

COMPANIES.

20° GEO. V., No. XXVI.

No. 28 of 1929.

AN ACT to amend the law relating to Co-operative Trading and the registration of Co-operative Companies.

[Assented to 11th December, 1929.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and 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 the *Companies Act Amendment Act, 1929*, and shall be read as one with the Companies Act, 1893, hereinafter referred to as the principal Act. Short title.

2. (1.) No person, and no company or association (whether incorporated or not), other than— Trading as "co-operative" prohibited except by companies registered under this Act.

- (a) a building society registered under the Building Societies Act, 1920; or
- (b) a society registered under the Co-operative and Provident Societies Act, 1903; or
- (c) a company registered under the Companies Act, 1893, as amended by this Act,

shall, after the commencement of this Act, trade or carry on business under any name or title of which the word "co-operative," or any other word importing a similar meaning is part, or in any manner represent that the trade or business is co-operative:

Provided that if, at the commencement of this Act, any person, or any company or association (whether incorporated or not, and if incorporated, whether incorporated in this State or elsewhere), is trading or carrying on business in this State under any name of which the word "co-operative," or any other word importing a similar meaning is part, or is in

any manner holding out that the trade or business is co-operative, this section shall not apply to such person, company, or association until one year after the commencement of this Act; but at, or before, the expiration of that time any such person, company, or association shall (unless registered under the Companies Act, 1893, as amended by this Act) cease to use as part of such name or title the word "co-operative," or any word importing a similar meaning, and shall not in any manner represent that the trade or business is co-operative.

(2.) Any person, and any company or association that contravenes this section of this Act, and any director, manager, or other officer of a company or association who knowingly or wilfully authorises or permits such contravention, shall be guilty of an offence, and liable on conviction to a penalty not exceeding five pounds for every day during which the offence continues.

3. A company society or association applying for registration as a company under the principal Act as amended by this Act, and having in its name or title the word "co-operative," or any other word importing a similar meaning, shall contain in its memorandum and articles of association the provisions—

- (a) that the rate of dividend on the shares of the company shall not in respect of any year exceed an amount which is five pounds per centum per annum in excess of the Commonwealth Bank rate of interest for the time being on fixed deposits for two years;
- (b) that before declaring a dividend out of the profits for the then last financial year of the company, the directors may in their discretion provide for the payment of a dividend upon the shares which had been issued and were held by shareholders during any one or more of the three preceding financial years in respect of which no dividend has been declared: Provided that such dividend shall be payable to the persons registered as the owners of such shares at the date of the declaration of such dividend;
- (c) that all surplus profits in any year in which a dividend for such year shall be declared after setting aside to the credit of any reserve fund, as may from time to time be authorised by the memoran-

dum or articles of association of the company, shall be distributed by way of bonus, either in cash or bonus shares or debentures in proportion to the business done by shareholders with the company, or to the profits earned by the company on such shareholders' business;

- (d) that every shareholder, qualified to vote, shall have an equal voting power irrespective of the number of shares held by him; and
- (e) such other provisions as may be prescribed.

4. A co-operative company registered under the principal Act as amended by this Act may, if authorised by its memorandum or articles of association, purchase out of its reserve funds any shares of a member of the company, but the shares so purchased and not sold or disposed of shall not at any time exceed one-twentieth part of the paid up capital of the company:

Power to purchase shares.

Provided that such shares shall not be deemed to be cancelled nor to be a reduction of capital, but may be sold or disposed of by the company in accordance with the provisions of its articles of association.

5. Any company registered under the Companies Act, 1893, and any society registered under the Co-operative and Provident Societies Act, 1903, may, upon application to the Registrar of Companies within one year from the commencement of this Act, be registered under the principal Act, as amended by this Act, without payment of fees or stamp duty, if the memorandum and articles of association comply with the principal Act as amended; and the fees and stamp duty payable on any such registration, after one year from the commencement of this Act, shall be reduced by an amount equal to the fees and stamp duty paid on the first registration of the company or society.

Existing companies may register within a year without fees, etc.

From and after the date that any such society shall become registered under the principal Act, as amended by this Act, then the registration thereof under the Co-operative and Provident Societies Act, 1903, shall be annulled or cancelled, and the rights, duties, or obligations of such society under such last-mentioned Act shall cease without prejudice to any subsisting right or claim by or against the society.

Every society not already registered under the principal Act shall file with its application a memorandum and articles prepared in accordance with that Act, and comply with such provisions thereof as the Registrar under that Act may require.

Existing company may alter its memorandum and articles of association to comply with this Act.

6. Any company registered under the Companies Act, 1893, and any society registered under the Co-operative and Provident Societies Act, 1903, which may desire to apply for registration under the principal Act as amended by this Act, may without being required to make any application or present any petition to the court in that behalf, as required under the principal Act, alter its memorandum, articles of association or rules to conform with the requirements of this Act, by special resolution of a general meeting of such company or society; and every such special resolution shall be forwarded to and filed or recorded by the Registrar in terms of the provisions of the principal Act; but after such registration the memorandum and articles shall only be altered in accordance with the relevant provisions of the principal Act.

Distribution of reserves, and of assets, on winding up.

7. (1.) On any distribution of reserve funds or other assets by a co-operative company, or on the winding up, voluntarily or compulsorily, of a co-operative company, no shareholder shall receive in payment for his shares any amount exceeding the capital paid up in respect thereof, with dividends (if any) due, and any other moneys to which he may be then entitled under paragraph (c) of Section 3.

(2.) A co-operative company shall not be wound up voluntarily if its nett assets are in excess of its subscribed capital, except with the consent of not less than three-fourths of the shareholders, or with the sanction of a judge of the Supreme Court.

Amendment of Co-operative and Provident Societies Act, 1903.

8. No society shall, after the commencement of this Act, be registered under the Co-operative and Provident Societies Act, 1903, as a co-operative society.

Regulations.

9. The Governor may make regulations as may be necessary to give effect to this Act, and by such regulations may so modify the provisions of the principal Act and the schedules thereto as may be necessary to adapt the same to the requirements of this Act.