued a certificate stating that the proposed bylaws have been duly lodged in accordance with paragraph (a).

Section 1(3): the provisions not in force on 13 August 1990, including in particular sections 4–33 and Schedules 1 and 2 brought into force, on 20 August 1990, by Tower Corporation Act Commencement Order 1990 (SR 1990/195).

## 2 Interpretation

In this Act, unless the context otherwise requires,—

**actuary** means the person for the time being holding the appointment of, or acting as, actuary to the Corporation

**auditor** means the person for the time being holding the appointment as auditor to the Corporation

**Board** means the board of directors of the Corporation

**company** means the company into which the Corporation becomes converted pursuant to Part 4

**conversion date** means the date of incorporation of the Corporation as a company

**Corporation** means the body corporate continued in existence under section 4

**employee** means a person employed in the service of the Corporation; but does not include a director

**instrument** includes—

- (a) any instrument (other than this Act) of any form or kind that creates, evidences, modifies, or extinguishes rights, interests, or liabilities or would do so if it or a copy of it were lodged, filed, or registered under any enactment; and

- (b) any judgment, order or process of a court

**liabilities** means liabilities, debts, charges and duties of every description (whether present or future, actual or contingent, and whether payable or to be observed or performed in New Zealand or elsewhere)

**member** means a person who is a member of the Corporation by virtue of section 13

**Minister** means the Minister of Finance

**officer** has the same meaning in respect of the Corporation as it has in respect of companies in the Companies Act 1955

**property** means property of every kind whether tangible or intangible, real or personal, corporeal or incorporeal; and without limiting the generality of the foregoing includes—

- (a) choses in action and money; and  
(b) goodwill; and

- (c) rights, interests and claims of every kind in or to property, whether arising from, accruing under, created or evidenced by, or the subject of, an instrument or otherwise and whether liquidated or unliquidated, actual, contingent, or prospective

**Registrar** means the Registrar of Companies

**rights** means all rights, powers, privileges and immunities, whether actual, contingent or prospective

**scheme for conversion** means a scheme providing for conversion of the Corporation from a statutory corporation to a company limited by shares under the Companies Act 1993 pursuant to Part 4 of this Act

**specified date** means the date specified by the Governor-General by Order in Council in accordance with section 1(3).

Compare: 1987 No 70 s 2; 1988 No 1 s 2

Section 2 **scheme for conversion**: amended, on 15 December 1995, by section 2 of the Tower Corporation Amendment Act 1995 (1995 No 2 (P)).

### 3 **Content of proposed bylaws**

The proposed bylaws referred to in section 1(4) shall comprise—

- (a) Part 1 which shall contain only matters of a type appropriate for inclusion in a memorandum of association of a company and shall state that section 15A(1) of the Companies Act 1955 shall apply to the Corporation; and
- (b) Part 2 which shall contain only matters of a type appropriate for inclusion in articles of association of a company.

Compare: 1988 No 47 s 2(4); Australian Mutual Provident Society Act 1988 (NSW)

## **Part 2** **Tower Corporation**

*[Repealed]*

Part 2: repealed, on 1 October 1999, by section 27.

### 4 **Tower Corporation**

*[Repealed]*

Section 4: repealed, on 1 October 1999 (after expiring on 1 January 1998), by section 27.

### 5 **Protection of name**

*[Repealed]*

Section 5: repealed, on 1 October 1999, by section 27.

### 6 **No Crown liability**

*[Repealed]*

Section 6: repealed, on 1 October 1999, by section 27.

**7 Application of other Acts***[Repealed]*

Section 7: repealed, on 1 October 1999, by section 27.

**8 Contributors to Government Superannuation Fund***[Repealed]*

Section 8: repealed, on 1 October 1999, by section 27.

**Part 3****Application of Companies Act 1955 to Corporation***[Repealed]*

Part 3: repealed, on 1 October 1999, by section 27.

**9 Application of Companies Act 1955***[Repealed]*

Section 9: repealed, on 1 October 1999, by section 27.

**10 Rights of classes of members***[Repealed]*

Section 10: repealed, on 1 October 1999, by section 27.

**11 Corporation to provide abstract of accounts to certain members***[Repealed]*

Section 11: repealed, on 1 October 1999, by section 27.

**11A Sub-register of members***[Repealed]*

Section 11A: repealed, on 1 October 1999, by section 27.

**12 Bylaws***[Repealed]*

Section 12: repealed, on 1 October 1999, by section 27.

