

**Reprint
as at 1 May 2011**



Securities Transfer Act 1991

Public Act 1991 No 119
Date of assent 9 December 1991
Commencement 9 December 1991

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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.

This Act is administered by the Ministry of Economic Development.

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An Act to consolidate and amend the law relating to the transfer of securities and to repeal the Securities Transfer Act 1977

1 Short Title

This Act may be cited as the Securities Transfer Act 1991.

2 Interpretation

In this Act, unless the context otherwise requires,—

authorised public securities dealer means a person (including a body of persons, whether incorporated or not) for the time being approved by the Minister of Finance, by notice in the *Gazette*, as a public securities dealer for the purposes of this Act

authorised transaction means a sale, gift, or other disposition of securities in which each of the parties is, or is acting through the agency of,—

- (a) a person authorised to undertake trading activities on a stock exchange's market; or
- (b) a solicitor (as defined in section 6 of the Lawyers and Conveyancers Act 2006) in practice on his or her own account; or
- (c) a chartered accountant (within the meaning of section 19 of the New Zealand Institute of Chartered Accountants Act 1996); or
- (d) a trustee corporation (as defined in section 2 of the Trustee Act 1956); or
- (e) a registered bank (as defined in section 2 of the Reserve Bank of New Zealand Act 1989); or
- (f) an authorised public securities dealer—
acting in the ordinary course of business as such

brokers transfer means a document in, or to the effect of, the form set out in Schedule 2

company has the same meaning as in section 2 of the Companies Act 1955 or section 2 of the Companies Act 1993, as the case may be; and includes an overseas company but does not include a company limited by guarantee, an unlimited company, or a flat or office owning company

company limited by guarantee has the meaning assigned to it by section 13(2)(b) of the Companies Act 1955

debenture stock includes debentures that form part of a series of debentures secured by charges of equal priority

flat or office owning company has the same meaning as in section 121A of the Land Transfer Act 1952

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

overseas company has the same meaning as in section 2 of the Companies Act 1993

registered, in relation to securities, means that the names of the holders thereof are entered in a register kept in New Zealand

securities means—

- (a) shares, debenture stock, bonds, or notes, issued by a company; or
- (b) shares, debenture stock, bonds, or notes, that are issued by a body corporate (other than a company) and listed on a stock exchange's market; or
- (c) an interest in a unit trust (as defined in section 2(1) of the Unit Trusts Act 1960); or
- (d) a public security (as defined in section 2(1) of the Public Finance Act 1989); or
- (e) any debentures, stock, bonds, or other securities issued by—
 - (i) a local authority within the meaning of the Local Government Act 2002; or
 - (ii) any body that, immediately before the repeal of the Local Authorities Loans Act 1956 on 1 July 1998, was a local authority within the meaning of Part 6 of that Act, whether by virtue of section 2

of that Act, or any Order in Council under that Act, or by virtue of any other Act:

- (f) any other securities that are from time to time declared by the Governor-General, by Order in Council, to be securities for the purposes of this Act—

that are transferable and registered

securities transfer means a document in, or to the effect of, the form set out in Schedule 1

share, in relation to a company or a body corporate (other than a company), means a share in the share capital of the company or body corporate; and includes stock and an option to acquire a share or shares; but does not include a labour share (as defined in section 2(1) of the Companies Act 1955)

stock exchange transaction means a sale and purchase of securities in which each of the parties is, or is acting through the agency of, a person authorised to undertake trading activities on a stock exchange's market acting in the ordinary course of business as such

stock exchange's market means a registered exchange's securities market within the meaning of section 2(1) of the Securities Markets Act 1988

unlimited company means—

- (a) a company registered under the Companies Act 1955 not having any limit on the liability of its members; or
(b) a company registered under the Companies Act 1993 that has 1 or more shareholders whose liability for the obligations of the company is unlimited,—

as the case may be.

Compare: 1977 No 20 s 2; 1977 No 65 s 160(1); 1987 No 155 s 2

Section 2 **authorised transaction** paragraph (a): substituted, on 1 December 2002, by section 30 of the Securities Markets Amendment Act 2002 (2002 No 44).

