

MARKETABLE SECURITIES TRANSFER.

No. 92 of 1966.

AN ACT relating to Instruments of Transfer of Marketable Securities and for incidental and other purposes.

[Assented to 12th December, 1966.]

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:—

Short title.

1. This Act may be cited as the *Marketable Securities Transfer Act, 1966.*

Commence-
ment.

2. This Act or any provision thereof shall come into operation on a date or dates to be fixed by proclamation.

3. (1) In this Act, unless the contrary intention appears— Interpre-
tation.

“authorised nominee corporation” means a corporation that is declared by proclamation to be an authorised nominee corporation for the purposes of this Act;

“broker” means a person who is a member of The Stock Exchange of Perth and includes a broker’s agent;

“broker’s agent” means an agent or employee of a person who is a broker within the meaning of any corresponding law and who is carrying on business for or on behalf of that person in this State;

“corresponding law” means a law in force in any State except this State or in any Territory of the Commonwealth that is declared by proclamation to be a corresponding law for the purposes of this Act;

“form” means a form in the Schedule to this Act;

“legal representative” means the executor or administrator for the time being of the estate of a person who at the date of his death was the holder of a marketable security;

“marketable security” means any share, stock or debenture of a company or prescribed corporation; *Vide*
“debenture”
s. 5 Act No.
82 of 1961.

“prescribed corporation” means a body corporate that is declared by proclamation to be a prescribed corporation for the purposes of this Act;

“prescribed instrument” means a proper instrument executed in accordance with any of the forms referred to in section four of this Act; *Vide* s. 25
Act No. 30
of 1918.

“transferee”, in relation to a prescribed instrument renouncing and transferring a right in respect of marketable securities, means the person in whose favour the right is renounced and transferred;

“transferor” in relation to a prescribed instrument renouncing and transferring a right in respect of marketable securities, means the person by whom the right is renounced and transferred.

*Vide s. 5
Act No. 82
of 1961.*

(2) In this Act, unless the contrary intention appears, expressions occurring herein have the meanings respectively assigned to them by the Companies Act, 1961.

*Proper
instrument
of transfer of
marketable
securities.*

*Vide s. 25,
Act No. 30
of 1918.*

4. Subject to section seven of this Act—

(a) a duly completed instrument in accordance with Form 1 or of Part I of that form and Form 2 transferring fully paid marketable securities is—

(i) for the purposes of section ninety-five of the Companies Act, 1961 or for the purposes of any other Act; and

(ii) for the purposes of any memorandum or articles or of any trust deed or other instrument, governing or relating to the transfer of those marketable securities,

a proper instrument of transfer of those marketable securities;

(b) a duly completed instrument in accordance with Form 1 or of Part I of that form and Form 2, transferring marketable securities with an uncalled liability, if endorsed with or accompanied by a duly completed instrument in accordance with Form 3 is—

(i) for the purposes of section ninety-five of the Companies Act, 1961, or for the purposes of any other Act; and

(ii) for the purposes of any memorandum or articles or of any trust deed or other instrument, governing or relating to the transfer of those marketable securities,

a proper instrument of transfer of those marketable securities;

- (c) a duly completed instrument in accordance with Form 4 or of Part I of that form and Form 5, renouncing rights in respect of marketable securities in favour of the transferee named in the instrument is a proper instrument of renunciation and transfer of those rights in favour of that transferee where the whole of the moneys to be subscribed for the marketable securities to which the rights relate is payable in full on application being made therefor;
- (d) a duly completed instrument in accordance with Form 4 or of Part I of that form and Form 5 in the Schedule to this Act renouncing rights in respect of marketable securities in favour of the transferee named in the instrument, if endorsed with or accompanied by a duly completed instrument in accordance with Form 6 is a proper instrument of renunciation and transfer of those rights in favour of that transferee where the whole of the moneys to be subscribed for the marketable securities to which the rights relate is not payable in full on application being made therefor.