**13 Membership criteria***[Repealed]*

Section 13: repealed, on 1 October 1999, by section 27.

**14 Members' liability***[Repealed]*

Section 14: repealed, on 1 October 1999, by section 27.

## **Part 4**

### **Conversion to company**

#### **15 Scheme for conversion**

- (1) The Corporation shall be converted into a company limited by shares where any scheme for conversion of the Corporation into a company limited by shares is—
  - (a) proposed by the Board of the Corporation; and
  - (b) approved by special resolution of the members in accordance with this Part; and
  - (c) confirmed by the High Court; and
  - (d) registered with the Registrar.
- (2) Any such scheme for conversion shall—
  - (a) state the name of the proposed company;
  - (b) state the number of shares in the proposed company;
  - (c) have annexed to it the proposed constitution of the proposed company, if it is proposed to have one;
  - (d) specify the persons or classes of persons who will be shareholders in the proposed company;
  - (e) specify, in the case of persons or classes of persons who are members of the Corporation and who will be shareholders in the proposed company, by reference to the interests of those persons or classes of persons in the policies of the Corporation, the entitlements of those persons or classes of persons to shares in the proposed company;
  - (f) specify, in the case of persons or classes of persons who are members of the Corporation and who will not be shareholders in the proposed company, the rights and liabilities of such persons or classes of persons;
  - (g) contain such other matters as the Corporation thinks appropriate or as the High Court directs.

Section 15(1): amended, on 15 December 1995, by section 9(1) of the Tower Corporation Amendment Act 1995 (1995 No 2 (P)).

Section 15(2): substituted, on 15 December 1995, by section 9(2) of the Tower Corporation Amendment Act 1995 (1995 No 2 (P)).

#### **16 Application to High Court**

- (1) Where any scheme for conversion of the Corporation into a company limited by shares is proposed, the Corporation shall apply to the High Court for an order approving the scheme.
- (2) In addition to the Corporation, any member or creditor of the Corporation shall have the right to appear and be heard on any application under this section.

- (3) Before any order is made pursuant to subsection (1) the High Court shall,—
  - (a) make an order directing such meetings of classes of members to be convened in such manner as the court thinks fit; and
  - (b) make such other orders in connection with the proposed scheme for conversion as the court considers appropriate including, (without limitation):
    - (i) an order appointing independent counsel to act as amicus curiae to investigate and advise the High Court on the interests of members or creditors or any class or group of members or creditors in relation to the proposed scheme:
    - (ii) an order determining the persons to whom notice is to be given or, if the High Court thinks fit, an order dispensing with notice to any person:
    - (iii) an order appointing an independent expert or experts with appropriate accounting, actuarial, banking, or valuation experience to report to the High Court on the scheme for conversion, being an expert or experts nominated by the counsel appointed under subparagraph (i).
- (4) No order shall be made under subsection (5) until after the High Court has received an opinion from the counsel and the report or reports of the expert or experts appointed under subsection (3).
- (5) On an application for approval of the scheme for conversion under subsection (1) the High Court shall make an order approving, or amending and approving, or declining to approve, the scheme for conversion.
- (6) Every order approving or amending and approving the scheme for conversion shall be provisional in the first instance.
- (7) At any time after any order is made pursuant to subsection (3) the High Court may by further order make:
  - (a) an order approving any notice to be given pursuant to section 17(1):
  - (b) an order to indemnify any member or creditor in respect of legal costs in connection with any application.
- (8) In making any order under subsection (5) the High Court shall have regard to the rights and interests in, and claims against, the Corporation of members and creditors to ensure that as far as practical:
  - (a) any allocation of shares is made fairly between members of the Corporation and between members of the Corporation and any other person; and
  - (b) the rights of creditors are adequately protected in the scheme for conversion.

- (9) Any counsel appointed under subsection (3)(b)(i) and any independent expert appointed under subsection (3)(b)(iii) shall have full access to the officers and employees of the Corporation and to the books, papers and all other records of the Corporation including information kept in other than written form, and shall be entitled to attend and speak at any extraordinary general meeting convened under section 17 and any other meetings ordered by the High Court under subsection (3).
- (10) The fees of any counsel and any independent expert appointed under subsection (3) shall be paid by the Corporation.
- (11) For the purposes of this section, where the approval of a scheme by any class of members is directed by the High Court to be obtained, such approval shall require a special resolution to be passed by a majority in number representing three-fourths of the total voting rights of those members attending and voting at such meeting.

