Machinery of Government Supplementary Guidance Note: Schedule 4A companies

What are they?

These are companies which are listed on Schedule 4A of the Public Finance Act (PFA) 1989, which are:

- limited liability companies
- wholly or majority owned by the Crown (Crown owns more than 50%[1])
- not listed on a registered market, and
- subject to specified provisions of the Crown Entities Act 2004, Companies Act 1993, Public Audit Act 2001, Official Information Act 1982, and Ombudsman Act 1975.

Under this company model the level of Crown ownership may vary from over 50% up to 100%.

The other types of companies that the Crown has an ownership interest in vary in the degree of Crown ownership, the nature of their objectives, and the rules that apply to that type of company. They are:

1. State owned enterprises – wholly owned by the Crown, registered companies, operating as commercial businesses, required to be good employers and to exhibit a sense of social responsibility.
2. Crown entity companies – wholly owned by the Crown, generally established by the Crown to further certain policy objectives. They include:
   a. Crown research institutes which carry out scientific research for the benefit of New Zealand
   b. Crown entity subsidiaries which are companies controlled by one or more Crown entities
   c. Other stand-alone companies e.g. TVNZ Ltd, Radio NZ Ltd.

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1 More than 50% of the issued ordinary shares in the capital of the company

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3. Other companies the Crown holds shares in, including *Mixed ownership model* companies which are those majority owned by the Crown (with other parties each not having more than 10% of holdings or voting interests) and publicly listed.

See Understanding the Crown's Commercial Portfolio for more context and A guide to New Zealand's central government agencies for a list of these companies.

What are Schedule 4A companies for?

This company model is useful when results are needed in a particular area (normally a mixture of commercial and social objectives), the desired results might be best supported by joint ownership with minority shareholder(s), and where board governance is desirable. It does not require minority shareholder(s), however this company model provides the option for having other shareholders either when established or in the future.

When wouldn't this model be useful?

This model wouldn't be useful if the Crown wanted to be a minority shareholder, the objectives were predominantly or wholly non-commercial, and/or the intention is for the entity to be wholly Crown-owned.

Selected examples

- Education Payroll Limited is responsible for paying around 90,000 teachers and support staff in around 2,500 schools each fortnight. It was formed in 2014 to transfer ownership and management of the schools' payroll service from Talent2.

- Crown Fibre Holdings Limited is tasked with managing the Government's investment in Ultra-Fast Broadband (UFB) infrastructure and supporting the roll-out of UFB to 75% of New Zealanders over ten years, plus green field developments and certain tranches of residential areas.

- Ōtākaro Limited has taken over the anchor projects functions of the former Canterbury Earthquake Recovery Authority, accelerating work already underway and supporting community confidence in the city centre's major projects and precincts.

- FairWay Resolution Limited provides conflict management and dispute resolution services across the public and private sectors. Prior to 2011 it had been a subsidiary of ACC where it was established to provide dispute resolution services.

- Tāmaki Redevelopment Company Limited supports regeneration activity in Tāmaki to achieve social transformation, economic development, placemaking, and housing resources. This company was formed in 2013 and Auckland Council is a minority shareholder.

General requirements of Schedule 4A companies

Part 5AAA of the Public Finance Act sets out the requirements for Schedule 4A companies. These relate to constitutions, shares, shareholders, monitors, boards, government directions, bank accounts, being a good employer, and other miscellaneous provisions. This Part of the PFA heavily cross-references to the Crown Entities Act 2004 (CEA), where many of the requirements are similar (if not identical) to those of Crown entity companies (requirements tend to differ only in terms of the role of minority shareholders).

The reporting requirements of Schedule 4A companies include preparing and publishing:

- a Statement of Intent (SOI) explaining the company's strategic intentions for the next four years and providing a base against which actual performance can later be assessed
- a Statement of Performance Expectations (SPE) explaining what it intends to achieve in the forthcoming financial year through each group of goods and services it provides (reportable outputs) and containing forecast financial statements for that financial year, and
- an Annual Report including a statement of performance, annual financial statements, and an audit report.

For more details about what material is required in these documents see sections 136 to 157A of the CEA.

Sections 161-165 of the CEA may apply to a Schedule 4A company. These sections relate to acquisitions of securities, borrowing, guarantees, indemnities, derivatives, and whether a surplus is repayable to the Crown. For a summary of which sections apply to existing Schedule 4A companies see the table in Schedule 4A of the Public Finance Act.

The State Services Commission is currently updating its machinery of government guidance. This note has been produced by Treasury as part of this update. It provides supplementary information to the existing guidance document and should be read in conjunction with this.