

# Sharebrokers Act 1908

Public Act 1908 No 176  
Date of assent 4 August 1908

## Contents

		Page
1	Title	1
1	Short Title, etc	1
2	Interpretation	2
	<b>Licensed sharebrokers</b>	
3	Sharebrokers to be licensed	3
4	Issue of licences	3
5	Appointment of substitute	4
6	Cancellation of sharebroker's licence	5
7	When person deemed unlicensed	6
	<b>Stock exchanges</b>	
9	Stock exchanges may be registered <i>[Repealed]</i>	6
10	Use of words "stock exchange" <i>[Repealed]</i>	6
11	Rules may be made <i>[Repealed]</i>	7
	<b>Schedule</b>	7
	<b>Enactments consolidated</b>	

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## An Act to consolidate certain enactments of the General Assembly relating to sharebrokers and stock exchanges

### 1 Short Title, etc

- (1) The Short Title of this Act is the Sharebrokers Act 1908.
- (2) This Act is a consolidation of the enactments mentioned in the Schedule hereto, and with respect to those enactments the following provisions shall apply:
- (a) All licences, appointments, registers, registrations, rules, records, instruments, and generally all acts of authority which originated under the said enactments,

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#### Note

This Act is administered in the Department of Justice

and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated:

- (b) All matters and proceedings commenced under the said enactments, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

## 2 Interpretation

In this Act, if not inconsistent with the context,—

**Minister***[Repealed]*

Minister: this definition was repealed, as from 24 October 1957, by section 2(2)(a) Sharebrokers Amendment Act 1957 (1957 No 71).

*[Repealed]*

**Secretary** means the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

Secretary: the original definition was inserted, as from 22 October 1952, by section 2(1) Sharebrokers Amendment Act 1952 (1952 No 21).

Secretary: this definition was substituted, as from 1 October 1995, by section 10(3) Department of Justice (Restructuring) Act 1995 (1995 No 39).

**Shares** includes shares and stock in any company

**Sharebroker** means any person, firm, or company who, for remuneration, sells or purchases shares for or on behalf of or as agent for any other person; but does not include—

- (a) A bank selling or purchasing shares for its customers in the ordinary course of its business; or
- (b) A person who is authorised under section 38(1) of the Securities Markets Act 1988 to carry on the business of dealing in futures contracts to the extent that that person, for remuneration, sells or purchases options to acquire or sell shares for or on behalf of or as agent for any other person.

Sharebroker: this definition was substituted, as from 1 July 1994, by section 2(1) Sharebrokers Amendment Act 1994 (1994 No 62).

Sharebroker: this definition was substituted, as from 2 September 1996, by section 2(1) Sharebrokers Amendment Act 1996 (1996 No 144).

Sharebroker: paragraph (b) of this definition was amended, as from 1 December 2002, by section 30 Securities Markets Amendment Act 2002 (2002 No 44) by substituting the word “Markets” for the word “Amendment”.

Compare: 1902 No 24 s 2

## **Licensed sharebrokers**

### **3 Sharebrokers to be licensed**

- (1) No person shall act as a sharebroker unless he is the holder of a sharebroker’s licence as hereinafter provided. No firm shall act as a sharebroker unless every partner is the holder of such a licence, and no company shall act as a sharebroker unless every person acting for it in that behalf is the holder of such a licence.
- (2) Every person who commits a breach of this section is liable for each offence to a fine not exceeding \$200.

Compare: 1902 No 24 s 3

Subsection (1) was amended by section 17(1)(b) Finance Act 1931 (No 4) (1931 No 44) by inserting the words “No firm shall act as a sharebroker unless every partner is the holder of such a licence, and no company shall act as a sharebroker unless every person acting for it in that behalf is the holder of such a licence”.

Subsection (2) was amended, as from 10 July 1967, by section 7(1) Decimal Currency Act 1964 (1964 No 27), by substituting the expression “\$200” for the expression “one hundred pounds”.