**17 Meeting of members to approve scheme for conversion of Corporation into company under Companies Act 1955**

- (1) A notice or notices complying with the provisions of subsection (3) shall be served on every member not less than 21 clear days before any extraordinary general meeting of the members (or any class or classes of members) at which a resolution to approve a scheme for conversion referred to in section 15 is to be proposed.
- (2) Unless otherwise ordered by the High Court, every notice required for the purposes of subsection (1)—
  - (a) shall be given in the manner specified in the Corporation's bylaws to each member at the address of the member in the Corporation's register; and
  - (b) shall be accompanied by a form of proxy.
- (3) In addition to any matters required by the High Court, every notice required for the purposes of subsection (1) shall—
  - (a) summarise, in sufficient detail to enable the members to determine properly how to vote on the resolution, the matters required to be referred to in, and the contents of any documents required to be annexed to, the scheme for conversion as specified in section 15(2);
  - (b) specify any proposed change in the principal activities of the Corporation;
  - (c) specify the names of the persons who will be the directors and auditor of the proposed company;
  - (d) state whether any financial benefits are to be conferred as a consequence of the scheme on any director of the Corporation or the proposed company;

- (e) state whether it is intended that the proposed company will, within 6 months of the conversion date, issue any shares in the proposed company other than in accordance with the scheme for conversion:
  - (f) contain a summary of the opinion of the counsel and report or reports of the independent expert or experts appointed under section 16(3):
  - (g) state that a copy of the scheme for conversion and of the full opinion of the counsel and report or reports of the independent expert or experts appointed under section 16(3) are available for inspection by any member at the registered office and regional offices of the Corporation at any time during normal business hours and give the locality of such offices:
  - (h) state the date, time, and place of the extraordinary general meeting at which the resolution is to be proposed.
- (4) Brief particulars of the notice referred to in subsection (1) shall be advertised in the *Gazette*, in one daily newspaper circulating in each of Auckland, Wellington, Christchurch, and Dunedin, and in 2 other newspapers having national circulation.
- (5) No scheme for conversion including a statement purporting to be made by an expert, and no document relating to a scheme for conversion including a statement purporting to be made by an expert, shall be sent to, or made available for inspection by, any person for the purposes of this section, unless—
- (a) the expert has given and has not, before the date on which the scheme for conversion or other document, as the case may be, is sent to, or made available for inspection by, any person, withdrawn his or her written consent to distribution of the scheme or other document with the statement included in the form and context in which it is included; and
  - (b) a statement that the expert has given and has not withdrawn his or her consent appears in the scheme or other document, as the case may be; and
  - (c) a statement of the expert's qualifications appears in the scheme or other document, as the case may be; and
  - (d) a statement which appears in the scheme or other document, as the case may be, states whether or not the expert is, or is intended to be, a director, officer, or employee of, or professional adviser to, the Corporation or the proposed company; and
  - (e) the statement was made not earlier than 4 months before the scheme or other document, as the case may be, was sent to, or made available for inspection by, any person for the purposes of this section.
- (6) For the purposes of subsection (5) and section 16(3), the expression **expert** means any person who holds himself or herself out to be of a profession or calling that gives authority to a statement made by him or her; but does not in-

clude a person acting in his or her capacity as an auditor or as a director or officer of the Corporation.

- (7) The Corporation shall ensure that—
- (a) the meeting or meetings convened by any notice referred to in subsection (1) is or are held in accordance with any requirements specified by the High Court and, unless the High Court otherwise directs, in accordance with the bylaws of the Corporation;
  - (b) the special resolution to approve the scheme for conversion is put to the meeting or meetings.
- (8) The Corporation shall forward a copy of the special resolution passed at any meeting or meetings convened pursuant to subsection (1) to the Registrar within 30 days after the passing of the special resolution.

Compare: 1987 No 175 s 113A

Section 17(3)(c): amended, on 15 December 1995, by section 10(1) of the Tower Corporation Amendment Act 1995 (1995 No 2 (P)).

Section 17(6): amended, on 15 December 1995, by section 10(2) of the Tower Corporation Amendment Act 1995 (1995 No 2 (P)).

Section 17(8): amended, on 15 December 1995, by section 10(3) of the Tower Corporation Amendment Act 1995 (1995 No 2 (P)).