Section 2 **authorised transaction** paragraph (b): amended, on 1 August 2008, by section 348 of the Lawyers and Conveyancers Act 2006 (2006 No 1).

Section 2 **authorised transaction** paragraph (c): substituted, on 1 October 1996, by section 23 of the Institute of Chartered Accountants of New Zealand Act 1996 (1996 No 39).

Section 2 **authorised transaction** paragraph (c): amended, on 7 July 2010, by section 10 of the New Zealand Institute of Chartered Accountants Amendment Act 2010 (2010 No 74).

Section 2 **company**: substituted, on 1 July 1994, by section 2 of the Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

Section 2 **flat or office owning company**: substituted, on 1 July 1994, by section 2 of the Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

Section 2 **Minister**: substituted, on 1 October 1995, by section 10(3) of the Department of Justice (Restructuring) Act 1995 (1995 No 39).

Section 2 **overseas company**: substituted, on 1 July 1994, by section 2 of the Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

Section 2 **securities** paragraph (b): amended, on 1 December 2002, by section 30 of the Securities Markets Amendment Act 2002 (2002 No 44).

Section 2 **securities** paragraph (e): substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2 **stock exchange**: repealed, on 1 December 2002, by section 30 of the Securities Markets Amendment Act 2002 (2002 No 44).

Section 2 **stock exchange transaction**: amended, on 1 December 2002, by section 30 of the Securities Markets Amendment Act 2002 (2002 No 44).

Section 2 **stock exchange's market**: inserted, on 1 December 2002, by section 30 of the Securities Markets Amendment Act 2002 (2002 No 44).

Section 2 **stock exchange's market**: amended, on 24 November 2009, by section 23(1) of the Securities Markets Amendment Act 2009 (2009 No 54).

Section 2 **unlimited company**: substituted, on 1 July 1994, by section 2 of the Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

3 Transfer of securities by securities transfer

Securities (as defined in section 2) sold, given, or otherwise disposed of in an authorised transaction may, if they are fully paid up, be transferred by means of a securities transfer that complies with both of the following requirements:

- (a) both parts of the transfer are duly completed:
- (b) the transfer is executed, in New Zealand, by the transferor (whether or not it is also executed by the transferee).

Compare: 1977 No 20 s 3

4 Transfer of securities by securities transfer and brokers transfer

Securities (as defined in section 2) sold in a stock exchange transaction may, whether or not they are fully paid up, be transferred by means of—

- (a) a securities transfer that complies with all the following requirements:

- (i) Part 1 of the transfer is duly completed:
- (ii) the transfer is executed, in New Zealand, by the transferor (whether or not it is also executed by the transferee):
- (iii) the transfer specifies securities that include the securities sold;—

together with—

- (b) a duly completed brokers transfer that specifies the securities sold.

Compare: 1977 No 20 s 4

5 Attestation of securities transfer unnecessary

- (1) The execution of a securities transfer need not be attested.
- (2) Nothing in subsection (1) affects any enactment, rule of law, memorandum or articles of association, deed, or agreement, regulating the execution of documents by companies or other bodies corporate or by any particular company or body corporate.

Compare: 1977 No 20 s 5

6 Securities and brokers transfers to be instruments of transfer for the purposes of other Acts, etc

- (1) For the purposes of any enactment, memorandum or articles of association, deed, or agreement, that relates to the transfer of securities or to instruments (or memoranda) of transfer of securities,—
 - (a) a securities transfer to which section 3 applies shall be an instrument (or memorandum) of transfer of the securities specified therein:
 - (b) a securities transfer to which section 4 applies and a duly completed brokers transfer shall together be an instrument (or memorandum) of transfer of the securities specified in both transfers.
- (2) For the purposes of section 89 of the Companies Act 1955 (which relates to certification of transfers), a duly completed brokers transfer by itself shall be deemed to be an instrument of transfer of the securities specified therein.