5. Notwithstanding anything contained in the memorandum or articles or in the constitution of a company or prescribed corporation or in the terms and conditions upon which marketable securities are created or issued or may be transferred or upon which rights in respect of marketable securities are offered for subscription or issued or may be renounced and transferred, it is not necessary in a prescribed instrument of transfer of marketable securities or of renunciation and transfer of rights in respect of marketable securities, to state the occupations of the transferee and transferor or to have the signature of the transferee and transferor witnessed.

Certain particulars in transfer dispensed with.

Prescribed
instrument
of transfer
executed by
transferee.

6. (1) Notwithstanding anything contained in the memorandum or articles or in the constitution of a company or prescribed corporation or in the terms and conditions upon which—

- (a) any marketable securities are created, allotted or issued or may be transferred; or
- (b) any rights in respect of marketable securities accrue, are created or may be renounced and transferred,

a prescribed instrument shall be deemed to have been executed by the transferee named therein if the prescribed instrument—

- (c) states the full name and address of the transferee; and
- (d) bears a stamp purporting to be that of the transferee's broker; and
- (e) is, where the case requires, endorsed with or accompanied by a duly completed instrument in accordance with Form 3 or Form 6.

(2) Upon the fixing of the stamp referred to in paragraph (d) of subsection (1) of this section to the prescribed instrument the transferee shall, if the prescribed instrument relates—

- (a) to marketable securities, be deemed to have agreed to accept the marketable securities subject to the several terms and conditions on which the transferor held them at the time when he signed the prescribed instrument and, if the prescribed instrument is a transfer of marketable securities in favour of a person who, on his name being entered in the register of members of the company or prescribed corporation that issued those securities, becomes such a member, the transferee shall also be deemed to have agreed to become a member of the company or prescribed corporation and to be bound by the memorandum and articles or by the constitution of the company or prescribed

corporation when he becomes the registered holder of those marketable securities; and

- (b) to rights in respect of marketable securities, be deemed to have made an application to the company or prescribed corporation for the allotment to him of the marketable securities to which the rights relate and to have agreed to accept those securities subject to the terms and conditions upon which the securities were offered by the company or prescribed corporation for subscription and, if the prescribed instrument relates to rights in respect of marketable securities that may only be held by persons who agree to become members of the company or prescribed corporation to whose marketable securities the rights relate, the transferee shall also be deemed to have agreed to become a member of the company or prescribed corporation and to be bound by the memorandum and articles or by the constitution of the company or prescribed corporation on becoming the registered holder of those securities.

(3) Subsections (1) and (2) of this section operate without prejudice to and in addition to any other form of transfer of marketable securities or form of renunciation and transfer of rights in respect thereof, or mode of execution of an instrument of transfer of those securities or mode of execution of an instrument of renunciation and transfer of those rights that is otherwise permitted by law.

7. (1) Where a marketable security or a right in respect of a marketable security is sold by a broker on behalf of the transferor thereof and the instrument of transfer thereof or the instrument of renunciation and transfer thereof, as the case may be, purports to be a prescribed instrument, that instrument shall not be a proper instrument of transfer or a proper instrument of renunciation and transfer for the purposes of section four of this Act if it does not bear that broker's stamp.

As to effect
of broker's
stamp on
transfer.

(2) Where a prescribed instrument referred to in subsection (1) of this section bears the broker's stamp referred to therein, the transferor's broker—

- (a) shall be deemed to have certified to the matters set out in the certificate in the prescribed instrument;
- (b) shall be deemed to have warranted that the transferor is the registered holder of or is entitled to be the registered holder of the marketable security or the right in respect of the marketable security in question, and that he is entitled or authorised to sell or dispose of it,

and by virtue of such warranty the transferor's broker indemnifies—

- (c) the company or prescribed corporation that has issued or proposes to issue the marketable security that is the subject of the prescribed instrument;
- (d) the transferee; and
- (e) the transferee's broker,

against any loss or damage arising from any forged or unauthorised signature of the transferor appearing on the instrument.

Registration
of transfers
by cor-
porations.