## **18 Application for final confirmation of scheme for conversion**

- (1) If the meeting or meetings of members of the Corporation each pass a special resolution approving the scheme for conversion the Corporation shall then apply to the High Court for final confirmation of the scheme.
- (2) In addition to the Corporation, the persons entitled to appear on an application under subsection (1) are:
- (a) the *amicus curiae*;
  - (b) members who hold 5% or more of the votes exercisable by any class of members and who have voted against the scheme for conversion;
  - (c) with leave of the High Court, any other member of the Corporation.
- (3) On any application for final confirmation the High Court may—
- (a) make an order approving, or amending and approving, or declining to approve, the scheme for the conversion of the Corporation into a company and on such terms and conditions as it thinks fit;
  - (b) adjourn the proceedings;
  - (c) give such directions and make such orders as it thinks fit for facilitating or carrying into effect any such scheme.
- (4) In making any order under subsection (3) the High Court shall have regard to the rights and interests in, and claims against, the Corporation of members and creditors to ensure that as far as practical:

- (a) any allocation of shares is made fairly between members of the Corporation and between members of the Corporation and any other person; and
  - (b) the rights of creditors are adequately protected in the scheme for conversion.
- (5) No appeal from any judgment or order made under subsection (3) shall be brought after the expiration of 30 days from the date of such judgment or order.
- (6) An order made under subsection (3) shall not take effect until the expiration of 30 days from the decision of the High Court or, if an appeal is lodged, until the expiration of 30 days from the determination of the appeal in favour of the scheme, by the Court of Appeal.

Compare: 1955 No 63 s 76; 1987 No 175 s 113B; Ontario Business Corporations Act 1982 s 3181(5)

### **19 Registrar to register Corporation as a company on receipt of certain documents**

- (1) After the expiration of the period referred to in section 18(6) and if the scheme for conversion has been confirmed by the High Court or the Court of Appeal, as the case may be, the Corporation shall deliver to the Registrar the following documents and fee:
- (a) a copy of the scheme for conversion:
  - (b) a sealed copy of the order of the High Court or Court of Appeal, as the case may be:
  - (c) an application for registration under section 12 of the Companies Act 1993:
  - (d) such fee as is payable under regulations made under the Companies Act 1993 on an application to register a company under section 12 of that Act.
- (2) The Registrar, on being satisfied that—
- (a) the documents delivered under subsection (1) are in accordance with that subsection; and
  - (b) sections 20, 21, and 22 of the Companies Act 1993 have been complied with,—
- shall retain and register the documents and issue a certificate of incorporation for the company.
- (3) The certificate of incorporation shall be conclusive evidence that the requirements of this section have been complied with and that the Corporation was, on the date shown in the certificate, duly registered as a company under the Companies Act 1993.
- (4) From the commencement of the conversion date the Corporation shall cease to be incorporated under this Act and shall be a company incorporated under Part

2 of the Companies Act 1993 and that Act (except section 120(2)) shall apply to it accordingly.

- (5) The Registrar shall forthwith publish a notice in the *Gazette* of the registration of the Corporation as a company pursuant to this section.

Section 19: substituted, on 15 December 1995, by section 11 of the Tower Corporation Amendment Act 1995 (1995 No 2 (P)).

## 20 Issue of shares

- (1) Upon the registration of the Corporation as a company,—
- (a) all persons who are to be shareholders of the company in accordance with the terms of the scheme for conversion shall be shareholders of the company; and
  - (b) the shares in the company to which all such persons are entitled in accordance with the scheme for conversion shall be deemed to be issued to such persons and shall be deemed to be paid in full; and
  - (c) an entry shall be made in the share register of the company in respect of each such person showing—
    - (i) the name of that person:
    - (ii) the address of that person to which notices and other documents are to be sent:
    - (iii) the class of share and the number of shares in the company to be held by that person calculated in accordance with the terms of the scheme for conversion.
- (2) Where any shares are, pursuant to subsection (1), deemed to have been issued to shareholders of the company, the company shall deliver to the Registrar, within 30 days of their completion,—
- (a) a list, verified by the statutory declaration of a director, showing—
    - (i) the number of shares comprised in the issue:
    - (ii) the names, addresses, and descriptions of the persons to whom the shares have been issued:
    - (iii) the amount credited as having been paid in respect of each share issued:
    - (iv) the consideration deemed to have been provided by the persons to whom the shares have been issued for the issue of the shares:
  - (b) a statutory declaration by a director of the company to the effect that, to the best of his or her knowledge and belief, having made due enquiry,—
    - (i) the shares deemed to have been issued have been issued in accordance with the scheme for conversion:

- (ii) the consideration deemed to have been provided is not less than the amount by which the shares have been credited as having been paid otherwise than in cash,—

and describing the consideration deemed to have been given by the persons to whom the shares have been issued (or, where the effect of the issue of shares is to satisfy the whole or part of a liability of the Corporation or the company, the liability) in sufficient detail to identify it and stating an estimate of its value and how that value was assessed.

