

**BP REFINERY (KWINANA)
LIMITED.**

11° Elizabeth II., No. X.

No. 10 of 1962.

AN ACT to enable BP Refinery (Kwinana) Limited to become a company deemed to be incorporated in the State, to preserve the identity of the company so incorporated with BP Refinery (Kwinana) Limited a company within the meaning of the Companies Act 1948 of the United Kingdom and for incidental and other purposes.

[Assented to 27th September, 1962.]

WHEREAS—

- (a) BP Refinery (Kwinana) Limited was incorporated in England on the twenty-third day of October, one thousand nine hundred and fifty-two pursuant to the provisions of the Companies Act 1948 of the United Kingdom, under the name Australasian Petroleum Refinery Limited and that

name was duly changed to BP Refinery (Kwinana) Limited on the fourteenth day of May, one thousand nine hundred and fifty-six pursuant to that Act;

- (b) the corporation was formed to erect, own and operate refineries for the refining and treatment of mineral and other oils;
- (c) the corporation is a company limited by shares within the meaning of the Companies Act 1948 of the United Kingdom;
- (d) the registered office in England of the corporation is situate at Britannic House, Finsbury Circus, London;
- (e) with a view to the more efficient and economical administration of the corporation and with the consent of the Treasury of the United Kingdom given on the twenty-fourth day of July, one thousand nine hundred and fifty-three, the central management and control of the corporation was transferred from the United Kingdom to the State;
- (f) the directors of the corporation are resident in the State and all meetings of the board of directors of the corporation are held in Perth in the State;
- (g) all the issued shares of the corporation are fully paid up;
- (h) the directors of the corporation are promoting a Private Bill in the Parliament of the United Kingdom to authorise the corporation to become a company deemed to be incorporated under the Companies Act, 1961;
- (i) having regard to the fact that the area of operation of the corporation is wholly in Australia, certain advantages would accrue to the corporation if the corporation were deemed to be a company within the meaning of the Companies Act, 1961;

- (j) no procedure exists whereby the corporation can be deemed to be a company incorporated under the Companies Act, 1961;
- (k) procedure by way of winding up and dissolution of the corporation and the transfer or sale of assets of the corporation to a new company in the State would involve the loss of the identity of the corporation and the disturbance of its financial structure and interfere with the continuity of its operations, with considerable attendant expense;
- (l) it is desirable that the corporation be enabled to become a company incorporated under the Companies Act, 1961, without any such loss of identity, disturbance or interference;
- (m) It is expedient that provision should be made to authorise the corporation to be deemed to be a company within the meaning of the Companies Act, 1961; and
- (n) the objects of this Act cannot be attained without the authority of Parliament.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as *BP Refinery (Kwinana) Limited Act, 1962.* Short title.

2. In this Act, unless the contrary intention appears— Interpre-

“Companies Act 1948” means the Companies Act 1948 of the United Kingdom;

“Companies Act, 1961” means the Companies Act, 1961 of the Parliament;

“memorandum” means memorandum of association;

“Registrar” means Registrar of Companies under the Companies Act, 1961;

“section” means section of this Act;

“the company” means BP Refinery (Kwinana) Limited, as incorporated under the Companies Act, 1961;

“the corporation” means BP Refinery (Kwinana) Limited as incorporated under the Companies Act 1948.

Power
to company
to be
incorporated
in Western
Australia.

3. (1) When the corporation is authorised by the law of the United Kingdom to transfer its registered office from England to a place in the State, if the corporation at any time thereafter lodges with the Registrar the following documents—

- (a) a copy of the Act of the United Kingdom authorising that transfer;
- (b) a copy of the memorandum and articles of association of the corporation and a copy of every order, resolution or other document affecting that memorandum or those articles; and
- (c) a statement specifying—
 - (i) the nominal share capital of the corporation expressed in sterling and the number and classes of shares into which it is divided; and
 - (ii) the number of shares taken and the amount paid in sterling on each of those shares,

the corporation, after so lodging those documents, and upon the Registrar certifying as provided in section four, shall be deemed for all purposes to be a company limited by shares incorporated pursuant to the Companies Act, 1961.

(2) The documents referred to in subsection (1) of this section shall be verified by statutory declaration of any two or more directors of the corporation at the time they are lodged with the Registrar in accordance with that subsection.

(3) The company shall comply with the provisions of sections one hundred and eleven, one hundred and twelve and one hundred and thirty-four of the Companies Act, 1961 within twenty-one days of the lodging with the Registrar of the documents referred to in subsection (1) of this section.