8. (1) Where a prescribed instrument that bears a stamp purporting to be the stamp referred to in section six or seven of this Act is lodged with a company or prescribed corporation for the purpose of registering a transfer of a marketable security or of allotting a marketable security to a person in whose favour a right to the marketable security has been renounced and transferred, that company or corporation and any officer thereof, in the absence of knowledge to the contrary, is entitled to assume without inquiry that the stamp is the stamp of the transferee's broker or the stamp of the transferor's broker, as the case may be, and where the stamp purports to be that of the transferor's broker, to have the benefit of the indemnity referred to in subsection (2) of section seven of this Act.

(2) Subject to subsection (3) of this section, this Act, so far as it is applicable, applies and has effect in relation to the transfer of a marketable security or the renunciation and transfer of a right in respect of a marketable security notwithstanding anything to the contrary in any other enactment or in any instrument relating to the transfer of that security or the renunciation and transfer of that right.

(3) Nothing in this Act affects any right to refuse to register or acknowledge a person as the holder of a marketable security on any ground other than the form in which the security purports to be transferred to him.

(4) A trustee or legal representative may, notwithstanding any Act or law or the provisions of the instrument, if any, creating the trust, in good faith act or pay money under or in pursuance of this Act.

9. (1) The registration of a transfer of a marketable security or an allotment of a marketable security to a person in whose favour a right thereto has been renounced and transferred pursuant to a prescribed instrument or, in the case of a fully paid marketable security pursuant to an instrument of transfer thereof that has been executed by an authorised nominee corporation, that states the full name and address of the transferee and bears a stamp purporting to be the stamp of the authorised nominee company against the name of the transferee does not constitute a breach of the provisions of any memorandum or articles or trust deed or other instrument or enactment that relates to any such marketable security.

Registration of transfer pursuant to prescribed instrument and omission of occupation of holder of marketable security, etc., not to constitute breach of memorandum, etc.

(2) The omission from any register, certificate or other document relating to a marketable security of the occupation of the person who is, or is entitled to be, the registered holder thereof does not constitute a breach of any provision of a memorandum or articles or of a trust deed or other instrument or enactment that relates to the marketable security.

10. A broker shall not affix his stamp to an instrument that purports to be a prescribed instrument unless the instrument relates to a sale or

Offence.

purchase made in the ordinary course of business of that broker for a consideration not less than the unencumbered market value, at the time of the sale or purchase, of the marketable security or the right in respect of a marketable security to which the instrument relates.

Penalty: One thousand dollars.

Transfer
executed by
authorised
nominee
corporation.

11. (1) Notwithstanding anything contained in the memorandum or articles of association or in the constitution of a company or prescribed corporation or in the terms or conditions upon which marketable securities are created or issued or may be transferred, an instrument of transfer of fully paid marketable securities executed by an authorised nominee corporation as transferor, shall be deemed to have been duly executed by the transferee named therein, if the instrument states the full name and address of the transferee and bears the stamp purporting to be that of the authorised nominee corporation against the name of the transferee.

(2) Subsection (1) of this section operates without prejudice and in addition to any other mode of execution of an instrument of transfer of fully paid marketable securities that is otherwise permitted by law.

Effect of
affixing
stamp of
authorised
nominee
corporation.

(3) Upon the affixing of the stamp of the authorised nominee corporation to the instrument referred to in subsection (1) of this section, the transferee shall be deemed to have agreed to accept the marketable securities subject to the several terms and conditions on which the authorised nominee corporation held them at the time when the instrument was executed by the corporation as transferor and, if the instrument is a transfer of marketable securities in favour of a person who, on his name being entered in the register of members of the company or prescribed corporation that issued the securities becomes a member of the company or prescribed corporation, the transferee shall also be deemed to have agreed to become a member

of the company or prescribed corporation and be bound by the memorandum and articles or by the constitution of the company or prescribed corporation on becoming the holder of those securities.

12. Where an instrument of transfer that has been executed by an authorised nominee corporation and bears the stamp of that authorised nominee corporation against the name of the transferee, is lodged with a company or a prescribed corporation for the purposes of registering a transfer of fully paid marketable securities that company or corporation and any officer thereof, in the absence of knowledge to the contrary, is entitled to assume without enquiry that the stamp is the stamp of that authorised nominee corporation.

Registration
of transfer
executed by
authorised
nominee
corporation.