- (3) Notwithstanding subsection (2)(a) of this section, or section 87 of the Companies Act 1993, the company shall not be required to show on the list required to be delivered to the Registrar by subsection (2)(a) the description of any person who, immediately before the conversion date, was a member of the Corporation if the register of members of the Corporation did not contain a description of that person.

Section 20: substituted, on 15 December 1995, by section 11 of the Tower Corporation Amendment Act 1995 (1995 No 2 (P)).

## 21 Consequential provisions on conversion of Corporation

- (1) Where the Corporation becomes converted into a company pursuant to this Part:
  - (a) the undertaking of the Corporation shall, on the conversion date, vest in the company by virtue of this Part:
  - (b) subject to Part 4 of the Companies Act 1993, the name of the company shall, on and after the conversion date, be the name specified in the scheme for conversion or such other name as the company may from time to time adopt.
- (2) For the purposes of paragraph (a) of subsection (1), the expression **undertaking**, in relation to the Corporation, means the property, rights, and liabilities of the Corporation.
- (3) Without limiting the generality of subsection (1), the following provisions shall have effect on and after the conversion date in respect of the company:
  - (a) a reference (express or implied) to the Corporation in any Act or instrument made, given, passed or executed at any time, or in any sign, poster, notice or policy shall be read and construed as a reference to the company:
  - (b) except as provided in section 22, every contract, agreement, conveyance, deed, lease, licence, security, instrument, undertaking, and notice (whether or not in writing) entered into by, made with, given to or by, or addressed to, the Corporation (whether alone or with any other person) before the conversion date and subsisting immediately before the conversion date shall, to the extent that it was previously binding on and enforceable by, against, or in favour of the Corporation be binding on

and enforceable by, against, or in favour of the company as fully and effectually in every respect as if, instead of the Corporation, the company had been the person by whom it was entered into, with whom it was made, or to or by whom it was given or addressed, as the case may be:

- (c) an instruction, order, direction, mandate, or authority given to or by the Corporation and subsisting immediately before the conversion date shall be deemed to have been given to or by the company:
- (d) a security held by the Corporation as security for a debt or other liability to the Corporation incurred before the conversion date shall be available to the company as security for the discharge of that debt or liability and, where the security extends to future or prospective debts or liabilities, shall be available as security for the discharge of debts or liabilities to the company incurred on or after the conversion date; and, in relation to a security, the company shall be entitled to all the rights and priorities (howsoever arising) and shall be subject to all liabilities to which the Corporation would have been entitled or subject if the Corporation had not become converted into a company:
- (e) all the rights and liabilities of the Corporation as bailor or bailee of documents or chattels shall be vested in and assumed by the company:
- (f) a negotiable instrument or order for payment of money which before the conversion date is drawn on or given to or accepted or endorsed by the Corporation or payable at a place of business of the Corporation shall, unless the context otherwise requires, have the same effect on and after the conversion date as if it had been drawn on or given to or accepted or endorsed by the company instead of the Corporation or was payable at the place of business of the company:
- (g) any action, arbitration or proceedings, or cause of action which immediately before the conversion date is pending or existing by, against, or in favour of the Corporation or to which the Corporation is a party may be prosecuted, and without amendment of any writ, pleading, or other document, continued and enforced by, against, or in favour of the company.

Section 21(1)(b): amended, on 15 December 1995, by section 12 of the Tower Corporation Amendment Act 1995 (1995 No 2 (P)).