### **4 Issue of licences**

- (1) Every person who desires to obtain a sharebroker’s licence shall make application for the licence to the District Court nearest by the most convenient route to the place named in the application as the place of business or principal place of business of the applicant.
- (2) Every such application for a licence shall be heard by a District Court Judge exercising jurisdiction in the Court in which the application is filed; and the District Court Judge, if satisfied that the applicant is a fit person to be the holder of a sharebroker’s licence, shall, on payment of a fee of \$250, grant to the applicant a sharebroker’s licence.
- (3) Such licence shall, unless sooner cancelled, continue in force until the 31st day of December then next, and may be renewed

from year to year by the Registrar of the Court in which the licence was granted, on payment of a fee of \$250:

Provided that where one member of a firm of partners carrying on business as sharebrokers has obtained the renewal of his sharebroker's licence, for any year, every other member of the partnership firm who is carrying on business exclusively in the same locality shall be entitled to a renewal of his licence on payment of a fee of \$100.

- (4) The amount of any fee which is payable under subsection (2) or subsection (3) of this section may be amended from time to time by the Governor-General by Order in Council.

Section 4 was substituted, as from 14 October 1981, for the original section 4 by section 10(1) Sharebrokers Amendment Act 1981 (1981 No 43).

Subsection (2): the fee payable for the issue of a sharebroker's licence was increased from \$100 to \$250 by clause 2(1) Sharebrokers Act (Increase in Fees) Order 1987 (SR 1987/57).

Subsection (3): the fee payable on the renewal of a sharebroker's licence was increased from \$100 to \$250 by clause 2(2) Sharebrokers Act (Increase in Fees) Order 1987 (SR 1987/57).

Subsection (3) proviso: the fee payable under this proviso was increased from \$30 to \$50 by clause 2(3) Sharebrokers Act (Increase in Fees) Order 1987 (SR 1987/57). This was further increased, as from 8 October 1991, to \$100 by clause 2 Sharebrokers Act (Increase in Fees) Order 1991 (SR 1991/192). *See also* clause 3 of those regulations as to the fees prescribed being inclusive of GST.

## **5 Appointment of substitute**

- (1) In case of the illness or absence from New Zealand of a licensed sharebroker whose licence has not been cancelled, he may give notice in writing to the Registrar of the Court in which the licence was granted that he intends to appoint some specified person to act as his substitute for a period mentioned in the notice not exceeding 6 months.
- (2) Such substitute shall, if approved by the Registrar of the Court in which the licence was granted, and on payment of a fee of \$1, be deemed to be a licensed sharebroker within the meaning of this Act for the period mentioned in the notice.
- (3) No sharebroker who has appointed a substitute under this section shall himself act as a sharebroker until 10 days after he has given the Registrar of the Court in which the licence was granted notice in writing that he intends to resume business personally as a sharebroker, and on the expiration of such

period of 10 days his substitute shall cease to act as a share-broker.

Compare: 1902 No 24 s 5

In subsections (1), (2), and (3) the words “Commissioner of Stamp Duties” were substituted for the word “Minister” by section 17(3) Finance Act 1931 (No 4) (1931 No 44). This was in turn substituted, as from 22 October 1952, by the word “Secretary” by section 2(2) Sharebrokers Amendment Act 1952 (1952 No 21). The word “Secretary” was then substituted, as from 24 October 1957, by section 2(2)(c) Sharebrokers Amendment Act 1957 (1957 No 71) by the words “Registrar of the Court in which the licence was granted”

Subsection (2) was amended, as from 24 October 1957, by section 2(2)(d) Sharebrokers Amendment Act 1957 (1957 No 71) by omitting the words “be registered, and shall thereupon”.

Subsection (2) was amended, as from 10 July 1967, by section 7(1) Decimal Currency Act 1964 (1964 No 27), by substituting the expression “\$1” for the words “ten shillings”.