13. The Governor may make regulations, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act and in particular the regulations may—

Regulations.

- (a) amend or cancel any form;
- (b) prescribe any form to be used for the purposes of this Act in place of any form so cancelled; and
- (c) prescribe penalties, not exceeding two hundred dollars for offences against the regulations.

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Section 3

SCHEDULE.

FORMS.

Form 1.

SECURITY TRANSFER FORM.	MARKING STAMP.
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PART 1.		
Full name of company or prescribed corporation.		
Description of securities.	Class	If not fully paid, paid to \$.....
		Register.
Quantity.	Words.	Figures.
Transfer identification number.		
Full name(s) of transferor(s).	Surname(s).	Transferor's broker hereby certifies— (i) validity of documents ; (ii) stamp duty (if applicable) has been or will be paid. (Transferor's broker's stamp and date.)
	Christian name(s).	
	(Please use BLOCK letters.)	
		Date of sale

I/We hereby authorize the transfer of the above securities out of the name(s) in this Part to the transferee(s) named in Part 2 hereof or to the several transferees named in Part 2 of broker's transfer form relating to the above securities. I/We have no notice of revocation of the power of attorney under which this transfer is signed.

Transferor(s) sign here.
Date signed./...../.....

PART 2.	Mr. } Mrs. } Miss }	Transferee's broker hereby certifies—
Transferee(s) full name(s).	Surname(s).	(i) that the securities set out in Part 1 above having been purchased in the ordinary course of business are to be registered in the name(s) of the transferee(s) set out in this Part.
	Christian name(s).	(ii) stamp duty (if applicable) has been or will be paid,
Address(es)		and hereby requests that such entries be made in the register as are necessary to give effect to this transfer.
	State.....	(Transferee's broker's stamp and date.)
	(Please use BLOCK letters.)	Date of Purchase

Please enter the above securities on the register.

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Form 2.

BROKER'S TRANSFER FORM.		MARKING STAMP.
PART 1.		
Full name of company or prescribed corporation.		
Description of securities.	Class If not fully paid, paid to \$.....	Register.
Quantity.	Words.	Figures.
Transfer identification number.		Transferor's broker hereby certifies— (i) that the security transfer form relating to the securities set out above has been lodged at the company's office or prescribed corporations office ; (ii) stamp duty (if applicable) has been or will be paid. (Transferor's broker's stamp and date.)
Full name(s) of transferor(s).	Surname(s).	
	Christian name(s).	
	(Please use BLOCK letters)	
	Date of sale	
PART 2.		
Transferee(s) full name(s).	Mr. } Mrs. } Miss }	Transferee's broker hereby certifies— (i) that the securities set out in Part I above having been purchased in the ordinary course of business are to be registered in the name(s) of the transferee(s) set out in this Part; (ii) stamp duty (if applicable) has been or will be paid, and hereby requests that such entries be made in the register as are necessary to give effect to this transfer. (Transferee's broker's stamp and date).
	Surname(s).	
Address(es).	Christian name(s).	
	State.....	
	(Please use BLOCK letters.)	
	Date of purchase	

Please enter the above securities on the

register.

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Form 3.

FOR COMPLETION BY TRANSFEREES OF SECURITIES WITH AN
UNCALLED LIABILITY.

To.....
(Name of company or prescribed corporation whose securities are involved.)

I/We.....

of.....

being the transferee(s) of.....
(Quantity.) (Description of securities.)

each paid to \$.....in the company or prescribed corporation and being the
person(s) named as such in *security transfer form/*broker's transfer form dated.....

and being of the age of twenty-one years or upwards.

HEREBY AGREE

- (a) to accept the said securities subject to the several terms and conditions on which the transferor to *me/*us of the said securities held them at the time of the signing of the said *security transfer form/*broker's transfer form ; and
- (b) to become a member/members of the company or prescribed corporation, and to be bound by the memorandum and articles or by the constitution of the company or prescribed corporation.

(Transferee(s) signature).....

Dated the.....day of.....19.....

* Delete whichever is not applicable

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Form 4.