## **22 Consequential provisions relating to employment**

Without limiting the generality of section 21(1), the following provisions shall have effect on and after the conversion date in respect of employees—

- (a) on the conversion date each employee of the Corporation shall become an employee of the company but, for the purposes of every enactment, law, award, determination, contract, and agreement relating to the employment of each such employee, the contract of employment of that employee shall be deemed to have been unbroken and the period of ser-

vice with the Corporation shall be deemed to have been a period of service with the company:

- (b) the terms and conditions of employment of each such employee shall, until varied, be identical with the terms and conditions of that employee's employment with the Corporation immediately before the conversion date and shall be capable of variation in the same manner:
- (c) no such employee shall be entitled to receive any payment or other benefit by reason only of that employee ceasing, by virtue of this Part, to be an employee of the Corporation:
- (d) section 8 shall apply to any employees of the Corporation who are, immediately before the conversion date, contributors to the Government Superannuation Fund as if all references in that section to the specified date were references to the conversion date, and all references to the Corporation (apart from the first reference) were references to the company.

### **23 Certain matters not affected by conversion of Corporation**

Nothing effected or authorised by this Part—

- (a) shall be regarded as placing the Corporation, or the company, or any other person in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
- (b) shall be regarded as giving rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; or
- (c) shall be regarded as placing the Corporation, or the company, or any other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property or the disclosure of any information; or
- (d) shall release any surety wholly or in part from any obligation; or
- (e) shall invalidate or discharge any contract or security; or
- (f) shall give rise to crystallisation of any floating charge created by the Corporation.

Compare: 1986 No 129 s 7; 1987 No 175 s 113E

### **24 Enforceability of rights and liabilities altered by or arising under scheme for conversion**

- (1) Where a scheme for conversion provides for the conversion or alteration of the rights or liabilities of any person that were subsisting immediately before the conversion date those rights and liabilities shall, notwithstanding section 21, cease to be enforceable by, against, or in favour of the company on or after the conversion date except to the extent that that scheme provides otherwise.

- (2) Where a scheme for conversion provides for any rights or liabilities to arise immediately after the conversion date those rights and liabilities shall be enforceable by, against, or in favour of the company on and after the conversion date.

Compare: 1987 No 175 s 113F

## **25 Liability of shareholders of company**

No shares in a company into which the Corporation has become converted pursuant to this Part that are issued to a person as a member of the Corporation pursuant to a scheme for conversion shall require a contribution from that person to the assets of the company in the event of the company being put into liquidation.

Section 25: substituted, on 15 December 1995, by section 13 of the Tower Corporation Amendment Act 1995 (1995 No 2 (P)).

## **26 Taxes and duties**

- (1) For the purposes of the Acts specified in the Schedule of the Tax Administration Act 1994 and any other enactment that imposes or provides for the collection of a tax, duty, levy or other charge, where the Corporation becomes converted into a company pursuant to this Part,—
- (a) the Corporation and the company shall be deemed to be the same person with effect on and after the conversion date; and
  - (b) in respect of the liability for and the assessment, determination, or imposition of taxes, duties, levies, or other charges accruing on and after the conversion date under any such enactment, all transactions entered into by, and acts of, the Corporation before the conversion date shall be deemed to have been entered into by, or to be those of, the company and to have been entered into or performed by the company at the time when they were entered into or performed by the Corporation.
- (2) For the purposes of determining whether—
- (a) any taxpayer satisfies the requirements of section IA 5(2) of the Income Tax Act 2007; or
  - (b) any taxpayer is included in a group of companies or a wholly-owned group for the purposes of section IA 6 of the Income Tax Act 2007; or
  - (c) any debit arises to be recorded in a taxpayer's imputation credit account under section ME 5(1)(i) of the Income Tax Act 2004, or in a taxpayer's dividend withholding payment account under section MG 5(1) of that Act, or in a taxpayer's branch equivalent tax account under section MF 4(3) of that Act,—

shares held by the Corporation in any company (whether directly or through any 1 or more interposed companies) immediately before the conversion date shall be treated as having been acquired by the company to which the Corpor-

ation has become converted in accordance with this Part at the time when they were acquired by the Corporation.

- (3) The conversion of the Corporation to a company in accordance with this Part—
- (a) shall not, for the purposes of the Income Tax Act 1976, be treated as, or as giving rise to, a sale or other disposition or distribution or transfer of any property of the Corporation or as a receipt of any property by the company:
  - (b) shall not, for the purposes of the Goods and Services Tax Act 1985, be treated as a supply of any goods or services:
  - (c) shall not give rise to any debit in the branch equivalent tax account (if any) of the company notwithstanding the provisions of section 394ZZU(3)(c) of the Income Tax Act 1976.
- (4) Nothing in subsection (2) or subsection (3) shall limit the generality of subsection (1).
- (5) For the purposes of the Income Tax Act 2007 and the Goods and Services Tax Act 1985, the company to which the Corporation has become converted in accordance with this Part is not a public authority as defined for the purposes of those Acts.