Compare: 1977 No 20 s 6(1)

7 Transfer of securities by electronic means

- (1) The Governor-General may from time to time, on the advice of the Minister given in accordance with a recommendation of the Financial Markets Authority, by Order in Council, approve a system or systems that is or that are wholly or partly electronic for the transfer of securities (as defined in section 2).
- (2) A system of transfer may be approved under this section by reference to the name of the system or any name by which it is commonly known.
- (3) Without limiting subsection (1), a system of transfer may be approved under this section whether or not it also involves the use of a procedure or part of a procedure for the transfer of securities that is authorised under this Act or otherwise.
- (4) Modifications of a minor technical nature may, from time to time, be made to a system of transfer approved by an Order in Council made under this section and, in any such case, the system incorporating those modifications shall be deemed to have been approved by the order.
- (5) Securities (as defined in section 2) sold, given, or otherwise disposed of, whether in an authorised transaction or stock exchange transaction or otherwise may, whether or not they are fully paid up, be transferred in accordance with a system of transfer that is approved by the Governor-General by Order in Council under this section.
- (6) The Financial Markets Authority (**FMA**) must not make a recommendation under subsection (1) unless—
 - (a) the FMA has done everything reasonably possible to consult with the persons and organisations or their representatives that the FMA considers will be substantially affected by any Order in Council made in accordance with the recommendation, and those persons and organisations or their representatives have had the opportunity to comment to the FMA; and
 - (b) the FMA has considered those comments.
- (7) A failure to comply with subsection (6) does not affect the validity of any Order in Council made under this section.

- (8) Every Order in Council made under this section shall be deemed to be a regulation within the meaning of section 2 of the Regulations (Disallowance) Act 1989.

Section 7(1): amended, on 1 May 2011, by section 84(1) of the Financial Markets Authority Act 2011 (2011 No 5).

Section 7(6): substituted, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

8 Registration may not be refused on ground that securities have been transferred under this Act

- (1) Where securities have been transferred in accordance with section 3 or section 4 or section 7, no person shall refuse to register the transfer on the ground that the securities have been so transferred or that the securities have not been transferred by other means.
- (2) Nothing in this section shall affect any right a person has to refuse to register a transfer of securities on any other ground.

Compare: 1977 No 20 s 7

9 Effect of this Act on other Acts, etc

- (1) Except as provided in this section, sections 3 to 8 shall have effect notwithstanding anything to the contrary in any enactment, rule of law, constitution, deed, or agreement.
- (2) *[Repealed]*
- (3) Nothing in this Act shall in any way derogate from section 45G(3) of the Reserve Bank of New Zealand Act 1964 (as continued in force by section 84 of the Public Finance Act 1989).
- (4) Nothing in this Act affects the validity of any means of transferring securities other than pursuant to this Act.
- (5) The following enactments shall be read subject to the provisions of this Act:
- (a) sections 35, 39(1), and 84 of the Companies Act 1993:
 - (b) section 17 of the Unit Trusts Act 1960:
 - (c) section 45I of the Reserve Bank of New Zealand Act 1964 (as continued in force by section 84 of the Public Finance Act 1989).

- (6) Nothing in subsection (5) limits the generality of any other provision of this Act.

Compare: 1977 No 20 s 8; 1977 No 68 s 5(1)

Section 9(1): amended, on 20 September 2007, by section 4(1) of the Securities Transfer Amendment Act 2007 (2007 No 80).

Section 9(2): repealed, on 20 September 2007, by section 4(2) of the Securities Transfer Amendment Act 2007 (2007 No 80).

Section 9(5): substituted, on 20 September 2007, by section 4(3) of the Securities Transfer Amendment Act 2007 (2007 No 80).

10 Power to alter forms

- (1) The Governor-General may from time to time, by Order in Council, alter, add to, or substitute a new form for, either of the forms set out in Schedules 1 and 2.
- (2) Any reference in this Act to a form of a schedule shall be construed as a reference to that form with any alterations or additions made, or to any form substituted for that form, by any Order in Council for the time being in force under this section.
- (3) An Order in Council made under this section shall not apply in respect of—
- (a) any securities transfer that has been executed by the transferor; or
 - (b) any brokers transfer that has been duly completed—before the Order in Council comes into force; and any such securities transfer or brokers transfer shall have effect as if the Order in Council had not been made.