(4) The company shall pay to the Registrar, on the lodging with him of the documents referred to in subsection (1) of this section, fees payable in accordance with the Second Schedule of the Companies Act, 1961, for the incorporation of the company.

(5) (a) Until a memorandum is lodged with the Registrar pursuant to subsection (5) of section six the memorandum and every document affecting it lodged pursuant to subsection (1) of this section shall, on the Registrar certifying as provided in section four, be deemed to be the memorandum of the company.

(b) The articles of association and every document affecting them so lodged, shall, until varied under the Companies Act, 1961, be deemed to be the articles of association of the company.

4. (1) When the corporation has complied with subsections (1), (2) and (4) of section three, the Registrar shall certify under his hand and seal that the corporation is, on and from the date specified in the certificate, deemed to be incorporated under the Companies Act, 1961, and that the company is a company limited by shares.

Certificate of
incorporation.

Certificate of
incorporation
conclusive
evidence.

(2) The certificate of incorporation made pursuant to subsection (1) of this section is conclusive evidence that—

- (a) the corporation has complied with the requirements of subsections (1), (2) and (4) of section three; and
- (b) that the corporation is deemed to be a company limited by shares incorporated pursuant to the Companies Act, 1961.

(3) The company incorporated under the Companies Act, 1961, pursuant to this Act, shall for all purposes be identical with the corporation and the continuity, status and operation of that corporation, its property, power, rights, authorities, function, liabilities or obligations or any legal or other proceedings instituted or to be instituted by or against that corporation shall not be in any way affected by the corporation being deemed to be incorporated as a company under the Companies Act, 1961.

On incorporation
company
is not a
foreign
company.

5. When the Registrar issues a certificate of incorporation pursuant to this Act, the corporation to which the certificate relates ceases to be a foreign company within the meaning of the Companies Act, 1961, and that Act, subject to this Act, applies to the company referred to in that certificate in all respects as though it were a company originally incorporated under that Act.

Company to
adopt new
memorandum.

6. (1) Within ninety days after the corporation is deemed to be incorporated, pursuant to this Act, as a company under the Companies Act, 1961, the company shall by special resolution adopt a new memorandum which shall be in terms of the memorandum lodged by the corporation pursuant to section three but—

- (a) embodying the effect of all orders of the High Court of Justice in England and of all resolutions of the corporation affecting its memorandum, constitution or capital,

made before the corporation was so deemed to be a company incorporated under the Companies Act, 1961;

- (b) expressing the amount of the nominal share capital of the company in Australian currency as determined in accordance with subsection (2) of this section;
- (c) omitting all words, expressions or provisions inconsistent with its status as a company under the Companies Act, 1961; and
- (d) making such other alterations and omissions as are necessary or expedient to give effect to the provisions of this and the Companies Act, 1961, or which may be incidental thereto.

(2) The conversion of the nominal share capital from English currency into Australian currency shall, by force of this subsection, be made at the rate of twenty-five shillings Australian currency to every twenty shillings English currency of the nominal capital of the corporation.

Nominal capital converted to Australian currency.

(3) When the company passes the special resolution referred to in subsection (1) of this section, it shall forthwith apply to a judge in chambers for an order approving the memorandum adopted in accordance with this section.

Approval of Judge required for new memorandum.

(4) The judge, on being satisfied that the company has complied with the provisions of this section, may make an order approving the memorandum or approving the memorandum with such alterations and omissions as he thinks necessary.

Power to Judge to approve memorandum with or without amendments

(5) When the judge has approved the memorandum in accordance with subsection (4) of this section, the company shall forthwith lodge with the Registrar a copy of the memorandum as so approved together with an office copy of the order approving it and on compliance with this subsection—

- (a) the memorandum so lodged becomes the memorandum of the company;

- (b) the nominal share capital and paid up share capital of the company shall be that of the corporation at the time the corporation was deemed, pursuant to this Act, to be incorporated as a company under the Companies Act, 1961, but converted into Australian currency as provided by subsection (2) of this section;
 - (c) each person who would, but for this Act, have held shares in the corporation at the time of the lodging of the memorandum, shall be deemed to hold the same number of shares in the company at that time; and
 - (d) each of those shares shall be—
 - (i) of the nominal amount expressed in the memorandum; and
 - (ii) deemed to be paid up to that amount.
-