Section 26(1): amended, on 1 April 1995 (applying with respect to the tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 26(2)(a): substituted, on 1 April 1995 (applying with respect to the tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 26(2)(a): amended, on 1 April 2008 (effective for 2008–09 income year and later income years, except when the context requires otherwise), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 26(2)(b): substituted, on 1 April 1995 (applying with respect to the tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 26(2)(b): amended, on 1 April 2008 (effective for 2008–09 income year and later income years, except when the context requires otherwise), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 26(2)(c): substituted, on 1 April 1995 (applying with respect to the tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

Section 26(2)(c): amended, on 1 April 2005 (effective for 2005–06 tax year and later tax years, except when the context requires otherwise), by section YA 2 of the Income Tax Act 2004 (2004 No 35).

Section 26(5): amended, on 1 April 2008 (effective for 2008–09 income year and later income years, except when the context requires otherwise), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

## 27 Repeals

Parts 2 and 3, and Schedule 2 are hereby repealed, which repeal shall have effect on the conversion date.

**28 Register entries relating to Government Insurance Commissioner and Government Life Insurance Corporation**

- (1) No Registrar of Deeds or District Land Registrar or any other person charged with the keeping of any books or registers shall be obliged solely by reason of any provision of the Government Life Insurance Corporation Act 1983 or the Tower Corporation Act 1987 to change the name of the Government Insurance Commissioner or the Government Life Insurance Corporation to that of the Corporation in those books or registers or in any document.
- (2) The presentation to any such Registrar or person of any instrument, whether or not comprising an instrument of transfer by the Corporation,—
  - (a) executed or purporting to be executed by the Corporation; and
  - (b) relating to any property held immediately before the commencement of this Act in the name of the Government Insurance Commissioner or the Government Life Insurance Corporation; and
  - (c) containing a recital that the property has become vested in the Corporation by virtue of the Government Life Insurance Corporation Act 1983, or that the names of the Government Insurance Commissioner and the Government Life Insurance Corporation have been changed to that of the Corporation, or both—shall, in the absence of proof to the contrary, be sufficient evidence that the property is vested in the Corporation.
- (3) The Registrar of any register relating to any property which is transferable only in books kept by a company or other person or in a manner directed by or under any Act shall, on written application under the seal of the Corporation, register it as the holder of any such property that is shown in the register as being vested in or held by the Government Insurance Commissioner or the Government Life Insurance Corporation and, if appropriate,—
  - (a) note the change of name of the Government Insurance Commissioner or the Government Life Insurance Corporation to the Corporation; and
  - (b) note the effect of section 6 of the Government Life Insurance Corporation Act 1983.

**29 Change of name of Tower Corporation**

- (1) Where Tower Corporation changes its name in accordance with the Companies Act 1955 or the Companies Act 1993, as the case may be, no Registrar of Deeds or District Land Registrar or any other person charged with the keeping of any books or registers shall be obliged solely by reason of the change of name to change the name of the Corporation in those books or registers or in any document.
- (2) The presentation to any such Registrar or person of any instrument, whether or not comprising an instrument of transfer by the Corporation,—

- (a) executed or purporting to be executed by the Corporation; and
- (b) containing a recital that the name of the Corporation has been changed to another specified name—

shall in the absence of proof to the contrary, be sufficient evidence that the property is vested in the Corporation as so named.

- (3) The Registrar of any register relating to any property which is transferable only in books kept by a company or other person or in a manner directed by or under any Act shall, on written application under the seal of the Corporation, register it in its new name as the holder of any such property that is shown in the register as being vested in or held by the Corporation, and note the change of name of the Corporation.

Section 29(1): amended, on 15 December 1995, by section 14 of the Tower Corporation Amendment Act 1995 (1995 No 2 (P)).