SECURITY RENUNCIATION AND TRANSFER FORM.	MARKING STAMP.
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PART I. Full name of company or pre-scribed corporation.	
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Description of rights.		Register.
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Quantity.	Words.	Figures.	
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Transfer identification number.			Transferor's broker hereby certifies— (i) validity of documents ; (ii) stamp duty (if applicable) has been or will be paid.
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Full name(s) of transferor(s).	Surname(s).	(Transferor's broker's stamp and date.)
	Christian name(s).	
(Please use BLOCK letters.)		
		Date of sale

I/We hereby renounce and transfer the above rights in favour of the transferee(s) named in Part 2 hereof or to the several transferee(s) named in Part 2 of the broker's renunciation and transfer form relating to the above rights. I/We have no notice of revocation of the power of attorney under which this renunciation is signed.

Transferor(s) sign here.	
Date signed.	

PART 2.		Transferee's broker hereby certifies—
Transferee(s) full name(s).	Mr. } Mrs. } Miss } Surname(s).	(i) that the rights set out in Part I above having been purchased in the ordinary course of business the marketable securities to which the rights relate are to be allotted to transferee(s) named in this Part ;
	Christian name(s).	(ii) stamp duty (if applicable) has been or will be paid,
Address(es).	State.....	and hereby requests that such marketable securities be allotted by the company/corporation to the transferee(s) and such entries be made in the register as are necessary to give effect to this renunciation and transfer.
(Please use BLOCK letters.)		(Transferee's broker's stamp and date.)

Application money of.....is attached	Date of purchase
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Please enter the above securities on the

register.

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Form 5.

BROKER'S RENUNCIATION AND TRANSFER FORM.		MARKING STAMP.
PART 1.		
Full name of company or prescribed corporation.		
Description of rights.		Register.
Quantity.	Words.	Figures.
Transfer identification number.		Transferor's broker hereby certifies— (i) that the security renunciation form relating to the rights set out above has been lodged at the company's office or prescribed corporation's office ; (ii) stamp duty (if applicable) has been or will be paid. (Transferor's broker's stamp and date.)
Full name(s) of Transferor(s).	Surname(s).	
	Christian name(s).	
	(Please use BLOCK letters.)	
		Date of sale
PART 2.		
Transferee(s) full name(s).	Mr. } Mrs. } Miss }	Transferee's broker hereby certifies— (i) that the rights set out in Part I above having been purchased in the ordinary course of business the marketable securities to which the rights relate are to be allotted to the transferee(s) named in this Part ; (ii) stamp duty (if applicable) has been or will be paid, and hereby requests that such marketable securities be allotted by the Company/ Corporation to the transferee(s) and such entries be made in the register as are necessary to give effect to this renunciation and transfer. (Transferee's broker's stamp and date.)
	Surname(s).	
Address(es).	Christian name(s).	
	State.....	
	(Please use BLOCK letters.)	(Transferee's broker's stamp and date.)
	Application money of.....is attached.	Date of purchase

Please enter the above securities on the

register.

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Form 6.

FOR COMPLETION BY TRANSFEREE(S) OF RIGHTS WHERE WHOLE OF MONEYS TO BE SUBSCRIBED FOR MARKETABLE SECURITIES TO WHICH RIGHTS RELATE ARE NOT PAYABLE IN FULL ON APPLICATION.

To.....
(Name of company or prescribed corporation whose rights are involved.)

I/We.....

of.....

being the transferee(s) of.....
(Quantity) (Description of rights.)

in respect of which there is an uncalled liability of.....
per unit after the payment of application moneys and being the person(s) named as transferee(s)
in the *security renunciation and transfer form/*broker's renunciation and transfer form relating
to those rights and being of the age of twenty-one years and upwards.....

HEREBY AGREE

- (a) to accept the marketable securities to which the rights relate in accordance with the several terms and conditions upon which the marketable securities were offered by the company or prescribed corporation in its letter of entitlement dated..... ; and
- (b) to become a member or members of the company or prescribed corporation and to be bound by the memorandum and articles or by the constitution of the company or prescribed corporation.

(Transferee(s) signature).....

Dated the.....day of.....19.....

* Delete whichever is not applicable.