



MEMO

To: Board of Directors
From: Company Secretary
Subject: **REGISTER OF SHAREHOLDERS**

The Corporations Act requires that a company have at least one member – which for a company which issues shares (i.e., most companies, whether proprietary/private or public) – is termed a “shareholder”.

Shareholders are either:

- those who form/incorporate a new company [section120]; or
- those who are issued with new shares after company incorporation; or
- those who acquire shares transferred to them;

and have had their names entered into the Register of Shareholders (‘Share Register’ or ‘Register of Members’) – sec.231.

A new shareholder should sign an application or transfer form, because that confirms the contract which exists under the company’s constitution between the shareholder and the company and between the shareholders themselves – sec.140.

A proprietary company cannot have more than 50 shareholders (other than employees), but there is no limit on the number of shareholders in a public company.

Only real persons (who can be minors) and companies can be shareholders. Unincorporated bodies, trusts, etc, cannot be shareholders in their name – the holding must be recorded in the name/s of the officer/s, trustee/s, etc.

Contents of Share Register

All companies that issue shares must keep a Share Register – sec.168 – in which is recorded (pursuant to sec.169):

- The shareholder’s name and address and the date on which the entry of the shareholder’s name in the register is made.
- If the company has more than 50 shareholders, the company must include in the register an up-to-date index of shareholders’ names. The index must be convenient to use and allow a shareholder’s entry in the register to be readily found. A separate index need not be included if the register itself is kept in a form that operates effectively as an index.



- In relation to share capital, the register must also show:
 - (a) the date on which every allotment of shares takes place; and
 - (b) the number of shares in each allotment; and
 - (c) the shares held by each shareholder; and
 - (d) the class of shares; and
 - (e) any identifying numbers assigned to those shares (if any), or share certificate numbers (if any); and the amount paid on the shares; and whether or not the shares are fully paid; and
 - (f) the amount unpaid on the shares (if any).
- The register of a company with shareholders, other than a stock exchange listed company, must indicate any shares that a shareholder does not hold beneficially (including where relevant notice under the Act has been received).
- A register of shareholders must also show:
 - (a) the name and details of each person who stopped being a shareholder of the company within the last 7 years; and
 - (b) the date on which the person stopped being a shareholder.The company may keep these entries separately from the rest of the register.
- 2 or more persons who jointly hold shares in the company are taken to be a single shareholder of the company in relation to those shares. They may also be shareholders of the company because of shares that they hold in their own right or jointly with others.

Changes to Register

Key information in the Share Register, and any changes, is required to be lodged with ASIC within 28 days using Form 484 "Change to Company Details". This includes, for proprietary companies, the 'top 20' shareholders in each class.

Additional Information in Register

As a matter of 'best practice' (but not required under the Act) the Share Register could also include:

- Shareholder reference number
- Account reference designation (e.g., <super fund>)
- Dividend payment, or reinvestment plan, instructions
- Power of Attorney or Authorised Representative notation
- TFN or exemption
- Company ACN, date/place of incorporation, officers' names
- Contact person, phone number, email address.



Availability of Share Register

The Register of Shareholders must be located at (sec.172):

- the company's Registered Office or Principal Place of Business (in Australia)
- or other place as approved by ASIC.

Pursuant to sec.173 anyone may inspect the Register and request a copy. However, the use of information from the Register is restricted under sec.177 and it must not generally be used to contact or send material to shareholders.

DISCLAIMER

The comments in this memo reflect some commercial aspects and observations on the matter experienced or observed by the writer in practice as he understands them. The information is given as a guide only and does not represent a definitive or legal view of any of the issues raised, covered or referred to and the reader is urged to seek his own professional advice on all aspects of, or pertaining to, this and any related matter.