### **30 Register entries relating to Corporation on conversion to company**

- (1) No Registrar of Deeds or District Land Registrar or any other person charged with the keeping of any books or registers shall be obliged solely by reason of the conversion of the Corporation to a company in accordance with a scheme for conversion to change the name of the Government Insurance Commissioner, the Government Life Insurance Corporation, or the Corporation to that of the company in those books or registers or in any document.
- (2) The presentation to any such Registrar or person of any instrument, whether or not comprising an instrument of transfer by the company,—
  - (a) executed or purporting to be executed by the company; and
  - (b) relating to any property held immediately before the commencement of this Act in the name of the Government Insurance Commissioner, the Government Life Insurance Corporation, or held by the Corporation; and
  - (c) containing so many of the following recitals as are appropriate in the particular case—
    - (i) a recital that the company is the company to which the Corporation has been converted in accordance with a scheme for conversion;
    - (ii) a recital that the property became vested in the Corporation by virtue of the Government Life Insurance Corporation Act 1983;
    - (iii) a recital that the names of the Government Insurance Commissioner and the Government Life Insurance Corporation have been changed to the Corporation,—

shall in the absence of proof to the contrary, be sufficient evidence that the property is vested in the company.

- (3) The Registrar of any register relating to any property which is transferable only in books kept by a company or other person or in a manner directed by or

under any Act shall, on written application under the seal of the company, register it as the holder of any such property that is shown in the register as being vested in or held by the Government Insurance Commissioner, the Government Life Insurance Corporation, or the Corporation and, if appropriate,—

- (a) note the change of name of the Corporation to the company; and
- (b) note the change of name of the Government Insurance Commissioner or the Government Life Insurance Corporation to the Corporation; and
- (c) note the effect of section 6 of the Government Life Insurance Corporation Act 1983.

## **Part 5**

### **Miscellaneous**

#### **31 Consequential repeals and amendments**

- (1) The Tower Corporation Act 1987 and the Tower Corporation Amendment Act 1989 are hereby repealed.
- (2) The Government Life Insurance Corporation Act Commencement Order 1987 (SR 1987/111) and the Tower Corporation Election Order 1990 (SR 1990/133) are hereby revoked.
- (3) The Ombudsmen Act 1975 is hereby amended by omitting from Parts 1 and 2 of Schedule 1 the item relating to the Government Life Insurance Corporation.
- (4) Notwithstanding subsection (3), the Ombudsmen Act 1975 and the Official Information Act 1982 shall continue to apply in respect of any matter under investigation or in respect of which a complaint or application has been received by any Ombudsman on the date on which this section comes into force.
- (5) Notwithstanding the repeal of the Tower Corporation Amendment Act 1989, every reference to the Government Life Insurance Corporation or to the Government Insurance Commissioner in any other enactment, Order in Council or document shall, unless the context otherwise requires, be read as a reference to the Corporation.
- (6) Schedule 2 shall apply in respect of the Corporation, its members, officers, and employees.

#### **32 Regulations**

Prior to the conversion date the Governor-General may by Order in Council make regulations not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to the objects of this Act.

Compare: 1988 No 47 s 13; AMP Act (NSW)

**33 Private Act**

This Act is hereby declared to be a private Act.

### **Schedule 1**

#### **Provisions of Companies Act 1955 that do not apply to Corporation**

Schedule 1: substituted, on 15 December 1995, by section 15 of the Tower Corporation Amendment Act 1995 (1995 No 2 (P)).

Sections 14, 15, 20, 21, 23(1)(c), 25, 30, 34, 39 to 41, 162, 223(1), (2), and (5), 224 to 226.

Parts 10 and 15 (except section 451).

Schedule 3, Table C.

### **Schedule 2**

#### **Ancillary savings and transitional provisions**

*[Repealed]*

s 31(6)

Schedule 2: repealed, on 1 October 1999, by section 27.

**Contents**

- 1 General
- 2 Status of reprints
- 3 How reprints are prepared
- 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
- 5 List of amendments incorporated in this reprint (most recent first)

**Notes****1 General**

This is a reprint of the Tower Corporation Act 1990. The reprint incorporates all the amendments to the Act as at 1 April 2008, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

**2 Status of reprints**

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

**3 How reprints are prepared**

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

**4 Changes made under section 17C of the Acts and Regulations Publication Act 1989**

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted

enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted.

A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)
- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)

- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5** *List of amendments incorporated in this reprint  
(most recent first)*

Income Tax Act 2007 (2007 No 97): section ZA 2(1)

Income Tax Act 2004 (2004 No 35): section YA 2

Tower Corporation Amendment Act 1995 (1995 No 2 (P))

Income Tax Act 1994 (1994 No 164): section YB 1

Tower Corporation Act 1990 (1990 No 2 (P)): section 27

Tower Corporation Act Commencement Order 1990 (SR 1990/195)