## **6 Cancellation of sharebroker's licence**

(1) Where—

- (a) A sharebroker has been convicted of any crime involving dishonesty as defined in section 2(1) of the Crimes Act 1961; or
- (b) A sharebroker has, within the preceding 3 years, been guilty of misconduct or any improper practice; or
- (c) A judgment has been obtained against a sharebroker in a proceeding under Part 1 of the Securities Market Act 1988 as an insider (within the meaning of that Part of that Act),—

a District Court Judge, exercising jurisdiction in the District Court in which the licence was granted, may suspend or cancel the sharebroker's licence.

- (2) Any person may apply under this section to have a sharebroker's licence suspended or cancelled.
- (3) Not less than 10 days' notice of intention to apply shall be given to the sharebroker.
- (4) At the hearing of the application the applicant and the sharebroker may give evidence and call witnesses.

Section 6, as previously amended by section 2(2) Sharebrokers Amendment Act 1957, was substituted, as from 21 December 1988, by section 2(1) Sharebrokers Amendment Act 1988 (1988 No 235).

Subsection (1)(c) was amended, as from 1 December 2002, by section 30 Securities Markets Amendment Act 2002 (2002 No 44) by substituting the word "Markets" for the word "Amendment".

**7 When person deemed unlicensed**

In all proceedings against a person for acting as a sharebroker without a licence such person shall be deemed to be unlicensed unless at the hearing of the case he produces his licence, or otherwise proves to the satisfaction of the Court that he is duly licensed as a sharebroker under this Act.

Compare: 1902 No 24 s 7

**8**

Section 8 was repealed, as from 24 October 1957, by section 2(3)(b) Sharebrokers Amendment Act 1957 (1957 No 71).

**Stock exchanges****9 Stock exchanges may be registered**

*[Repealed]*

Sections 9 to 11 were repealed, as from 1 December 2002, by section 26(a) Securities Markets Amendment Act 2002 (2002 No 44).

In subsections (1) and (2) the words "Commissioner of Stamp Duties" were substituted for the word "Minister" by section 17(3) Finance Act 1931 (No 4) (1931 No 44). This was in turn substituted, as from 22 October 1952, by the word "Secretary" by section 2(2) Sharebrokers Amendment Act 1952 (1952 No 21).

Subsection (2) was amended, as from 11 November 1931, by section 17(1)(c) Finance Act 1931 (No 4) (1931 No 44) by substituting the expression "ten pounds" for the expression "one pound". This was in turn substituted, as from 10 July 1967, by section 7(1) Decimal Currency Act 1964 (1964 No 27), by substituting the expression "\$20" for the expression "ten pounds".

**10 Use of words "stock exchange"**

*[Repealed]*

Sections 9 to 11 were repealed, as from 1 December 2002, by section 26(a) Securities Markets Amendment Act 2002 (2002 No 44).

Subsection (2) was amended, as from 10 July 1967, by section 7(1) Decimal Currency Act 1964 (1964 No 27), by substituting the expression "\$10" for the expression "five pounds".

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## **11 Rules may be made**

*[Repealed]*

Sections 9 to 11 were repealed, as from 1 December 2002, by section 26(a) Securities Markets Amendment Act 2002 (2002 No 44).

Section 11 was amended, as from 11 November 1931, by section 17(1)(d) Finance Act 1931 (No 4) (1931 No 44) by inserting the words “and, unless forming part of the rules referred to in section 9 hereof, they shall not be so approved and gazetted until a fee of \$10 has been paid in respect thereof”.

Subsection (2) was amended, as from 10 July 1967, by section 7(1) Decimal Currency Act 1964 (1964 No 27), by substituting the expression “\$10” for the expression “five pounds”.

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## **Schedule** **Enactments consolidated**

Section 1(2)

- 1902, No 24—The Sharebrokers Act 1902.