

What records must a Company keep and maintain?

A company must keep and maintain a variety of documents at its registered office. Some of that information must also be recorded and maintained with the Companies Office.

- Share register
- Issue of shares
- Distributions to shareholders
- Financial statements (accounting records)
- Security interests
- Annual general meeting (AGM) minutes
- Annual returns
- Adopt, alter or revoke a constitution
- Address for records
- Filing of documents

Many small businesses choose to have their accountant, solicitor or business advisor hold and maintain these records for them.

Share register

A company must maintain a share register that records the shares issued by the company and states:

- whether there are any restrictions or limitations on their transfer
- where any document that contains the restrictions or limitations may be inspected

The share register must also record an alphabetical list of the:

- name(s)
- last known address
- number of shares held

for all current shareholders and those that have been shareholders within the last ten years.

The register must also show the date of share issues, repurchases or redemptions and share transfers.

An agent (such as a professional share registry) may maintain the share register of the company.

Notes

Divided share register - A share register may be divided into two or more registers. A notice of the location of each register must be delivered to the Registrar within ten working days of the share register being divided. The share register, if undivided, is the company's principle register and must be kept in New Zealand. If divided, the share registers may be kept elsewhere.

Extensive shareholding - A company that has a large number of shareholders may notify the Companies Office that they have an extensive shareholding.

Issue of shares

After incorporation a company must issue to any person named in the application as a shareholder, the number of shares that the application says the shareholder will receive. After the first issue of shares, the board of a company may issue shares at any time, to any person and

in any quantity it sees fit. This power is subject to the provisions of the Companies Act 1993 and any provisions in a company's constitution that may modify its right to issue shares. The Registrar must receive notice of the share issue within ten working days of the issue.

Distributions to shareholders

The board of a company may authorise a distribution by the company at any time, of any amount and to any shareholders it sees fit. But before doing so it must:

- be satisfied, on reasonable grounds, that the company will be able to satisfy the solvency test immediately after the distribution; and
- ensure that it does not breach section 53 of the Companies Act 1993, or any provision in its constitution relating to the distributions.

Directors who vote in favour of a distribution must sign a certificate stating that the company can satisfy the solvency test and give the grounds for that opinion. A company satisfies the solvency test if:

- it is able to pay its debts as they become due in the normal course of business; and
- the value of the company's assets is greater than the value of its liabilities including contingent liabilities.

Financial statements (including appointment of auditors)

Every company must prepare financial statements annually. These must be audited unless all shareholders in the company agree otherwise (auditor resolution). If an auditor is to be appointed, the appointment is made at each annual meeting. There are some companies that must always appoint an auditor (they are those which are required to file financial statements under the Financial Reporting Act 1993).

The board of a company must ensure that the company keeps accounting records. These records must:

- correctly record and explain the company's transactions
- at any time enable the financial position of the company to be determined with reasonable accuracy
- enable the directors to ensure that the company's financial statements comply
- enable the company's financial statements to be readily and properly audited.

Security interests

Historically companies were required to maintain a register of charges. This provision was removed with the introduction of the Personal Property Securities Act 1999 (PPSA). However it would be considered good practice for companies to maintain details of their security interests.

Security interests over personal property (for example, secured loans, leases or hire purchases) can be registered.

Annual meeting minutes

Every company must hold an annual meeting of shareholders. Generally the meeting must be no later than six months after the company's balance date and no later than 15 months after the previous annual meeting.

A company does not have to hold its first annual meeting in the calendar year of its incorporation, but must hold that meeting within 18 months of incorporating.

Annual returns

All companies are required to file an annual return in a designated month. An annual return reminder is sent to companies by email in the month before their return is due to be filed.

A company is not required to file an annual return in the calendar year of its incorporation.

Adopt, alter or revoke a constitution

The shareholders of a company without a constitution may adopt a constitution by special resolution. Shareholders may also alter or revoke a constitution by special resolution. The board of a company must ensure that notice of an adoption, alteration or revocation is filed with the Registrar within ten working days of the event taking place. There is no fee to adopt, alter or revoke a constitution.

Address for records

When a company keeps its documents (or records) somewhere other than at the registered office - this is referred to as an address for records. The address for records situation is quite rare.

A new address for records must be notified to the Registrar within ten working days of the change.

Filing of documents

Interaction with the Companies Office is predominantly through the use of online services. This is because it is quick, and often cheaper, than filing paper forms. For the small number of instances where there is no online service available, there are forms available for filing documents at the Companies Office.