Compare: 1977 No 20 s 9

11 Repeals

The enactments specified in Schedule 3 are hereby repealed.

Schedule 1 Securities transfer

s 2

<i>Part 1</i>		Identification No: <i>(For stock exchange use only.)</i>	
Particulars of securities transferred		Stamp of transferor's agent	
Full name of issuer of securities			
Full description of securities			
Number or amount of securities	Figures:		
	Words:		
		Date affixed	
Particulars of registered holder(s) of securities			
Full name(s) and description(s) of registered holder(s) <i>show Mr, Mrs, etc</i>	Forenames	Surname	Description
	1		
	2		
	3		
	4		
Recorded address			
<i>If the transfer is executed by a person (persons) other than the owner(s) insert full name(s) and capacity of the person(s) executing the transfer:</i>			

I/We hereby transfer the securities described above to the person(s) named below or the persons named in the brokers transfers relating to the securities described above.

Signatures of transferor(s) and date and place of signing			
1	Signature Place*	/ / Date	2
			Signature Place*
			/ / Date
3	Signature Place*	/ / Date	4
			Signature Place*
			/ / Date
Leave blank for Registrar			

**Transfer must be signed in New Zealand.*

Part 2

Particulars of transferee(s) of securities			
Full name(s) and description(s) of transferee(s) <i>show Mr, Mrs, etc</i>	Forenames	Surname	Description
	1		
	2		
	3		
	4		
Full postal address to be recorded on register			
	Postal zone:		
Consideration	Figures		
	Words		
I/We confirm that the securities described above have been acquired in an authorised transaction (as defined in the Securities Transfer Act 1991) and I/We request that such entries be made in the register as are necessary to give effect to this transfer.			

Stamp of transferee's agent
Date affixed

Schedule 2

Brokers transfer

s 2

Particulars of securities transferred		Securities transfer form identification No: <i>(For stock exchange use only.)</i>	
Full name of issuer of securities			
Full description of securities			
Number or amount of securities	Figures:		
	Words:		
Consideration	Figures:		
	Words:		
Particulars of registered holder(s) of securities			
Full name(s) and description(s) of registered holder(s) <i>show Mr, Mrs, etc</i>	Forenames	Surname	Description
	1		
	2		
	3		
	4		
Recorded address			
Leave blank for Registrar			

Particulars of transferee(s) of securities				
Full name(s) and description(s) of transferee(s) <i>show Mr, Mrs, etc</i>	Forenames	Surname	Description	
	1			
	2			
	3			
	4			
Full postal address to be recorded on register				
	Postal zone:			

I/We confirm that the securities described above have been acquired in a stock exchange transaction (as defined in the Securities Transfer Act 1991) and I/We request that such entries be made in the register as are necessary to give effect to this transfer.

Stamp of buying agent
Date affixed

Schedule 3

s 11

Enactments repealed

Securities Transfer Act 1977 (1977 No 20) (RS Vol 15, p 605)

Securities Transfer Amendment Act 1987 (1987 No 155)

**Stamp and Cheque Duties Act 1971 (1971 No 51) (RS Vol 23,
p 771)**

Amendment(s) incorporated in the Act(s).

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-

Notes

1 *General*

This is a reprint of the Securities Transfer Act 1991. The reprint incorporates all the amendments to the Act as at 1 May 2011, 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)***

Financial Markets Authority Act 2011 (2011 No 5): sections 82, 84(1)

New Zealand Institute of Chartered Accountants Amendment Act 2010 (2010 No 74): section 10

Securities Markets Amendment Act 2009 (2009 No 54): section 23(1)

Securities Transfer Amendment Act 2007 (2007 No 80)

Lawyers and Conveyancers Act 2006 (2006 No 1): section 348

Local Government Act 2002 (2002 No 84): section 262

Securities Markets Amendment Act 2002 (2002 No 44): section 30

Institute of Chartered Accountants of New Zealand Act 1996 (1996 No 39): section 23

Department of Justice (Restructuring) Act 1995 (1995 No 39): section 10(3)

Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16):
section 2
