

Companies Act 1955 Amendment Bill

Government Bill

As reported from the committee of the whole House

This bill was formerly part of the Business Law Reform Bill as reported from the Commerce Committee. The committee of the whole House has further amended the bill and has divided it into the following bills:

- This bill, comprising Part 1
 - The Companies Act 1993 Amendment Bill, comprising Part 2
 - The Companies (Registration of Charges) Amendment Bill, comprising Part 3
 - The Fair Trading Amendment Bill (No 2), comprising Part 4
 - The Financial Reporting Amendment Bill, comprising Part 5
 - The Insolvency Amendment Bill, comprising Part 6
 - The Personal Property Securities Amendment Bill (No 2), comprising Part 6A and the Schedule
 - The Receiverships Amendment Bill, comprising Part 6B
 - The Securities Amendment Bill (No 2), comprising Part 7
 - The Superannuation Schemes Amendment Bill, comprising Part 8
 - The Unit Trusts Amendment Bill, comprising Part 9.
-

Hon Paul Swain

Companies Act 1955 Amendment Bill

Government Bill

Contents

1	Title	108A Court may order extension of time for registration of charge or correction of register of charges
2	Commencement	108B Application of sections 108 and 108A
3	New sections 108 to 108C substituted	108C Form of certificates
	108 Registrar may extend time for registration of charge or correct register of charges	

The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Companies Act 1955 Amendment Act **2001**.
(2) In this Act, the Companies Act 1955 is called “the principal Act”.

5

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 New sections 108 to 108C substituted

- (1) The principal Act is amended by repealing sections 108 and 108A, and substituting the following sections: 10

“108 **Registrar may extend time for registration of charge or correct register of charges**

- “(1) The Registrar may, on the application of the company or any person interested, extend the time for registration of a charge, or correct a mistake in the register of charges, if— 15

“(a) the Registrar is satisfied that the failure to register the charge within the time required by this Act or the mistake in the register of charges—

“(i) was accidental or due to inadvertence or to some other good reason; or 20

“(ii) is not likely to prejudice the position of creditors or shareholders of the company; and

- “(b) the Registrar has given public notice setting out—
- “(i) the name of the company; and
 - “(ii) the name and address of the applicant; and
 - “(iii) the proposed action that the Registrar will take; and 5
 - “(iv) the date by which an objection to the Registrar’s proposed action must be delivered to the Registrar, not being less than 20 working days after the date of the notice; and
- “(c) the Registrar has not received any objection to the Registrar’s proposed action within the time specified in the notice. 10
- “(2) Nothing in this section limits or affects **section 108A**.
- “108A **Court may order extension of time for registration of charge or correction of register of charges** 15
- The Court may, on the application of the company or any person interested, and on any terms that the Court considers are just and expedient, order that the time for registration of a charge be extended or that the register of charges be corrected, if— 20
- “(a) the Court is satisfied that the failure to register the charge within the time required by this Act or the mistake in the register of charges—
 - “(i) was accidental or due to inadvertence or to some other good reason; or 25
 - “(ii) is not likely to prejudice the position of creditors or shareholders of the company; or - “(b) on other grounds it is just and equitable to grant relief.
- “108B **Application of sections 108 and 108A**
- Sections 108 and 108A** apply to every charge created before the commencement of the **Business Law Reform Act 1999** and registrable under this Part in the same way as those sections apply to every charge created after the commencement of that Act. 30
- “108C **Form of certificates**
- For the purposes of sections 102 and 104, a single form of certificate may be prescribed that is adaptable for use under either of those sections.” 35

- (2) Section 122ZH(5) of the Local Government Act 1974 is consequentially amended by inserting, after the expression “section 108”, the expression “or **section 108A**”.

Legislative history

4 April 2001

Divided from Business Law Reform Bill
(No 319–3A)
