

# **Companies (Amendment) Bill**

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**Bill No: 36/1998**

***Read the first time: 4th September 1998***

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### Companies (Amendment) Bill

#### Bill No. 36/1998

*Read the first time on 4th September 1998.*

An Act to amend the Companies Act (Chapter 50 of the 1994 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

#### Short title and commencement

1. This Act may be cited as the Companies (Amendment) Act 1998 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

#### Amendment of section 7

2. Section 7 of the Companies Act is amended —

(a) by deleting subsection (4) and substituting the following subsections:

“(4) Where a body corporate has, or is by the provisions of this section deemed to have, an interest in a share and —

(a) the body corporate is, or its directors are, accustomed or under an obligation whether formal or informal to act in accordance with the directions, instructions or wishes of a person; or

(b) a person has a controlling interest in the body corporate,

that person shall be deemed to have an interest in that share.

(4A) Where a body corporate has, or is by the provisions of this section (apart from this subsection) deemed to have, an interest in a share and —

- (a) a person is;
- (b) the associates of a person are; or
- (c) a person and his associates are,

entitled to exercise or control the exercise of not less than 20% of the votes attached to the voting shares in the body corporate, that person shall be deemed to have an interest in that share.”.

- (b) by deleting the words “subsection (4)(c)” in the first line of subsection (5) and substituting the words “subsection (4A)”; and
- (c) by deleting the word “and” at the end of paragraph (c) of subsection (9) and by inserting immediately thereafter the following paragraph:

“(ca) an interest of a company in its own shares being purchased or otherwise acquired in accordance with sections 76B to 76G; and”.

### **Amendment of section 73**

**3.** Section 73 of the Companies Act is amended by inserting, immediately after subsection (11), the following subsection:

“(12) This section shall not apply to the purchase or acquisition or proposed purchase or acquisition by a company of its own shares in accordance with sections 76B to 76G.”.

### **Amendment of section 76**

**4.** Section 76(9) of the Companies Act is amended —

- (a) by deleting the word “or” at the end of paragraph (a); and
- (b) by deleting the full-stop at the end of paragraph (b) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:
  - “(c) the purchase or acquisition or proposed purchase or acquisition by a company of its own shares in accordance with sections 76B to 76G.”.

### **New sections 76B to 76G**

5. The Companies Act is amended by inserting, immediately after section 76A, the following sections:

**“Company may acquire its own shares**

**76B.**—(1) Notwithstanding section 76, a company may, in accordance with this section and sections 76C to 76G, purchase or otherwise acquire ordinary shares issued by it if it is expressly permitted to do so by its articles.

(2) This section and sections 76C to 76G shall apply only to ordinary shares.

(3) The total number of shares purchased or acquired by a company during the relevant period shall not exceed 10% (or such other percentage as the Minister may by notification prescribe) of the issued ordinary share capital of the company ascertained —

- (a) as at the date of the last annual general meeting of the company held before any resolution passed pursuant to section 76C, 76D or 76E; or
- (b) as at the date of such resolution,

whichever is the higher, unless the Court has, at any time during the relevant period, made an order under section 73(4) confirming the reduction of share capital of the company and in such circumstances the issued ordinary share capital of the company shall, notwithstanding paragraphs (a) and (b), be taken to be the amount of the issued ordinary share capital as altered by the order of the Court.

(4) In subsection (3), “relevant period” means the period commencing from the date the last annual general meeting of the company was held or if no such meeting was held the date it was required by law to be held before the resolution in question is passed, and expiring on the date the next annual general meeting is or is required by law to be held, whichever is the earlier, after the date the resolution in question is passed.

(5) Shares that are purchased or acquired by a company pursuant to section 76C, 76D or 76E are deemed to be cancelled immediately on purchase or acquisition.

(6) On the cancellation of a share under subsection (5), the rights and privileges attached to that share expire.

(7) For the purposes of this section, shares are deemed to be purchased or acquired on the date on which the company would, apart from subsection (5), become entitled to exercise the rights attached to the shares.

(8) Within 30 days of the passing of a resolution referred to in section 76C, 76D or 76E, the directors of the company shall lodge with the Registrar a copy of the resolution.

(9) Within 30 days of the purchase or acquisition of the shares, the directors of the company shall lodge with the Registrar the notice of the purchase or acquisition in the prescribed form with the following particulars:

- (a) the date of the purchase or acquisition;
- (b) the number and nominal value of shares purchased or acquired;
- (c) the company's issued share capital as at the date of the resolution passed pursuant to section 76C, 76D or 76E and the company's issued share capital after the purchase or acquisition; and
- (d) the amount of consideration paid by the company for the purchase or acquisition of each share.

(10) Nothing in this section or in sections 76C to 76G shall be construed so as to limit or affect an order of the Court made under any section that requires a company to purchase or acquire its own shares.

#### **Authority for off-market acquisition on equal access scheme**

**76C.**—(1) A company, whether or not it is listed on a stock exchange, may make a purchase or acquisition of its own shares otherwise than on a stock exchange (referred to in this section as an off-market purchase) if the purchase or acquisition is made in accordance with an equal access scheme authorised in advance by the company in general meeting.

(2) The notice specifying the intention to propose the resolution to authorise an off-market purchase referred to in subsection (1) must —

- (a) specify the maximum number of shares or the maximum percentage of ordinary issued share capital authorised to be purchased or acquired;
- (b) determine the maximum price which may be paid for the shares;
- (c) specify a date on which the authority is to expire, being a date that must not be later than the date on which the next annual general meeting of the company is or is required by law to be held, whichever is the earlier; and
- (d) specify the sources of funds to be used for the purchase or acquisition including the amount of financing and its impact on the company's financial position.

(3) The resolution authorising an off-market purchase referred to in subsection